

RESOLUTION NO. R-2021- 0155

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2019-01674  
(CONTROL NO. 1995-00057)  
a Class A Conditional Use  
APPLICATION OF Bixmor GA Marketplace Wycliffe, LLC  
BY Cotleur & Hearing, Inc., AGENT  
(Marketplace at Wycliffe MUPD)

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/DOA/CA-2019-01674 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/DOA/CA-2019-01674, the Application of Bixmor GA Marketplace Wycliffe, LLC, by Cotleur & Hearing, Inc., Agent, for a Class A Conditional Use to allow a Type 1 Restaurant with a Drive-through, 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 McKinlay moved for the approval of the Resolution.

The motion was seconded by Commissioner Marino 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.

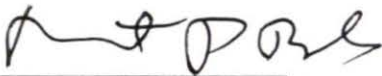
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOSEPH ABRUZZO,  
CLERK & COMPTROLLER

BY:



COUNTY ATTORNEY

BY:



DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

TRACT "A", SHOPPES AT WYCLIFFE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 83, PAGE 41 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING TWO PARCELS OF SAID TRACT "A".

(1) OUTPARCEL 4 (SERVICE STATION PARCEL)

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "A", THENCE SOUTH 01°53'48" WEST ALONG THE BOUNDARY LINE OF SAID TRACT "A", A DISTANCE OF 970.27 FEET FOR A POINT OF BEGINNING. THENCE, CONTINUE SOUTH 01°53'48" WEST ALONG SAID BOUNDARY LINE, A DISTANCE OF 216.85 FEET; THENCE, SOUTH 45°22'20" WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 59.21 FEET; THENCE SOUTH 89°01'58" WEST, CONTINUING ALONG SAID BOUNDARY LINE, A DISTANCE OF 191.19 FEET; THENCE NORTH 45°27'53" EAST, A DISTANCE OF 109.86 FEET; THENCE SOUTH 88°06'12" EAST, A DISTANCE OF 184.28 FEET TO THE POINT OF BEGINNING.

(2) OUTPARCEL 1 (BANK PARCEL)

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "A", THENCE, SOUTH 01°53'48" WEST, ALONG THE EAST BOUNDARY LINE OF SAID TRACT "A", A DISTANCE OF 88.94 FEET FOR A POINT OF BEGINNING: THENCE, CONTINUE SOUTH 01°53'48" WEST, ALONG SAID EAST BOUNDARY LINE, A DISTANCE OF 237.14 FEET; THENCE NORTH 88°66'12" WEST, DEPARTING SAID EAST BOUNDARY LINE, A DISTANCE OF 183.85 FEET; THENCE NORTH 01°53'48" EAST ALONG A LINE PARALLEL WITH SAID EAST BOUNDARY LINE OF TRACT "A", A DISTANCE OF 249.78 FEET; THENCE SOUTH 88°02'48" EAST, ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID TRACT "A", A DISTANCE OF 26.94 FEET; THENCE SOUTH 01°57'12" WEST, A DISTANCE OF 7.46 FEET; THENCE SOUTH 88°02'48" EAST ALONG A LINE PARALLEL WITH THE NORTH BOUNDARY LINE OF SAID TRACT "A" A DISTANCE OF 121.92 FEET; THENCE SOUTH 01°57'12" WEST A DISTANCE OF 5.00 FEET; THENCE SOUTH 88°02'48" EAST PARALLEL WITH SAID NORTH BOUNDARY LINE A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING.

EASEMENT PARCEL 1:

TOGETHER WITH NONEXCLUSIVE RIGHTS OF DRAINAGE AS CREATED BY PARAGRAPH 1 OF THE DRAINAGE AND FLOWAGE EASEMENT FILED AUGUST 28, 1997 IN OFFICIAL RECORD BOOK 9960, PAGE 1088, AS ASSIGNED BY ASSIGNMENT RECORDED IN OFFICIAL RECORD BOOK 10197, AT PAGE 490, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EASEMENT PARCEL 2:

AND TOGETHER WITH NONEXCLUSIVE EASEMENT RIGHTS AS CREATED BY THAT CERTAIN EASEMENT AGREEMENT RECORDED JULY 27, 1999, IN OFFICIAL RECORD BOOK 11257, PAGE 1622, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH RIGHTS AND BENEFITS IN THE PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF THE SHOPPES AT WYCLIFFE AS FILED IN OFFICIAL RECORD BOOK 9829, PAGE 1018, TOGETHER WITH ASSIGNMENT AS FILED IN OFFICIAL RECORD BOOK 10197, PAGE 492, AND FIRST AMENDMENT FILED IN OFFICIAL RECORD BOOK 11581, PAGE 817; AND THE ASSIGNMENT AND ASSUMPTION OF RIGHTS AND OBLIGATIONS UNDER DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS AS FILED IN

OFFICIAL RECORD BOOK 12988, PAGE 78; AS AFFECTED BY THE DECLARATION OF RESTRICTIONS DATED AUGUST 20, 2001, RECORDED SEPTEMBER 5, 2001 IN OFFICIAL RECORD BOOK 12877, PAGE 1523, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH RIGHTS AND BENEFITS IN THE PALM BEACH COUNTY RIGHT OF WAY LANDSCAPE MAINTENANCE, REMOVAL AND INDEMNIFICATION AGREEMENT AS FILED IN OFFICIAL RECORD BOOK 12706, PAGE 416 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA (AFFECTS FEE PARCEL ONLY) TOGETHER WITH THE RIGHTS, IF ANY, CONTAINED IN THE AGREEMENT FOR A CONCRETE BUFFER WALL IN FAVOR OF THE VILLAGE OF WELLINGTON RECORDED JULY 10, 2002 IN OFFICIAL RECORD BOOK 13892, PAGE 1232, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 21.431 ACRES, MORE OF LESS.

EXHIBIT B  
VICINITY SKETCH

# LOCATION MAP



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Class A Conditional Use (Type 1 Restaurant with a Drive-through)**

##### **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 or the Zoning Commission. (ONGOING: ZONING - Zoning)

##### **LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF STATE ROAD 7)**

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

- a minimum 20 foot wide landscape buffer strip. No width reduction shall be permitted;
- a minimum six (6) foot high continuous hedge at time of installation along the portion of the buffer abutting the drive-through; and,
- the Property Owner shall replace any missing and/or dead plant material in the portion of the landscape buffer within the affected area. (BLDGPM: 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:

- 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
- The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- 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
- Referral to Code Enforcement; and/or
- 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.