

RESOLUTION NO. R-2020-1780

RESOLUTION APPROVING ZONING APPLICATION W-2020-00790  
(CONTROL NO. 2007-00096)  
a Type 2 Waiver  
APPLICATION OF Mattamy Palm Beach, LLC  
BY AJ Entitlements & Planning, LLC, AGENT  
(Polo Legacy MXPDP)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 27, have been satisfied;

WHEREAS, Zoning Application W-2020-00790 was presented to the Board of County Commissioners at a public hearing conducted on November 23, 2020;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Type 2 Waiver;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application W-2020-00790, the Application of Mattamy Palm Beach, LLC, by AJ Entitlements & Planning, LLC, Agent, for a Type 2 Waiver to allow 24 Hour Operations for a Non-Residential Use located within 250 feet of a parcel of land with a Residential Future Land Use designation or Use, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on November 23, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

RESOLUTION NO. R-2020-1780

RESOLUTION APPROVING ZONING APPLICATION W-2020-00790  
(CONTROL NO. 2007-00096)  
a Type 2 Waiver  
APPLICATION OF Mattamy Palm Beach, LLC  
BY AJ Entitlements & Planning, LLC, AGENT  
(Polo Legacy MXP)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 27, have been satisfied;

WHEREAS, Zoning Application W-2020-00790 was presented to the Board of County Commissioners at a public hearing conducted on November 23, 2020;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Type 2 Waiver;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application W-2020-00790, the Application of Mattamy Palm Beach, LLC, by AJ Entitlements & Planning, LLC, Agent, for a Type 2 Waiver to allow 24 Hour Operations for a Non-Residential Use located within 250 feet of a parcel of land with a Residential Future Land Use designation or Use, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on November 23, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

The motion was seconded by Commissioner Weinroth and, upon being put to a vote, the vote was as follows:

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

The Mayor thereupon declared that the resolution was duly passed and adopted on November 23, 2020.

Filed with the Clerk of the Board of County Commissioners on December 3rd, 2020

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

TRACT 5, LESS THE NORTH 52.14 FEET AND THE EAST 40 FEET THEREOF; TRACT 6, LESS THE NORTH 52.14 FEET THEREOF; TRACT 11 AND TRACT 12, BLOCK 28, OF THE "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT:

A PORTION OF TRACTS 5 AND 12, BLOCK 28, OF THE "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 12; THENCE SOUTH 89°03'30" WEST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 36.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 8,551.00 FEET (A RADIAL LINE FROM SAID POINT BEARS SOUTH 86°07'12" WEST); THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°15'53", A DISTANCE OF 39.52 FEET; THENCE NORTH 04°40'47" WEST, A DISTANCE OF 182.92 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3,540.00 FEET AND A CENTRAL ANGLE OF 03°56'05"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 243.10 FEET; THENCE NORTH 00°44'43" WEST, A DISTANCE OF 188.22 FEET; THENCE NORTH 02°17'54" EAST, A DISTANCE OF 303.46 FEET; THENCE SOUTH 00°56'30" EAST ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 296.11 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT 12; THENCE NORTH 89°03'30" EAST ALONG SAID NORTH LINE, A DISTANCE OF 40.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT 12; THENCE SOUTH 00°56'30" EAST ALONG THE EAST LINE OF SAID TRACT 12, A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING.

LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA;

AND LESS AND EXCEPT:

A PORTION OF TRACT 5, BLOCK 28, OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE SOUTH 00°56'30" EAST ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 52.14 FEET; THENCE SOUTH 89°02'30" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°56'30" EAST, A DISTANCE OF 1.22 FEET; THENCE NORTH 44°26'30" WEST, A DISTANCE OF 1.68 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT L-12 CANAL; THENCE NORTH 89°03'30" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1.16 FEET TO THE POINT OF BEGINNING.

LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 2:

A PORTION OF TRACT 5, BLOCK 28, OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE SOUTH 00°56'30" EAST, ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 85.36

FEET; THENCE SOUTH 89°02'30" WEST ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957, OF SAID PUBLIC RECORDS, A DISTANCE OF 37.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°02'30" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 2.15 FEET; THENCE SOUTH 00°56'30" EAST, ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 278.52 FEET; THENCE NORTH 02°17'54" EAST, A DISTANCE OF 28.12 FEET; THENCE NORTH 00°33'30" EAST, A DISTANCE OF 54.52 FEET; THENCE NORTH 02°11'32" WEST A DISTANCE OF 125.03 FEET; THENCE NORTH 00°33'30" EAST, A DISTANCE OF 70.97 FEET TO THE POINT OF BEGINNING.

LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

A PORTION OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL RIGHT-OF-WAY LYING WITHIN TRACTS 5 AND 6, BLOCK 28, "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

BEGINNING AT THE NORTHEAST CORNER OF THE CEDAR CREEK RANCH P.U.D. PLAT AS RECORDED IN PLAT BOOK 97 AT PAGE 167-169 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.89°02'30"E., ALONG THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD AS RECORDED IN OFFICIAL RECORD BOOK 6377, PAGE 854, OF SAID PUBLIC RECORDS, A DISTANCE OF 1279.74 FEET; THENCE S.00°56'30"E., A DISTANCE OF 37.99 FEET; THENCE S.89°03'30"W., ALONG THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT L-12 CANAL AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761, OF SAID PUBLIC RECORDS, A DISTANCE OF 1278.58 FEET TO THE WEST LINE OF SAID TRACT 6; THENCE N.00°56'30"W. ALONG SAID WEST LINE OF TRACT 6, A DISTANCE OF 36.40 FEET TO THE POINT OF BEGINNING.

LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

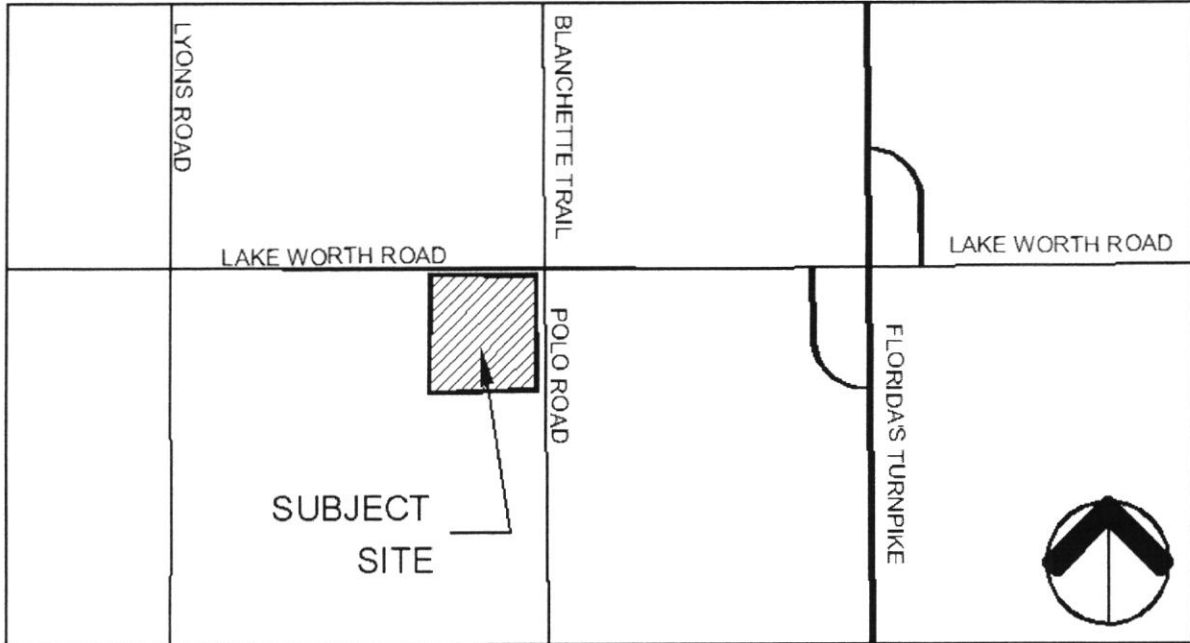
THE NORTH 15.00 FEET OF A 30.00 FOOT RIGHT-OF-WAY LYING SOUTH OF AND BETWEEN TRACTS 11 AND 12, BLOCK 28, "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

BEGINNING AT THE SOUTHWEST CORNER OF TRACT 11; THENCE, ALONG THE SOUTH LINE OF SAID TRACTS 11 AND 12, NORTH 89°03'30" EAST, A DISTANCE OF 1283.50 FEET TO A POINT ON A CURVE OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 8551.00 FEET, WHERE A RADIAL LINE BEARS SOUTH 86°07'12" WEST; THENCE SOUTHERLY, ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°06'02", A DISTANCE OF 15.02 FEET TO THE CENTER OF A 30' RIGHT-OF-WAY AS RECORDED IN PLAT BOOK 2, PAGES 45-54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 89°03'30" WEST, ALONG SAID CENTER OF SAID RIGHT-OF-WAY A DISTANCE OF 1284.26 FEET TO THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHERN PROJECTION OF SAID WEST LINE OF TRACT 11; THENCE NORTH 00°56'30" WEST ALONG SAID PROJECT OF SAID WEST LINE OF TRACT 11, A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,678,737 SQUARE FEET OR 38.538 ACRES, MORE OR LESS.  
LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

EXHIBIT B  
VICINITY SKETCH

# LOCATION MAP



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Type 2 Waiver**

##### **ALL PETITIONS**

1. The Development Order for this Type 2 Waiver shall be tied to the Time Limitations of the Development Order for EAC-2019-02324 (Control No. 2007-00096). The Property Owner shall secure a Building Permit for the Retail Gas and Fuel Sale with a Convenience Store to vest this Variance. (ONGOING: MONITORING - Zoning)

##### **USE LIMITATIONS**

1. The granting of this request is limited to Retail Gas and Fuel Sales with a Convenience Store (Building F and Fuel Canopy) 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.

EXHIBIT D

**TYPE 2 WAIVER SUMMARY**

<b>ULDC Article</b>	<b>Required</b>	<b>Proposed</b>	<b>Waiver</b>
Art. 5.E.5.A, Hours of Operation	Hours of Operation between 6:00 a.m. to 11:00 p.m. for commercial uses within 250 feet of a Residential Use or FLU designation.	Hours of operation to be 24 hours / 7 days a week for the Retail Gas and Fuel Sales with Convenience Store only	+ 7 hours ( 11:00 p.m. - 6:00 a.m.)