

RESOLUTION NO. R-2021- 1883

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2021-00407  
(CONTROL NO. 1973-00085)  
a Development Order Amendment  
APPLICATION OF Boca Wharfside, LLC  
BY Gentile Glas Holloway O'Mahoney & Associates, Inc., AGENT  
(Wharfside at Boca Pointe)

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 ZV/DOA/CA-2021-00407 was presented to the Board of County Commissioners at a public hearing conducted on December 15, 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;

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-2021-00407, the Application of Boca Wharfside, LLC, by Gentile Glas Holloway O'Mahoney & Associates, Inc., Agent, for a Development Order Amendment to modify the Site Plan; and, add square footage, 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 December 15, 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 Robert S. Weinroth, Mayor  | - Aye |
| Commissioner Gregg K. Weiss, Vice-Mayor | - Aye |
| Commissioner Dave Kerner                | - Aye |
| Commissioner Maria G. Marino            | - 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 December 15, 2021.

Filed with the Clerk of the Board of County Commissioners on December 20th, 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:

PARCEL A OF WHARFSIDE AT BOCA POINTE P.U.D., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 125, PAGE(S) 94-96, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

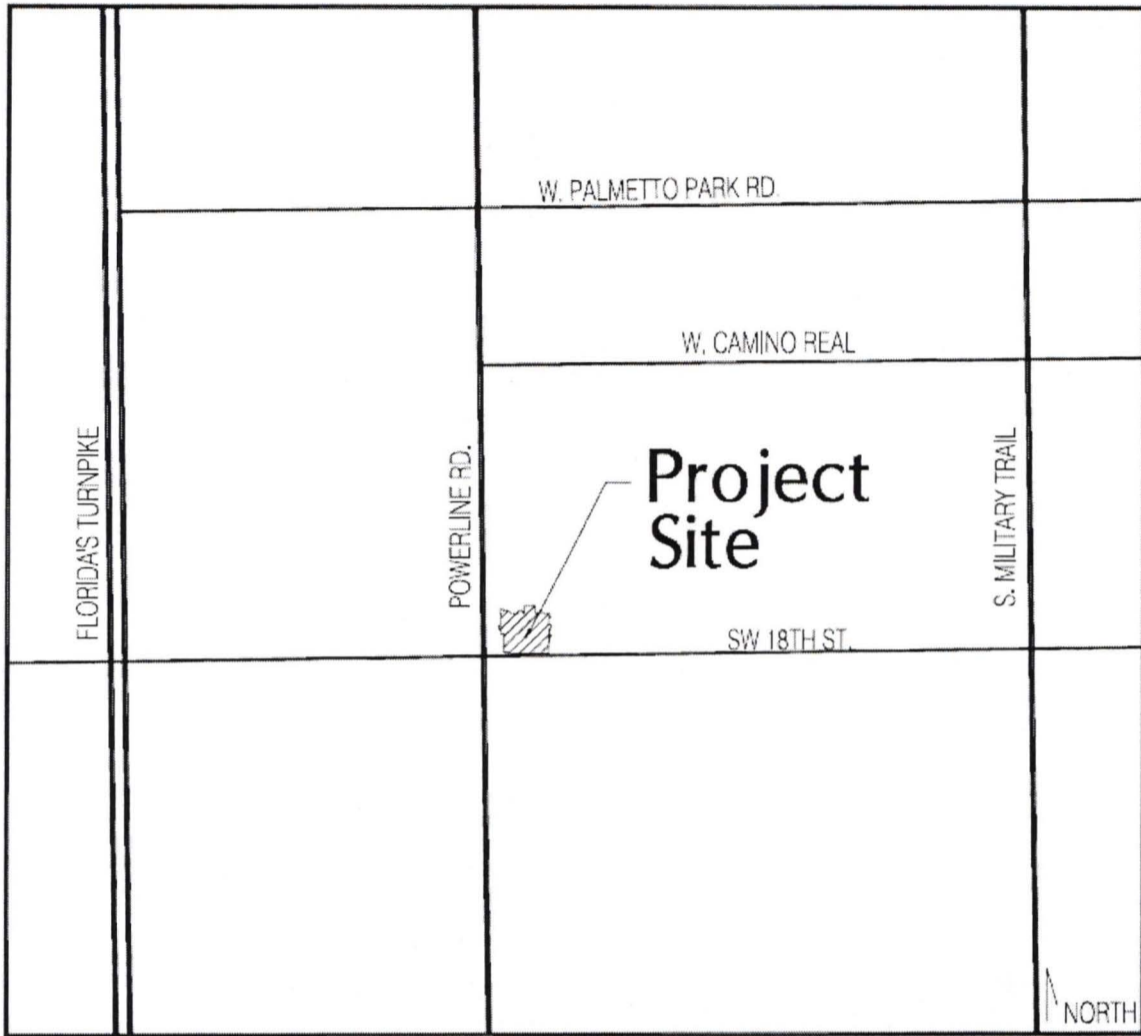
PARCEL 2:

TOGETHER WITH NON-EXCLUSIVE EASEMENT RIGHTS CREATED UNDER THAT CERTAIN AMENDED AND RESTATED DECLARATION FOR BOCA POINTE RECORDED IN OFFICIAL RECORDS BOOK 13764, PAGE 793, FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTION OF BOCA POINT RECORDED IN OFFICIAL RECORDS BOOK 26038, PAGE 1039 AND SECOND AMENDMENT TO THIRD AMENDED AND RESTATED BY LAWS OF BOCA POINTE, COMMUNITY ASSOCIATION, INC., RECORDED IN OFFICIAL RECORDS BOOK 27435, PAGE 643, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 436,701 SQUARE FEET (10.0253 ACRES) MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH

N.T.S.



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-1521, Control No. 1973-00085, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-380 (Control No. 1973-085), R-83-1032 (Control No. 1973-085(A)), R-89-1153 (Control No. 1973-085(B)), R-89-1154 (Control No. 1973-085(C)), R-90-516 (Control No. 1973-085(D)), R-91-237 (Control No. 1973-085(E)), and R-2007-0004 (Control No. 1973-085), shall remain in effect unless expressly modified 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

##### Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-380 (1973-085), R-83-1032 (1973-085(A)), R-89-1153 (1973-085(B)), R-89-1154 (1973-085(C)), R-90-516 (1973-085(D)), R-91-237 (1973-085(E)), R-2007-0004 (DOA-2006-01371), ZR-2007-018 (ZV-2006-01751), R-2013-1254 (DOA-2013-01334), R-2013-1522 (ZV/DOA/R-2013-01069), R-2019-0005, R-2019-0006, and R-2019-0007 (CA/DOA/W-2018-00218), shall remain in effect unless expressly modified 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-1521, Control No. 1973-00085, which currently states:

The Conditions of Approval as contained herein shall apply to Tract T-2 of the Commercial Pod only (the Affected area of Application ZV/DOA/R-2013-1069), unless expressly stated. The approved Preliminary Master Plan is dated August 15, 2013. 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 ULDC, must be approved by the Board of County Commissioners.

##### Is hereby amended to read:

The Conditions of Approval as contained herein shall apply to Tract T (Parcesl A and B of Plat Book 125 pages 94-96) of the Commercial Pod only, unless expressly stated. The approved Preliminary Master Plan is dated August 27, 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 (ULDC), must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

3. Previous ALL PETITIONS Condition 3 of Resolution R-2013-1521, Control No. 1973-00085, which currently states:

Development of Tract T-2 is limited to the uses and/or site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated August 15, 2013 and the approved Preliminary Regulating Plan is dated July 18, 2013. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of

Approval. (DRO: ZONING - Zoning)

**Is hereby amended to read:**

Development of Tract T (Parcesl A and B of Plat Book 125 pages 94-96) is limited to the uses and site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated October 25, 2021 and the approved Preliminary Regulating Plan is dated July 18, 2013. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (DRO/ONGOING: ZONING - Zoning)

4. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-1521 (Control 1973-00085), 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. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the retail buildings 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). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2013-1521, Control No.1973-00085)

**ENGINEERING**

1. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at SW 18th St and Project Entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. The Property Owner shall provide acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division by April 30, 2014. (DATE: MONITORING - Engineering) [Note: COMPLETED]

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) (Previous ENGINEERING Condition 1 of Resolution R-2013-1521, Control No.1973-00085)

2. 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, 2018. 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) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-1521, Control No.1973-00085)

3. Prior to issuance of a Certificate of Occupancy for Wharfside at Boca Pointe, the

Property Owner shall legally create the lot in accordance with Article 11 of the Unified Land Development Code. Creation of the legal lot shall apply to both Tract W-5 in P.B. 46, PG. 123 and Tract T-2 in P.B. 43, PG. 194 to reflect the current property line. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2013-1521, Control No.1973-00085)

#### **PLANNED DEVELOPMENT**

1. Prior to issuance of a Certificate of Completion for Building 1 or Building 2, Buildings E, F, and L shall be demolished and the Demolition Permits completed. (CC: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2013-1521, Control No.1973-00085)

#### **SITE DESIGN**

1. Previous SITE DESIGN Condition 1 of Resolution R-2013-1521, Control No.1973-00085, which currently states:

The site shall be limited to a maximum of 119,500 square feet. (ONGOING: ZONING - Zoning)

#### **Is hereby amended to read:**

The site shall be limited to a maximum of 119,850 square feet. (ONGOING: ZONING - Zoning)

2. Prior to final approval by the Development Review Officer, the Applicant shall modify the Final Master Plan to reflect the correct Commercial Pod square footage as indicated on the Preliminary Site Plan. (DRO: ZONING - Zoning)

#### **USE LIMITATIONS**

1. Outdoor seating for Buildings H and M shall be limited to the following:
  - a. Building H: Maximum of 53 outdoor seats; and,
  - b. Building M: Maximum of 59 outdoor seats.

Prior to final approval by the Development Review Officer, the Site Plan shall be modified to indicate the number of seating for these two buildings. (DRO/ONGOING: 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.