

RESOLUTION NO. R-2023- 0712

RESOLUTION APPROVING ZONING APPLICATION DOA-2022-01247  
(CONTROL NO. 1985-00054)  
a Development Order Amendment  
APPLICATION OF PS Florida One, Inc.  
BY Government Law Group, BOHLER Engineering, AGENT  
(Babcock PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 125 and Chapter 163, 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-2022-01247, submitted on behalf of PS Florida One, Inc., by Government Law Group, BOHLER Engineering, for a Development Order Amendment to modify the Master Plan, modify Conditions of Approval, and to delete 1.93 acres from the previously approved 42.03 acre PUD, was presented to the Board of County Commissioners at a public hearing conducted May 25, 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 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

DOA-2022-01247, the Application of PS Florida One, Inc., by Government Law Group, BOHLER Engineering, Agent, for a Development Order Amendment to modify the Master Plan, modify Conditions of Approval, and to delete 1.93 acres from the previously approved 42.03 acre PUD., 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 May 25, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner  Bernard  moved for the approval of the Resolution.

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

- Commissioner Gregg K. Weiss, Mayor - Aye
- Commissioner Maria Sachs, Vice Mayor - Absent
- 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 May 25, 2023.

Filed with the Clerk of the Board of County Commissioners on  May 25, 2023 .

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY

JOSEPH ABRUZZO,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

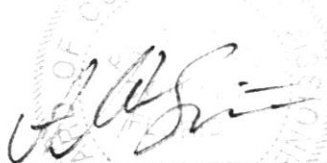
BY:   
DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

Legal Description of Babcock P.U.D

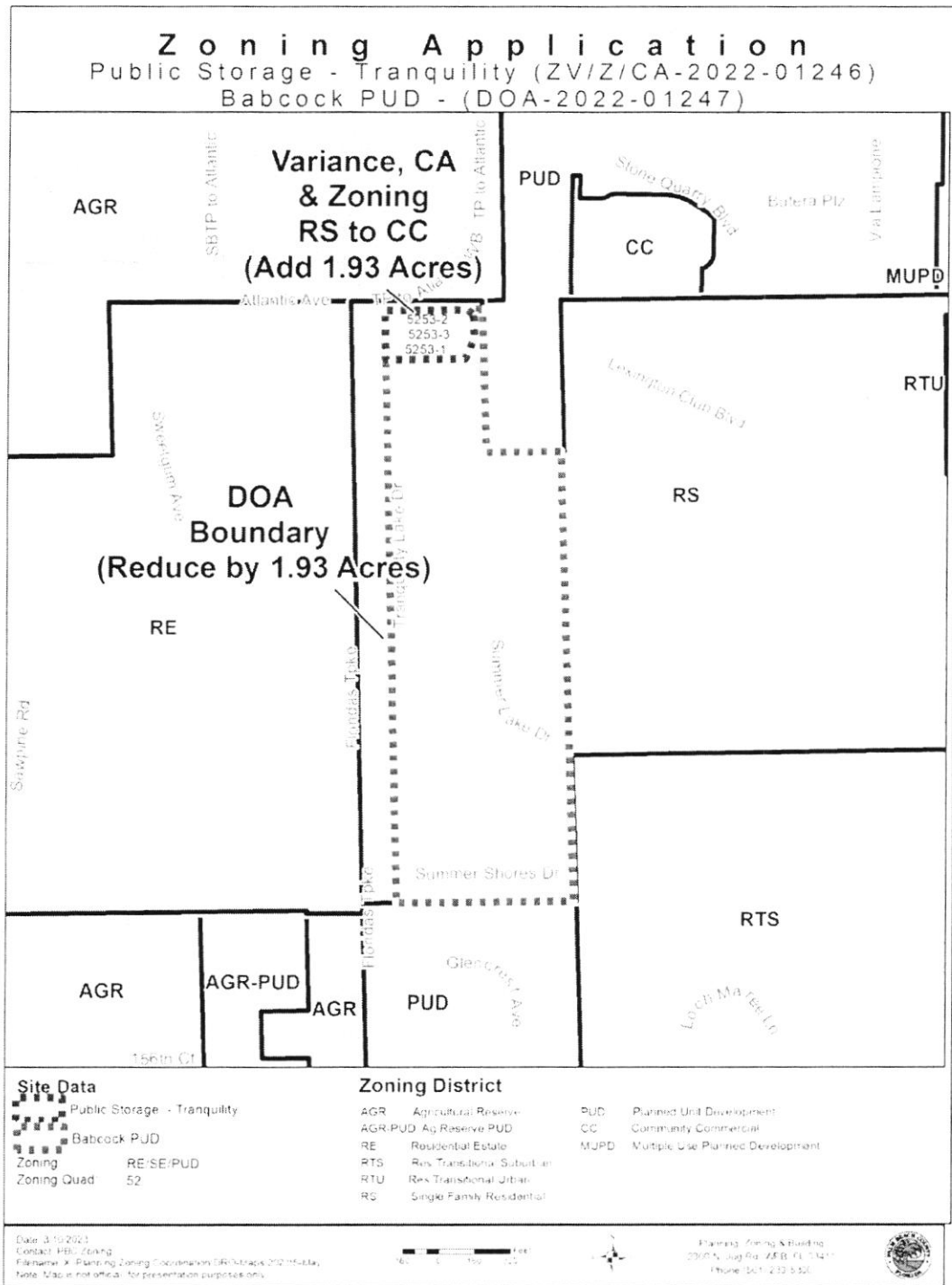
THE FOLLOWING DESCRIBED P.U.D. IS WITHIN THE LANDS DESCRIBED IN "WATERWAYS AT DELRAY - PHASE I" AS DESCRIBED IN PLAT BOOK 67, PAGES 180-181, "WATERWAYS AT DELRAY - PHASE II" AS DESCRIBED IN PLAT BOOK 68, PAGES 86-87, "WATERWAYS AT DELRAY - PHASE III" AS DESCRIBED IN PLAT BOOK 69, PAGES 53-54, AND "WATERWAYS AT DELRAY - PHASE IV" AS DESCRIBED IN PLAT BOOK 71, PAGES 124-126. LYING IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST, IN PALM BEACH COUNTY, FLORIDA; AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 20; THENCE SOUTH 89°18'07" WEST ALONG THE NORTH LINE OF SAID SECTION, A DISTANCE OF 346.24 FEET; THENCE SOUTH 00°41'53" EAST, A DISTANCE OF 37.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 01°52'47" EAST, A DISTANCE OF 637.08 FEET; THENCE NORTH 89°20'44" EAST, A DISTANCE OF 331.94 FEET; THENCE SOUTH 01°52'56" EAST ALONG A LINE 15.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO AND PARALLEL WITH) THE EAST LINE OF SECTION 20, A DISTANCE OF 1,988.44 FEET; THENCE SOUTH 89°23'36" WEST, A DISTANCE OF 787.83 FEET (DEED)/788.12 FEET (CALCULATED) TO A POINT LYING ON THE EASTERLY RIGHT-OF-WAY LINE OF FLORIDA'S TURNPIKE; THENCE NORTH 01°24'09" WEST, A DISTANCE OF 2,405.42 FEET; THENCE NORTH 89°22'39" EAST, A DISTANCE OF 353.72 FEET; THENCE NORTH 23°13'42" EAST, A DISTANCE OF 77.42 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE LEFT, THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 100.00 FEET AND A CENTRAL ANGLE OF 25°06'29", A DISTANCE OF 43.82 FEET TO THE POINT OF TANGENCY; THENCE NORTH 01°52'47" WEST, A DISTANCE OF 80.82 FEET; THENCE NORTH 45°42'15" WEST, A DISTANCE OF 35.36 FEET TO A POINT LYING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 806; THENCE NORTH 89°18'07" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 64.50 FEET TO THE POINT OF BEGINNING.

SAID P.U.D. CONTAINING 40.01 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1985-1227 (Control 1985-00054), 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: ZONING - Zoning)
2. The approved Preliminary Master Plan is dated February 21, 2023. 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)
3. Prior to final approval by the Development Review Officer, the Applicant will need to demonstrate that the perimeter buffer is compliant with the ULDC. (DRO: ZONING – Zoning)
4. Prior to final approval by the DRO, the Applicant and the HOA shall modify the existing Unity of Control for the existing Babcock PUD to reflect the deletion of land area. (DRO: ZONING - Zoning)

##### ENGINEERING

1. Previous ENGINEERING Condition 4 of Resolution R-1985-1227, Control No.1985-00054, which currently states:

This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended.

**Is hereby deleted.** [REASON: Code requirement]

2. The Property owner shall convey for the ultimate right-of-way of Delray West Road, 60 feet from centerline, approximately 7 feet, within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-1985-1227, Control No.1985-00054)
3. The Property owner shall align the project's entrance with the entrance to the Florida Turnpike, this shall be accomplished by this developer acquiring the adjacent property to the east or by reconstructing the Turnpike entrance per the Florida Department of Transportation & County Engineers approval. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-1985-1227, Control No.1985-00054)
4. The Property owner shall construct concurrent with the construction of the projects entrance road onto Delray West Road:
  - a) Left Turn Lane East Approach and Right Turn Lane West Approach.
  - b) Signalization modifications as required by the County Engineer. (BLDGPMT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-1985-1227, Control No.1985-00054)



5. The Property owner shall provide Palm Beach County with a road drainage easement with sufficient retention/detention capacity through this project's internal lake system to legal positive outfall for the road drainage of Delray West Road. This drainage easement shall be subject to all governmental agency requirements. (BLDGPMT/ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-1985-1227, Control No.1985-00054)

6. The Property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently, the Fair Share Fee for this project is \$114,650. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-1985-1227, Control No.1985-00054)

7. Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$28,663 toward Palm Beach County's existing Roadway Improvement Program, these total funds ( \$143,313) to be paid prior to the issuance of the first Building Permit however in case later than January 1, 1986. (BLDGPMT/DATE: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-1985-1227, Control No.1985-00054)

8. If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount \$28,663 shall be credited toward the increased Fair Share Fee. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 11 of Resolution R-1985-1227, Control No.1985-00054)

9. The Property owner shall obtain a Turnout Permit from the Florida Department of Transportation for access onto Delray West Road. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 13 of Resolution R-1985-1227, Control No.1985-00054)

10. Property owner shall convey an access easement to the public for the property owners to the south and east per the County Engineer's approval. This property owner shall also pave this easement per the County Engineer's approval. Construction may be phased concurrent with the filing of the plats. The access easement shall be recorded prior to Site Plan Certification of the Master Plan. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 15 of Resolution R-1985-1227, Control No.1985-00054)

## **ENVIRONMENTAL**

1. The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect these preservation areas during site clearing and construction. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 3 of Resolution R-1985-1227, Control No.1985-00054)

## **SITE DESIGN**

1. Prior to site plan certification the site plan shall be revised to include:  
a) Unit type description per section 402.7 (Site Plan Review Committee).  
b) Creation of additional parcel(s) to the proposed "Parcel A" for multi-family residences in order to aid in regulating the phases of development. If Parcel A is to be developed in phases, the Master Plan shall delineate this.  
c) Conceptual layout of the proposed pedestrian systems.  
d) Abandonment of 30 foot plated road running east-west through the site. [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-1985-1227, Control

No.1985-00054)

2. Access to Parcels B and C (Single Family Attached Unit Types) shall be from a service drive separate from the primary PUD loop roadway system to reduce the impact of vehicular traffic upon single family attached residences. [Note: COMPLETED] (Previous SITE DESIGN Condition 2 of Resolution R-1985-1227, Control No.1985-00054)

### **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) (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.