

RESOLUTION NO. R-2022- 0771

RESOLUTION APPROVING ZONING APPLICATION ABN/ZV/W/DOA/CA-2021-02151
(CONTROL NO. 1994-00013)
a Development Order Amendment
APPLICATION OF Chimu Inc, PreLux, LLC
BY Urban Design Studio, AGENT
(Chimu 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 ABN/ZV/W/DOA/CA-2021-02151 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 2022;

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 ABN/ZV/W/DOA/CA-2021-02151, the Application of Chimu Inc, PreLux, LLC, by Urban Design Studio, Agent, for a Development Order Amendment to modify the Site Plan and delete square footage (Type 1 Restaurant with drive-through Building D), 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 July 28, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

The motion was seconded by Commissioner McKinlay 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 Maria G. Marino	- Aye
Commissioner Dave Kerner	- 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 July 28, 2022.

Filed with the Clerk of the Board of County Commissioners on August 2nd, 2022.

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

THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THEREFROM THE LAND CONVEYED BY RIGHT-OF-WAY DEED IN FAVOR OF THE COUNTY OF PALM BEACH, IN THE STATE OF FLORIDA, RECORDED OCTOBER 12, 1959 IN OFFICIAL RECORDS BOOK 415, PAGE 181, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND LESS AND EXCEPT THEREFROM THE LAND DESCRIBED AS PARCEL NO. 1 OF EXHIBIT A TO STIPULATED FINAL JUDGMENT, RECORDED DECEMBER 5, 1990 IN OFFICIAL RECORDS BOOK 6661, PAGE 1785, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

ALSO DESCRIBED AS

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 137, CONCEPT HOMES OF LANTANA PHASE 9-B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, PAGES 81-82 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S89°09'20"E ALONG THE SOUTH LINE OF LOTS 129 THROUGH 137 AS SHOWN ON SAID PLAT, A DISTANCE OF 663.54 FEET TO THE SOUTHEAST CORNER OF SAID LOT 129; THENCE S00°13'52"E ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SAID SOUTHWEST 1/4 OF SECTION 1, A DISTANCE OF 572.13 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 6661, PAGE 1785 OF SAID PUBLIC RECORDS; THENCE N89°45'29"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 72.98 FEET; THENCE N88°50'23"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 565.85 FEET; THENCE N44°35'02"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.93 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF ADONIS DRIVE, AS RECORDED IN PLAT BOOK 44, PAGES 165 AND 166 OF SAID PUBLIC RECORDS; THENCE N00°16'07"W ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 545.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 378,651 SQUARE FEET/8.6926 ACRES MORE OR LESS.

LANDS SITUATE IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Type 1 Restaurant with drive-through Building D)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

Development of the property is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated January 31, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC..

Is hereby amended to read:

The approved Site Plan is dated May 31, 2022. 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)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2005-1122 (Control 1994-0013), Resolution R-2008-1704 (Control 1994-0013), and Resolution R-2015-0960 (Control 1994-0013) 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 unless expressly modified. (ONGOING: MONITORING - Zoning)

SITE DESIGN

1. Prior to final Development Review Officer Approval, the Landscape Plan shall be modified to provide additional perimeter buffering material along Hypoluxo Road and Adonis Drive. The plan shall indicate additional landscaping for screening of vehicular use areas by combination of trees and hedges not exceeding the height limitations of Article 7. (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.