

RESOLUTION NO. R-2021- 0152

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CA-2020-01103
(CONTROL NO. 1979-00226)
a Class A Conditional Use
APPLICATION OF WH Cleary, LLC, Palm Beach County
BY Urban Design Studio, AGENT
(Hemstreet Park)

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 ZV/ABN/CA-2020-01103 was presented to the Board of County Commissioners at a public hearing conducted on January 28, 2021;

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 ZV/ABN/CA-2020-01103, the Application of WH Cleary, LLC, Palm Beach County, by Urban Design Studio, Agent, for a Class A Conditional Use to allow Chipping and Mulching, 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 January 28, 2021, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Maria Sachs	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 28, 2021.

Filed with the Clerk of the Board of County Commissioners on February 17th, 2021.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

ALL OF THE PLAT OF HEMSTREET PARK LESS THE EAST 5 FEET, AS RECORDED IN PLAT BOOK 42, PAGE 104 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE 30.00 FOOT WIDE RIGHT-OF-WAY OF WALLIS ROAD, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE EAST 315 FEET OF THE WEST 675 FEET OF TRACT 37, BLOCK 6, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 6 OF SAID PLAT OF HEMSTREET PARK; THENCE ALONG THE NORTHERLY LINE OF SAID PLAT OF HEMSTREET PARK, N89°03'55"E A DISTANCE OF 625.00 FEET TO THE WESTERLY LINE OF A 5 FOOT ADDITIONAL RIGHT-OF-WAY DEDICATION AS SHOWN ON SAID PLAT OF HEMSTREET PARK; THENCE LEAVING SAID NORTHERLY LINE AND ALONG SAID RIGHT-OF-WAY LINE S00°58'05"E A DISTANCE OF 675.00 FEET TO A POINT ON THE CENTERLINE OF THE 30.00 FOOT WIDE RIGHT-OF-WAY OF WALLIS ROAD AS SHOWN ON SAID PALM BEACH FARMS CO. PLAT NO. 3; THENCE LEAVING SAID WESTERLY LINE AND ALONG SAID CENTERLINE S89°03'55"W A DISTANCE OF 310.00 FEET; THENCE LEAVING SAID CENTERLINE S00°58'05"E A DISTANCE OF 416.12 FEET; THENCE N89°23'03"W A DISTANCE OF 315.12 FEET TO THE EASTERLY LINE OF THE WESTERLY 360 FEET OF TRACT 37, BLOCK 6 OF SAID PLAT OF PALM BEACH FARMS CO. PLAT NO. 3; THENCE ALONG SAID EASTERLY LINE AND THE WESTERLY LINE OF SAID PLAT OF HEMSTREET PARK, N00°58'05"W A DISTANCE OF 1082.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 12.663 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

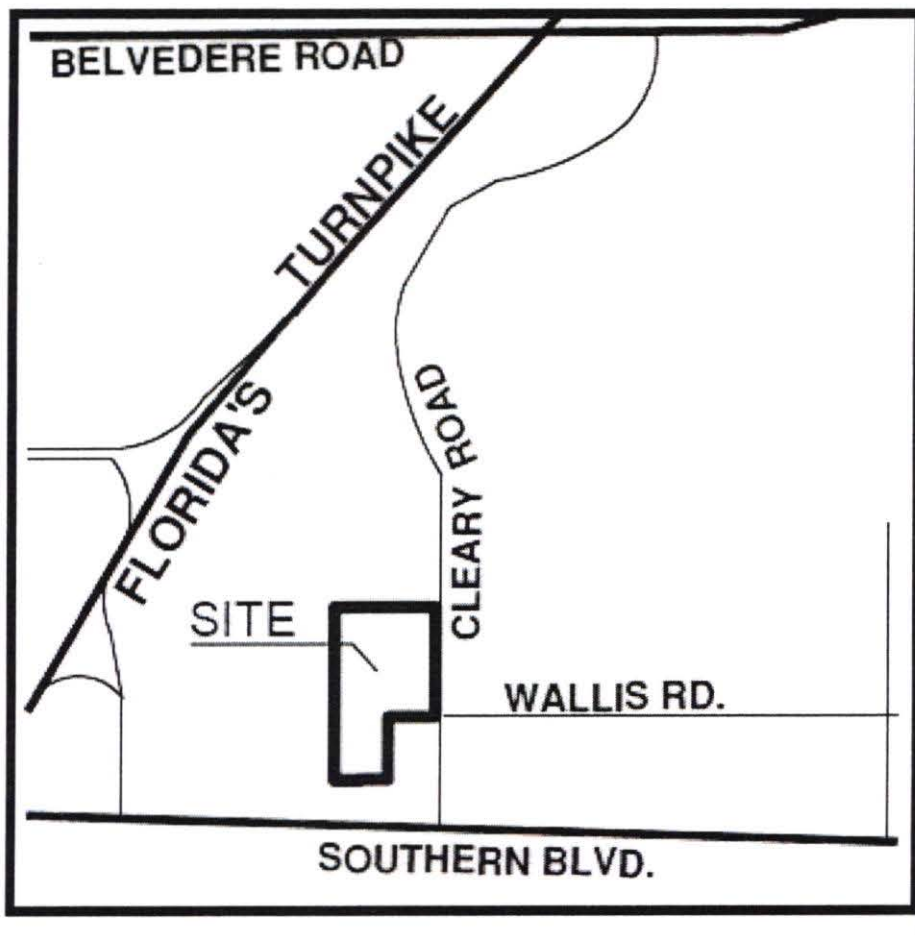


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use (Chipping and Mulching)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 23, 2020. 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. (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. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPMPT: MONITORING - Engineering)

3. 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 Cleary Road 40 feet, measured from centerline of the proposed right of way 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. (BLDGPMPT/ONGOING: MONITORING - Engineering)

4. Property Owner shall construct a minimum 5 foot wide concrete sidewalk along the west side of Cleary Road along the property frontage. 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. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM/CO: MONITORING - Engineering)

5. Prior to issuance of the first Certificate of Occupancy, the Property Owner shall construct 70th Street North as a two-lane roadway section with 12-foot wide lanes to the proposed project's entrance. (BLDGPM/CO: MONITORING - Engineering)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF CLEARY ROAD)

1. In addition to Code requirements, landscaping and/or buffer width along the east property line abutting Cleary Road shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. Fifty percent (50%) of the required canopy trees shall be installed at sixteen (16) feet in height. This requirement may be achieved by utilizing the average height calculation. A maximum of 25 percent of the trees used to satisfy this Condition may be a minimum of fourteen (14) feet in height; and,
- c. The landscape material shall be installed to achieve a layered effect in order to completely screen views into the site. (BLDGPM/ONGOING: ZONING - Zoning)

2. Landscaping along the east property line abutting Cleary Road shall be installed as follows:

- a. landscaping along the northern 400 feet shall be installed no later than January 31, 2022; and,
- b. landscaping along the southern 255 feet shall be installed in accordance with ULDC Article 7.F.2, Installation. (DATE: CODE ENF - Zoning)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer, the Site Plan shall be amended to increase the width of the southern access way to a minimum of 25 feet and delete the variance to reduce the width from the Variance Chart. (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.