

RESOLUTION NO. R-2019- 0257

RESOLUTION APPROVING ZONING APPLICATION ABN/ZV/PDD/CA-2018-01172
(CONTROL NO. 2009-02465)
an Official Zoning Map Amendment
APPLICATION OF AHS Development Group, LLC, Florida Public Utilities Company
BY Schmidt Nichols, AGENT
(Banyan Ridge Planned Unit Development)

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 (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application ABN/ZV/PDD/CA-2018-01172 was presented to the Board of County Commissioners at a public hearing conducted on February 28, 2019;

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 an Official Zoning Map Amendment;

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 ABN/ZV/PDD/CA-2018-01172, the Application of AHS Development Group, LLC, Florida Public Utilities Company, by Schmidt Nichols, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Light Industrial (IL) Zoning District to the Planned Unit Development (PUD) Zoning District, 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 February 28, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	- Aye
Commissioner Dave Kerner, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Robert S. Weinroth	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Melissa McKinlay	- Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on February 28, 2019.

Filed with the Clerk of the Board of County Commissioners on March 25th, 2019.

This resolution shall not become effective until the Large Scale Land Use Amendment No. LGA-2019-001 is effective.

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:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF PALM BEACH, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

TRACTS "B", TURNPIKE BUSINESS PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 119, PAGE 126, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, CONTAINING A TOTAL OF 10.414 ACRES MORE OR LESS.

OTHERWISE DESCRIBED AS FOLLOWS:

BEING ALL OF TRACT "B", TURNPIKE BUSINESS PARK AS RECORDED IN PLAT BOOK 119, PAGE 126 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE NORTHEAST CORNER OF SAID TRACT "B"; THENCE ALONG THE EAST LINE OF SAID TRACT "B" THE FOLLOWING THREE (3) COURSE, SAID EAST LINE ALSO BEING THE WESTERLY RIGHT OF WAY OF CLEARLY ROAD; THENCE SOUTH 03°03'19" WEST, 32.51 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 677.00 FEET AND THE CENTRAL ANGLE OF 71°49'28"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 848.67 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 74°52'47" WEST, 248.70 FEET TO THE SOUTHEAST CORNER OF SAID TRACT "B"; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT "B" THE FOLLOWING THREE (3) COURSES; THENCE NORTH 34°27'35" WEST, 310.20 FEET; THENCE NORTH 40°39'09" EAST, 96.54 FEET; THENCE NORTH 49°20'51" WEST, 86.19 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "B"; THENCE NORTH 40°39'09" EAST ALONG THE WESTERLY LINE OF SAID TRACT "B", SAID LINE ALSO BEING THE EASTERLY RIGHT OF WAY OF THE FLORIDA TURNPIKE, 420.50 FEET TO THE NORTHWEST CORNER OF SAID TRACT "B"; THENCE NORTH 89°03'22" EAST ALONG THE NORTH LINE OF SAID TRACT "B", 645.42 FEET TO THE POINT OF BEGINNING.

CONTAINING 10.414 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

PDD- Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Master Plan and Site Plan are dated November 13, 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, 2023. 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. NOISE MITIGATION

a. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit to the Palm Beach County Engineering Department and Zoning Division a detailed noise analysis acceptable to the Florida Department of Transportation. This noise study shall be in accordance with Florida State Statutes Chapter 335 as outlined in FDOT Project Development and Environmental Manual, Chapter 17. Any required mitigation as a result of the anticipated noise, such as a sound wall and landscape buffer, shall be shown on the Preliminary Development Plan for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENGINEERING - Engineering)

b. Construction of any required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

3. Prior to the issuance of the first building permit, the Property Owner shall release the portions of the Limited Access Easement in conflict with the proposed driveways. (BLDGPM/CO: MONITORING - Engineering)

4. The Property Owner shall construct a left turn lane south approach on Cleary Road at the project entrance.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM/CO: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

5. The Property Owner shall contribute an amount not to exceed \$200,000 toward the cost of signal installation, if warranted, as determined by the County Engineer at Belvedere Rd and Cleary Rd. Signalization shall be a mast arm structure installation.

a. No building permits shall be issued until the Property Owner provides acceptable surety to the Traffic Division in an amount not to exceed \$200,000. (BLDGPM/CO: MONITORING - Engineering)

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final

certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING - Engineering)

PLANNING

1. Prior to Final approval by the Development review Officer (DRO), the site plan and justification shall be updated to be consistent with the conditions of approval contained within the companion Land Use Amendment LGA 2019-01. (DRO: PLANNING - Planning)

2. Prior to the issuance of the first Building Permit, the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per ULDC Article 5.G. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in ULDC Article 5.G. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning.

(BLDGPMT: MONITORING - Planning)

3. On an annual basis, beginning December 1, 2021, or as otherwise stipulated in the Declaration of Restrictive Covenants, the owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. (DATE/ONGOING: MONITORING - Planning)

4. Per LGA-2019-01, condition 1, The development of the subject site shall include the purchase and construction of twenty eight (28) Transfer of Development Rights (TDR) units. The TDR units shall be purchased prior to issuance of first building permit. (BLDGPMT/ONGOING: MONITORING - Planning)

5. Per LGA 2019-01 condition 2: a minimum of 25% of the dwelling units to be built onsite as workforce housing units between 60-140% of the Median Household Income ranges for the County, in all four WHP ranges (60%-80%, >80-100%, >100-120%, and >120-140%). (ONGOING: PLANNING - Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s).

(ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING- School Board)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer (DRO) the Site Plan may be amended to depict 20-foot wide dog run and a 10-foot Right of Way Buffer along the north property line. (DRO: PARKS AND RECREATION - Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO) the Site Plan shall be amended to depict a 4-foot high fence on both sides and along the full length of the dog run to be located along the north property line, adjacent to the Right of Way Buffer. (DRO: ZONING - 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.