

RESOLUTION NO. R-2016- 1075

RESOLUTION APPROVING ZONING APPLICATION ABN/ZV/CAW-2015-02175
(CONTROL NO. 2013-00049)
a Type II Waiver
APPLICATION OF Petroleum Advantage Properties LLC
BY Dunay, Miskel, Backman and Blattner, LLP, AGENT
(WaWa-SEC 10th Ave and Military)

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, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ABN/ZV/CAW-2015-02175 was presented to the Board of County Commissioners at a public hearing conducted on August 25, 2016;

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 (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 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 Process) for a Type II Waiver; 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;

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.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code 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/ZV/CAW-2015-02175, the Application of Petroleum Advantage Properties LLC, by Dunay, Miskel, Backman and Blattner, LLP, Agent, for a Type II Waiver to allow a single story building; allow a building on a corner parcel to not be placed at the build-to-line; increase the front street setback; increase the side streets setback (2); reduce the primary building frontage; reduce the setback for outdoor uses to Non-PRA residential use; allow fuel pumps, canopies and queuing located in the front of building; no transparency on the south facade; allow parking and loading areas to be located in front; allow two freestanding signs, to allow size reduction of the loading zone; and to allow the pedestrian circulation zone to be not adjacent to the planting/amenity zone, 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 25, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and waiver request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	- Aye
Commissioner Hal R. Valeche, Vice Mayor	- Aye
Commissioner Paulette Burdick	- Aye
Commissioner Shelley Vana	- Absent
Commissioner Steven L. Abrams	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 25, 2016.

Filed with the Clerk of the Board of County Commissioners on August 29th, 2016.

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

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: Sam Fox
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 266.09 FEET OF THAT PART OF LOT 20, MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF (N 1/2) OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 5, PAGE 76, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING NORTH OF THE NORTH LINE OF KENWOOD, AS RECORDED IN PLAT BOOK 3, PAGES 44 AND 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 20.00 FEET AND THE WEST 28.00 FEET THEREOF FOR STATE AND COUNTY ROAD RIGHTS OF WAY.

AND

THE WEST 5.00 FEET OF LOT 1174, ALL OF LOTS 1175 THROUGH 1179, THE ABANDONED 20 FOOT WIDE ALLEY LYING WEST OF SAID LOT 1179, AND LOTS 1180 THROUGH 1183, LESS THE WEST 3.00 FEET THEREOF, IN KENWOOD, AS RECORDED IN PLAT BOOK 3, PAGES 44 AND 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE ABOVE PARCEL OF LAND CAN ALSO BE KNOWN BY METES AND BOUNDS DESCRIPTION AS FOLLOWS: FROM THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID POINT BEING THE INTERSECTION OF THE CENTER LINES OF STATE ROAD NO. 809 (MILITARY TRAIL) AND 10TH AVENUE NORTH; THENCE RUN SOUTHERLY ON SAID CENTERLINE OF STATE ROAD NO. 809 (MILITARY TRAIL) A DISTANCE OF 25.00 FEET; THENCE RUN EASTERLY, ANGLING 89°23'40" FROM SOUTH TO EAST A DISTANCE OF 53.00 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF SAID 10TH AVENUE NORTH WITH THE EASTERLY RIGHT OF WAY LINE OF SAID STATE ROAD NO. 809; (MILITARY TRAIL), SAID POINT BEING 5.00 FEET SOUTH AND 28.00 EAST OF THE NORTHWEST CORNER OF LOT 20, MODEL LAND COMPANY'S SUBDIVISION OF THE NORTH HALF (N 1/2) OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 5, PAGE 76, PALM BEACH COUNTY, PUBLIC RECORDS, AND THE POINT OF BEGINNING OF PARCEL HEREIN CONVEYED; THENCE CONTINUE EASTERLY ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF 10TH AVENUE NORTH A DISTANCE OF 238.09 FEET; THEN RUN SOUTHERLY ANGLING 90°36'20" FROM WEST TO SOUTH, A DISTANCE OF 209.61 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF WEYMOUTH STREET, AS SHOWN ON THE PLAT OF KENWOOD, AS RECORDED IN PLAT BOOK 3, PAGES 44 AND 45, PALM BEACH COUNTY; PUBLIC RECORDS, SAID POINT BEING 5.00 FEET EAST OF THE SOUTHWEST CORNER OF LOT 1174 OF SAID PLAT OF KENWOOD; THENCE RUN WESTERLY ON SAID NORTHERLY RIGHT OF WAY LINE OF WEYMOUTH STREET, ANGLING 89°16'00" FROM NORTH TO WEST, A DISTANCE OF 238.09 FEET TO THE SAID EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 809 (MILITARY TRAIL), THENCE RUN NORTHERLY ON SAID EASTERLY RIGHT OF WAY LINE, ANGLING 90°44'00" FROM WEST TO NORTH; A DISTANCE OF 209.07 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPTING THEREFROM THE NORTHERLY 15.00 FEET OF THE ABOVE DESCRIBED PARCEL OF LAND FOR ROAD RIGHT OF WAY, AS CONVEYED TO PALM BEACH COUNTY, STATE OF FLORIDA FROM ACE OIL COMPANY VIA SPECIAL WARRANTY DEED RECORDED MAY 2, 1968 IN OFFICIAL RECORDS BOOK 1652, PAGE 551, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THEREFROM THE PARCEL CONVEYED TO MCDONALD'S CORPORATION, RECORDED APRIL 28, 1993 IN OFFICIAL RECORDS BOOK 7682, PAGE 1972, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2: OFFICIAL RECORD BOOK 27566, PAGE 250

BEING LOTS 1166 THROUGH 1174, KENWOOD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 3, AT PAGES 44 AND 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE WESTERLY 5.00 FEET OF SAID LOT 1174, TOGETHER THAT PORTION OF TRACT 20 OF MODEL LAND CO. SUBDIVISION OF THE NORTH 1/2 OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, AS RECORDED IN PLAT BOOK 5, PAGE 76 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALL OF THE ABOVE BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEING AT THE SOUTHEAST CORNER OF SAID LOT 1166; THENCE NORTH 89 DEGREES 16' 00" WEST ALONG THE SOUTHERLY LINES OF SAID LOTS 1166 THROUGH 1174 (INCLUSIVE), SAID SOUTHERLY LINES ALSO BEING THE NORTHERLY ROAD RIGHT-OF-WAY LINE OF WEYMOUTH STREET AS SHOWN ON SAID

PLAT OF KENWOOD FOR 220.00 FEET; THENCE NORTH 00 DEGREES 02' 01" WEST ALONG A LINE PARALLEL WITH AND 5.00 FEET EAST OF THE WESTERLY LINE OF SAID LOT 1174 AND THE EAST LINE OF THE WEST 266.09 FEET OF SAID LOT 20 FOR 180.78 FEET TO A POINT ON THE SOUTHERLY ROAD RIGHTOF-WAY LINE OF TENTH AVENUE NORTH; PER O.R. BOOK 4907, PAGE 1270, THENCE SOUTH 89 DEGREES, 25' 50" EAST ALONG SAID ROAD RIGHT-OF-WAY LINE, SAID SOUTHERLY RIGHT-OF-WAY LINE BEING 34.00 FEET SOUTH OF THE NORTHERLY LINE OF SAID TRACT 20 FOR 220.00 FEET; THENCE SOUTH 00 DEGREES 01' 34" EAST ALONG THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID LOT 1166 FOR 181.41 FEET TO THE POINT OF BEGINNING.
ALL OF THE ABOVE LYING AND BEING IN SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.
THIS DEED IS TO CORRECT THAT CERTAIN DEED RECORDED IN OFFICIAL RECORD BOOK 27418, PAGE 1629

EXHIBIT B
VICINITY SKETCH

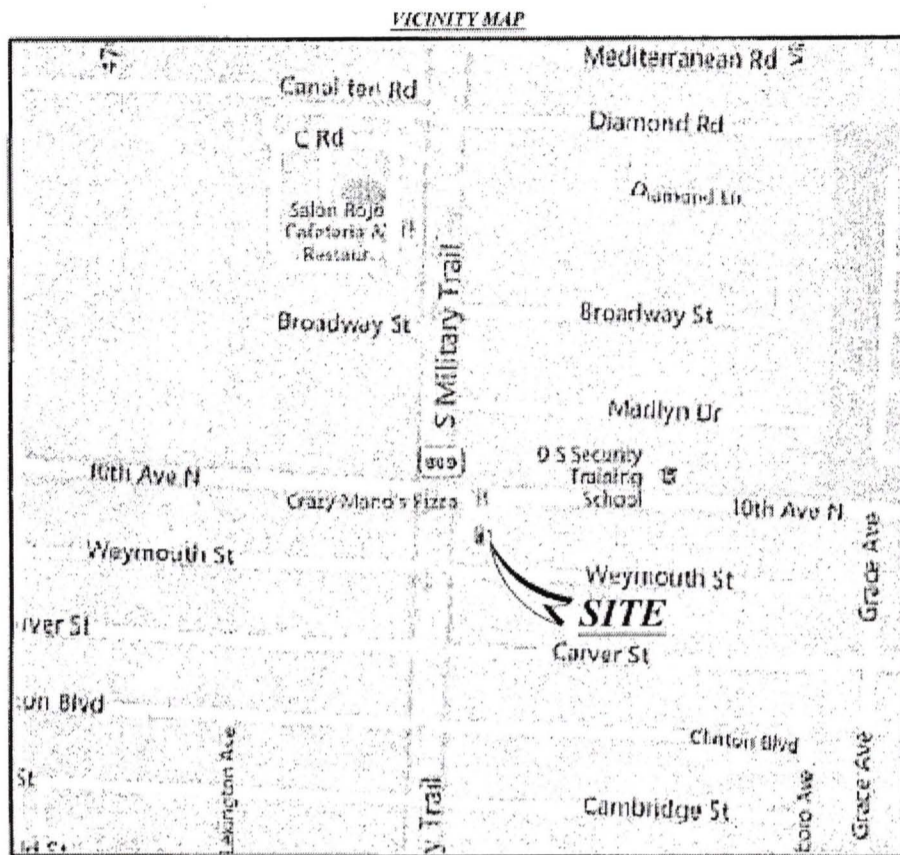


EXHIBIT C

CONDITIONS OF APPROVAL

Type II Waiver

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 9, 2016. 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 or the Zoning Commission. (ONGOING: ZONING - Zoning) (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. Gas station canopy shall be designed consistent with the following standards:

- a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- no flat roof shall be permitted;
- the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- lighting for the gas station canopy shall be flush mounted or recessed. (DRO/ONGOING: ZONING - Zoning)

2. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Convenience Store with Gas Sales and Type I Restaurant shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated February 16, 2016 Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning)

LANDSCAPE - GENERAL

1. Concurrent with the submittal for Final Approval by the Development Review Officer], the Property Owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (DRO/ONGOING: ZONING - Zoning)

2. Prior to Final submittal for Final Approval by the Development Review Officer the applicant must submit;

- Revise the site plan to relocate the required five (5) foot planting amenity zone out of the five (5) foot utility easements located along 10th Avenue North, Military Trail, and Weymouth Street; and
- Revise the Landscape Plan and Regulating Plan to provide a tree root barrier detail showing how the landscaping will not impact the utilities, approved by County Landscape and easement holder (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER- ALONG THE SOUTH PROPERTY LINE (ABUTTING WEYMOUTH STREET) line shall be upgraded to include:

- a 10 foot wide Streetscape;
- a six (6) foot high opaque concrete wall, with decorative elements similar to the one utilized in the main building. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the

proposed structure. Method of measuring height of the wall shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. The wall shall be located within the south landscape buffer starting from the east side of the access point to the east property line, as depicted on the Site Plan;

- c. a minimum eight (8) foot to twelve (12) foot high hedge located on the exterior side of the wall. Minimum height of the hedge shall be determined based on the height of the proposed loading vehicles. Prior to final DRO approval, the Site Plan shall be revised to indicate the maximum height of the loading vehicles;
- d. a minimum of one (1) canopy tree for each twenty (20) linear feet of property line; and,
- e. one (1) palm tree, for each for each twenty (20) linear feet of the property line and may be planted in clusters of three with maximum spacing of the clusters sixty (60) feet (DRO/ONGOING: ZONING - Zoning)

SIGNS

1. Two Ground Mounted Freestanding signs fronting on Military Trail and 10th Avenue shall be limited as follows:

- a. maximum sign height - 10 feet, measured from finished grade to highest point;
- b. maximum sign face area per side -50 square feet;
- c. maximum number of signs - one (2); and,
- d. style - monument style only compatible with the proposed architecture. (BLDGPM: ZONING - Zoning)

SITE DESIGN

1. Prior to Final DRO the Site Plan shall be revised to relocate the five (5) foot side walk, located along Military Trail to be abutting the west property line. (DRO: ZONING - Zoning)

2. Prior to the issuance of a CO, the five (5) foot side walk, located along Military Trail shall be relocated and installed abutting the west property line. (CO: BUILDING DIVISION - Zoning)

COMPLIANCE

1. 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)

2. 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)

DISCLOSURE

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

EXHIBIT D
REQUEST

WAIVER II VARIANCE SUMMARY

	ULDC Article	Required	Proposed	Variance
W-1	3.B.16.F.6.c.1).a) Building Height and Floors - Minimum Floors Required	All buildings shall be a minimum of two stories	One story building	Reduced building floors minimum by one story
W-2	3.B.16.F.6.a.2) Building at Build-to-line (Corner Parcels)	Where a parcel is located at the intersection of two streets, at least one building shall be placed at the corner meeting the build-to-lines for both streets.	Proposed building at corner not placed at Build-to-line.	To allow proposed building at corner not placed at Build-to-line.
W-3	3.B.16.F PRA Block Building PDRs (Front Setback)	20' min. - 25' max (Front setback)	74'-5" Front setback	Increase front setback by 49'-5"
W-4	3.B.16.F PRA Block Building PDRs (Secondary Setback)	10' min. - 20' max (Secondary setback)	46'-4" (Secondary setback)	Increase front setback by 46'-4"
W-5	3.B.16.F PRA Block Building PDRs (Secondary Setback)	10' min. - 20' max (Secondary setback)	23'-7" (Secondary setback)	Increase front setback by 3'-7"
W-6	3.B.16.F Table 3.B.16.F - PRA Liner Building	65% min-100% max. (Primary building frontage)	51% building frontage	Reduce primary frontage by 14%.
W-7	3.B.16.F PRA Block Building PDRs (Residential setbacks)	200' minimum setback from any non-PRA Residential Use	37.7' setback	To reduce minimum setback by 162'-3"
W-8	3.B.16.E.4.a Drive-through uses and gasoline service	Pump islands, canopies and queing areas shall be located behind buildings	Pump islands, canopies and queing areas to be	gas pumps located in front of building

	facilities		located in front of buildings	
W-9	3.B.16.F.6.d.1 Fenstration (South Side) Primary Entrance	Transparent windows covering a minimum of 35% of wall area (Along South Side)	0% transparency	To allow no transparency windows (Along South Side)
W-10	3.B.16.F.9 Parking and Loading Standards	Parking and loading shall be located behind building	Parking to be located in front of building	To allow parking in front of building
W-11	3.B.16.F.11.a Free standing signs	Free standing signs shall be prohibited	Two 150 sf. signs 15' max. height	To allow two 15' signs each with 150' square area.
W-12	6.B.1.H Loading Space Standards	15' Wide Loading Zone	12' Wide Loading Zone	Reduce loading zone by 3'
W-13	3.B.16.F.7.b.2 Pedestrian Circulation Zones	5' Pedestrian circulation zone is not allowed in the Right-Of-Way (ROW)	To allow the 5' Pedestrian circulation zones within the ROW	To allow the 5' Pedestrian circulation zones within the ROW