

RESOLUTION NO. ZR-2008-045

RESOLUTION APPROVING ZONING APPLICATION ZV2008-806  
CONTROL NO. 1974-104  
TYPE II VARIANCE (STAND ALONE)  
APPLICATION OF MS WOOLBRIGHT BOCA GROVE LLC  
BY MILLER LAND PLANNING, AGENT  
(SHOPS AT BOCA GROVE)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) is authorized and empowered to consider, approve, approve with conditions or deny a Type II Variance; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application ZV2008-806 was presented to the Zoning Commission at a public hearing conducted on July 3, 2008; and

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Zoning Commission has considered the findings in the staff report and the following findings of fact:

1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same Zoning District;
2. Special circumstances and conditions do not result from the actions of the applicant and the approval of this variance will not grant any special privilege to the applicant;
3. Granting the variance does not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district;
4. Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship;
5. This variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;
6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code; and,
7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

WHEREAS, Article 2.A.1.K.3.a (Action by ZC) of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV2008-806, the application of MS Woolbright Boca Grove LLC, by Miller Land Planning, Agent for a Type II Variance to allow a reduction of compactor setback, on a parcel of land legally described 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 3, 2008, subject to the conditions of approval described in EXHIBIT C, and variance request described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Zucaro moved for the approval of the Resolution.

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

Frank A. Barbieri, Jr., Chair	Aye
William Anderson, Vice Chair	Aye
Allan Kaplan	Aye
Sherry Hyman	Aye
Al Zucaro	Aye
Joanne Davis	Aye
Alex Brumfield III	Aye

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS ZONING COMMISSIONERS

BY:   
COUNTY ATTORNEY

BY:   
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION: Shops of Boca Grove

(DEED)

A PARCEL OF LAND LOCATED IN SECTION 22, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WESTERLY 129.31 FEET OF THE SOUTHERLY 427.71 FEET OF THE NORTHERLY 1277.79 FEET OF THE NORTHWEST 1/4 AS DESCRIBED IN OFFICIAL RECORDS BOOK 2736, PAGE 903, AND THAT PART OF THE NORTHWEST 1/4 LYING WESTERLY OF JOG ROAD, AS DESCRIBED IN OFFICIAL RECORDS BOOK 2596, PAGE 266; SAID PARCEL BEING FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 22; THENCE SOUTH 00°10'25" WEST, ALONG THE WEST LINE OF SAID SECTION 22, A DISTANCE OF 850.08 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE SOUTH 00°10'25" WEST, ALONG THE LAST DESCRIBED LINE, 427.91 FEET TO AN INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF SUNSTREAM BOULEVARD; THENCE ALONG SAID RIGHT-OF-WAY LINE OF SUNSTREAM BOULEVARD NORTH 89°37'45" EAST, 36.19 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE TO THE RIGHT; THENCE SOUTHEASTERLY ALONG SAID RIGHT-OF-WAY LINE, AND ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 386.54 FEET, AN ARC DISTANCE OF 217.31 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE, SOUTH 58°09'36" EAST ALONG SAID RIGHT-OF-WAY LINE OF SUNSTREAM BOULEVARD, 173.95 FEET; THENCE NORTH 77°38'11" EAST ALONG SAID RIGHT-OF-WAY LINE OF SUNBEAM BOULEVARD, 34.86 FEET TO A POINT LOCATED ON THE ARC OF A CIRCULAR CURVE TO THE RIGHT AND WHOSE RADIUS POINT BEARS SOUTH 56°34'03" EAST FROM THE LAST DESCRIBED POINT: SAID POINT BEING FURTHER DESCRIBED AS BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF JOG ROAD; THENCE NORTHERLY AND EASTERLY ALONG SAID RIGHT-OF-WAY LINE OF JOG ROAD AND ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 2313.88 FEET, AN ARC DISTANCE OF 538.97 FEET; THENCE, NORTH 76°06'00" WEST, 659.56 FEET; THENCE NORTH 89°49'35" WEST, 129.31 FEET THE POINT OF BEGINNING.

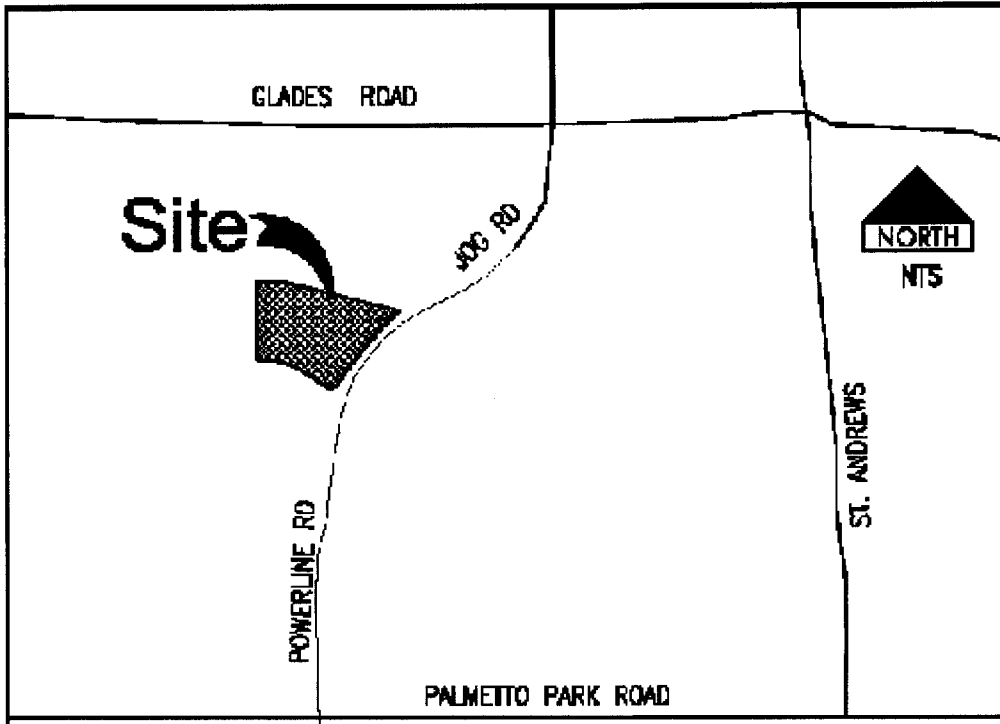
SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

CORRECTIVE LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATE IN SECTION 22, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 47 SOUTH, RANGE 42 EAST, THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 22 SOUTH 00°12'33" EAST, A DISTANCE OF 850.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 22 SOUTH 00°12'33" EAST, A DISTANCE OF 426.58 FEET TO THE NORTH RIGHT OF WAY LINE OF SUNSTREAM BOULEVARD AS LAID OUT AND IN USE AND AS DEDICATED PER THE PLAT OF "BOCA GROVE" AS RECORDED IN PLAT BOOK 32, PAGES 12 AND 13 AND THE PLAT OF "BOCA GROVE ADDITION" AS RECORDED IN PLAT BOOK 39, PAGE 194, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE NORTH RIGHT OF WAY LINE OF SAID SUNSTREAM BOULEVARD NORTH 89°10'22" EAST, A DISTANCE OF 36.19 FEET TO A POINT OF CURVATURE WITH A CURVE CONCAVE TO THE SOUTH, SAID CURVE HAVING A RADIUS OF 386.54 FEET AND A CENTRAL ANGLE OF 32°12'39"; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 217.31 FEET; THENCE CONTINUE ALONG THE SAID NORTH RIGHT OF WAY LINE SOUTH 58°36'59" EAST, A DISTANCE OF 175.48 FEET; THENCE CONTINUE ALONG SAID NORTH RIGHT OF WAY LINE NORTH 77°11'50" EAST, A DISTANCE OF 34.85 FEET TO A POINT ON A NON TANGENT CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A RADIUS OF 2313.88 FEET AND A CENTRAL ANGLE OF 13°19'25", AND FROM WHICH A RADIAL LINE BEARS SOUTH 56°59'20" EAST, SAID POINT ALSO BEING ON THE WESTERLY RIGHT OF WAY LINE OF JOG ROAD AS LAID OUT AND IN USE AND AS DEDICATED PER OFFICIAL RECORDS BOOK 1799, PAGE 1422 AND OFFICIAL RECORDS BOOK 3520, PAGE 10, BOTH OF THE AFOREMENTIONED PUBLIC RECORDS, THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 538.07 FEET TO THE SOUTHEAST CORNER OF TRACT "A", ESTANCIA III OF VIA VERDE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 32, PAGES 105 AND 106 OF THE AFOREMENTIONED PUBLIC RECORDS; THENCE ALONG THE SOUTH LINE OF SAID TRACT "A" NORTH 76°32'38" WEST, A DISTANCE OF 659.56 FEET TO THE SOUTHWEST CORNER OF SAID TRACT "A"; THENCE SOUTH 89°47'27" WEST, A DISTANCE OF 129.69 FEET TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance request(s) and any associated conditions of approval shall be reflected on the site plan. (DRO:ZONING-Zoning)
2. The development order for this particular variance shall lapse one year from the approval date, July 3, 2009. (DATE: MONITORING Zoning)

#### COMPLIANCE

1. In granting this approval, the Zoning Commission relied upon the oral and written representations of the petitioner 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; 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 ULDC 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; 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 Conditional Use, Type II Variance, 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.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

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

EXHIBIT D

VARIANCE REQUEST

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2008-806	3.E.2.E.2.c.6) PUD, Commercial Pod Design	Dumpsters/Co mpactors shall be setback a minimum of 50' from the property line.	5 feet	45 feet
SITUS ADDRESS:	21055 Powerline Rd Boca Raton 33433			
OWNER NAME & ADDRESS:	MS Woolbright Boca Grove, LLC 3200 N Military Trl Boca Raton FL 33431			
PCN:	00-42-47-22-00-000-3090 00-42-47-22-00-000-3100			
ZONING DISTRICT:	PUD/RS			
BCC DISTRICT:	05			
PROJECT MANAGER:	Carol Glasser, Site Planner II			
LAND USE:	CH/8	S/T/R: 22-47-42		
CONTROL #:	1974-104			
LOT AREA:	6.31 acres; Affected area 0.03 acres +/-			
APPLICANT REQUEST:	To allow a reduction of compactor setback			