

RESOLUTION NO. R-2021-0549

RESOLUTION APPROVING ZONING APPLICATION DOA-2019-02323
(CONTROL NO. 2016-00130)
a Development Order Amendment
APPLICATION OF West Atlantic Business Plaza, LLC
BY JMorton Planning & Landscape Architecture, AGENT
(West Atlantic Business Plaza)

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 as amended, have been satisfied;

WHEREAS, Zoning Application DOA-2019-02323 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2021;

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 Development Order 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.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 DOA-2019-02323, the Application of West Atlantic Business Plaza, LLC, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to reconfigure the Site Plan; delete square footage; modify uses; and, modify Conditions of Approval, 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 22, 2021, 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 Weiss and, upon being put to a vote, the vote was as follows:

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Maria Sachs	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 22, 2021.

Filed with the Clerk of the Board of County Commissioners on April 30th, 2021.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

TRACT 11, LESS EAST 149.32 FEET THEREOF, AND TRACT 12, LESS THE NORTH 165 FEET OF THE WEST 150 FEET THEREOF, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

PARCEL 2:

THAT PORTION OF TRACT 12, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 12, IN THE SOUTH RIGHT-OF-WAY LINE OF DELRAY WEST ROAD, STATE ROAD #806; THENCE EASTERLY ALONG SAID RIGHT-OF-WAY LINE AND THE NORTH LINE OF SAID TRACT 12, A DISTANCE OF 150 FEET; THENCE SOUTHERLY, PARALLEL TO THE WEST BOUNDARY OF SAID TRACT 12, A DISTANCE OF 165 FEET; THENCE WESTERLY, PARALLEL TO THE NORTH LINE OF SAID TRACT 12, A DISTANCE OF 150 FEET TO THE WEST LINE OF TRACT 12; THENCE NORTHERLY ALONG THE WEST LINE OF SAID TRACT 12, A DISTANCE OF 165 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

THE EAST 200.00 FEET OF TRACT 13, LESS THAT PORTION THEREOF LYING WITHIN 100 FEET OF THE CENTER LINE OF ATLANTIC AVENUE (DELRAY WEST ROAD, STATE ROAD 806) IN SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 458,685 FEET/10.5300 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

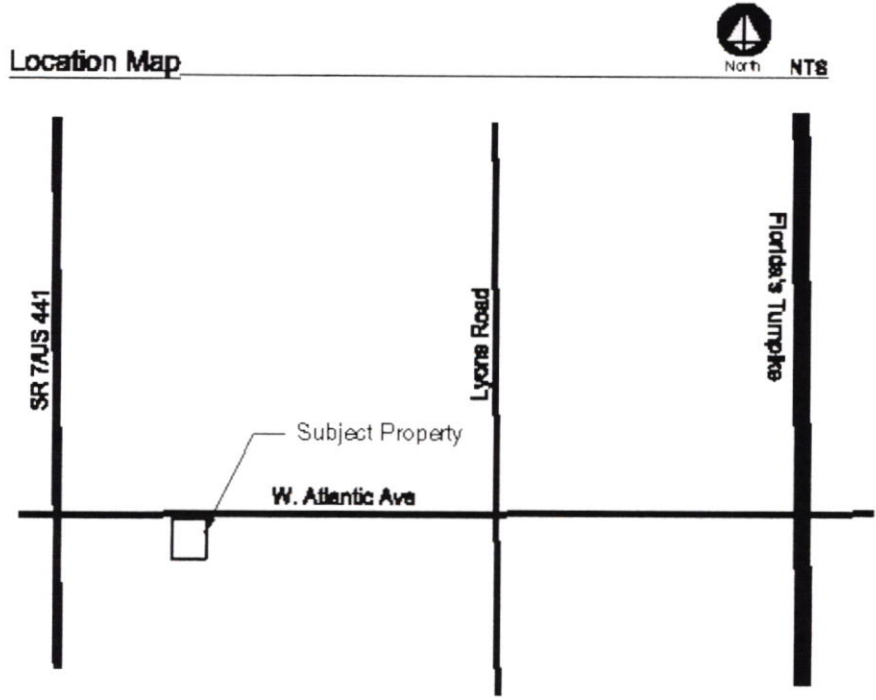


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

The approved Preliminary Site Plan is dated July 16, 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 or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated February 22, 2021. 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)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2019-1240 (Control 2016-00130), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - 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, 2023, 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) (Previous ENGINEERING Condition 1 of Resolution R-2019-1240, Control No.2016-00130)

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 or as otherwise approved by the County Engineer. (BLDG/PMT: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2019-1240, Control No.2016-00130)

3. 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 Atlantic Avenue, 63 feet, measured from centerline of the proposed right of way 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. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2019-1240, Control No.2016-00130)

4. Prior to final Site Plan approval by the Development Review Officer, the Property Owner shall indicate project phasing on the Final Site Plan. Phase 1 shall be limited to development that generates less than 30 peak hour left turns east approach at the project entrance on Atlantic Avenue. (DRO: ENGINEERING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2019-1240, Control No.2016-00130)

5. Previous ENGINEERING Condition 5 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

A left turn lane east approach on Atlantic Avenue at the project entrance shall be constructed. Any and all costs associated with the construction shall be paid by the Property Owner. No costs associated with the construction shall be paid by the County. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit in Phase 2. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy within Phase 2. (BLDGPM/CO: MONITORING - Engineering)

Is hereby amended to read:

A left turn lane east approach on Atlantic Avenue at the project entrance shall be constructed. Any and all costs associated with the construction shall be paid by the Property Owner. No costs associated with the construction shall be paid by the County. 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 in phase 2 (specifically Bldg 1 for Repair and Maintenance, Heavy use). (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy in Phase 2. (BLDGPM/CO: MONITORING - Engineering)

6. The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Atlantic Avenue. 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, or as approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy, or as approved by the County Engineer. (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, or as approved by the County Engineer. 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 Atlantic Avenue. 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. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2019-1240, Control No.2016-00130)

LANDSCAPE - PERIMETER-LANDSCAPE - BUFFER WIDTH ALONG THE EASTERN 309 FEET OF THE SOUTH PROPERTY LINE

1. Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

The required Type 3 Incompatibility Buffer along the eastern 309 feet of the south property line, shall be upgraded to include:

- a. a minimum of fifty (50) foot in width;
- b. a six (6) foot high concrete panel wall to be located in the middle of the buffer width;
- c. one (1) Canopy tree for each ten (10) lineal feet of the length of the buffer. Trees shall be planted on both sides of the wall;
- d. one (1) palm for each fifteen (15) lineal feet of the length of the buffer;
- e. one (1) medium shrub per two (2) lineal feet of the buffer length;
- f. one (1) small shrub per one lineal foot of the buffer length; and,
- g. shrubs shall be planted on both sides of the wall. (DRO/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: DOA has modified location of Heavy Repair and Maintenance Use, which is no longer adjacent to residential development.]

LANDSCAPE - PERIMETER-BUFFER ALONG THE EAST PROPERTY LINE

2. The required Compatibility Buffer along the east property line, shall be upgraded to include:

- a. a minimum of eleven (11) foot in width;
- b. a six (6) foot high concrete panel wall. (DRO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2019-1240, Control No. 2016-00130)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, LWDD will require the subject plat to be based on FDOTs alignment of Atlantic Avenue and the L-34 Canal. (PLAT: ENGINEERING - Lake Worth Drainage District) (Previous LAKE WORTH DRAINAGE DISTRICT Condition 1 of Resolution R-2019-1240, Control No. 2016-00130)

2. Prior to platting, the property owner needs to convey the South 87 Feet of the North 150 feet along the L-34 Canal. (PLAT: ENGINEERING - Lake Worth Drainage District)

SITE DESIGN

1. Previous SITE DESIGN Condition 1 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

The minimum setback for the Heavy Repair and Maintenance use, building 6, shall be a minimum of one hundred and seventy (170) feet from the south property line, as delineated on the Preliminary Site Plan dated July 16, 2019.

Is hereby amended to read:

The minimum setback for the Heavy Repair and Maintenance use (Building 1) shall be a minimum of two hundred and sixty (260) feet from the south property line, as delineated on the Preliminary Site Plan dated February 22, 2021. (DRO/ONGOING: ZONING - Zoning)

2. Previous SITE DESIGN Condition 2 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

The maximum height for the Limited Self Service Storage Facility, shall not exceed thirty-five (35) feet, excluding Height Exceptions pursuant to Art. 3.D.1.E.4. Height shall be measured based on the type of roof for the proposed structure as follows:

- a. Flat roof - measure from the finished grade to the highest point of the building, excluding parapet; or
- b. Articulated or pitched roof, or articulated parapet - measure from the finished grade to the mid-point of the roof.

Is hereby amended to read:

The maximum height for Buildings 3 and 4 shall not exceed twenty-nine and one half (29.5) feet. Height shall be measured from finished grade to the highest point of the building or structure, which includes but is not limited to mechanical equipment, parapets and the roof. (BLDGPM: BUILDING DIVISION - Zoning)

3. Previous SITE DESIGN Condition 3 of Resolution R-2019-1240, Control No.2016-00130, which currently states:

Prior to final approval by the Development Review Officer, the Site Plan shall be revised to relocate the two dumpster enclosures located southeast of Building 4. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Condition no longer applicable with DOA.]

4. Dumpster enclosures shall not be located within 100 feet of the south property line. (DRO/ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 4 of Resolution R-2019-1240, Control No.2016-00130)

USE LIMITATIONS

1. Commercial Communication Towers, Composting Facilities and Equestrian Waste Management Facilities shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2019-1240, Control No.2016-00130)

2. Hours of operation for outdoor activities related to the Heavy Repair and Maintenance use shall be limited to 7 a.m. to 7 p.m., Monday through Saturday. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2019-1240, Control No.2016-00130)

3. Outdoor repair and maintenance activities related to the Heavy Repair and Maintenance use shall be prohibited. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2019-1240, Control No.2016-00130)

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.