

RESOLUTION APPROVING ZONING APPLICATION ABN/Z/CA-2022-00218
(CONTROL NO. 2005-00454)
a Class A Conditional Use
APPLICATION OF Palm Beach Recovery 2016 LLC, AHC Acquisitions, LLC - Charlie
Scardina, HRS Palm Beach LLC
BY Insite Studio, AGENT
(Brentwood of Wellington)

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/Z/CA-2022-00218, submitted on behalf of Palm Beach Recovery 2016 LLC, HRS Palm Beach LLC, and AHC Acquisitions, LLC, by Insite Studio, Agent, for a Class A Conditional Use to allow a combined density increase with the Workforce Housing Program and Transfer of Development Rights Program in excess of two units per acre on 10.22 acres, was presented to the Board of County Commissioners at a public hearing conducted on March 23, 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 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 ABN/Z/CA-2022-00218, the Application of Palm Beach Recovery 2016 LLC, AHC Acquisitions, LLC - Charlie Scardina, HRS Palm Beach LLC, by Insite Studio, Agent, for a Class A Conditional Use to allow a combined density increase with the Workforce Housing

Program and Transfer of Development Rights Program in excess of two units per acre on 10.22 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 March 23, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Baxter moved for the approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	-	Aye
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 that the resolution was duly passed and adopted on March 23, 2023.

Filed with the Clerk of the Board of County Commissioners on March 24, 2023.

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2022-020.

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 FLORIDA



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

BRENTWOOD OF WELLINGTON, P.U.D., ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 117, PAGES 177 THROUGH 180, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 445,252 SQUARE FEET/10.2216 ACRES, MORE LESS.

SAID LANDS SITUATE IN SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR DRAINAGE AND OTHER PURPOSES AS DEFINED IN AND SUBJECT TO THAT CERTAIN DRAINAGE EASEMENT RECORDED APRIL 2, 2003, IN OFFICIAL RECORDS BOOK 15005, PAGE 252; AND RECORDED JANUARY 25, 2006, IN OFFICIAL RECORDS BOOK 19841, PAGE 1703, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B

VICINITY SKETCH

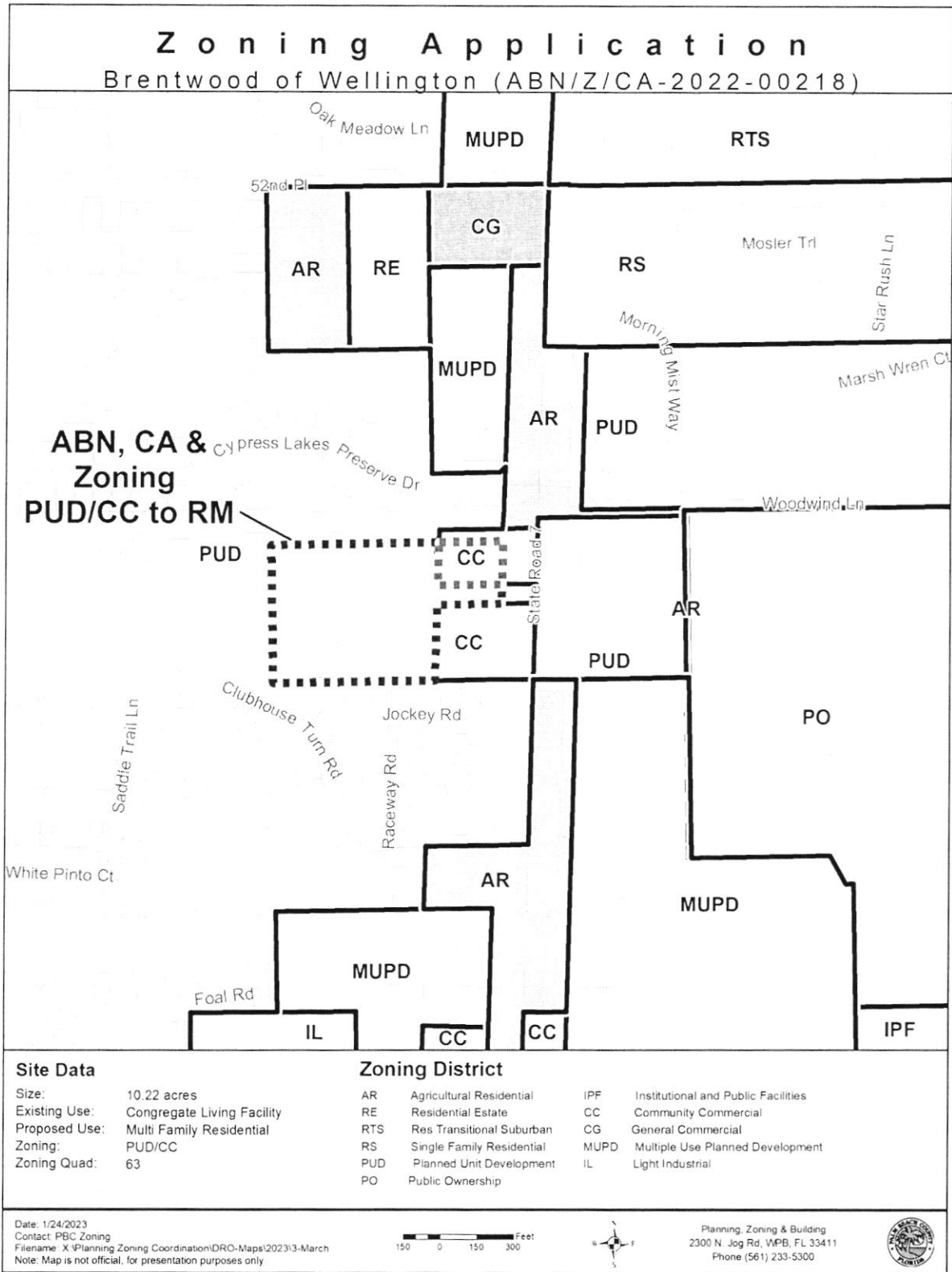


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use

ALL PETITIONS

1. The approved Site Plan is dated December 28, 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.

ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2026, or as amended. 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)

2. The Property Owner shall construct:

- i) right turn lane north approach on SR-7 at the proposed project entrance.
- ii) a new directional median break on SR-7 in front of the proposed project entrance, allowing right-in, right-out, and left -in only movements
- iii) left turn lane south approach on SR-7 at proposed project entrance at the new directional median break in ii above.

All the construction above shall follow the conditions contained in the FDOT Variance Committee Review letter, dated August 4, 2022 or as amended through subsequent driveway approval letters, if any. All the turn lane lengths shall be as required by the FDOT requirements. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

- a. Permits required from the FDOT for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

3. A cross access easement shall be recorded for the adjacent property to the south before the final site plan approval. (DRO: MONITORING - Engineering)

4. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, any and all drainage easements shown in conflict with the existing or proposed structures. (BLDG PERMIT: MONITORING-Eng) (BLDGPMT: MONITORING - Engineering)

ENVIRONMENTAL

1. Provide a copy of a wetland jurisdictional determination from the Department of Environmental Protection, South Florida Water Management District and/or the Army Corps of Engineers. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to the final approval by the Development Review Officer, the plans shall be revised

to indicate the general relocation area of each native specimen tree to be relocated. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. Prior to Final Approval by the Development Review Officer, a Phase II Environmental Site Assessment shall be submitted to the Department of Environmental Resources Management (ERM). If the results of the Phase II Environmental Site Assessment indicate areas of on-site contamination, the project shall be referred to the Florida Department of Environmental Protection (FDEP) for the development of a mitigation plan and to oversee the remediation on the site. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

4. Prior to the final approval by the Development Review Officer, the plans shall be revised to indicate a Tree Preservation Area in the open space area located between the parking lot for Building #1 and the ingress/egress road (a.k.a. Carlyle Village Road). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

5. Prior to the final approval by the Development Review Officer, a Tree Mitigation Area Management Plan shall be provided to ERM for review and approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

6. All mitigation plantings shall be planted on-site or as approved by ERM. (ONGOING/VEGPMT: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

PLANNING

1. The subject request for 132 units with a 33-unit Workforce Housing Program (WHP) obligation is subject to the conditions contained in amendment (LGA2022-20) conditions 1-3, which limit the total units to 132 du, require 25% WHP onsite (33du) and require the purchase of 20 TDR's. (ONGOING: PLANNING - Planning)

2. The Developer shall notify the Planning Division and the Department of Housing and Economic Development (DHED) at the commencement of leasing. (ONGOING: PLANNING - Planning)

3. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Workforce Housing Restrictive Covenant, in a form acceptable to the Palm Beach County Attorney. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning. (BLDGPMT: MONITORING - Planning)

4. Prior to the release of the first residential Building Permit, the Developer shall provide documentation demonstrating compliance with the required design standards: compatible exteriors, provision of a dry model. (BLDGPMT: MONITORING - Planning)

5. Prior to the release of the 5th Building Permit (66 units), Fifty percent of WHP units (17) must receive Certificates of Occupancy (CO). (BLDGPMT: MONITORING - Planning)

6. Prior to the release of the 12th Building Permit (112 units), All WHP units (33) must receive Certificates of Occupancy (CO). All Plans and covenants must be consistent with what has been constructed, and shall be amended if necessary. (BLDGPMT: MONITORING - Planning)

7. Should more than 50% of the Building Permits be issued simultaneously, then the initial Certificate of Occupancies (CO's) that are released will be attributable to the WHP obligation. (ONGOING: PLANNING - Planning)

8. Prior to Final DRO, the Property Owner shall submit all of the applicable documents and plans to match what the BCC approves. (DRO: PLANNING - Planning)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department.

The Contract for Sale and Purchase of the TDRs shall accommodate a maximum of 20 TDR units at a total selling price of \$327,075 (13 TDR units to be purchased at the Market Rate Multifamily price of \$24,500 per unit (\$318,500) and 7 TDR units to be purchased at the Workforce rate of \$1,225 per unit (\$8,575).

Upon execution, the Property Owner shall submit the Contract to the Palm Beach County Clerk of Court for recordation, and a copy shall be provided to the Zoning Division. (DRO: ZONING - Planning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit the Transfer of Development Rights Deed in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department. (DRO: ZONING - Zoning)

3. Prior to technical compliance of the plat or issuance of the first Building Permit, whichever occurs first, the Property Owner shall pay one hundred (100) percent of the Funds, pursuant to the recorded Contract of Sale and Purchase of TDRs, to the Board of County Commissioners through the Zoning Division. (BLDGPM/TC: ZONING - Zoning)

4. Prior to the issuance of the first Building Permit, except Sales Models or temporary Real Estates Sales and Management Offices, the Zoning Division shall provide the Developer and/or Property Owner the executed Transfer of Development Rights Deed, in order for the Property Owner to submit the TDR Deed to the Palm Beach County Clerk of Court for recordation, and a copy of the recorded TDR Deed shall be provided to the Zoning Division. (BLDGPM/TC: MONITORING - 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) (ONGOING: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.