

RESOLUTION NO. R-2021-1172

RESOLUTION APPROVING ZONING APPLICATION PDD/DOA-2020-00268
(CONTROL NO. 2005-00506)
a Development Order Amendment to a Requested Use
APPLICATION OF Tuscan Gardens Of Delray Beach Properties, LLC
BY WGINC, AGENT
(Tuscan Gardens of Delray Beach)

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, as amended, have been satisfied;

WHEREAS, Zoning Application PDD/DOA-2020-00268 was presented to the Board of County Commissioners at a public hearing conducted on August 26, 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 Development Order Amendment to a Requested 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 PDD/DOA-2020-00268, the Application of Tuscan Gardens Of Delray Beach Properties, LLC, by WGINC, Agent, for a Development Order Amendment to a Requested Use to reconfigure the Site Plan; add residents/beds; and, modify Conditions of Approval, 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 26, 2021, 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 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 August 26, 2021.

Filed with the Clerk of the Board of County Commissioners on September 8th, 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

PARCEL 1

A PORTION OF THE EAST ONE-HALF (E ½) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF THE SOUTHEAST ONE-QUARTER (S.E. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER (S.W. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF SAID SECTION 14; THENCE RUNNING NORTH 88 DEGREES 24 MINUTES 26 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER (S.E. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) AND THE CENTER LINE OF FROST LANE, A DISTANCE OF 336.54 FEET TO A POINT, SAID POINT BEING THE NORTHWEST CORNER OF SAID EAST ONE-HALF (E. ½) OF THE NORTHWEST ONE-QUARTER (N.W. ¼), SOUTH EAST ONE-QUARTER (S.E. ¼), NORTHWEST ONE-QUARTER (N.W. ¼) OF SAID SECTION 14; THENCE RUN SOUTH 0 DEGREES 00 MINUTES 46 SECONDS WEST, ALONG THE WEST LINE OF SAID EAST ONE-HALF (1/2), A DISTANCE OF 12.50 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF FROST LANE AND TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE A DISTANCE OF 92.52 FEET TO A POINT; THENCE RUN NORTH 88 DEGREES 24 MINUTES 36 SECONDS EAST A DISTANCE OF 219.14 FEET TO AN IRON PIPE; RUNNING THENCE RUN NORTH 0 DEGREES 00 MINUTES 46 SECONDS EAST A DISTANCE OF 92.52 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FROST LANE; THENCE RUN SOUTH 88 DEGREES 24 MINUTES 36 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 219.14 FEET TO THE POINT OF THE BEGINNING.

PARCEL 2

A PORTION OF THE EAST ONE-HALF (E ½) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF THE SOUTHEAST ONE-QUARTER (S.E. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER (S.W. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF SAID SECTION 14; THENCE RUNNING NORTH 88 DEGREES 24 MINUTES 26 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHEAST ONE-QUARTER (S.E. ¼) OF THE NORTHWEST ONE-QUARTER (N.W. ¼) AND THE CENTER LINE OF FROST LANE, A DISTANCE OF 336.54 FEET TO A POINT, SAID POINT BEING THE NORTHWEST CORNER OF SAID EAST ONE-HALF (E. ½) OF THE NORTHWEST ONE-QUARTER (N.W. ¼), SOUTH EAST ONE-QUARTER (S.E. ¼), NORTHWEST ONE-QUARTER (N.W. ¼) OF SAID SECTION 14; THENCE RUN SOUTH 0 DEGREES 00 MINUTES 46 SECONDS WEST, ALONG THE WEST LINE OF SAID EAST ONE-HALF (1/2), A DISTANCE OF 12.50 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF FROST LANE AND TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE A DISTANCE OF 92.52 FEET TO A POINT; THENCE RUN NORTH 88 DEGREES 24 MINUTES 36 SECONDS EAST A DISTANCE OF 219.14 FEET TO AN IRON PIPE; RUNNING THENCE RUN NORTH 0 DEGREES 00 MINUTES 46 SECONDS EAST A DISTANCE OF 92.52 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FROST LANE; THENCE RUN SOUTH 88 DEGREES 24 MINUTES 36 SECONDS WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 219.14 FEET TO THE POINT OF THE BEGINNING.

TOGETHER WITH

PARCEL A, TUSCAN GARDENS OF DELRAY BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 123, PAGES 162 AND 163 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO DESCRIBED AS

A PORTION OF THE NORTHWEST ONE-QUARTER (N.W. ¼) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND PARCEL A, TUSCAN GARDENS OF

DELRAY BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 123, PAGES 162 AND 163 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL A, THENCE N88°24'01"E ALONG A BOUNDARY LINE OF SAID PARCEL A, A DISTANCE OF 527.40 FEET; THENCE S45°56'42"E ALONG A BOUNDARY LINE OF SAID PARCEL A, A DISTANCE OF 35.76 FEET; THENCE S00°17'26"E ALONG A BOUNDARY LINE OF SAID PARCEL A, A DISTANCE OF 404.12 FEET; THENCE S88°14'45"W ALONG A BOUNDARY LINE OF SAID PARCEL A, A DISTANCE OF 217.42 FEET; THENCE S00°09'59"E ALONG A BOUNDARY LINE OF SAID PARCEL A, A DISTANCE OF 250.10 FEET; THENCE S88°14'55"W ALONG A BOUNDARY LINE OF SAID PARCEL A AND ITS WESTERLY PROJECTION, A DISTANCE OF 676.38 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE HALF OF THE NORTHWEST ONE QUARTER OF THE SOUTHEAST ONE QUARTER OF SAID NORTHWEST QUARTER OF SECTION 14; THENCE N00°04'54"E ALONG THE WEST LINE OF SAID EAST ONE HALF OF THE NORTHWEST ONE QUARTER OF THE SOUTHEAST ONE QUARTER OF SAID NORTHWEST QUARTER OF SECTION 14 AND A BOUNDARY LINE OF ASPEN RIDGE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 68, PAGE 10 OF SAID PUBLIC RECORDS, A DISTANCE OF 694.81 FEET; THENCE N88°24'01"E ALONG THE SOUTH RIGHT-F-WAY LINE OF FROST LANE, AS RECORDED IN OFFICIAL RECORD BOOK 2514, PAGE 698 OF SAID PUBLIC RECORDS, A DISTANCE OF 336.85 FEET; THENCE S00°02'34"E, A DISTANCE OF 12.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 556,788 SQUARE FEET /12.7821 ACRES, MORE OR LESS.
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

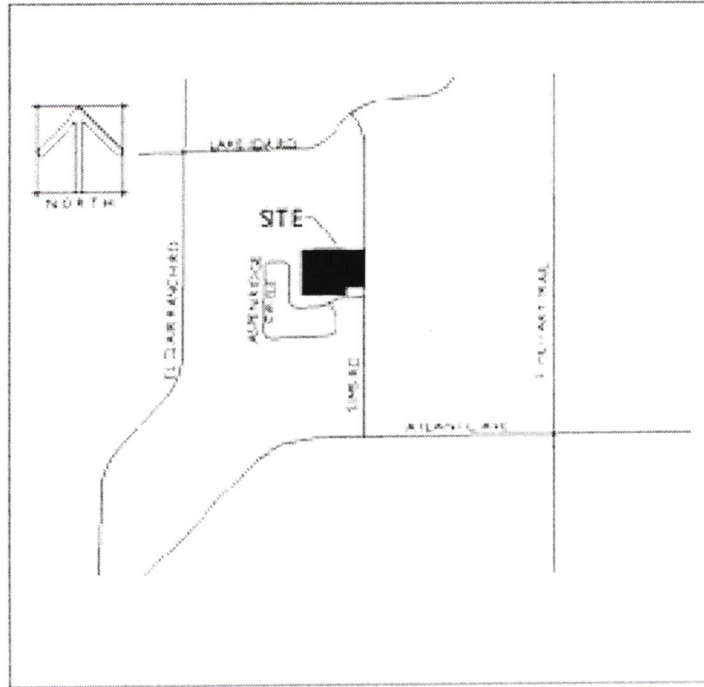


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Type 3 Congregate Living Facility)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2018-620, Control No.2005-00506, which currently states:

The approved Preliminary Site Plan is dated December 22, 2017. 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated December 14, 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)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R-2015-1351 and R-2018-0620 (Control 2005-00506), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2018-620, Control No. 2005-00506, which currently states:

At time of submittal Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type 3 Congregate Living Facility shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated December 22, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements.

Is hereby amended to read:

At time of submittal for a building permit, the Architectural Elevations for the Type 3 Congregate Living Facility shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated December 22, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (BLDGPMT/ONGOING: ZONING - Zoning)

2. The maximum height for Buildings B and C, excluding mechanical equipment and structures exempted per ULDC Article 5.D.1.E.4, Height Exceptions, shall not exceed fifty (50) feet. Heights shall be measured from finished grade to highest point of the structure. (ONGOING: ZONING - Zoning)

ENVIRONMENTAL

1. Submit a Phase II Audit, consistent with Florida Department of Environmental Protection

best management practices, prior to DRO site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2018-620, Control No.2005-00506)

HEALTH

1. The Property Owner shall adhere to the requirements pursuant to the approved Dust Control Letter during all applicable phases of construction. The Letter shall be posted alongside the Building Permit on the construction site. (HEALTH: HEALTH – Health) (Previous HEALTH Condition 1 of Resolution R-2018-620, Control No.2005-00506)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2018-620, Control No.2005-00506, which currently states:

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall be revised to show, along with other buffer requirements, a Type 2 Incompatibility Buffer along the interior of the recreation pod.

Is hereby amended to read:

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall indicate a Type 2 Incompatibility Buffer along the interior of the Recreation Pod, or obtain Type 1 Waiver approval for elimination of the buffer. (DRO: ZONING - Zoning)

2. Prior to the issuance of a Building Permit, the Property Owner shall submit a Landscape Plan to the Landscape section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2018-620, Control No.2005-00506)

LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE

1. Prior to Final Plan approval by the Development Review Officer, the Applicant shall provide a tree survey along the area of the southern property line abutting Aspen Ridge extending a minimum of 30 feet to the north. Applicant shall meet with Zoning Staff to preserve the maximum amount of vegetation on site. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2018-620, Control No.2005-00506)

LANDSCAPE - PERIMETER-EAST PROPERTY LINE

2. In addition to the Code requirements, the ROW Buffer along the eastern property line shall include a 2 foot high berm. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2018-620, Control No.2005-00506)

LANDSCAPE - PERIMETER-WEST PROPERTY LINE

3. In addition to the Code requirements, the landscape buffer along the western property line shall be upgraded to include:

- a. No width reduction or easement encroachment shall be permitted;
- b. One (1) palm or pine for each for each thirty (30) linear feet of the property line. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 3 of Resolution R-2018-620, Control No.2005-00506)

PLANNED DEVELOPMENT

1. Prior to Final Plan approval by the Development Review Officer, the Site Plan shall be revised to relocate the service and emergency access along Frost Lane. The centerline of the access shall be a minimum of 90 feet east of the western property line. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2018-620, Control No.2005-00506)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised to show Foundation Planting requirements in accordance with ULDC, Supplement No. 23. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2018-620, Control No.2005-00506)

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.