

RESOLUTION NO. R-2017- 0968

RESOLUTION APPROVING ZONING APPLICATION ABN/PDD/CA-2017-00137
(CONTROL NO. 1978-00288)
an Official Zoning Map Amendment
APPLICATION OF Brightwork Acquisitions LLC
BY Dunay, Miskel and Backman, LLP, AGENT
(Wawa HO 1193)

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 ABN/PDD/CA-2017-00137 was presented to the Board of County Commissioners at a public hearing conducted on July 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 an Official Zoning Map 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.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 ABN/PDD/CA-2017-00137, the Application of Brightwork Acquisitions LLC, by Dunay, Miskel and Backman, LLP, Agent, for an Official Zoning Map Amendment to allow a rezoning from the General Commercial (CG) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District, 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 July 27, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner Bernard 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	-	Absent
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Absent
Commissioner Mary Lou Berger	-	Aye
Commissioner Mack Bernard	-	Aye

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

Filed with the Clerk of the Board of County Commissioners on August 2nd, 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

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION: (OVERALL DEVELOPMENT PARCEL)

A PARCEL OF LAND LYING IN AND BEING A PORTION OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 25; THENCE S89°22'26"E, ALONG THE NORTH LINE OF SAID SECTION 25, A DISTANCE OF 106.42 FEET; THENCE, DEPARTING SAID NORTH LINE, S00°37'34"W, A DISTANCE OF 51.01 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE BOULEVARD, AND THE POINT OF BEGINNING; THENCE, ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING FIVE (5) COURSES: (1) S89°22'26"E, A DISTANCE OF 120.18 FEET; (2) S78°03'50"E, A DISTANCE OF 61.19 FEET; (3) S89°22'26"E, A DISTANCE OF 76.00 FEET; (4) N71°57'18"E, A DISTANCE OF 38.00 FEET; (5) S89°57'54"E, A DISTANCE OF 99.15 FEET; THENCE S00°23'13"W, A DISTANCE OF 250.17 FEET TO THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL (L-1) AS DESCRIBED IN OFFICIAL RECORDS BOOK 3458, PAGE 1986, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N89°22'26"W, ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 462.26 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF HAVERHILL ROAD (PER FLORIDA DEPARTMENT OF TRANSPORTATION MAP SECTION 93280-2507); THENCE N01°17'30"E, ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 111.00 FEET; THENCE S89°22'26"E, A DISTANCE OF 32.00 FEET; THENCE N01°17'30"E, A DISTANCE OF 103.00 FEET; THENCE N45°57'32"E, A DISTANCE OF 49.78 FEET TO THE POINT OF BEGINNING.

CONTAINING 108,158 SQUARE FEET OR 2.48 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

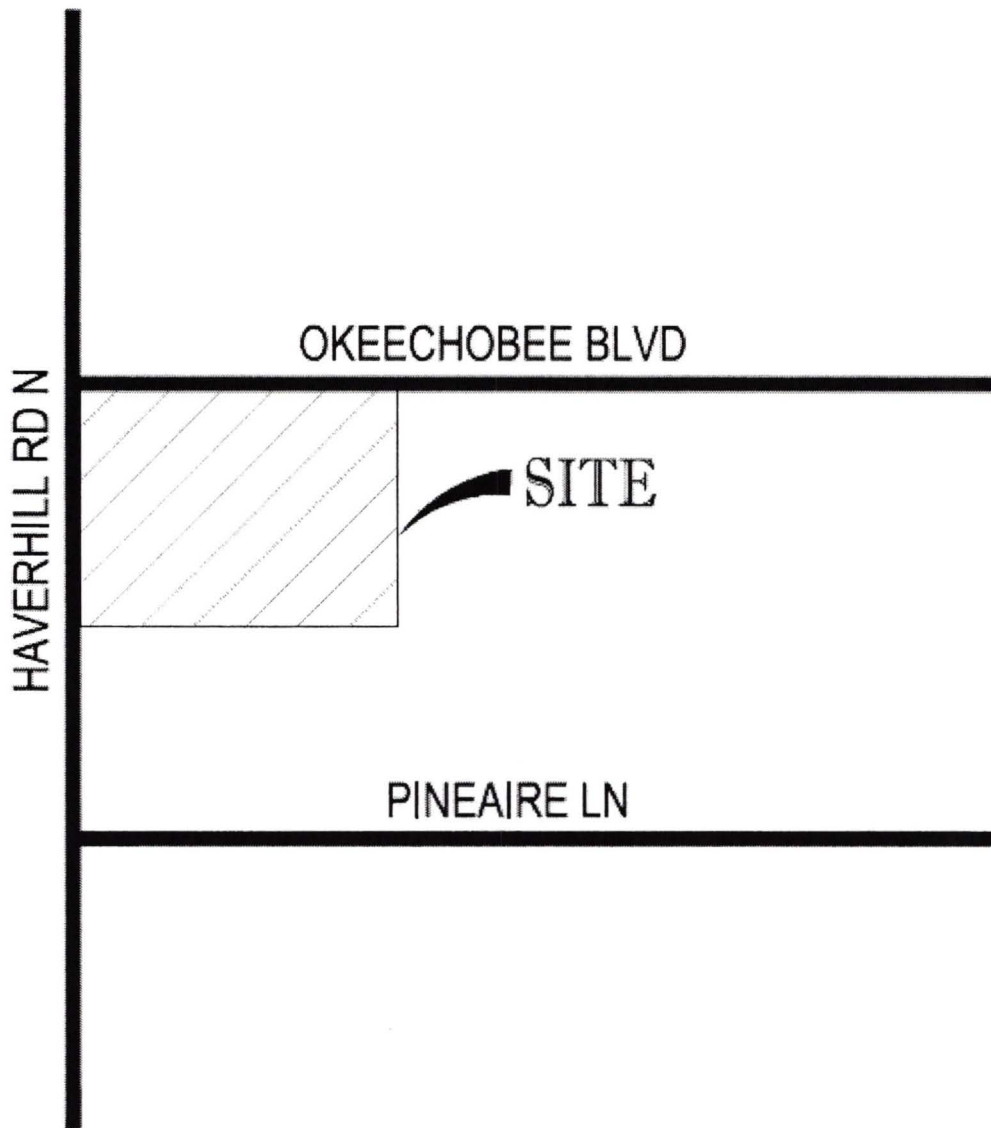


EXHIBIT C

CONDITIONS OF APPROVAL

Non Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site and Regulating Plans are dated May 11, 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 or the Zoning Commission. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations 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)

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, 2018. 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. 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. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for Haverhill Road, 63.5 feet, measured from centerline of the proposed right of way on an alignment approved by the 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 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 Acquisition 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. Palm Beach County will prepare 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)

4. 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 Okeechobee Boulevard 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. (BLDGPMT: MONITORING - Engineering)

5. The Property Owner shall construct a right turn lane west approach on Okeechobee Boulevard at the project's 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 Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

6. Property Owner shall construct a 7.5 foot wide concrete sidewalk along the east side of Haverhill Road along the property's west frontage. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

7. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall configure any residual parcels created by this development into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT/CO: MONITORING - Engineering)

8. The Property Owner shall fund the construction plans and the construction to lengthen the existing left turn lane south approach on Haverhill Rd at Okeechobee Blvd. This turn lane shall be lengthened up to Pineaire Ln with paved taper, as approved by the County Engineer. The existing north approach left turn lane on Haverhill Rd at Pineaire Ln will

need to be eliminated to accommodate the above. 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 for improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

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

9. The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Okeechobee Blvd. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Okeechobee Blvd. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING - Engineering)

LANDSCAPE – PERIMETER - NORTH PROPERTY LINE

1. In addition to the landscaping requirements for a Right of Way buffer, the Property Owner shall include the following:

a. One palm for each 15 lineal feet of property line. (BLDGPMT/DRO: ZONING - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, LWDD will require the future property owner to purchase LWDD's 10 foot by 50 foot existing easement per ORB 3122 PG 1218 at fair market value upon approval by LWDD's Board of Supervisors at a monthly meeting. An appraisal less than 6 months old must be submitted to LWDD's attorney prior to the Board meeting for review and approval. PLAT: ENG - LWDD (PLAT: LAKE WORTH DRAINAGE DISTRICT - Lake Worth Drainage District)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), submit a recorded cross access easement agreement for the location at the Southeast corner of the site as depicted on the site plans. (DRO: PLANNING - Planning)

USE LIMITATIONS

1. Stocking and deliveries shall only be permitted between the hours of 6 am and 11pm. (ONGOING: CODE ENF - 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.