

RESOLUTION NO. R-2017- 0505

RESOLUTION APPROVING ZONING APPLICATION SV/PDD/R/ABN-2016-00424
(CONTROL NO. 1999-00029)
a Requested Use
APPLICATION OF BDG Delray
BY Wantman Group Inc., AGENT
(Stop and Shop)

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

WHEREAS, Zoning Application SV/PDD/R/ABN-2016-00424 was presented to the Board of County Commissioners at a public hearing conducted on April 27, 2017;

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 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 Process) for a Requested 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.A.1.K.3.b (Action by BCC) 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/PDD/R/ABN-2016-00424, the Application of BDG Delray, by Wantman Group Inc., Agent, for a Requested 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 April 27, 2017, 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 Berger and, upon being put to a vote, the vote was as follows:

Commissioner Paulette Burdick, Mayor	- Aye
Commissioner Melissa McKinlay, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 27, 2017.

Filed with the Clerk of the Board of County Commissioners on May 11th, 2017.

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

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL I:

Beginning at the intersection of the Westerly right-of-way line of State Road No. 7, as recorded in State Road Plat Book 1, Pages 35 to 41, inclusive, with the Northerly line of Tract 1, Block 67, THE PALM BEACH FARMS CO. PLAT NO. 3, a subdivision in Palm Beach County, Florida, recorded in Plat Book 2, Pages 45 to 54, inclusive, Palm Beach County Records, for a point of beginning, thence running Southerly along the Westerly right-of-way line of State Road No. 7 for a distance of 420 feet; thence Westerly parallel to the North line of said Tract 1, a distance of 210 feet; thence Northerly parallel to the Westerly line of said right-of-way of said State Road No. 7, a distance of 420 feet; thence Easterly along the North line of Tract 1, in Block 67, a distance of 210 feet to the point of beginning.

Being a part of the premises described in Deed to Walter A. Mayton and Bettye H. Mayton, his wife from John D. Watson, et al. dated November 16, 1976, and recorded in Official Record Book 2606, at Page 1592 of the Public Records of Palm Beach County, Florida and now known as "Bulk Plant" U.S. 441 and West Atlantic Avenue, Delray Beach, Florida.

LESS AND EXCEPT the lands described in Order of Taking recorded in Official Record Book 10226, Page 121.

PARCEL II:

A parcel of land lying in Tract 1, Block 67, Palm Beach Farms Company Plat No. 3 according to the Plat as recorded in Plat Book 2, Pages 45 to 54, inclusive, Public Records of Palm Beach County, Florida, being more particularly described as follows:

Commencing at the intersection of the North line of Tract 1 with the West right-of-way line of State Road No. 7; thence run Westerly along the North line of Tract 1, a distance of 210 feet to the Point of Beginning; thence run Southerly on a line parallel to the West right-of-way line of State Road No. 7, a distance of 420 feet; thence run Westerly, parallel to the North line of Tract 1, a distance of 477.8 feet to a point on the West line of Tract 1; thence run Northerly along the West line of Tract 1, a distance of 420 feet to the Northwest corner of Tract 1; thence run Easterly along the North line of Tract 1, a distance of 477.8 feet to the Point of Beginning.

Being a part of the premises described in a Deed to Florida Coast Oil Company, a Florida corporation from Ann Weskow, a single woman, dated July 21, 1978, and recorded in Official Record Book 2928, Page 1870 of the Public Records of Palm Beach County, Florida, and now known as an unimproved parcel located next to "Bulk Plant", U.S. 441 and West Atlantic Avenue, Delray Beach, Florida.

Containing 2.0680± hectares (5.1103± acres), more or less.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

NTS

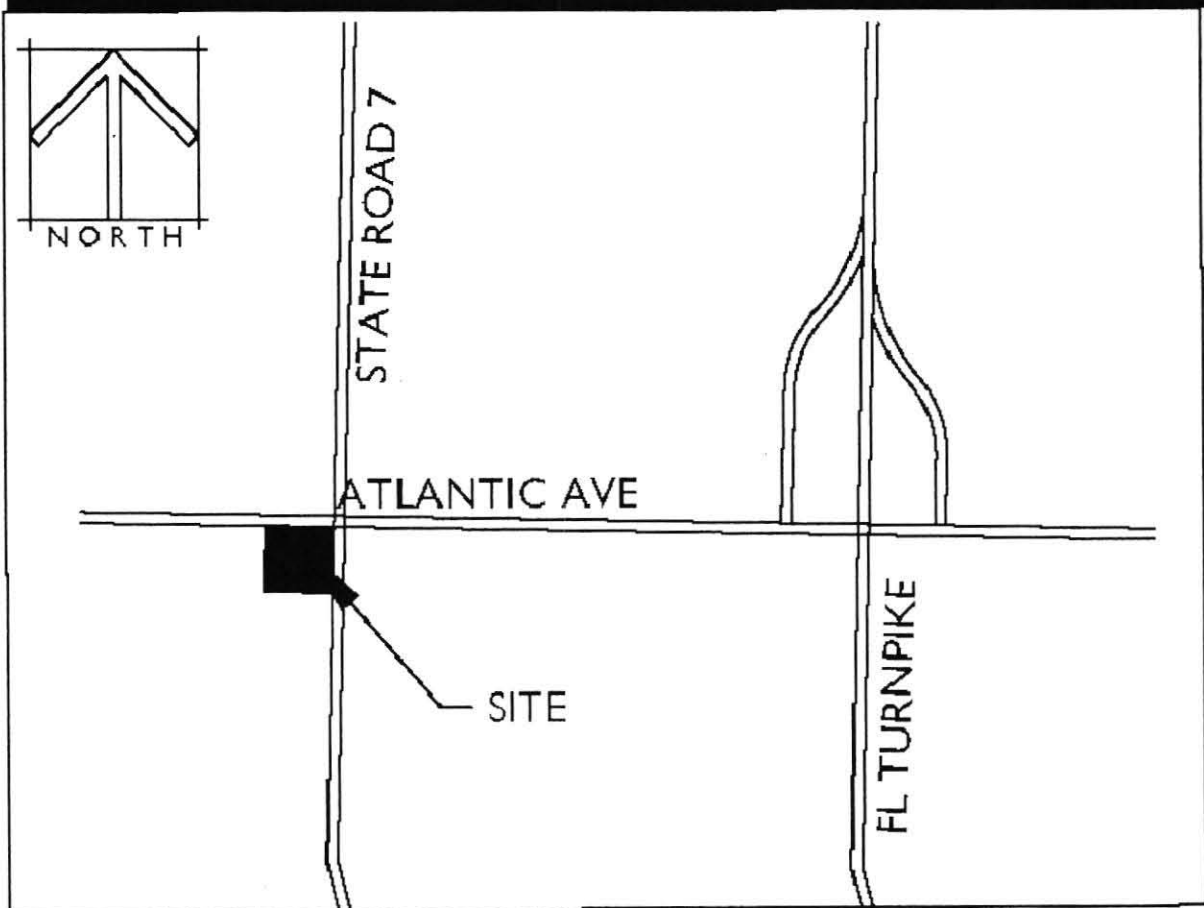


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use

ALL PETITIONS

1. The approved Preliminary Site and Regulating Plans are dated January 23, 2017. 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.

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for all buildings 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). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

PLANNING

1. Per LGA-2016-023, Ordinance No. 2016-049: Development on the site under the Commercial Low future land use designation is limited to a maximum of 40,000 square feet of commercial uses, or other uses which do not exceed the equivalent traffic generating trips.

(ONGOING: PLANNING - Planning)

SIGNS

1. Prior to Final Approval by the Development Review Officer, the Master Sign Plan shall be revised to reduced the maximum height of the Freestanding and Type 3 Electronic Signs to 12 feet as allowed in the Agricultural Reserve (AGR) Tier. (DRO: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the 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 Voluntary Commitments 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: ZONING - Zoning)

DISCLOSURE

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