

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: SV/ZV/ABN/CA-2018-01348
Application Name: APEC
Control No./Name: 1988-00021 (Auto Service Station)
Applicant: Dolphin Stations, LLC
 School Property Development Glen Ridge, LLC
Owners: Dolphin Stations, LLC
 School Property Development Glen Ridge, LLC
Agent: Schmidt Nichols - Josh Nichols and Jon E. Schmidt
Telephone No.: (561) 684-6141
Project Manager: Carolina Valera, Senior Site Planner

TITLE: Subdivision Variance **REQUEST:** to allow direct access to an Arterial. **TITLE:** Type 2 Variance **REQUEST:** to allow a 24-hour operation within 250 feet of a parcel with a residential Future Land Use designation or Use. **TITLE:** a Development Order Abandonment **REQUEST:** to abandon a Special Exception for an Auto Service Station. **TITLE:** a Class A Conditional Use **REQUEST:** to allow Retail Gas and Fuel Sales with a Convenience Store and a Type 1 Restaurant with Drive-through.

APPLICATION SUMMARY: Proposed is a Subdivision Variance, a Type 2 Variance, a Development Order Abandonment, and Class A Conditional Uses for the APEC development. The 2.79-acre subject site is comprised of seven parcels. The 0.47-acre parcel located at the southwest corner of the development, was originally approved by the Board of County Commissioners (BCC) on February 28, 1989, for a rezoning from the Neighborhood Commercial (CN) Zoning district to the Commercial General Zoning district (CG), with a Special Exception (SE) to allow an Auto Service Station. An Administrative Abandonment was also approved by the Development Review Officer on October 23, 2018 to abandon a Site Plan approval on a portion of the subject site.

The Applicant proposes to demolish the existing Auto Service Station and redevelop with Retail Gas and Fuel Sales (7 fuel pumps/14 fueling positions), a 3,535 square foot (sq. ft.) Convenience Store, and a 1,450 Type 1 Restaurant with Drive-through. The Applicant is also requesting a Type 2 Variance to allow 24-hour operations, as well as a Subdivision Variance to allow for direct access from Congress Avenue. In addition to the above uses, the Preliminary Site Plan indicates 32 parking spaces, with access from Congress Avenue (1) and Summit Boulevard (1).

This application was reviewed for compliance with Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement No. 24.

SITE DATA:

Location:	Northeast corner of Congress Avenue and Summit Boulevard.
Property Control Number(s)	00-43-44-05-00-000-7110 00-43-44-05-00-000-7040 00-43-44-05-00-000-7041 00-43-44-05-00-000-7100 00-43-44-05-00-000-7140 00-43-44-05-08-001-0010 00-43-44-05-08-001-0040
Existing Future Land Use Designation:	Urban Infill (UI)
Proposed Future Land Use Designation:	No proposed change; however, will equate to the Commercial High (CH) FLU. See below under Project History for details regarding use of Urban Redevelopment Area Overlay (URAO) opt-out.
Existing Zoning District:	General Commercial (CG) [see also URAO opt-out]
Proposed Zoning District:	No proposed change
Total Acreage:	2.79 acres

Affected Acreage:	2.79 acres
Tier:	URBAN/SUBURBAN
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	PALM ACRES ESTATES-CONGRESS MEADOWS
Municipalities within 1 Mile	Cloud Lake, Glen Ridge, Lake Clarke Shores, Palm Springs, West Palm Beach
Future Annexation Area	Glen Ridge, Lake Clarke Shores, West Palm Beach

RECOMMENDATION: Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibits C-3 and C-4.

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received 0 contacts from the public regarding this project.

ACTION BY THE ZONING COMMISSION (ZC): at the August 1, 2019 ZC Hearing, this item was on the Consent Agenda. There was no one from the public to speak on the item and there was no discussion among the Commissioners. The ZC approved the Subdivision Variance and Type 2 Variance requests, subject to the Conditions of Approval, and recommended approval of the Abandonment and Class A Conditional Use, subject to the Conditions of Approval, with a vote of 9-0.

PROJECT HISTORY: The southwest corner of the subject site is developed with an Auto Service Station approved by the BCC in 1989. At the time of approval of the current use, the site was also rezoned from CN to the CG zoning district. Then in 2010, the site was rezoned by the County to the Urban Infill (UI) Zoning district (Resolution R-2010-1345) as part of the Priority Redevelopment Area (PRA) that was created along the Congress Avenue corridor within the Urban Redevelopment Area Overlay (URAO). Per the County’s Comprehensive Plan, properties within the UI may request to “opt-out” and revert to the previous Future Land Use (FLU) designation and zoning district. The Applicant has chosen to opt-out, and the subject site will revert back to the Commercial High (CH) FLU designation and CG zoning district, and thus no longer subject to the standards of the UI. In addition, the vacant portion of the site received administrative approval to abandon the undeveloped site plan for the Realtors Association of the Palm Beaches development.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Commercial High, with an underlying Medium Residential, 5 units per acre (CH/5)
 Zoning District: Multiple Use Planned Development District (MUPD)
 Supporting: Vacant (Morgan Hotel MUPD, Control No 1975-00135)

EAST:

FLU Designation: Urban Infill (UI)
 Zoning District: Urban Infill (UI)
 Supporting: Vacant (Vacant, Control No 1975-00039)

SOUTHEAST:

FLU Designation: Medium Residential, 5 units per acre (MR-5)
 Zoning District: Single-Family Residential District (RS)
 Supporting: Residential (Single Family, Control No 2017-00054)

SOUTH:

FLU Designation: Urban Infill (UI)
 Zoning District: Urban Infill (UI)
 Supporting: Commercial (7-11, Retail Gas Fuel with Convenience Store, Control No 1981-00210)

WEST:

FLU Designation: Commercial Recreation with an undelaying Utility Transportation (CR/UT)
 Zoning District: Public Ownership (PO)
 Supporting: Recreation (Trump Golf Course, Control No 1997-00012)

SUBDIVISION VARIANCE - SUMMARY

The ZC approved a Subdivision Variance to allow direct access to an Arterial on August 1, 2019, with a vote of 9-0.

TYPE 2 VARIANCE SUMMARY

The ZC approved the following Variance on August 1, 2019, with a vote of 9-0:

ULDC Article (Supplement No. 24)	Required	Proposed	Variance
5.E.5.A Hours of Operation	Hours of operation limited to between 6:00 a.m. to 11:00 p.m.	24-hour operations	To allow hours of operation between 11:00 p.m. and 6:00 a.m.

FINDINGS:**Conditional Uses, Requested Uses and Development Order Amendments:**

When considering a Development Order application for a Conditional, or a Development Order Amendment, the BCC and ZC shall consider Standards a – h listed in ULDC Article 2.B.7.B.2, Standards [Related to Conditional Uses]. The Standards and Staff Analyses are indicated below. A Conditional Use or Development Order Amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

○ Consistency with the Comprehensive Plan: The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ Prior Land Use Amendments: The site has been the subject of two previous Land Use amendments. The first amendment, Commercial Categories, LGA 2002-026 was a county initiated amendment that changed the future land use designation from Commercial with underlying Medium Residential, 5 units per acre (C/5) to Commercial High with underlying MR-5 (CH/5) with no conditions via ORD. 2002-087. A subsequent county initiated Land Use amendment, URA Congress Ave LGA-2008-032b, was adopted with no conditions via ORD. 2008-056. This amendment changed the land use from CH/5 to Urban Infill (UI). However, the applicant has opted to utilize provisions within the Future Land Use Element Policy 1.2.2.-m, which states “the County shall allow properties to utilize the Future Land Use designations and zoning districts in place prior the adoption of the UC and UI.”

○ Intensity: The maximum Floor Area Ratio (FAR) of .35 is allowed for a project with a CH/5 FLU designation in the Urban Suburban Tier (2.49 acres x 43,560 square feet x .35 maximum FAR = 37,962.54 square feet maximum). The request for a total of 4,985 square feet equates to a FAR of approximately 0.05 (4,985 / 108,464 square feet or 2.49 acres = 0.046).

○ Special Overlay District/ Neighborhood Plan/Planning Study Area: The request is located within a Revitalization, Redevelopment, and Infill Overlay (RRIO), Countywide Community Revitalization Team (CCRT) area and the Urban Redevelopment Area (URA). The analysis for each planning area is provided below:

Revitalization, Redevelopment, and Infill Overlay (RRIO) and Countywide Community Revitalization Team (CCRT) Areas - The property is located within the CCRT Area #33 Palm Acres Estates-Congress Meadows Neighborhood Area. The Office of Community Revitalization (OCR) serves as the CCRT neighborhood liaison office for Palm Beach County. The applicant held a neighborhood meeting on October 24th, 2018. No residents or interested parties attended the meeting. The OCR staff was in attendance. OCR has not received any phone calls or in-person inquiries regarding the project.

The Urban Redevelopment Area (URA) - The subject site is located within the URA Priority Redevelopment Area along Congress Avenue and is identified on FLUE Map 9.1 as Urban Infill (UI). However, the applicant has opted to utilize the prior land designation CH/5 (Exhibit F).

2. Consistency with the Code - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.*

○ Landscaping: The PSP indicates the required 20-ft. R-O-W buffer along the west property line, abutting Congress Avenue. Along the north property line, the PSP indicates 15 ft. R-O-W buffer abutting Oklahoma Street, an undeveloped R-O-W. Along the east property line, the required 8-ft. Compatibility buffer is provided. Lastly, along the south property line, the PSP indicates the required 15-ft. R-O-W Buffer abutting Summit Boulevard. Staff has added Conditions of Approval for additional landscaping at the southeast corner of the site.

○ Signage: The Applicant is proposing two freestanding signs. A maximum of three freestanding sign are permitted by Code for a project with 301 feet or more of frontage within the U/S Tier, as in the case of the subject development. The development has 426 feet of frontage, and the Preliminary Sign Plan indicates 2 freestanding signs (Figure 4). Staff has reviewed proposed sign sq. ft. and has been determined to be in compliance with Article 8.

○ Floor Area –The PSP confirms that the 3,535 sq. ft. Convenience Store will comply with the maximum 7,000 sq. ft. limitation of the Code.

○ Location Criteria: A maximum of two Retail Gas and Fuel Sales are allowed at an intersection. However, per Art. 4.B.2.C.15.b.2, Approvals Prior to Establishment of Location Criteria, in scenarios where 3 or more stations are confirmed as legally established prior to location criteria, each would be considered vested. In addition, Art. 4.B.2.C.33.f, Location Criteria, a maximum of two Type 1 Restaurants shall be permitted at an intersection. The proposed Type 1 Restaurant will be the first at the subject intersection. Therefore, the proposed uses meet the Location Criteria.

○ Parking and Loading: The proposed 3,535 sq. ft. Convenience Store requires 18 spaces (a minimum of 1 parking space for each 200 sq. ft.), and the 1,450 sq. ft. with 42 seats Type 1 Restaurant use requires 14 spaces (a minimum of 1 space per 3 seats). A total of 32 spaces are required and provided.

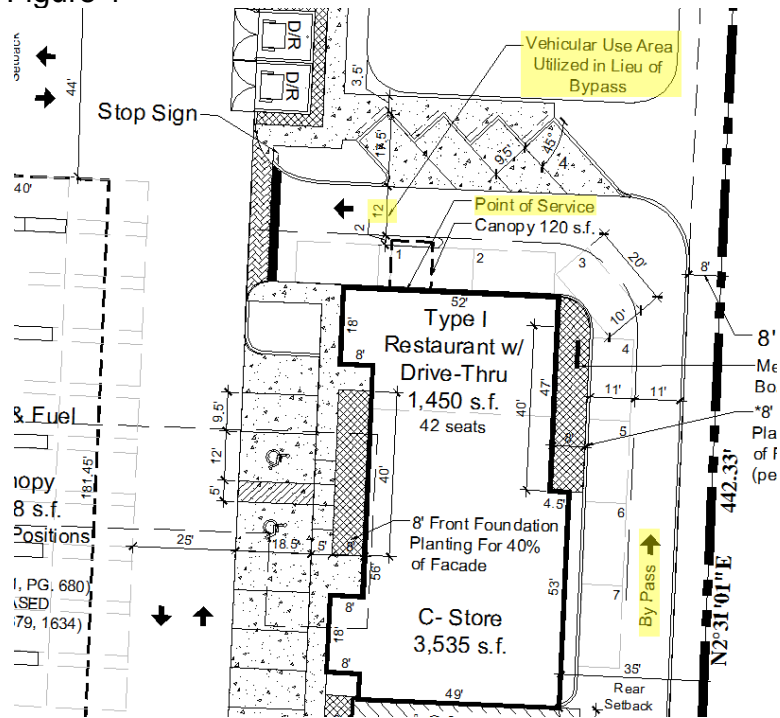
○ Architecture: The Applicant states notes that Architectural Elevations will be submitted at time of building permit for review for compliance with Article 5.C., Design Standards.

○ Layout and Function: The proposed design for the Retail Gas and Fuel Sales with Convenience Store and Type 1 Restaurant, has been designed to accommodate the necessary turning movements for all vehicles. The Code requires 20-ft. queuing spaces and the PSP complies with this standard for the fuel pumps and the restaurant's Drive-through. The proposed uses have provided sufficient circulation, access and area for turning movements that meet the intent of the Code. The drive aisles meet or exceed the minimum 25 ft. width throughout the site and accommodate for larger fueling trucks (Exhibit H).

The PSP proposes a 12-foot vehicular use area along the east side of the Convenience Store and Type 1 Restaurant building, which functions as a by-pass lane for the Type 1 Restaurant. In addition, the PSP proposes an 11-foot by-pass lane in the area does not feature a vehicular use area [Figure1]. However, the limited space between the parking spaces and the queuing area, in addition to the length of the parking spaces, provides for a limited maneuvering area for vehicles parked in the four parking spaces proposed adjacent to the vehicular area.

Therefore, in accordance with Article 6.A.1.D.16.b., Queuing Standards, the Zoning Director determined that the proposed development need not provide a 10-foot by-pass lane for the proposed Type 1 Restaurant with Drive-through for the subject development, with the Condition that the parking spaces adjacent to the vehicular use area by designated for employees only. Staff included a Condition of Approval to ensure the vehicular use area in that area is designated for employees only.

Figure 1



3. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

There are no residential uses abutting the site. To the north, and approximately 600 ft. east of the subject site, there are homes along Oklahoma Street, but the portion of the R-O-W adjacent to the site is unimproved, and therefore residents do not currently utilize this portion of the R-O-W. There is one single-family home located south/southeast of the development, and across Summit Boulevard. This home was recently built, and is adjacent to the existing 7-Eleven gas station. The Canopy structure for the Retail Gas and Fuel Sales use will be approximately 217 ft. away from the single-family home, and the Convenience Store with Type 1 Restaurant will be approximately 215 ft. The new development proposes to locate the Canopy for the fuel stations, the Convenience Store, and the freestanding signs, further west and north of their current location of the existing gas station, shifting these structures further away from the residential home. To the west, across Congress Avenue, there is a golf course use. There are two approved Auto Service Stations to the south and southwest of the subject site. Therefore, the proposed development is compatible and generally consistent with surrounding commercial, residential and recreational uses.

4. Design Minimizes Adverse Impact – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The Applicant is proposing seven fuel pumps with 14 fueling positions. The PSP indicates adequate continuous circulation throughout with the configuration of the pumps, and pedestrian connections between the uses is not impeded. Additionally, the number of pumps/fueling stations is commonly found in dense urban locations such as the subject site. Therefore, the proposed number of pumps is not excessive. The redeveloped site will shift the structures and freestanding signs further away from existing residential uses. The PSP also indicates a 0.57-acre dry detention area that will provide a large open space along the north side of the development. In addition, Staff included Conditions of Approval to require additional landscaping at the southeast corner of the site to mitigate potential adverse impacts to the residential home located to southeast of the site. Such features, in addition to the landscape buffers and interior landscape material required by Code will minimize adverse effects, including visual impact and intensity of the proposed uses on adjacent lands.

5. Design Minimizes Environmental Impact – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

PALM BEACH COUNTY HEALTH DEPARTMENT: This project meets all Florida Department of Health requirements

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The property has been cleared.

WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93-3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93-15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

6. Development Patterns – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

There is an existing gas station within a portion of the site, which had a previous approval for an Auto Service Station, which is proposed to be demolished and re-developed with a larger Retail Gas and Fuel Sales use with a Convenience Store and Type 1 Restaurant. The remainder of the vacant parcels that will be used to expand the existing development, were previously approved for commercial development. Therefore, the pattern of the development will remain commercial and the proposed modification will not impact the established or anticipated development pattern within the vicinity.

7. Adequate Public Facilities – *The extent to which the proposed use complies with Art. 2, F, Concurrency.*

ENGINEERING COMMENTS:

TRAFFIC IMPACTS

The proposed existing gas station expansion and a new fast-food restaurant on the site is expected to generate a net 1,347 Daily, 114 AM peak hour, and 98 PM peak hour trips. A buildout of 2021 has been assumed.

The project will have an insignificant impact (as defined by the Traffic Performance Standards) on the roadways. There will be no roadway improvements required to meet the TPS.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Segment: Congress Ave from Summit Blvd to Gun Club Rd

Existing count: Northbound=1428, Southbound=2068

Background growth: Northbound=271, Southbound=314

Project Trips: Northbound=10, Southbound=10

Total Traffic: Northbound=1709, Southbound=2392

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS "D" capacity: 2680 per direction

Projected level of service: LOS D or better in each direction

The Property Owner shall dedicate ROW to be consistent with the PBC Thoroughfare Identification Map, configure the property into a legal lot of record and obtain an onsite drainage review from Land Development prior to the issuance of the building permit.

The Property Owner shall dedicate construct a south approach right turn lane on Congress Avenue prior to the issuance of the certificate of occupancy.

FIRE PROTECTION: The Fire Department Staff has reviewed this request and has and found no issues with the proposed project at this time.

SCHOOL IMPACTS: No Staff Review Analysis.

PARKS AND RECREATION: This is a non-residential project, therefore Parks and Recreation Department ULDC standards do not apply.

8. Changed Conditions or Circumstances – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

The proposed redevelopment will include additional fuel pumps, a larger Convenience Store and a Type 1 Restaurant with Drive-through. The Applicant states in the Justification Statement that there is a growing demand for Retail Gas and Fuel Sales with Convenience Store with a larger amount of fuel pumps, and which include Type 1 Restaurants.

CONCLUSION

Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the requests. Staff has also determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended Conditions of Approval as indicated in Exhibits C-1, C-2, C-3 and C-4.

CONDITIONS OF APPROVAL

Exhibit C-1 - Subdivision Variance - Concurrent

DISCLOSURE

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

CONDITIONS OF APPROVAL

Exhibit C-2 - Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Site Plan is dated June 10, 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 Zoning Commission. (ONGOING: ZONING - Zoning)
2. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for SV/ZV/ABN/CA-2018-01348. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)
3. This Variance is approved for the Retail Gas and Fuel Sales with Convenience Store use. Any change to the use shall require reconsideration of the Variance by the Zoning Commission. (ONGOING: CODE ENF - Zoning)
4. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDG PERMIT: BLDG - Zoning)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission 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 Zoning Commission 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.

CONDITIONS OF APPROVAL

Exhibit C-3 - Class A Conditional Use – Retail Gas and Fuel Sales with a Convenience Store

ALL PETITIONS

1. The approved Site Plan is dated June 10, 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. (ONGOING: 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, 2021, 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)

2. The Property Owner shall construct a right turn lane south approach on Congress Ave at the project 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 the 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)

LANDSCAPE – INTERIOR – LANDSCAPING WITHIN OPEN SPACE AREAS EAST AND WEST OF THE SOUTH ACCESS POINT TO THE SITE

1. The open space areas located east and west of the of the south access point to the site, as depicted on the Preliminar Site Plan dated June 10, 2019, shall be planted as follows:

a. one (1) canopy tree;

b. medium shrubs planted at 30 inches on center. (BLDGPMT: ZONING - Zoning)

LANDSCAPE – INTERIOR – LANDSCAPING WITHIN OPEN SPACE AREA SOUTHEAST OF THE LOADING AREA

1. The open space area located southeast of the loading area, as depicted on the Preliminary Site Plan dated June 10, 2019, shall be planted as follows:

a. a group of three (3) palms, with twelve (12) feet clear trunk at installation.

b. medium shrubs planted at 30 inches on center.

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney, submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)

2. Construct, and pave to the property line, the cross access as shown on the site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)

SITE DESIGN

1. The loading space adjacent to the south side of the Convenience Store building, shall be screened with a six (6) feet high concrete wall along the west and south of the loading area. The screening wall along the west shall connect to the Convenience Store building. (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: 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.

CONDITIONS OF APPROVAL

Exhibit C-4 - Class A Conditional Use – Type 1 Restaurant with Drive-through

ALL PETITIONS

1. The approved Site Plan is dated June 10, 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. (ONGOING: ZONING - Zoning)

SITE DESIGN

1. The parking spaces adjacent to the vehicular use area along the north side of the Convenience Store and Type 1 Restaurant building shall be designated for employees only. (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: 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.

Figure 1 – Land Use Map

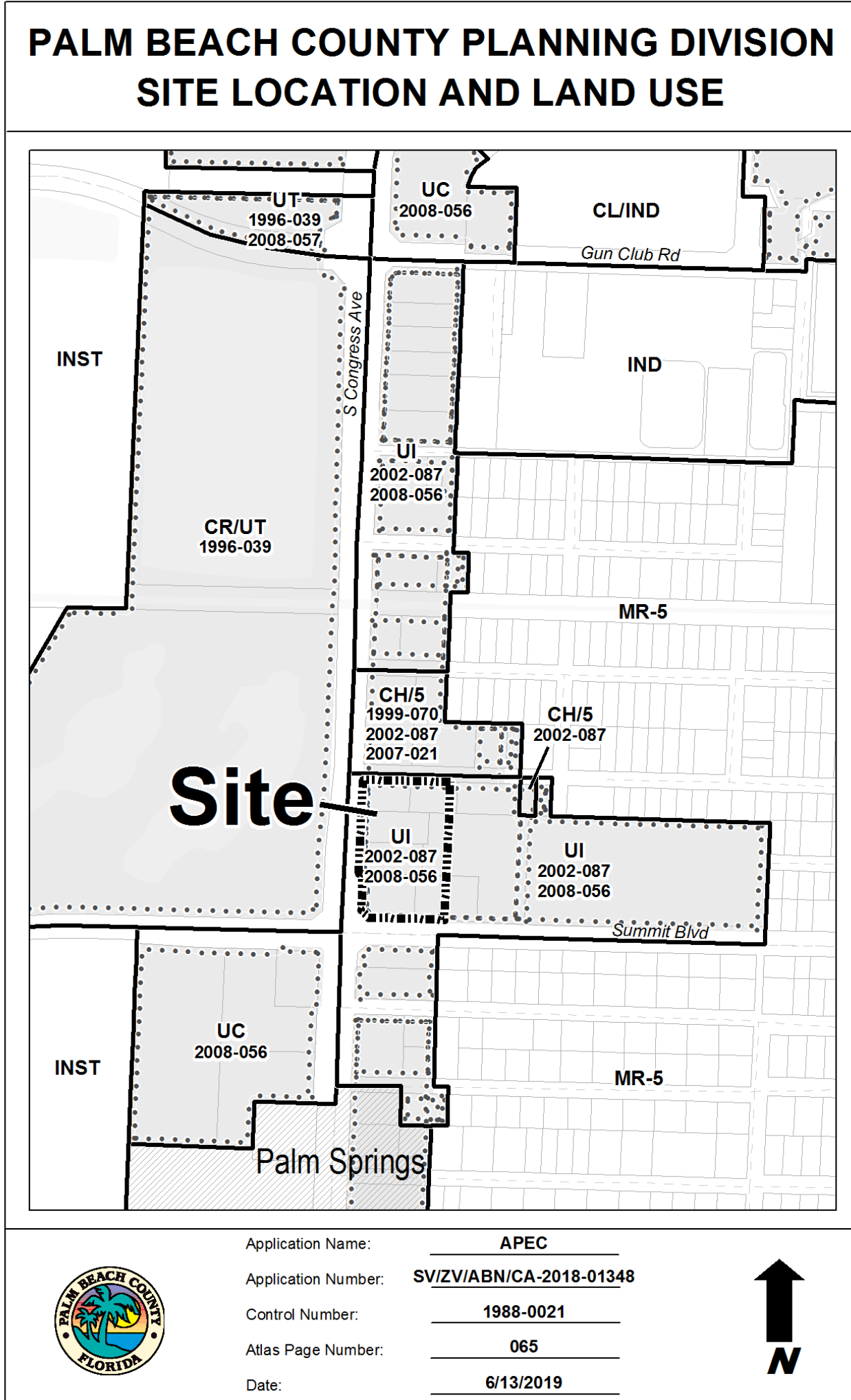
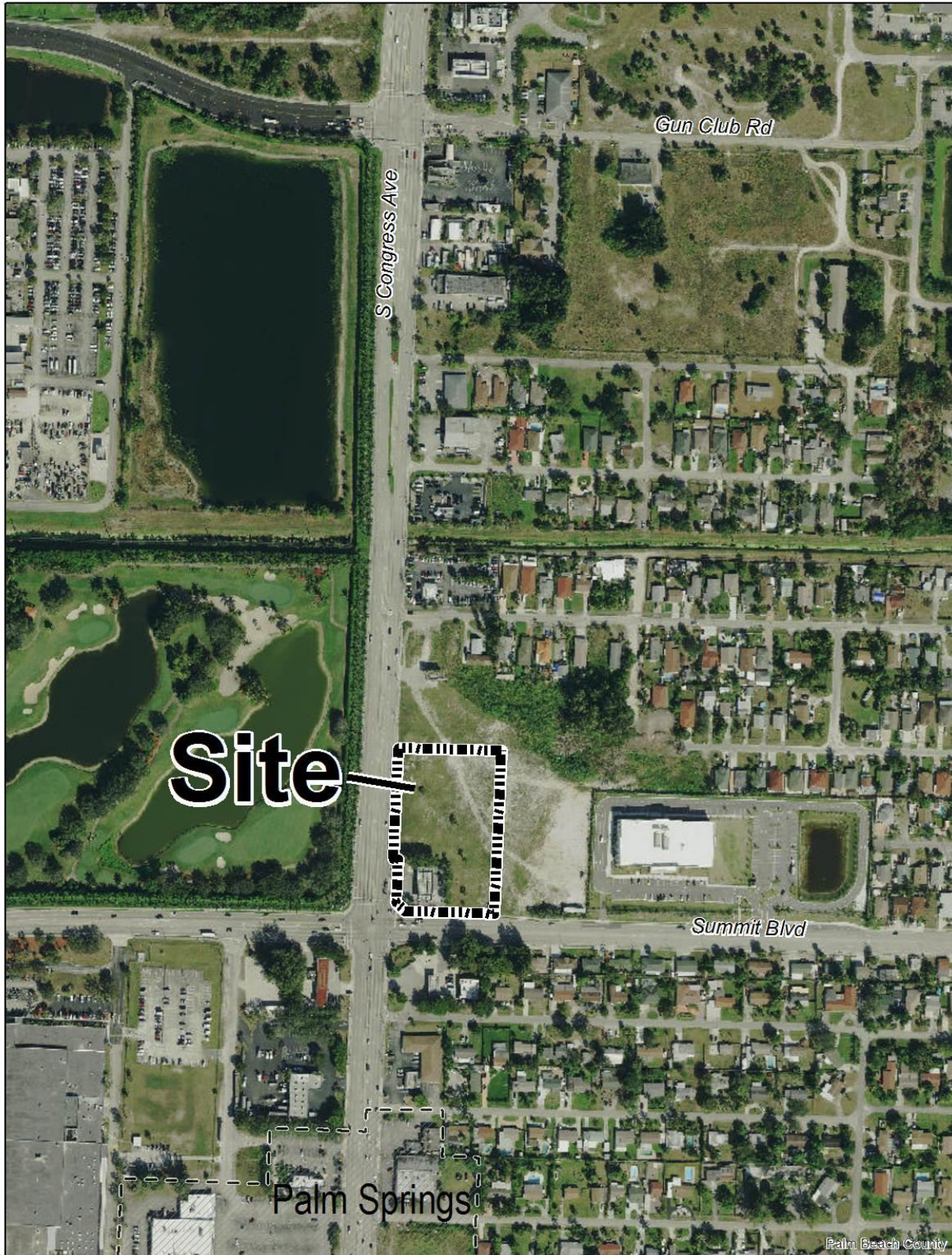


Figure 2 – Zoning Map



Figure 3 – Aerial

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND ZONING



Application Name: APEC
Application Number: SV/ZV/ABN/CA-2018-01348
Control Number: 1988-0021
Atlas Page Number: 065
Date: 6/13/2019



Figure 4 - Preliminary Site Plan dated June 10, 2019

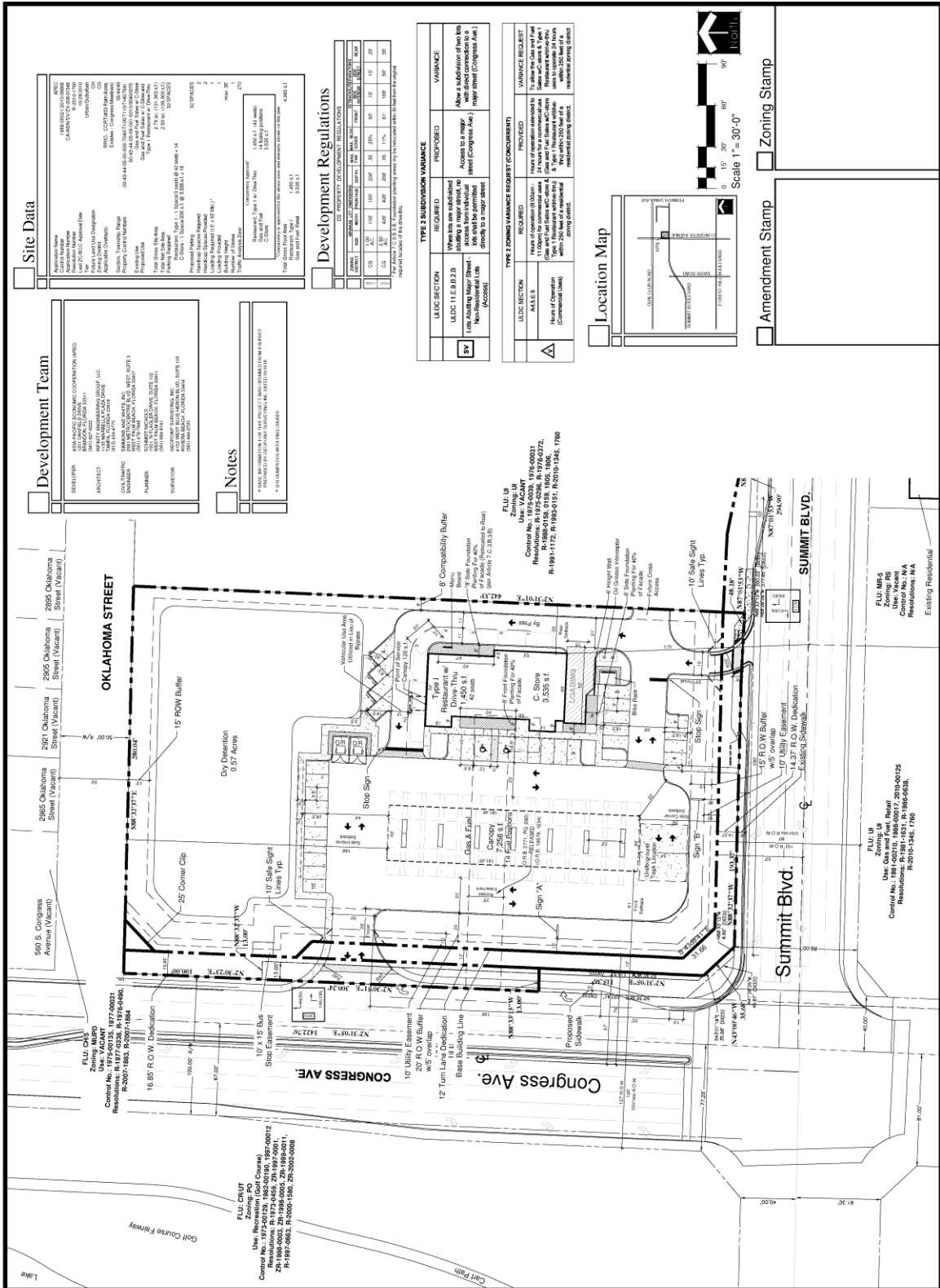


Palm Beach County, Florida
APEC

Date: 07/26/18
Scale: 1" = 30' 0"
Design By: JN
Checked By: JN
File No.: 562.02
Job No.: 18-110

REVISIONS / SUBMISSIONS
05/27/18 Residential
07/27/18 Residential
07/27/18 Residential
07/27/18 Residential

Preliminary Site Plan
PSP



Site Data

APPLICANT: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING
PROJECT: 1551 N. FLAGLER DR., STE. 102, WEST PALM BEACH, FL 33401
SUBJECT: 1551 N. FLAGLER DR., STE. 102, WEST PALM BEACH, FL 33401
DATE: 07/26/18
SCALE: 1" = 30' 0"

Development Team

DEVELOPER: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING
ARCHITECT: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING
ENGINEER: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING
PLANNER: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING
SURVEYOR: SCHMIDT NICHOLS LANDSCAPE ARCHITECTURE AND URBAN PLANNING

Notes

1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE NOTED.
2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO EDGE UNLESS OTHERWISE NOTED.
5. ALL DIMENSIONS ARE TO CORNER UNLESS OTHERWISE NOTED.
6. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
7. ALL DIMENSIONS ARE TO EDGE UNLESS OTHERWISE NOTED.
8. ALL DIMENSIONS ARE TO CORNER UNLESS OTHERWISE NOTED.

Development Regulations

TYPE 1 SUBDIVISION VARIANCE	REQUIRED	PROPOSED	VARIANCE
1. LULUC SECTION 11.6.B.02.B	Access to a major street from individual lots directly to a major street	Access to a major street from individual lots directly to a major street	Allow a subdivision of two lots with access to a major street from individual lots directly to a major street
2. LULUC SECTION 11.6.B.02.B	Access to a major street from individual lots directly to a major street	Access to a major street from individual lots directly to a major street	Allow a subdivision of two lots with access to a major street from individual lots directly to a major street

TYPE 2 ZONING VARIANCE REQUEST (CONCURRENT)

LULUC SECTION	REQUIRED	PROVIDED	VARIANCE REQUEST
11.6.B.02.B	Hours of operation (8:00am - 6:00pm) for drive-thru service	Hours of operation (8:00am - 6:00pm) for drive-thru service	Hours of operation (8:00am - 6:00pm) for drive-thru service
11.6.B.02.B	Hours of operation (8:00am - 6:00pm) for drive-thru service	Hours of operation (8:00am - 6:00pm) for drive-thru service	Hours of operation (8:00am - 6:00pm) for drive-thru service

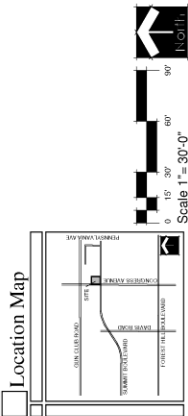


Figure 4 - Preliminary Master Sign Plan dated June 10, 2019



APEC
Palm Beach County, Florida

Date: 07/29/18
 Title: M.T.S.
 Design By: DME
 Drawn By: BMC
 Checked By: JN
 File No.: 582.02
 Job No.: 16-110

REVISIONS / SUBMISSIONS
 08/27/18 Resubmittal

07/29/18 Resubmittal
 07/29/18 Resubmittal
 07/29/18 Resubmittal
 07/29/18 Resubmittal
 07/29/18 Resubmittal

Preliminary
 Master Sign
 Program
 PMSP

Wall Sign Detail

Notes:

- Max 24" Ht. Letters
- West Facade Max 1.0 s.f. per l.f. of facade
Facade Length = 100 l.f.
Max s.f. = 100 s.f.
- South Facade Max .5 s.f. per l.f. of facade
Facade length = 52 l.f.
Max s.f. = 26 s.f.
- East Facade Max .5 s.f. per l.f. of facade
Facade length = 100 l.f.
Max s.f. = 50 s.f.

Gas Station Canopy Sign Detail

Notes:

- Max. 24 s.f. of sign area
- Max. Sign Height - 25' Above Grade
- Max. Sign Face Height - 18" (Gas Station Canopy Signs)
- Max. 2 Canopy signs per station in addition to the maximum allowable signage area for wall signs.

Monument Sign "A" Detail

Notes:

- Max 1 Signs Per Entrance
- Max Ht. 20'
- Max 200 Square Feet of Sign Area (Per-Face)
- 3' Foundation Planting
- Display words for cash or credit, fuel grades, and numerals for fuel prices

Monument Sign "B" Detail

Notes:

- Max 1 Signs Per Entrance
- Max Ht. 15'
- Max 200 Square Feet of Sign Area (Per-Face)
- 3' Foundation Planting
- Display words for cash or credit, fuel grades, and numerals for fuel prices

Amendment Stamp

Zoning Stamp

Figure 4 - Preliminary Regulating Plan dated June 10, 2019



Palm Beach County, Florida

APEC

Date: 08/16/21
 Scale: 1" = 30'-0"
 Design By: City
 Checked By: JN
 File No.: 562.02
 Job No.: 18-110

REVISIONS / SUBMISSIONS
 08/27/18 Residential
 10/27/18 Residential
 11/17/18 Residential
 02/25/19 Residential

Preliminary
 Regulating Plan:
 Tree Disposition
 PRP-1

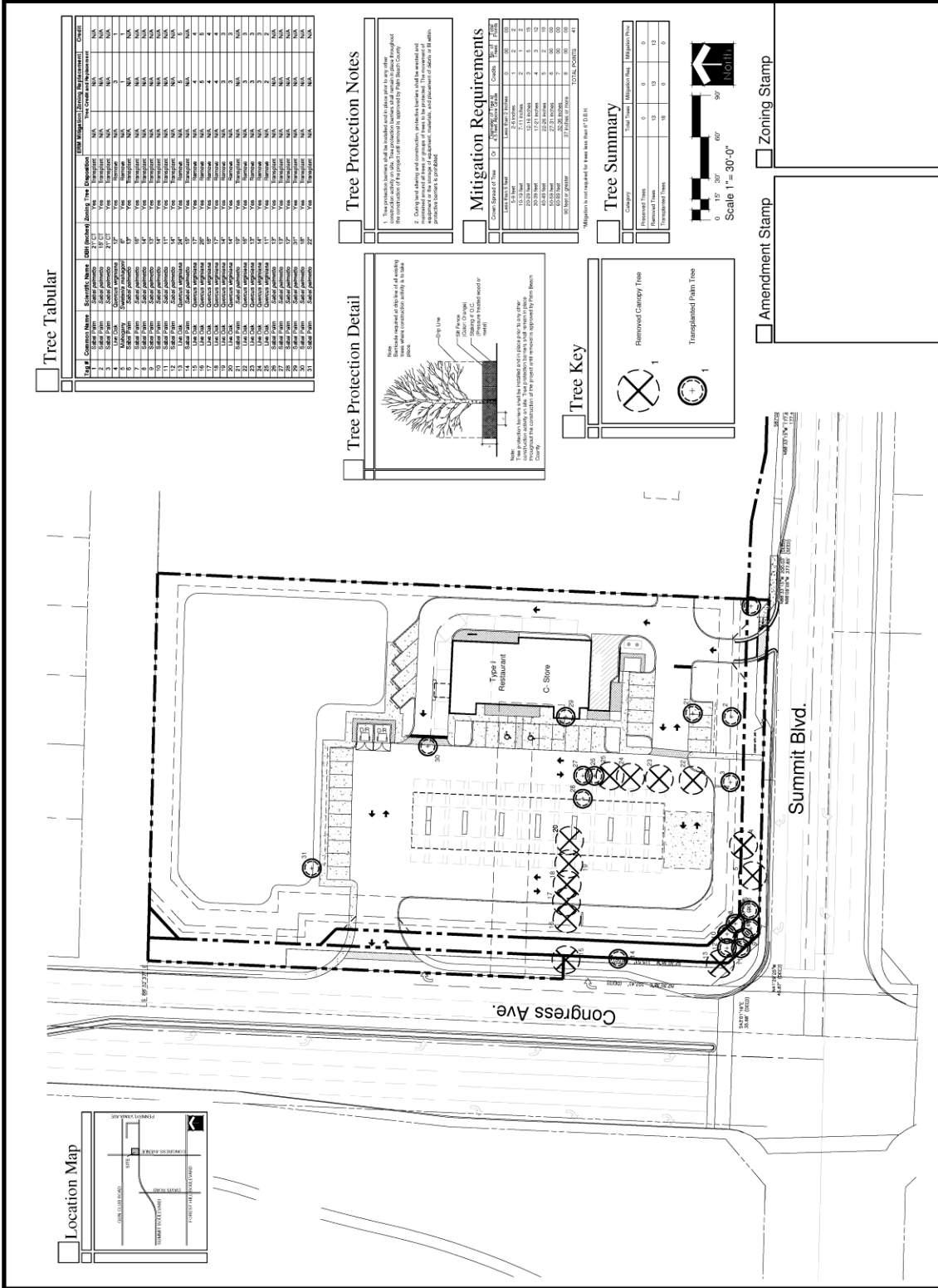


Exhibit D – Disclosure

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared William D. McKnight, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Manager _____ [position - e.g., president, partner, trustee] of Dolphin Stations, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 1201 Oakfield Dr., Suite 109, Brandon, FL 33511

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

EXHIBIT "A"
PROPERTY

A PARCEL OF LAND IN THE SOUTHWEST 1/4 OF SECTION 5, TOWNSHIP, 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE POINT OF INTERSECTION OF THE EAST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (STATE ROAD 807) AS SHOWN ON STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP RECORDED IN ROAD PLAT BOOK 3, PAGES 32-39 AND THE WESTERLY EXTENSION OF THE NORTH LINE OF LARSON ADDITION, ACCORDING TO THE AMENDED PLAT AS RECORDED IN PLAT BOOK 24, PAGE 55 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE RUN N. 02°30'35" E. ALONG THE EAST RIGHT-OF-WAY LINE AND BEING PARALLEL WITH AND 33.00 FEET EAST OF THE WEST LINE OF SAID SECTION 5, FOR A DISTANCE OF 300.37 FEET, THENCE RUN S. 88° 33'15" E. PARALLEL TO THE CENTER LINE OF CONSTRUCTION AS PER RIGHT-OF-WAY MAP AS PER SECTION NO. 93580 IN PALM BEACH COUNTY, FLORIDA FOR 13.00 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE CONTINUE S. 88°33'15" E. FOR A DISTANCE OF 137.00 FEET; THENCE RUN S. 02°30'38" W. PARALLEL TO THE WEST LINE OF SAID SECTION 5 FOR 141.00 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SUMMIT BOULEVARD; THENCE RUN N. 88°33'15" W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE FOR 111.53 FEET TO A POINT; THENCE RUN N. 43°01'19" W. FOR 35.68 FEET; THENCE RUN N. 02° 30'38" E. ALONG THE EASTERLY RIGHT OF WAY LINE OF CONGRESS AVENUE (AFOREMENTIONED), FOR 115.53 FEET TO THE POINT OF BEGINNING.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Mark Rodberg
Mark Rodberg, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9th day of July, 2018 by Mark Rodberg, [X] who is personally known to me or [] who has produced _____ as identification and who did take an oath.

Kathy Jo DeFranco
Notary Public



Kathy Jo DeFranco
(Print Notary Name)
NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 7/13/21

EXHIBIT "A"

PROPERTY

A certain parcel in the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of Section 5, Township 44 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the intersection of the West line of the East 771.71 feet of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of Section 5, Township 44 South, Range 43 East, with the North right-of-way line of Summit Boulevard as shown on Road Plat Book 3, Page 165, Public Records of Palm Beach County, Florida; Thence North 88° 08' 06" West along the said Northerly right-of-way line of Summit Boulevard, a distance of 377.65 feet, more or less, to a line parallel with and 183 feet Easterly from the West line of said Section 5; Thence North 2° 55' 04" East along said parallel line, a distance of 150 feet; Thence North 88° 8' 06" West parallel with the Northerly line of said Summit Boulevard, a distance of 150 feet to a line parallel with and 33 feet Easterly from the West line of said Section 5, also being the Easterly right-of-way line of Congress Avenue, the same as shown on Road Plat Book 3, Page 32, Public Records of Palm Beach County, Florida; Thence North 2° 55' 04" East along the Easterly right-of-way line of Congress Avenue, a distance of 201.12 feet, more or less, to the North line of the South one-half (S 1/2) of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of said Section 5; Thence South 88° 07' 56" East along said North line of the South one-half (S 1/2) of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4), a distance of 529.78 feet, more or less, to the said West line of the East 771.74 feet of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of Section 5; Thence South 5° 15' 14" West along the said West line of the East 771.74 feet, a distance of 351.14 feet, more or less, to the Point of Beginning.

TOGETHER WITH Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12, Block 1, PALM ACRES ESTATES, as recorded in Plat Book 20, Page 5, of the Public Records of Palm Beach County, Florida. Said lands situate, lying and being in Palm Beach County.

LESS THE FOLLOWING DESCRIBED RIGHT-OF-WAY WARRANTY DEED as described in Official Record Book 4813, Page 6, of the said public records, being:

A portion of land lying in the Northwest quarter of the Southwest quarter of Section 5, Township 44 South, Range 43 East, as recorded in Official Record Book 3517, Page 206, of the Public Records of Palm Beach County, Florida, and said portion being more particularly described as follows:

Commencing at the intersection of the West line of the East 771.74 feet of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of Section 5, Township 44 South, Range 43 East, with the North right-of-way line of Summit Boulevard as shown on Road Plat Book 3, Page 165, of the Public Records of Palm Beach County, Florida; Thence North 88° 33' 15" West along the said Northerly right-of-way line of Summit Boulevard, a distance of 177.65 feet to the Point of Beginning of the herein described property:

Thence continue North 88° 33' 15" West along the North right-of-way of Summit Boulevard, a distance of 200.03 feet to a line parallel with and 183.00 feet Easterly from the West line of said Section 5; Thence North 02° 30' 38" East along said parallel line, a distance of 9.00 feet; Thence South 88° 33' 15" East, parallel with and 9.00 feet North of said Northerly right-of-way line, a distance of 81.84 feet; Thence South 87° 02' 31" East, a distance of 118.18 feet; Thence South 02° 30' 38" West, a distance of 5.88 feet to the Point of Beginning.

LESS THE FOLLOWING DESCRIBED RIGHT-OF-WAY WARRANTY DEED as described in Official Record Book 4813, Page 8, of the said public records, being:

A portion of land lying in the Northwest quarter of the Southwest quarter of Section 5, Township 44 South, Range 43 East, as recorded in Official Record Book 3517, Page 204, of the Public Records of Palm Beach County, Florida, and said portion being more particularly described as follows:

Beginning at the intersection of the West line of the East 771.74 feet of the Northwest one-quarter (NW 1/4) of the Southwest one-quarter (SW 1/4) of Section 5, Township 44 South, Range 43 East, with the North right-of-way line of Summit Boulevard as shown on Road Plat Book 3, Page 165, of the Public Records of Palm Beach County, Florida; Thence North 88° 33' 15" West along the said Northerly right-of-way line of Summit Boulevard, a distance of 177.49 feet to a line parallel with and 383 feet Easterly from the West line of said Section 5; thence North 02° 30' 38" East along said parallel line, a distance of 5.88 feet; Thence 87° 02' 31" East, a distance of 177.47 feet; Thence South 02° 56' 13" East, a distance of 1.20 feet to the Point of Beginning.

Exhibit E – Justification Statement

Justification Statement
APEC (CA/ABN/SV/ZV-2018-01348 / Control No. 1988-00021)
Development Order Abandonment, Class A Conditional Use (2), Type 2 Variance &
Subdivision Variance Applications
Palm Beach County Development Review Officer (“DRO”) Submittal
Original Submittal: July 9, 2018
Resubmittal: August 27, 2018
Resubmittal: October 9, 2018
Resubmittal: November 13, 2018
Resubmittal: February 25, 2019
Resubmittal: March 25, 2019
Resubmittal: June 10, 2019

Introduction

On behalf of the Applicant, Dolphin Stations, LLC (“Applicant”) and the property owners, Dolphin Stations, LLC & School Property Development Glen Ridge, LLC (“Owners”), Schmidt Nichols (“Agent”) respectfully requests your approval of these applications for a Development Order Abandonment, two (2) Class A Conditional Uses, a Type 2 Zoning Variance, and a Type 2 Subdivision Variance for a portion of property located in Unincorporated Palm Beach County. The 2.79-acre subject property (PCNs 00-43-44-05-00-000-7040/7100/7110/7140/7041, & 00-43-44-05-08-001-0010/0040/0070) is composed of two (2) parcels per attached legal description and survey but is more specifically described as being located at the northeast corner of the intersection of Summit Blvd. and Congress Ave. (“subject property”). The proposed site plan and subsequent Final DRO Subdivision Plan (to be submitted at Final DRO) will create a new parcel for the subject property and the remaining land will become a second parcel and re-platted as such.

Currently, the subject property supports a Future Land Use Atlas designation of Urban Infill (UI) with underlying Commercial High with underlying Medium Residential 5 dwelling units/acre (MR-5) and is within the Urban Infill (UI) with underlying General Commercial (CG) zoning district. The subject property is also located within the Palm Beach County Revitalization, Redevelopment, and Infill Overlay (RRIO and the Countywide Community Revitalization Team (CCRT) (Palm Acres Estates – Congress Meadows). The Applicant is electing to opt-out of the URA and utilize the underlying CH Future Land Use and CG Zoning district for development purposes. As a point of reference, only the subject property is electing to opt-out and the remaining land within the parent tract will still retain the UI and URA designations and the ability to utilize them for future development. The Preliminary Site Plan PSP will determine how much land area is required for the redevelopment of the existing gas station, which will ultimately determine the size of the remaining Parcel 2. The Applicant understands that a Condition of Approval to replat will be necessary.

Overlays

Revitalization, Redevelopment, and Infill Overlay (RRIO): As part of this proposed application, the applicant is encouraging revitalization, redevelopment, and infill through the proposed development that will include a 3,535 square-foot C-store and a 1,450 square-foot fast food restaurant with 42 seats, bringing the subject property into compliance with the Palm Beach County Unified Land Development Code, and moving the driveways along Summit Blvd. and Congress Avenue away from the intersection to incorporate a safer traffic flow.

Countywide Community Revitalization Team (CCRT) Area: On August 30, 2018, the applicant has met with Audley Reid, Senior Planner, from the Palm Beach County Office of Community Revitalization (OCR) regarding this proposed project as this proposed project is located in the CCRT (#33 Palm Acres Estates – Congress Meadows) area. The OCR had no issues with the applicant’s proposed request. The applicant has scheduled a community meeting on Wednesday, October 24th to identify neighborhood and resident needs and has invited all residents and homeowners in the Palm

Acres Estates – Congress Meadows area to obtain information and learn about the proposed Auto Service Station project. There were 0 owners in the Stacey Street CCRT area which is where the project would be located that came to the community meeting.

Below is a summary of surrounding properties:

	Uses	FLU	Zoning
Subject Property	Gas and Fuel Sales, Retail (Marathon) & Vacant	UI	UI
North	Vacant	UI	UI
South	Gas Station/C-Store (7-11) & Vacant	UI & MR/5	UI & RS
East	Vacant	UI	UI
West	Recreation (Trump International Golf Club)	CR/UT	PO

Request

The Applicant is requesting approval of the following:

- A Development Order Abandonment to extinguish the former Special Exception that permitted an auto service station (No Major Repairs) with nine (9) fueling positions and 738 square-feet of retail under Resolution 89-0348 and Control No. 1988-00021;
- A Class A Conditional Use approval for a Retail Gas and Fuel Sales Use with a 3,535 square-foot Convenience Store (“C-Store”) and fourteen (14) fueling positions;
- A Class A Conditional Use approval for a 1,450 square-foot, 42-seat, Type 1 Restaurant with drive-thru;
- A Type 2 Subdivision Variance from Art. 11.E.2.A.4.B to allow access to a street of higher classification (Congress Ave).
- A Type 2 Variance from Art. 5.E.5 to allow the gas and fuel sales with C-store and Type 1 restaurant with drive-thru uses to operate 24 hours within 250 feet of a residential zoning district
- Opt-out of the Urban Redevelopment Area Overlay (URA) for the subject property; and
- The preliminary site plan certification for the entire proposed development plan, including a 4,985 square foot building, parking, fourteen (14) fueling positions, drive-thru with queuing spaces, dry retention, and two access points.

A separate concurrent application has been approved on October 23, 2018 for a DRO Abandonment of the current approved site plan for the Realtors Association of the Palm Beaches (Application ABN-2018-01349 / Control No. 2005-00333).

The objective is to demolish and completely rebuild the existing gas station on the site in order to compete with the expanding retail fuel industry. The proposed development will include a 3,535 square-foot C-store and a 1,450 square-foot fast food restaurant with 42 seats. The retail gas and fuel station will have seven (7) fuel pumps with fourteen (14) fueling positions, all under canopy. A total of 32 parking spaces are provided with one 15’ X 55’ loading zone located adjacent to the south side of the building. This loading space will service both uses. A bike rack has also been located at the southwest corner of the building. The doubled loaded trash dumpster area is conveniently located on the north side of the property, which will be screened from view from adjacent properties with a 6-foot wall/fence and hedge on three sides with required screen gates. ADA access to/from right-of-way (Summit Blvd.) to main entrance is provided on the south side of the building. These signs are shown on the Preliminary Master Sign Program (PMSP) and being relocated per the Preliminary Site Plan PSP.

History

Below is a history of the subject property:

Parcel 1

February 28, 1989 – Palm Beach County Board of County Commissioners (“BCC”) approved a rezoning from Neighborhood Commercial (CN) to General Commercial (CG) through Resolution R-89-0347.

February 28, 1989 – BCC approved a Special Exception to permit an Auto Service Station (No Major Repairs) with conditions through Resolution R-89-0348.

September 7, 2010 – BCC approved a rezoning from General Commercial (CG) to Urban Infill (UI) through Resolution R-2010-1345.

January 30, 2017 – Palm Beach County Zoning staff approved a Zoning Agency Review amendment for LED signage to the site plan (Control No: 1988-00021) under ZAR 2016-1656.

Parcel 2 (Project is only utilizing a portion of Parcel 2 according to the attached survey)

May 6, 1975 – BCC approved a rezoning from Neighborhood Commercial (CN) to General Commercial (CG) through Resolution R-75-296.

May 4, 1976 – BCC approved a rezoning from Neighborhood Commercial (CN) in part and Residential Single-family (RS) in part to General Commercial (CG) and a further Special Exception for a Planned Commercial Development through Resolution R-76-372.

February 2, 1988 – BCC revoked the Special Exception for a Planned Commercial Development through Resolution R-88-158.

February 2, 1988 – BCC reversed the rezoning from Resolution R-76-372 from CG to CN in part and RS in part through Resolution R-88-159.

October 25, 1988 – BCC approved a rezoning from Neighborhood Commercial (CN) in part and Residential Single-family (RS) in part to General Commercial (CG) through Resolution R-88-1805.

October 25, 1988 – BCC approved a Special Exception for a Planned Commercial Development through Resolution R-88-1806.

September 3, 1991 – BCC amended Conditions of Approval from Resolution R-88-1806 for the Planned Commercial Development through Resolution R-91-1172.

January 26, 2003 – BCC revoked the Special Exception for a Planned Commercial Development through Resolution R-93-151.

January 10, 2007 – Development Review Officer (“DRO”) approved a site plan for Relators Association of the Palm Beaches under Project No. 5759-000 and Petition No. 05-333. This site plan was amended several time over the years fro, 2007 to 2009. This development was never constructed.

September 7, 2010 – BCC approved a rezoning from General Commercial (CG) to Urban Infill (UI) through Resolution R-2010-1345.

Class A Conditional Uses – Gas and Fuel, Retail and Type 1 Restaurant

Per Unified Land Development Code (ULDC) Art.2.B.7.B.2, applications for Conditional Use must take the following standards into consideration. These uses are combined in this justification as they will be located within the same building:

1. Consistency with the Plan

Response: The proposed uses are consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use. The subject property is located within the Urban/Suburban Tier with

frontage along both Congress Ave., an Urban Principal Arterial roadway and Summit Blvd., an Urban Collector as identified by Map TE 3.1, Functional Classification of Roads. **Objective 1.2** of the Comprehensive Plan Future Land Use Element (“FLUE”) states: “this tier [Urban/Suburban] is expected to accommodate the bulk of the population and its need for...goods and services...” With the population increases in the area of Palm Beach County, there is a need for additional and expanded services to support these new residents. Therefore, the proposed Class A Conditional Uses for this project are consistent with the Future Land Use of CH, with the surrounding properties, and the Comprehensive Plan. The subject property is also located within the Palm Beach County Urban Redevelopment Area Overlay (URAO), Revitalization and Redevelopment Overlay (RRO), the Urban Redevelopment Area Traffic Concurrency Exception Area – Congress (TCEA), and the Countywide Community Revitalization Team (CCRT) (Palm Acres Estates – Congress Meadows). The proposed 3,535 sq. ft. convenience store to the south of the Type 1 Restaurant w/ Drive-Thru will support residents of diverse ages, incomes, family sizes, ethnicities and lifestyles and will advocate walking, cycling, mass transit or other modes of transportation as viable alternatives to automobile use.

2. Consistency with the Code

Response: The proposed uses comply with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics and all applicable portions of Article 4.B, Use Classification. The proposed uses are consistent with ULDC Articles 3, 4, 5, 6, 7 and 8 as shown on the proposed site plan and detailed below:

Article 2: The proposed uses are consistent with Article 2 as it relates to the public hearing procedures and application requirements. Complete applications have been filed for the Class A Conditional Uses.

Article 3: The proposed uses are consistent with Article 3 as it relates to Overlays and Zoning Districts, specifically:

The subject property is located within the Palm Beach County the Urban Redevelopment Area Overlay (URAO), Revitalization and Redevelopment Overlay (RRO), the Urban Redevelopment Area Traffic Concurrency Exception Area – Congress (TCEA), and the Countywide Community Revitalization Team (CCRT) (Palm Acres Estates – Congress Meadows). The Applicant is electing to opt-out of the URA and utilize the underlying CH Future Land Use and CG Zoning district for development purposes. The proposed preliminary site plan meets all the property development regulations for the CG zoning district as outlined on the accompanying preliminary site plan (PSP). The Applicant is not requesting to be rezoned to a planned development district. The proposed Class A Conditional uses are consistent with Table 3.A.3.B as it relates to the FLU designation and corresponding standard zoning district as the proposed CG zoning district corresponds to the proposed CH FLU designation.

The proposed uses meet the intent of ULDC Table 3.D.1.A, Property Development Regulations, in that the preliminary site plan:

- Meets the minimum lot size of 1 acre (2.79 acres provided (2.5 acres after ROW dedication), minimum width and frontage of 100 feet (426 feet of frontage on Congress Ave.), and minimum depth of 200 feet (266 feet of depth provided) for CG zoning district;
- Does not exceed the maximum building coverage of 25% for CG (11% building coverage provided);
- Does not exceed the maximum FAR of .35 for CG with CH FLU (.05 FAR provided);
- Meets the minimum setbacks for CG as follows:
 - Front: 50 feet (61 feet provided);
 - Side: 15 feet (188 feet provided);
 - Side Street: 15 feet (56 feet provided based on ROW buffer width of 15 feet); and
 - Rear: 20 feet (35 feet provided).

Article 4: The proposed uses are consistent with Article 4 as it relates to the use regulations, specifically in Article 4.B.2.C.15 – Gas and Fuel Sales, Retail and Article 4.B.2.C.32 – Restaurant, Type 1, as outlined below:

15. Gas and Fuel Sales, Retail

a. Definition

An establishment engaged in the sale of gasoline or motor fuels to the general public.

b. Nonconformities

1) Automotive Service Station or Convenience Store with Gas Sales

A prior approval for an Automotive Service Station or Convenience Store with Gas Sales, shall correspond to Retail Gas and Fuel Sale, and any other collocated uses such as Convenience Store, or Light or Heavy Repair and Maintenance. **Complies.**

2) Approvals Prior to Establishment of Location Criteria

An Automotive Service Station or Convenience Store with Gas Sales that was a conforming use on the effective date of Ordinance 2001-029 (August 3, 2001), shall be exempt from the Location Criteria of 1) Intersection Criteria, and 2) Separation Criteria, listed below. **Complies. The existing Auto Service Station on the site was approved February 28, 1989 under Resolution R-89-348. Therefore, it is exempt from the Location Criteria (Intersection and Separation). Please see enclosed email confirmation from the Palm Beach County Zoning Division on October 27, 2017.**

c. Approval Process – IRO District with CH FLU Designation

Retail Gas and Fuel located on a parcel with a CH FLU designation within the Core Transect Zone may be allowed subject to DRO approval. **N/A**

d. Additional Standards for Approval

In addition to the Standards of Art. 2.B.2.B, Standards for Conditional Uses and Development Order Amendments, or Art.2.B.2.G.3, Standards (Type 2 Waiver), when considering a Development Order application for a Conditional Use, DOA or Type 2 Waiver, the BCC shall consider whether or not:

1) Adequate ingress and egress have been provided. **Complies. Adequate ingress and egress has been provided from Congress Ave. and Summit Blvd. These ingress and egress are existing today, but will be pushed farther from the intersection of Summit and Congress Ave and the Congress Ave entrance will have a dedicated right turn lane.**

2) Adequate buffering and setbacks from residential areas have been provided. **Complies. The subject property is only adjacent to residential on a portion of the south side, across the 104-foot expanded Summit Blvd. right-of-way. This lot that is residential is actually vacant, so there is no residential use located adjacent to the south. A 15' ROW buffer is being installed along the south property line.**

3) Sufficient vehicle stacking, circulation, access, and area for turning movements have been provided. **Complies. The PSP shows the required 1-car stacking in front and behind each fueling position.**

4) The number of fueling positions proposed is excessive. **Complies. The site currently has nine (9) fueling positions and the Applicant is requesting fourteen (14) fueling positions. This is being requested in order to be competitive with other expanding gas stations around the County.**

5) There are an excessive number of similar stations in the vicinity. **Complies. This is not a request for a new station. The nine (9) fueling positions exist today. Although the previous retail gas and fuel sales use is being abandoned, this request will essentially expand the existing use on the property.**

e. Zoning Districts – TMD and LCC

Retail Gas and Fuel Sales shall only be allowed on sites that are within 500 feet of the perimeter of the development. Gasoline pumps shall be located at the side or rear of a building with access from an alley, interior parking area, or a street not designated as a main street. **N/A**

f. Location Criteria **N/A. Use was existing prior to August 3, 2001, therefore it does not have to meet the location criteria. Please see enclosed email confirmation from the Palm Beach County Zoning Division on October 27, 2017.**

1) Intersection Criteria

A maximum of two Retail Gas and Fuel Sales establishments may be allowed at an intersection pursuant to Art. 5.E.2.B, Intersection Criteria. **N/A**

2) Separation Criteria

A Retail Gas and Fuel Sales establishment shall be separated from any other Retail Gas and Fuel Sales establishment pursuant to Art. 5.E.2.C.1. **N/A**

3) Major Intersection Criteria for CL FLU in U/S Tier

Retail Gas and Fuel Sales with a CL FLU designation shall comply with Article 5.E.1, Major Intersection Criteria. **N/A**

4) CL FLU in Rural, Exurban, Glades and Agriculture Reserve Tiers

Retail Gas and Fuel Sales shall be located within 1,000 feet of the intersection of one Collector and Arterial Street, or two Arterial Streets, as listed in the Florida Department of Transportation (FDOT) PBC Federal Functional Classification Table. **N/A**

5) WCRA Overlay

Retail Gas and Fuel Sales is prohibited in the NR, NRM, NG and NC Sub-areas, per Table 3.B.14.E – WCRAO Sub-area Use Regulations. **N/A**

6) Exceptions

a) I-95 Interchanges

A parcel with a Commercial High (CH) future land use designation within 0.50 miles of an I-95 Interchange shall be exempt from the Location Criteria of 1) Intersection Criteria, and 2) Separation Criteria, listed above. **N/A**

b) MUPD

Retail Gas and Fuel Sales located within an MUPD may be exempt from the Location Criteria for 1) Intersection Criteria, and 2) Separation Criteria, where in compliance with the following:

(1) Required Perimeter Landscape Buffers, where located between all Retail Gas and Fuel Sales use areas, including ingress/egress, and any R-O-W or parcel of land with a residential FLU designation or use, unless obstructed from view by other existing structures; and,

(2) Direct access from any perimeter R-O-W abutting the MUPD shall be prohibited. All access shall be from entrances established for the overall MUPD, and comply with minimum standards for ingress/egress, stacking, turn-lanes, and pedestrian connectivity. **N/A**

g. Accessory Use

Retail Gas and Fuel Sales may be allowed as an accessory use to Wholesale Gas and Fuel in industrial districts, subject to Class A Conditional Use approval, and the following:

1) Gas and fuel sold retail shall be limited to motor fuels sold wholesale;

2) Maximum of four fueling positions;

3) Maximum of one wall or freestanding sign, where permitted, not to exceed six feet in height, or 25 square feet of sign face area.

4) Wholesale Gas and Fuel Sales may include regional corporate headquarters or maintenance facility for a State regulated public utility that sells natural gas or other similar fuels. **N/A**

32. Restaurant, Type 1

a. Definition

An establishment equipped to sell food and beverages in one of the following methods: drive-thru sales to patrons in automobiles for takeout who place orders through a window or remote transmission device; or sales to patrons for takeout or dining in, that includes three or more of the following: food or beverage choices are advertised on a menu board; countertop sales where payment is made prior to consumption; disposable containers and utensils; limited service dining facilities with no hostess or waiters; and self-service or prepackaged condiments.

b. Approval Process

1) DRO Approval

A Type 1 Restaurant without a drive-through where the use is allowed provided the GFA including outdoor dining areas does not exceed 5,000 square feet. **Not applicable as a drive-thru is being requested.**

2) Permitted by Right

A Type 1 Restaurant without a drive-through or located in an out parcel, may be Permitted by Right in any PDD or TDD with a commercial or institutional FLU designation, or Pod; the commercial or recreational pod of a PUD, MHPD or RVPD; and all commercial zoning districts, provided the GFA including outdoor dining areas

does not exceed 1,500 square feet. **Not applicable as a drive-thru is being requested.**

c. Tier Specific - Exurban and Rural

A Type 1 Restaurant shall comply with the following:

- 1) Shall not be the sole use on the property;
- 2) Shall be located in a MUPD or TDD;
- 3) Shall not have direct ingress/egress to an adjacent Arterial or Collector Street. Ingress/egress shall be from the interior of the overall vehicular circulation system for the development or interior streets, whichever is applicable; and,
- 4) Shall comply with the design requirements outlined under Article 4.B.2.C.32.f.3), Exceptions. **Not applicable as the subject property is in the Urban/Suburban Tier.**

d. Zoning Districts – TMD and LCC

A Type 1 Restaurant shall be limited to:

- 1) 5,000 square feet of indoor dining area, for a maximum of 6,500 square feet of GFA.
- 2) Located in an outparcel or freestanding building; or
- 3) A drive-thru, unless it is located in the rear of a building, with access from an alley or the interior of a parking area, and is covered by a canopy or the second story of a building. **Not applicable as the subject property is located in the CG Zoning District.**

e. Accessory Alcohol Sales

A Type 1 Restaurant may include the on-premises sale, service and consumption of alcoholic beverages as an accessory use. **No alcohol is being proposed in the Type 1 Restaurant.**

f. Location Criteria

A Type 1 Restaurant with a drive-through shall be subject to the following:

1) Intersection Criteria

A maximum of two Type 1 Restaurants shall be permitted at an intersection in accordance with Art. 5.E.2.B, Intersection Criteria. **Complies as there are no other Type 1 Restaurants the intersection of Congress Ave. and Summit Blvd.**

2) Separation Criteria

A Type 1 Restaurant shall be separated from any other Type 1 Restaurant in accordance with Art. 5.E.2.C.2. **Complies as the proposed Type 1 Restaurant is within 1,000 feet of the intersection of Congress Ave. and Summit Blvd. therefore it is exempt from the separation criteria.**

3) Exceptions

a) Design Criteria

A Type 1 Restaurant may be exempt from the location criteria if the site is designed to: address the additional trips associated with a drive-thru restaurant; as well as enhance pedestrian circulation, safety and accessibility while limiting vehicular circulation using exemplary site design and architectural treatment that incorporates the following:

(1) Drive through facilities, including queuing and by-pass lanes that run parallel and are visible from adjacent streets, shall provide additional landscaping to mitigate views of the vehicular use areas.

(2) If located in a non-residential Planned Development District or a commercial pod, all the required parking spaces shall be located in close proximity to the restaurant that they serve. Required parking shall not be separated from the restaurant main entrance by a distance of more than 150 feet. The applicant may request an increase to this distance up to a maximum of ten percent of the dimensional requirement through a Type 1 Waiver;

(3) If located in standard zoning districts and required by the Zoning Director, cross-access shall be provided to all abutting parcels that have Commercial FLU designation. If required, the cross-access easement shall be recorded prior to Final Approval by the DRO. The Zoning Director may elect not to require the cross-access easement based on review of the existing or approved use for the abutting property.

(4) Consideration shall be given to site design that promotes a safe pedestrian environment and addresses vehicular circulation and maneuvering. A restaurant

located on a single parcel with a standard zoning district is allowed continuous vehicular circulation:

(a) on all four sides of the building if the site is limited to only one access point to the subject property; or,

(b) on all three sides of the building if site is limited to two access points to the subject property.

(5) Landscape plans and architectural elevations shall be required as part of any application for a Conditional Use, or any DOA affecting the items listed herein.

Not applicable as this Type 1 Restaurant is already exempt from separation criteria.

b) MUPD

Type 1 Restaurant located within an MUPD may be exempt from the Location Criteria of 1) Intersection Criteria, and 2) Separation Criteria, where in compliance with the following:

(1) Required Perimeter Landscape Buffers, where located between all Type 1 Restaurant areas, including ingress/egress, and any R-O-W or parcel of land with a residential FLU designation or use, unless obstructed from view by other existing structures; and,

(2) Direct access from any perimeter R-O-W abutting the MUPD shall be prohibited. All access shall be from entrances established for the overall MUPD, and comply with minimum standards for ingress/egress, stacking, turn-lanes, and pedestrian connectivity. **Not applicable as this Type 1 Restaurant is already exempt from separation criteria and not in an MUPD.**

g. Major Intersection Criteria for CL FLU

A Type 1 Restaurant with a CL FLU designation shall comply with Article 5.E.1, Major Intersection Criteria, unless the restaurant meets the requirements of one or more of the following: Article 4.B.2.C.32.b.1), DRO Approval, Article 4.B.2.C.32.b.2), Permitted by Right, is located within a TMD, or complies with the design requirements outlined under Article 4.B.2.C.32.e.3), Exceptions. **Not applicable as this Type 1 Restaurant is in a CH FLU.**

h. Outdoor Dining

Shall comply with the principal structure setbacks. **Complies as no outdoor dining is currently proposed. If Applicant decides to show outdoor seating, it will meet principal structure setbacks and will be a portion of the 42 seats currently proposed.**

Article 5: The proposed Class A Conditional Uses are consistent with Article 5 Supplementary Use Standards, specifically the following:

The proposed uses meet the standards listed in ULDC Art.5, Supplementary Standards, as follows:

- Per ULDC Art.5.B.1.A.8 a dumpster and recycling area has been provided with property enclosure and gates.
- Per ULDC Art.5.B.1.A.17, Bike Racks, the project is required to provide one (1) bike rack and one (1) bike rack has been provided;
- Per ULDC Art.5.C.1.E.1.a., Method I – Projects Requiring BCC Approval, the project will provide all of the application contents listed in ULDC Art.5.C.1.F, Application Contents, and in ULDC Art.5.C.1.G, Visual Impact Analysis, prior to final Development Review Officer (DRO) site plan approval. The Applicant has elected to submit architecture at time of Final DRO, however sample elevations will be submitted prior to DRO certification for public hearing;

Article 6: The proposed Class A Conditional Uses are consistent with Article 6 Parking, specifically the following:

- The proposed amendment meets the standards listed in ULDC Art.6, Parking, as follows:
 - Per ULDC Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements, the project will provide the minimum off-street parking spaces for the uses as follows:
 - Restaurant, Type 1:

Parking: 1 space per 3 seats @ **42 seats = 14 spaces**

➤ C-Store:

Parking: 1 space per 200 sf @ **3,535 sf = 18 spaces**

Requires 32 spaces

Provided 32 spaces

- Per ULDC Table 6.A.1.D, Parking Space for Persons Who Have Disabilities, the proposed amendment meets the required spaces for persons who have disabilities as follows: Required 2 ADA spaces, provided 2 ADA spaces with access to building and ROW.
- Per ULDC Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements, proposed amendment meets the minimum off-street loading spaces for the uses as follows:
 - Restaurant, Type 1:
Loading: Standard “C” 1 space for 1st 1,000 sf @ **1,450 sf = 1 space**
 - C-Store:
Loading: Standard “C” 1 space for 1st 1,000 sf @ **3,000 sf = 1 space**

Requires 1 – 15’x55’ loading space

Provided 1 – 15’x55’ loading space

Both uses are in one building and the loading spaces are co-located as one (1) loading space.

- Per ULDC Art.6.B.1.E.1, Width, the loading spaces provided will be a minimum of 15 feet in width and per ULDC Art.6.B.1.E.2, Length, the loading spaces provided will be a minimum of 55 feet in length. **The provided loading spaces meets this criteria.**

Article 7: The proposed uses are consistent with Article 7 Landscaping, specifically the following:

It should be noted that the southwest portion of the property was developed as a gas station, so buffers and landscaping was installed per the approve site plan of record (Control No. 1988-21). The remaining portion of the property was cleared of all exotics as part of the 2006 site plan approval for The Realtors Association of The Palm Beaches (Control No. 2005-333).

- The proposed amendment meets the standards listed in ULDC Art.7, Landscaping, as follows:
 - Per ULDC Art.7.F.7.A, Width, the project will provide a minimum of a 15-foot wide ROW landscape buffer along Summit Blvd., a 20-foot wide ROW buffer along Congress Ave., a 15-foot wide ROW buffer along the north property line (Oklahoma St. ROW), and an 8-foot wide compatibility landscape buffer along the east property line;
 - Per ULDC Art.7.F. and per ULDC Art.7.F.2.A.1.a, R-O-W Buffers, there will be a minimum of one canopy tree per 25 lineal feet of the 15-foot wide and 20-foot wide ROW landscape buffers;

Article 8: The proposed Rezoning is consistent with Article 8 Signage, specifically the following:

- The proposed amendment meets the standards listed in ULDC Art.8, Signage, as follows:
 - Per ULDC Art.8.E.3.A, Purpose and Intent, a Preliminary Master Sign Program has been prepared and submitted with this application to provide a unified record of signs and to promote coordinated signage for the development subject to DRO approval;
 - Per ULDC Table 8.G.1.A-4, Wall Sign Standards, the project will provide wall signage as follows since the project is in the U/S Tier:

- Maximum Sign Area:
 - 1.0 square feet for each lineal foot of the front wall to which the sign is attached;
 - 0.5 square feet for each lineal foot of the side and rear wall to which the sign is attached; or
 - 0.25 square feet for each lineal foot of the wall to which the sign is attached if it faces a residential zoning district.
 - Allowable facades: Front, Side and Rear if facing a street;
- Per ULDC Table 8.G.2.A, Freestanding Sign Standards, and Table 8.G.2.A, Freestanding Signs: Applicant is requesting to vest the current approved signage and only relocate the freestanding gas sales signs.

3. Compatibility with Surrounding Uses

Response: The proposed uses are compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. The site has existed as a gas station and C-store for over 25 years. Similar gas stations are located at the southwest and southeast corners of the intersection of Congress Ave. and Summit Boulevard. The surrounding area will greatly benefit from the improvements proposed under these conditional use requests. This is a great opportunity to redevelop and co-locate a Type 1 Restaurant at a very active and highly visible corner in the County. This improvement will likely spark redevelopment of the other corners at this intersection.

4. Design Minimizes Adverse Impact

Response: The design of the proposed uses minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. As stated above, the subject property is bounded by rights-of-way on the west, south and north sides, and institutional (public charter school) on the east. Appropriate ROW and compatibility buffers have been proposed to the north, west and south. The east 8-foot buffer is appropriate as the adjacent property has the same zoning.

5. Design Minimizes Environmental Impact

Response: The proposed uses and design minimize environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment. A majority of the subject property was cleared in 2005 and remains vacant. The proposed retail gas and fuel sales use will greatly upgrade the underground fuel tanks with the latest construction and materials.

6. Development Patterns

Response: The proposed Class A Conditional Uses and development of the subject property follows a logical, orderly and timely development that will be consistent with the Comprehensive Plan and ULDC. There is no need to rezone the subject property as it already retains the necessary zoning to permit the proposed uses. Furthermore, the location of the subject property along Congress Ave. and Summit Blvd. makes it ideal for a retail gas station and a fast food restaurant.

7. Adequate Public Facilities

Response: There would not be adverse impacts on public facilities related to the proposed Class A Conditional Use.

Traffic: The proposed project meets the County's Traffic Performance Standards. See Traffic Generation Statement prepared by Simmons & White.

Mass Transit: Palm Tran Route #2 is the closest bus route with the closest bus stop at the Summit Post Office, just to the west on Summit Blvd.

Potable Water & Wastewater: Water and sewer is currently services a portion of the subject property.


Drainage: The Applicant has demonstrated legal positive outfall to Summit Blvd. See Drainage Statement prepared by Simmons & White.

8. Changed Conditions or Circumstances

Response: The proposed Class A Conditional Uses being requested will be consistent with other gas station and fast food restaurant redevelopment occurring all over Palm Beach County. The gas and fuel sales and fast food restaurants are in a very competitive market. Those locations that have already upgraded to more fueling positions and newer facilities have seen a drastic increase in business.

Type 2 Variance – 24-hour use

The applicant respectfully requests approval of a Type 2 Concurrent Zoning Variance. This variance would allow the gas and fuel sales with C-store and Type 1 restaurant with drive-thru uses to operate 24 hours within 250 feet of a residential zoning district.

TYPE 2 ZONING VARIANCE REQUEST (CONCURRENT)				
	ULDC SECTION	REQUIRED	PROVIDED	VARIANCE REQUEST
	Art.5.E.5	Hours of operation (6:00am - 11:00pm) for commercial uses (Gas and Fuel Sales w/C-store & Type 1 Restaurant w/drive-thru) within 250 feet of a residential zoning district.	Hours of operation extended to 24 hours for a commercial use (Gas and Fuel Sales w/C-store & Type 1 Restaurant w/drive-thru) within 250 feet of a residential zoning district.	To allow the Gas and Fuel Sales w/C-store & Type 1 Restaurant w/drive-thru uses to operate 24 hours within 250 feet of a residential zoning district
	Hours of Operation (Commercial Uses)			

Per ULDC Art.2.B.7.E.6, applications for Type 2 Variances must take the following Type 2 standards into consideration:

- 1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of and, structures or buildings in the same district;**

Response: Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district. Pursuant to ULDC Article 5.E.5, the measurement must be taken from the closest point on the perimeter of the residential district to the closest point on the perimeter of the rear of the building (177' from fuel canopy and 175' from building – see PSP). It is important to note that the residential zoning district begins at the centerline of Summit Blvd. at the residential lot line (extended north). Just this assumption alone adds 40.5' feet (ROW is 104' wide and center line is 63.5' south of subject property) to the above calculations to the actual platted residential lots (217.5' from fuel canopy and 215.5' from building – see PSP). So the request is actually for 32.5' of variance for the canopy and 34.5' variance for the building. The current use of the subject parcel is a gas station with fuel sales and has operated as such since the original approval in 1989.

- 2. Special circumstances and conditions do not result from the actions of the applicant;**

Response: There are special circumstances and conditions that apply that are not a result of actions by the applicant. The Applicant currently operates a 24-hour gas station that is much closer to the residential zoning district. The proposed canopy and building are being pushed farther north than what existing today. This alone is lessening the variance request. As stated above, the fact that the zoning district goes to the middle of the Summit Blvd. ROW is not the result of the actions of the Applicant. There is no actual residential use adjacent to the subject property as the only adjacent residentially zoned lot to south is vacant. The building to building measurement would actually be closer to 250 feet from the first house east of the vacant lot, either from the canopy or the proposed building.

- 3. Granting the variance shall not confer upon the applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;**

Response: Granting the variance will not confer any special privilege upon the applicant denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same zoning district. The subject property currently, along with the two other gas stations at the intersection, have 24-hour operations. The variance request would allow

the proposed uses to conduct business at similar hours of operation as competitors in the market. The intent of the code is being met and remains upheld to prevent noxious or nuisance uses from conducting business adjacent to residential.

4. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;

Response: Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would work an unnecessary and undue hardship. There are 2 other gas stations at this intersection that operate 24-hours and the existing gas station at this location operates 24-hours. It would be an undue hardship if this redevelopment did not allow for 24-hour uses.

5. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;

Response: Granting the variance is the minimal variance that will make possible the reasonable use of the parcel of land. In fact, the current building and canopy are much closer than the new locations on the preliminary site plan. Both the canopy and the building are shifting north. Additional landscaping will be provided under the new request. It would be unreasonable not to allow 24-hour uses at this location.

6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and

Response: Granting of the requested variances will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC. The variance requested is consistent with the intent of the CG zoning district and underlying Commercial High future land use designation. The Commercial High FLU along with the CG zoning support the most intense commercial uses within the County. These uses such as the proposed retail gas and fuel sales and Type 1 restaurant should be permitted to operate beyond the 11:00 pm limitation since this is typically the only allowable location for these types of uses to be located. To allow these uses to thrive in most suitable locations they need to adequately service their clientele.

7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Response: Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Granting of the variance will not be injurious to the surrounding community or otherwise detrimental to the public welfare. In fact, the separation of uses to residential is greater under the proposed preliminary site plan. The operation of the business will not change in any way to create an injurious situation or be in any way detrimental to public safety and welfare.

Subdivision Type 2 Variance

The Applicant is proposing to access directly on Congress Avenue, an Urban Principal Arterial (UP-A) roadway as identified by Map TE 3.1, Functional Classification of Roads, as opposed to only Summit Blvd., an Urban Collector (U-COLL). ULDC Article 11.E.2.A.4.B states that where lots adjacent to streets of local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a local residential or residential access street as prescribed on Table 11.E.2.A-2, Chart of Minor Streets, unless the street cross section is improved to meet local commercial standards. This Subdivision Variance is required to allow access to a street with higher classification (Congress Ave).

TYPE 2 SUBDIVISION VARIANCE				
	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
SV	ULDC 11.E.2.A.4.B	Where a lot abuts streets of local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a local residential or residential access street as prescribed on Table 11.E.2.A-2, Chart of Minor Streets, unless the street cross section is improved to meet local commercial standards	Access proposed to Congress Avenue (120' ROW) and access proposed to Summit Blvd. (80' ROW)	Access to a street with higher classification (Congress Ave.)
	Double Frontage Lots and Corner Lots - Non-Residential Lots			

Per ULDC Art. 2.B.7.E.6, applications for Subdivision Variance must take the following Type 2 standards into consideration:

- 1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of and, structures or buildings in the same district;**

Response: The subject property currently has access onto both Congress Ave and Summit Blvd. It does not make logical sense to put all the trips on Summit Blvd. from a safety standpoint. With the high volume of daily trips for the proposed uses, a second access point on Congress Ave. is necessary.

- 2. Special circumstances and conditions do not result from the actions of the applicant;**

Response: The Applicant is dedicating ROW for the expanded intersection of Summit Blvd. and Congress Ave, and access to both of these ROWs exists today. The Applicant has proposed a safer and more logical distance of both the access points further from the inspection of Congress Ave. and Summit Blvd, with a turn lane proposed on Congress Ave. Therefore, the special circumstances and conditions are not the result of the Applicant.

- 3. Granting the variance shall not confer upon the applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;**

Response: The subject property currently, along with the two other gas stations at the intersection, have access on both Congress Ave. and Summit Blvd. It is not uncommon to see commercial properties having access to the higher classified street when available. Furthermore, the Future Land Use Element of the Comprehensive Plan encourages multiple access points and cross access when available. Cross-access is being provided to the east.

- 4. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;**

Response: The literal interpretation of the code would force the Applicant to provide all traffic and access from only Summit Boulevard. With the expected traffic generated by the proposed uses, this literal interpretation is unreasonable and would cause a significant amount of vehicles to go out of their way to patronize the proposed businesses.

- 5. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;**

Response: Granting the variance is the minimal variance that will make possible the reasonable use of the parcel of land based on the fact that the property has 426 feet of frontage on Congress Ave. It would be unreasonable not to allow access off Congress Ave. and only off Summit Blvd.

- 6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and**

Response: The proposed access on Congress Ave. complies with all applicable standards and

provisions of this Code and policies of the Comprehensive Plan. From a health, safety, welfare standpoint, having a majority of the traffic trips access both Congress Ave and Summit Blvd., lessens the impacts to Summit Blvd, as additional u-turns would occur east of the site along Summit Blvd, likely in front of the existing public charter school.

7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Response: Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In fact, having two (2) access points, lessens the impacts on Summit Blvd alone.

On behalf of the Applicant, Dolphin Stations, LLC (“Applicant”) and the property owners, Dolphin Stations, LLC & School Property Development Glen Ridge, LLC (“Owners”), Schmidt Nichols respectfully requests your approval of these applications for a Development Order Abandonment, two (2) Class A Conditional Uses, a Type 2 Zoning Variance, and a Type 2 Subdivision Variance.

Exhibit F – Urban Redevelopment Area Alternative Future Land Use Designation and Zoning District letter dated July 6, 2018.

FLUA 65 065-07-06-2018



July 6, 2018

**Department of Planning,
Zoning & Building**

2300 North Jog Road
West Palm Beach, FL 33411-2741
(561) 233-5000

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractors Certification 233-5525
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Mary Lou Berger

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"



Damian Brink, Urban Planner
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dbrink@snlandplan.com

**RE: URA Alternative Future Land Use Designation and Zoning District
Control 2005-00333 and 1988-00021**

Dear Mr. Brink,

This letter responds to your request to confirm the prior future land use and zoning district for the above referenced site which currently has an Urban Infill future land use and zoning district. This Control Number is comprised of 7 parcel control numbers totaling 4.85 acres as shown in the attached site plan. Pursuant to the County's Comprehensive Plan Future Land Use Element Policy 1.2.2-m, this parcel qualifies to utilize the future land use and zoning in place prior to the adoption of the Urban Infill future land use and zoning. The County records indicate the following:

- **Future Land Use designation:** The subject parcel had a Commercial High / 5 units per acre (CH/5) future land use at the time the future land use designation was changed to Urban Infill in Round 08-2 by Ord. 2008-056.
- **Zoning District:** The subject parcel had a Commercial General (CG) zoning district at the time of the zoning change to Urban Infill in 2010 by Resolution R-2010-1345. This property was also referred to with control number 1976-031 and control number 1988-021.

Development or redevelopment of the subject site may utilize either the adopted Urban Infill future land use and zoning, or the alternative future land use and zoning identified. The issuance of this letter does not eliminate the development rights associated with the adopted Urban Infill future land use or zoning district. However, only one set of development regulations will apply to the property (either the alternative or the Urban Infill), and the selection must be made through the Zoning Division. If you have any questions, please contact me at 561-233-5355.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryce Van Horn".

Bryce Van Horn, Senior Planner

cc: Lorenzo Aghemo, Planning Director
Bryan Davis, Planning Principal Planner
Jon MacGillis, Zoning Director
Wendy Hernandez, Zoning Manager
Alan Seaman, Zoning Principal Planner

T:\Planning\LandUse\Letters of Determination\2018\065-07-06-2018-URA.docx



Palm Beach County Zoning Division
2300 N. Jog Road
West Palm Beach, Florida 33411
Phone: (561) 233-5200
Fax: (561) 233-5165

REQUEST FOR ZONING CONFIRMATION
URBAN REDEVELOPMENT AREA (URA) OPT OUT

Pursuant to Unified Land Development Code (ULDC), Article 3.B.16.B, Urban Redevelopment Area (URA) Overlay, an applicant may request the option to revert to the Alternative Future Land Use (FLU) and Zoning of a property for development if the FLU and Zoning Districts are consistent in accordance with Article 3.A.3.

The property owner may submit this signed and notarized Request for Zoning Confirmation (Form#114) along with the Letter of Determination to the Zoning Director for approval. The application will be reviewed and a letter will be issued by the Zoning Director or the designee to confirm the utilization of the Alternative Zoning District for the property(s).

Control Name: Realtors Association of the Palm Beaches Submittal Date: 07/09/2018
Control Number: 2005-00333 Application Number:
Property Address: 674 S Congress Ave.
Property Control Number(s): 00-43-44-05-00-000-7040/7100/7140/7041 & 00-43-44-05-08-001-0010/0040/0070
Applicant's Name: School Property Development Glen Ridge, LLC
Current Zoning District: UI Current Future Land Use: UI
Alternative Zoning District: CG Alternative Future Land Use: CH/5

I hereby certify that, as the Property Owner of record I hereby request to utilize the Alternative Future Land Use (FLU) and Zoning District as determined by Planning for the property(s) indicated above, which is/are currently located in the Urban Redevelopment Area (URA) Overlay. I understand and agree that once the property is reverted to the Alternative FLU and Zoning, I will no longer possess the right to use the current Urban Infill (UI) / Urban Center (UC) zoning district regulations for development.

Mark Rodberg, MGR, School Property Development Glen Ridge, LLC
(Name - type, stamp or print clearly)
School Property Development Glen Ridge, LLC
(Name of Firm)

Mark Rodberg
(Signature)
4005 PGA Blvd, Suite 302, Palm Beach Gardens, FL 33418
(Address, City, State, Zip)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 10th day of July, 2018 by Mark Rodberg (name of person acknowledging), who is personally known to me or has produced (type of identification) as identification and did/did not take an oath (circle correct response).

Kathy Jo DeFranco
(Name - type, stamp or print clearly)
My Commission Expires on: 7/13/21

Kathy Jo DeFranco
(Signature)
NOTARY'S SEAL OR STAMP



Exhibit H – Truck Circulation

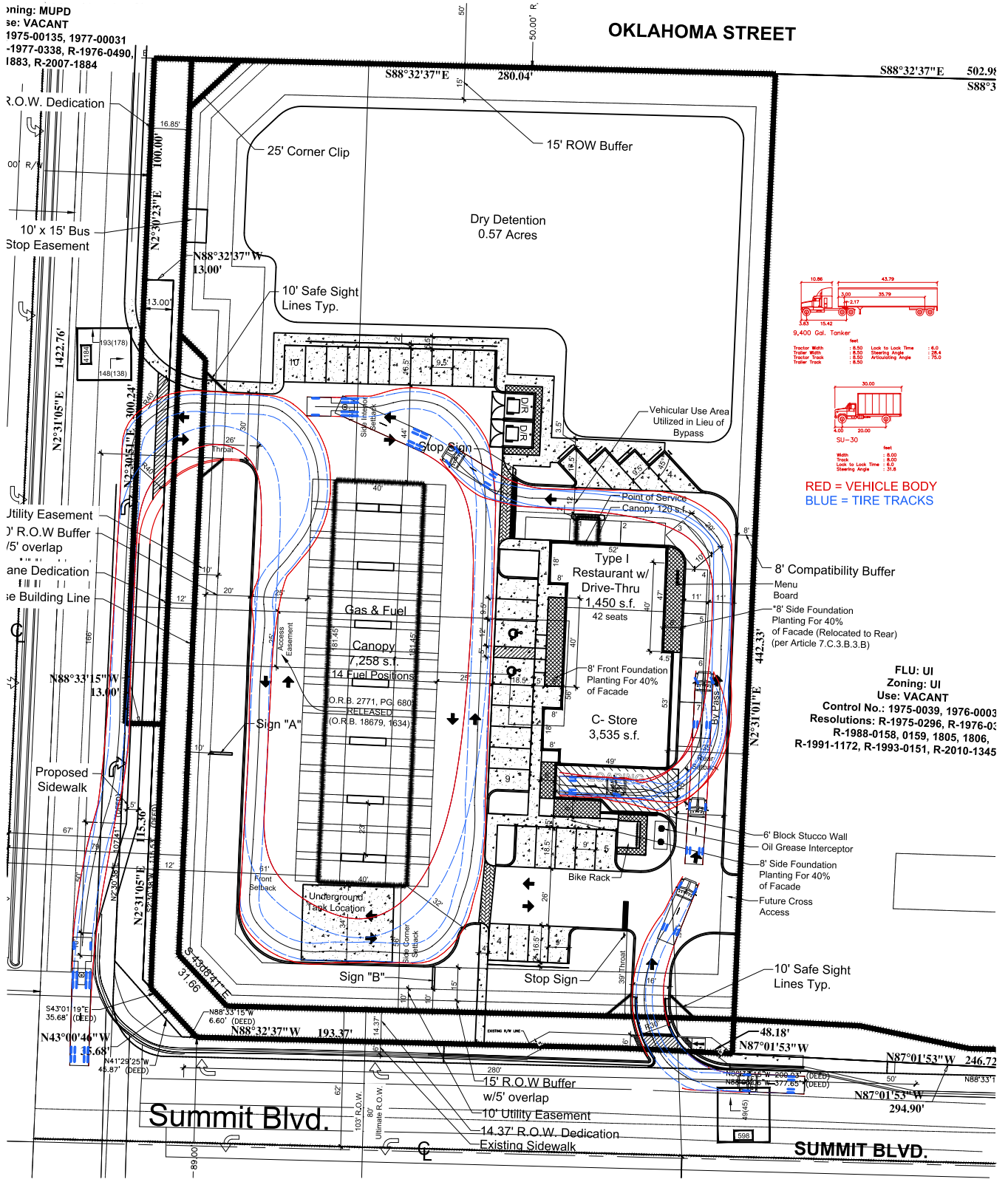


Exhibit I – 250 Foot Setback from Residential Future Land Use designation or Use.



APEC
Palm Beach County, Florida

Date: 07/09/18
Scale: 1" = 30'-0"
Design By: JN
Drawn By: BJC
Checked By: BJC
File No.: 562.02
Job No.: 16-110

REVISIONS / SUBMISSIONS
08/27/18 Resubmittal

DATE: 08/27/18
BY: JN
CHECKED BY: BJC

Radius
Exhibit

RE-1

