

RESOLUTION NO. R-2018-1290

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2017-01817  
(CONTROL NO. 2017-00128)  
a Class A Conditional Use  
APPLICATION OF Barbara Kamhi, Wellery Delray, LLC  
BY iPlan and Design LLC, Urbana, AGENT  
(Wellery Senior Living Community)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application Z/CA-2017-01817 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2018;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Class A Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application Z/CA-2017-01817, the Application of Barbara Kamhi, Wellery Delray, LLC, by iPlan and Design LLC, Urbana, Agent, for a Class A Conditional Use to allow a Type 3 Congregate Living Facility, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on August 23, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

The motion was seconded by Commissioner Berger and, upon being put to a vote, the vote was as follows:

Commissioner Melissa McKinlay, Mayor	-	Aye
Commissioner Mack Bernard, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Mary Lou Berger	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 23, 2018.

Filed with the Clerk of the Board of County Commissioners on September 12th, 2018

This resolution shall not become effective until the effective date of Small Scale Land Use Amendment No. SCA-2018-00010.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:



COUNTY ATTORNEY

BY:



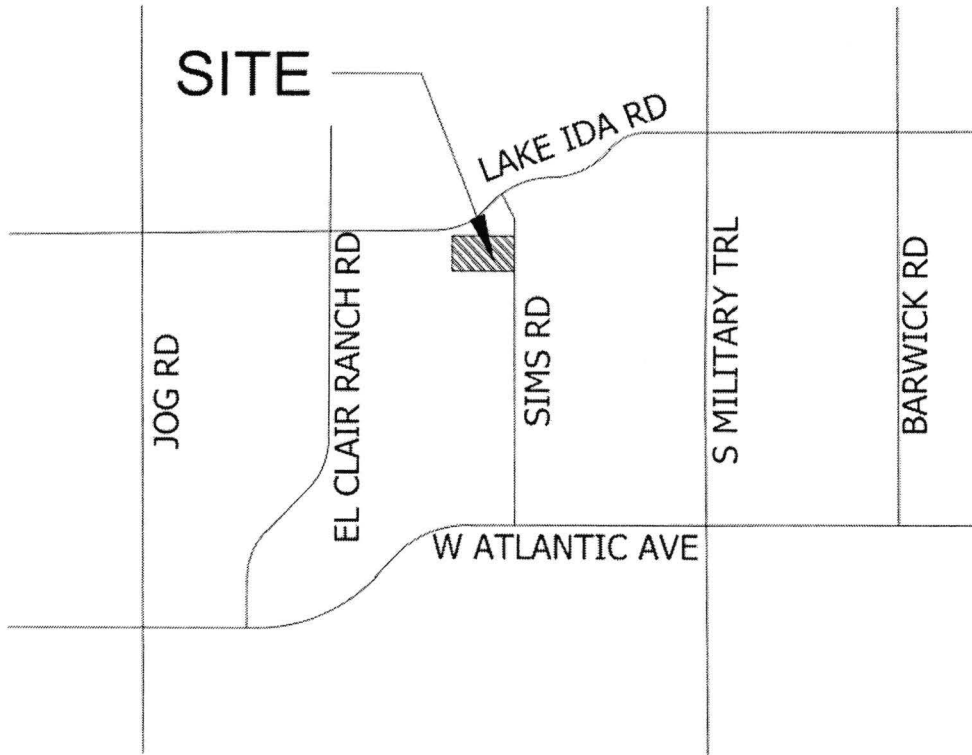
EXHIBIT A

LEGAL DESCRIPTION

THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 260 FEET, AND LESS THE NORTH 55.44 FEET FOR LAKE WORTH DRAINAGE DISTRICT CANAL L-32 AND LESS THE EAST 40 FEET FOR LAKE WORTH DRAINAGE DISTRICT CANAL E-3 AND LESS THE WEST 80 FEET OF THE EAST 120 FEET OF SIMS ROAD RIGHT OF WAY.

CONTAINS 4.9055 ACRES, OR 213,684 SQUARE FEET, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Conditional Use Class A

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 11, 2018. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

##### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2022. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Sims Road, eighty (80) feet in width, measured from the existing east right of way line, on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG/PMT/ONGOING: MONITORING - Engineering)

3. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Sims Road along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s), with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not

included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering)

4. Before the Final Site Plan approval, the Property Owner shall submit an electronic copy of the Concurrency Traffic Study, dated April 5, 2018 to Zoning Division. (DRO: ENGINEERING - Engineering)

#### **LANDSCAPE - PRESERVATION OF VEGETATION**

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a Final Site Plan, and Final Regulating Plan with a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show: a. the temporary location for the relocated Vegetation and identify what type of tree barricades will be utilized; b. the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized; c. a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation; and, d. the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO: ZONING - Zoning)

2. Prior to the issuance of the first Building Permit, the Property Owner shall:  
a. submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions;  
b. include the approved DRO plan(s) with the approved Tree Disposition Chart with the barricade permit application;  
c. complete the installation of all vegetation protection barricades and tagging; and,  
d. schedule inspections and receive a Pass status with Zoning Landscape Inspectors prior to any tree removal activity. (BLDGPM: BUILDING DIVISION - Zoning)

3. No vegetation shall be removed or relocated and no Building Permit(s) shall be issued until Landscape Conditions 1 and 2 are satisfied. (BLDGPM/ONGOING: ZONING - Zoning)

4. Failure to comply with the Landscape - Preservation of Vegetation, Conditions 1 thru 3 may result in a Stop Work Order being placed on the site and applicable fines assessed. (BLDGPM/ONGOING: ZONING - Zoning)

#### **SCHOOL BOARD**

1. The Property Owner shall provide a Declaration and Restrictive Covenant which prohibits children less than nineteen years of age from residing in the facility no later than

six (6) months after DRO Approval. This declaration shall be recorded in the public records for Palm Beach County in a form and manner acceptable to the School Board and the County Attorney. (COUNTY ATTORNEY: SCHOOL BOARD – School Board)

#### **USE LIMITATIONS**

1. The Accessory Offices shall only be used in support of the operations of the Congregate Living Facility on the subject property. (ONGOING: CODE ENF - Zoning)

#### **COMPLIANCE**

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

#### **DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.