

RESOLUTION NO. R-2016-0548

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2015-01038  
(CONTROL NO. 2006-00522)  
a Class A Conditional Use  
APPLICATION OF Dolphin Stations LLC  
BY Infinity Engineering Group, LLC, AGENT  
(APEC-Haverhill)

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 ZV/DOA/CA-2015-01038 was presented to the Board of County Commissioners at a public hearing conducted on April 28, 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 hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Class A Conditional Use ;

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, 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 ZV/DOA/CA-2015-01038, the Application of Dolphin Stations LLC, by Infinity Engineering Group, LLC, Agent, for a Class A Conditional Use to allow a Type I Restaurant with a drive-through, 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 28, 2016, subject to the

Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay 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	-	Aye
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 April 28, 2016.

Filed with the Clerk of the Board of County Commissioners on May 6th, 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:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK FLORIDA



EXHIBIT A  
LEGAL DESCRIPTION

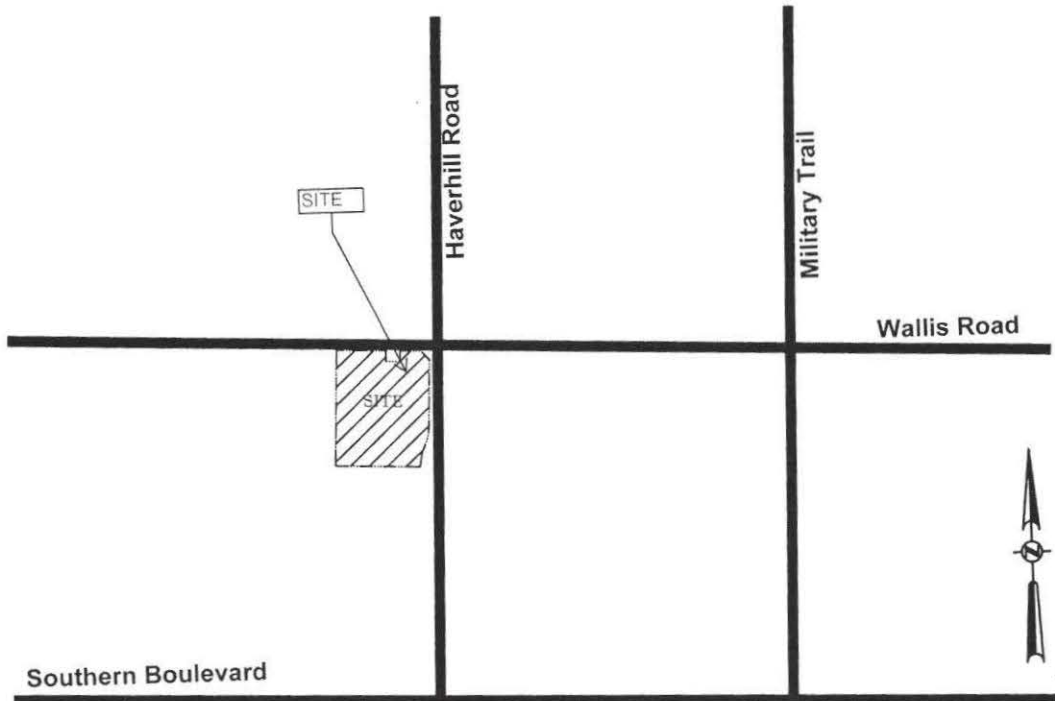
**LEGAL DESCRIPTION:**

THE NORTHERLY 349.24 FEET OF TRACT 49, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 5, PAGE 77, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR SAID COUNTY, LESS THE EASTERLY 20 FEET THEREOF FOR RIGHT-OF-WAY PURPOSES.

ALSO LESS THE FOLLOWING PARCEL DESCRIBED IN THAT CERTAIN LIS PENDENS IN O.R. BOOK 13019, PAGE 90, AND THAT CERTAIN ORDER IN O.R. BOOK 13373, PAGE 1334, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACT 49, MODEL LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND PALM BEACH COUNTY DISC IN CUT OUT MARKING THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 35, (SAID POINT BEING THE BASELINE OF SURVEY OF HAVERHILL ROAD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION NO. 93120-2553; THENCE SOUTH 01°22'32" WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 35 AND SAID BASELINE OF SURVEY, A DISTANCE OF 407.540 METERS (1,337.07 FEET); THENCE NORTH 88°37'28" WEST ALONG A LINE AT A RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 12.192 METERS (40.00 FEET) TO A POINT ON THE WESTERLY EXISTING RIGHT OF WAY LINE FOR SAID HAVERHILL ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 01°22'32" WEST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 106.579 METERS (349.67 FEET); THENCE NORTH 88°36'46" WEST A DISTANCE OF 11.834 METERS (38.83 FEET); THENCE NORTH 06°57'41" EAST, A DISTANCE OF 10.025 METERS (32.89 FEET) TO A POINT ON A CURVE CONCAVE TO THE WEST, HAVING A CHORD BEARING OF NORTH 06°51'08" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, HAVING A RADIUS OF 1,242.500 METERS (4,076.44 FEET), THROUGH A CENTRAL ANGLE OF 00°13'07", AN ARC DISTANCE OF 4.739 METERS (15.55 FEET) TO THE END OF SAID CURVE; THENCE NORTH 20°37'12" EAST A DISTANCE OF 15.864 METERS (52.05 FEET) TO A POINT ON A NON TANGENT CURVE CONCAVE TO THE WEST, HAVING A CHORD BEARING OF NORTH 04°31'37" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE HAVING A RADIUS OF 1,246.400 METERS (4,089.23 FEET), THROUGH A CENTRAL ANGLE OF 03°00'58", AN ARC DISTANCE OF 65.612 METERS (215.26 FEET) TO THE END OF SAID CURVE; THENCE NORTH 36°57'00" WEST, A DISTANCE OF 9.925 METERS (32.56 FEET); THENCE NORTH 76°39'36" WEST A DISTANCE OF 16.990 METERS (55.74 FEET) TO A POINT ON THE SOUTHERLY EXISTING RIGHT-OF-WAY LINE FOR WALLIS ROAD; THENCE SOUTH 88°50'30" EAST ALONG SAID SOUTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 24.346 METERS (79.88 FEET) TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Conditional Use Class A Type 1 Restaurant with a Drive-Through**

##### **ALL PETITIONS**

1. The approved Preliminary Site Plan and Regulating Plans are dated December 10, 2015. 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 for the Convenience Store, Gas Sales Canopy, 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 September 28, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, all ULDC requirements, and shall be signed and sealed by a licensed Architect. (DRO: ZONING - Zoning)

##### **LANDSCAPE – PERIMETER: ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL PARCELS)**

1. In addition to code requirements, landscaping along the south and west property lines shall be upgraded to include:

- one (1) additional pine for each for each thirty (30) linear feet of the property line to be installed to maximize screening of the drive through window, subject to approval of the Landscape Division. All pines required to be planted on the property shall meet the following minimum standards at installation:
- pines shall be planted in clusters of five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation; and,
- credit may be given for existing pines provided they meet current Unified Land Development Code requirements. (ONGOING: ZONING - Zoning)

##### **SITE DESIGN**

1. Prior to Final Approval by the Development Review Officer (DRO) the footprint of the proposed Convenience Store and Restaurant structure shall be modified to maximize setbacks away from the existing residential uses located to the west of the site. (DRO-ZONING – Zoning)

##### **USE LIMITATIONS**

1. Hours of operations for the Type I Restaurant drive through shall be limited from 6:00 am to 11:00 pm daily. (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: 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.