

RESOLUTION NO. R-2023-0117

RESOLUTION APPROVING ZONING APPLICATION DOA/CAW-2022-00466
(CONTROL NO. 1986-00004)
a Type 2 Waiver
APPLICATION OF Kanela Enterprise WPB, LLC - Nelson Tiburicio
BY Urban Design Studio, AGENT
(Diamond Plaza)

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 DOA/CAW-2022-00466 submitted on behalf of Kanela Enterprise WPB, LLC - Nelson Tiburicio by Urban Design Studio, Agent for a Development Order Amendment to modify uses, a Class A Conditional Use to allow a Cocktail Lounge within 250 feet of a parcel of land with a residential future land use designation or use, and a Type 2 Waiver to allow an extension of the hours of operation for a Non-Residential use located within 250 feet of a parcel of land with a residential future land use designation or use on 2.07 acres was presented to the Board of County Commissioners at a public hearing on January 26, 2023;

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 finds that the Zoning Application meets all the Standards contained in Article 2.B (Public Hearing Processes) based on the evidence and testimony submitted and presented at the public hearing conducted on January 26, 2023;

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 DOA/CAW-2022-00466, the Application of Kanela Enterprise WPB, LLC - Nelson Tiburicio, by Urban Design Studio, Agent, for a Type 2 Waiver to allow an extension of the hours of operation for a Non-Residential use located within 250 feet of a parcel of land with a residential future land use designation or use on 2.07 acres, 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 26, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Barnett moved for approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	- Absent
Commissioner Maria Sachs, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Michael A. Barnett	- Aye
Commissioner Marci Woodward	- Aye
Commissioner Sara Baxter	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared the resolution was duly passed and adopted on January 26, 2023.

Filed with the Clerk of the Board of County Commissioners on February 1, 2023

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

ALL OF THE WEST 448.58 FEET OF THE NORTH 264.67 FEET OF LOTS 3 AND 4, MODEL LAND COMPANY SUBDIVISION OF THE NORTH ONE-HALF (N 1/2) OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 76, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 50.00 FEET AND THE WEST 28.00 FEET FOR ROAD RIGHT-OF-WAY PURPOSES.

MORE PARTICULARLY DESCRIBED AS:

COMMECING AT THE NORTH QUARTER CORNER OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST OF PALM BEACH COUNTY, FLORIDA. THENCE SOUTH 01°37'35" WEST, ALONG THE NORTH LINE OF SAID SECTION 24, A DISTANCE OF 90.50 FEET. THENCE SOUTH 88°24'47" EAST, A DISTANCE OF 53 FEET TO THE POINT OF BEGINNING ON THE EASTERLY RIGHT-OF-WAY OF MILITARY TRAIL (STATE ROAD 809) DESCRIBED IN FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION NUMBER 93590-2603. THENCE SOUTH 87°52'46" EAST, A DISTANCE OF 420.59 FEET, ALONG THE SOUTH RIGHT-OF-WAY LINE OF DIAMOND ROAD, LESSED OUT IN OFFICAL RECORDS BOOK 22337, PAGE 451, FROM PLAT BOOK 5, PAGE 76. THENCE SOUTH 01°37'35 WEST, ALONG A LINE PARALLEL 420.59 FEET FROM THE EASTERLY RIGHT OF WAY OF MILITARY TRAIL A DISTANCE OF 214.68 FEET. THENCE NORTH 87°52'46" WEST, ALONG A PARALLEL LINE 214.68 FEET FROM THE SOUTHERLY RIGHT-OF-WAY OF DIAMOND ROAD A DISTANCE OF 420.59 FEET, THENCE NORTH 01°37'35" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY OF MILITARY TRAIL, A DISTANCE OF 214.68 TO THE POINT OF BEGINNING.

CONTAINING A TOTAL OF 2.073 ACRES/90290 SQUARE FEET, MORE OR LESS.

SAID PROPERTY IS SITUATED IN SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

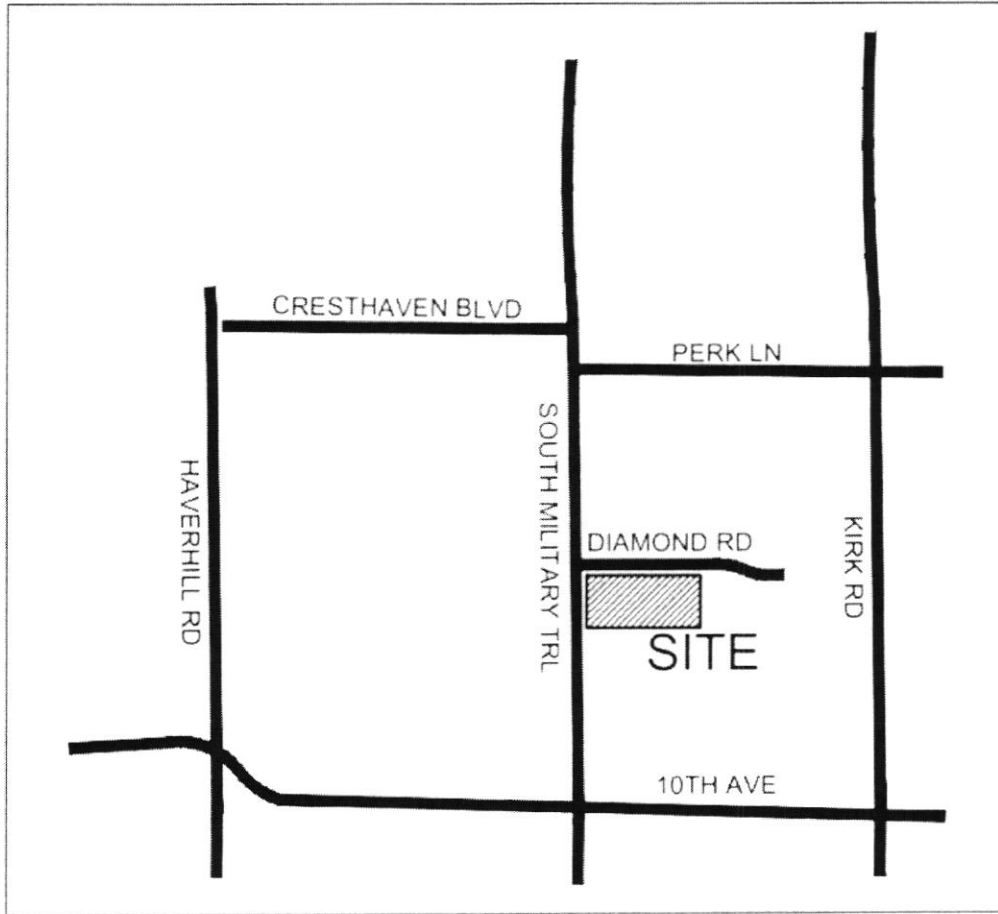


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Waiver

ALL PETITIONS

1. The approved Site Plan is dated May 23, 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)

USE LIMITATIONS

1. Access points along Diamond Road shall be closed between the hours of 11 p.m. and 6 a.m., with access to and from the site allowed only from South Military Trail. (ONGOING: CODE ENF - Zoning)

2. Parking shall be prohibited along Diamond Road, unless approved for parallel parking by the Land Development Division. (ONGOING: CODE ENF - Zoning)

3. Hours of Operation shall be limited as follows:

- Monday to Wednesday 6:00 p.m. to 11:00 p.m.
- Thursday 6:00 p.m. to 1:00 a.m.
- Friday to Saturday 6:00 p.m. to 4:00 a.m.
- Sunday 6:00 p.m. to 2:00 a.m. (Monday morning)

(ONGOING: CODE ENF - 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: ZONING - 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.