

RESOLUTION NO. R-2016- 1834

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/R-2016-00438
(CONTROL NO. 1984-00152)
a Requested Use
APPLICATION OF Boca SVP LLC
BY Nichols Page Design Associates, AGENT
(Fuji Yama Restaurant)

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/DOA/R-2016-00438 was presented to the Board of County Commissioners at a public hearing conducted on December 7, 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 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 ABN/DOA/R-2016-00438, the Application of Boca SVP LLC, by Nichols Page Design Associates, Agent, for a Requested Use to allow a Type II Restaurant, 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 December 7, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger 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	- Absent
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 December 7, 2016.

Filed with the Clerk of the Board of County Commissioners on December 19th, 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



EXHIBIT A

LEGAL DESCRIPTION

Tract 77 of Boca Del Mar

A Parcel of land lying in the Northeast Quarter (N.E. 1/61 of Section 34 and the Northwest Quarter (N.W, 1/2) of Section 35, Township 45 South, Range 42 East, Palm Beach County, Florida, said land being more particularly described as follows :

Commencing at the Northwest corner of Section 35, thence with a bearing of $52^{\circ}24'58''\text{E}$, along the West line of Section 35, a distance of 1389.65 feet to the Point of Beginning; thence with a bearing of $\text{N } 89^{\circ}32'51''\text{E}$ a distance of 205.65 feet to a point, thence with a bearing of $\text{S } 0^{\circ}27'09''\text{ E}$, a distance of 823.94 feet to a point; thence with a curve to the left having a tangent bearing of $\text{N } 47^{\circ} 51 '56''\text{ W}$ a radius of 2123.10 feet , an arc length of 282.76 feet to a point of compound curvature; thence with a curve to the left having a radius of 787.35 feet, an arc length of 577.33 feet to a point thence, with a bearing of $\text{N } 0^{\circ} 23'05''\text{W}$, a distance of 311.51 feet to a point, thence with a bearing of $\text{N } 09^{\circ}36'55''\text{ E}$, a distance of 512.64 feet to a point, thence with a bearing of $\text{N } 89^{\circ} 32'51''\text{E}$, a distance of 49.46 feet more or less to the Point of Beginning.

Containing 7.000 Acres more or less, and subject to easements and rights- of-way of record.

EXHIBIT B

VICINITY SKETCH

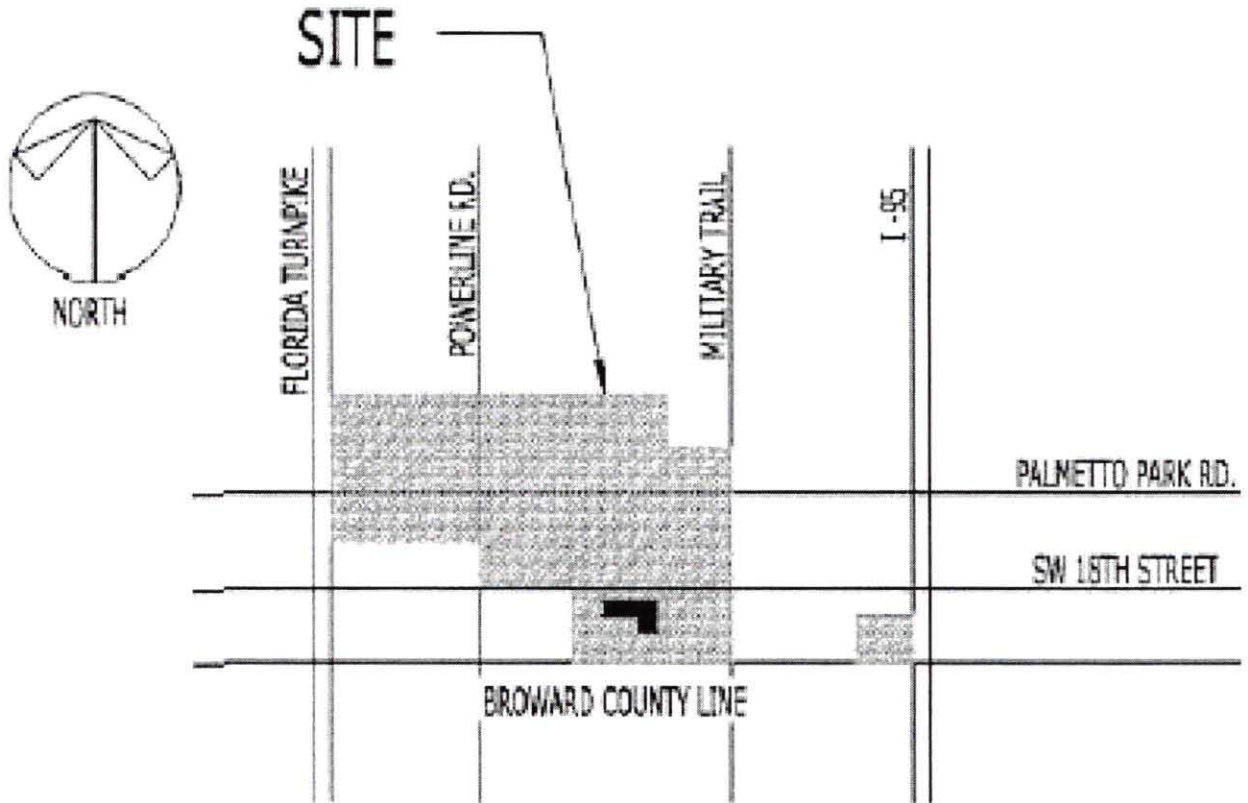


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use – Type II Restaurant

ALL PETITIONS

1. The approved Site Plan is dated August 29, 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)

2. Prior to the issuance of a building permit the Applicant shall submit a revised Form 38 detailing the cost of renovations for the Type II Restaurant and a list of total cost of renovations to the shopping center over the past 5 years. The total cost plus the proposed renovations shall not exceed the threshold for Non-conforming Site Elements established in Article 1. The cost of renovations for the proposed restaurant shall be consistent with the value provided to the Building Division. (BLDGPM: ZONING - Zoning)

USE LIMITATIONS

1. There shall be no outdoor seating located on the east side of the building adjacent to the residential. (ONGOING: ZONING - Zoning)

2. Hours of operation for the Type II Restaurant shall commence no earlier than 7:00 a.m. and close at 11:00 p.m. (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.