

RESOLUTION NO. R-2019- 1237

RESOLUTION APPROVING ZONING APPLICATION SV/ZV/ABN/CA-2018-01348
(CONTROL NO. 1988-00021)
a Class A Conditional Use
APPLICATION OF Dolphin Stations LLC, School Property Dev Glen Ridge LLC
BY Schmidt Nichols, AGENT
(APEC)

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 (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application SV/ZV/ABN/CA-2018-01348 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2019;

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 SV/ZV/ABN/CA-2018-01348, the Application of Dolphin Stations LLC, School Property Dev Glen Ridge LLC, by Schmidt Nichols, Agent, for a Class A Conditional Use to allow Retail Gas and Fuel Sales with a Convenience Store, 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 August 22, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth 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 Mack Bernard, Mayor	-	Absent
Commissioner Dave Kerner, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 22, 2019.

Filed with the Clerk of the Board of County Commissioners on September 5th, 2019

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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

COMMENCING AT THE NORTHWEST CORNER OF SECTION 5, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SAID SECTION 5, FOR THE FOLLOWING TWO (2) COURSES: 1) S.02°30'49"W., A DISTANCE OF 2,678.46 FEET TO THE WEST QUARTER (W 1/4) CORNER OF SAID SECTION 5; 2) THENCE S.02°31'05"W., A DISTANCE OF 569.69 FEET; THENCE S.88°32'37"E., DEPARTING SAID WEST SECTION LINE, A DISTANCE OF 33.00 FEET TO THE NORTHWEST CORNER OF LOT 1, BLOCK 1, PALM ACRES ESTATES, ACCORDING TO PLAT THEREOF, AS RECORDED IN PLAT BOOK 20, PAGE 5, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND POINT OF BEGINNING; THENCE CONTINUE S.88°32'37"E., ALONG THE SOUTH RIGHT-OF-WAY LINE OF OKLAHOMA STREET AND THE NORTH LINE OF BLOCK 1 OF SAID PLAT OF PALM ACRES ESTATES, FOR A DISTANCE OF 280.04 FEET; THENCE S.02°31'01"W., A DISTANCE OF 442.33 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SUMMIT BOULEVARD AS SHOWN ON OFFICIAL RECORDS BOOK 4813, PAGE 6, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.87°01'53"W. ALONG THE SAID NORTHERLY RIGHT-OF-WAY LINE OF SUMMIT BOULEVARD AS RECORDED IN OFFICIAL RECORDS BOOK 4813, PAGE 6 OF SAID PUBLIC RECORDS, A DISTANCE OF 48.18 FEET; THENCE N.88°32'37"W., A DISTANCE OF 193.37 FEET; THENCE N.43°00'46"W., A DISTANCE OF 35.68 FEET; THENCE N.02°31'05"E., A DISTANCE OF 115.36 FEET; THENCE N.88°33'15"W., A DISTANCE OF 13.00 FEET; THENCE N.02°30'51"E., A DISTANCE OF 300.24 FEET TO THE POINT OF BEGINNING.

CONTAINING 121,363 SQUARE FEET OR 2.786 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

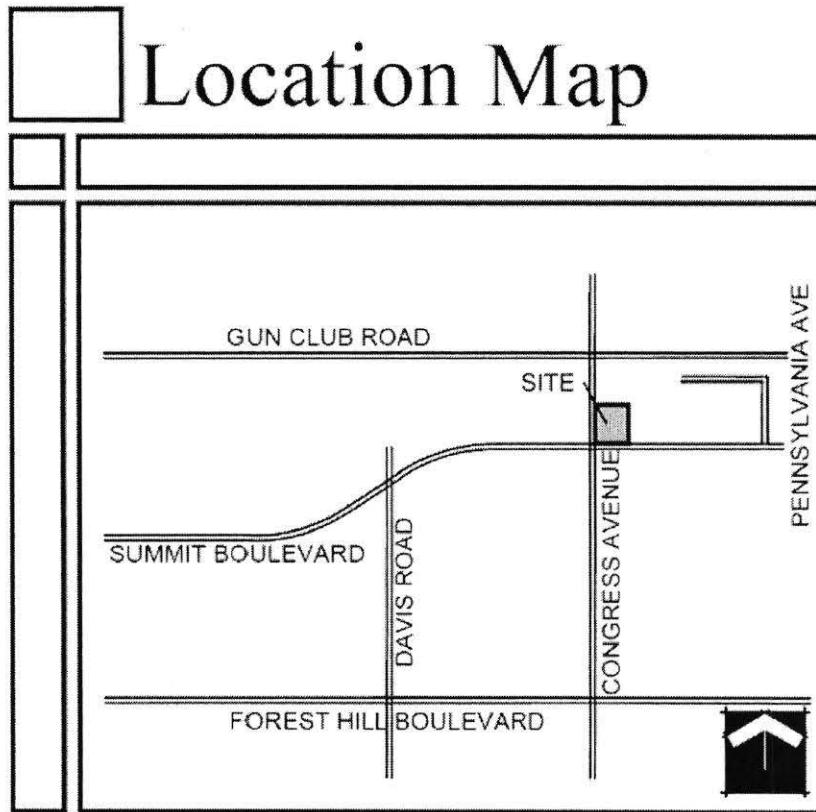


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A - Retail Gas and Fuel Sales with a Convenience Store

ALL PETITIONS

1. The approved Site Plan is dated June 10, 2019. 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)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2021, 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 a right turn lane south approach on Congress Ave at the project entrance.

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 Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

3. 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. (BLDGPM: MONITORING - Engineering)

4. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Summitt Boulevard 63 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up.

Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

5. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for the expanded intersection of Congress Avenue 67 feet at the south end of the property and tapering per the most recent Palm Beach County Standards on an alignment approved by the FDOT or County Engineer

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPMT: MONITORING - Engineering)

6. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the construction of a right turn lane on Congress Avenue at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of

way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM: MONITORING - Engineering)

LANDSCAPE – INTERIOR – LANDSCAPING WITHIN OPEN SPACE AREAS EAST AND WEST OF THE SOUTH ACCESS POINT TO THE SITE

1. The open space areas located east and west of the of the south access point to the site, as depicted on the Preliminar Site Plan dated June 10, 2019, shall be planted as follows:
 - a. one (1) canopy tree;
 - b. medium shrubs planted at 30 inches on center. (BLDGPM: ZONING - Zoning)

LANDSCAPE – INTERIOR – LANDSCAPING WITHIN OPEN SPACE AREA SOUTHEAST OF THE LOADING AREA

1. The open space area located southeast of the loading area, as depicted on the Preliminary Site Plan dated June 10, 2019, shall be planted as follows:
 - a. a group of three (3) palms, with twelve (12) feet clear trunk at installation.
 - b. medium shrubs planted at 30 inches on center.

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney, submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)
2. Construct, and pave to the property line, the cross access as shown on the site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)

SITE DESIGN

1. The loading space adjacent to the south side of the Convenience Store building, shall be screened with a six (6) feet high concrete wall along the west and south of the loading area. The screening wall along the west shall connect to the Convenience Store building. (ONGOING: 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.