



June 10, 2019 (update June 26, 2019)

Tim Stillings, AICP
Growth Management Director
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL

RE: 7-Eleven at Via Delray Voluntary Annexation Justification Statement

Dear Tim:

It is my pleasure to submit on behalf of our client, 7-Eleven, Inc., a Voluntary Annexation application for a 3.54 acre parcel located at 13555 South Military Trail, Delray Beach, Florida, herein referred to as the "Site."

Enclosed you will find three applications, our Voluntary Annexation Application, our Future Land Use Map Amendment Application and our Rezoning Application. The three applications will be processed concurrently. The Site is currently developed with a 7-Eleven gas station, convenient store and carwash. The Site's general location is on the southwest corner of Via Delray and Military Trail, a Location Map has been included with this submittal. The Site is currently located within Unincorporated Palm Beach County and, has a Future Land Use ("FLU") designation of Commercial High (CH-5) with a zoning classification of General Commercial (GC); the Site is not located within any municipality's Planning Area. The Site is contiguous to the City of Delray Beach and otherwise complies with the requirements for Voluntary Annexations as set forth in Chapter 171, Florida Statutes, as described later in this letter.

These applications request a City of Delray Beach future land use designation of General Commercial (GC) with a zoning classification of General Commercial (GC). The County's CH-5 FLU designation is the highest intensity commercial designation available and the County's GC zoning classification is the highest intensity commercial classification available. A copy of the County's FLU Maximum Floor Area Ratio Table is included as Exhibit "A." The most appropriate and similar Delray Beach FLU and Zoning is General Commercial FLU with General Commercial GC.

As mentioned earlier, the Site contains an existing gas station, convenience store and car wash. The gas station and convenience store was built in 1984 and the car was built in 1995. The Site has been designated and intended for commercial activity for

over 35 years. It is the intent of our client to annex the Site into the City of Delray Beach and redevelop the site with a new modern convenience store, gas station and carwash. The current facilities at the site are outdated and do not comply with 7-Eleven's new corporate model for gas stations and convenience stores. The new 7-Eleven corporate model provides enhanced architectural features, site security, lighting, landscaping and offers a full array of enhanced convenience items such as fresh fruit, salads, bakery products and gourmet coffees.

The Conditional Use and Class V Site Plan Application required for the new proposed 7-Eleven convenience store and carwash are still being developed by 7-Eleven. 7-Eleven wishes to move forward with the Annexation, Future Land Use and Rezoning application while they finalize the new store designs. We anticipate submitting the Conditional Use and Class V Site Plan Applications sometime during the summer of 2019. While the design has not been finalized at the time of this Annexation submittal we do anticipate that the future Conditional Use and Class V Applications will request a new convenience store of approximately 4,500 sq. ft. with eight fuel pumps and self-service car wash. Once again, our Annexation, Rezoning and Future Land Use application are being submitted as a straight annexation without a proposed development application. All future development applications will need to comply with the City of Delray Beach Comprehensive Plan and Land Development Regulations and will be submitted separately.

Compliance with Florida Statutes, Chapter 171

Florida Statutes Section 171.044 sets forth the standards applicable to the proposed Voluntary Annexation. Notably, this Section does not require properties pursuing Voluntary Annexation to be located within the City's Planning Area. Further, although not in the City's Planning Area, the Site is also not located in any other municipal Planning Area. The application complies with all of the standards for Voluntary Annexation as described below:

171.044 Voluntary annexation.—

(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.

REPLY: The Site is contiguous to Delray Beach along the east side of the property as demonstrated on the Location Map and Survey provided with this application. Although Military Trail is located between the Site and the border of Delray Beach, this does not change the contiguity. The definition of contiguous in the Chapter 171 establishes that right-of-ways shall not defeat contiguity. The Site is reasonably compact and does not create any enclaves, pockets or finger areas in a serpentine pattern.

(2) Upon determination by the governing body of the municipality that the petition bears the signatures of all owners of property in the area proposed to be annexed, the governing body may, at any regular meeting, adopt a nonemergency ordinance to annex said property and redefine the boundary lines of the municipality to include said property. Said ordinance shall be passed after notice of the annexation has been published at least once each week for 2 consecutive weeks in some newspaper in such city or town or, if no newspaper is published in said city or town, then in a newspaper published in the same county; and if no newspaper is published in said county, then at least three printed copies of said notice shall be posted for 4 consecutive weeks at some conspicuous place in said city or town. The notice shall give the ordinance number and a brief, general description of the area proposed to be annexed. The description shall include a map clearly showing the area and a statement that the complete legal description by metes and bounds and the ordinance can be obtained from the office of the city clerk.

REPLY: 7-Eleven, Inc. is the sole owner of the Site and the owner's signature was provided with the application. All required corporate authorizations were provided with the application attesting to Grant Distel's signature on behalf of the owner.

(3) An ordinance adopted under this section shall be filed with the clerk of the circuit court and the chief administrative officer of the county in which the municipality is located and with the Department of State within 7 days after the adoption of such ordinance. The ordinance must include a map which clearly shows the annexed area and a complete legal description of that area by metes and bounds.

REPLY: The application contained the required location map which demonstrated the Site's contiguity to Delray Beach and a boundary survey with legal description.

(4) The method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation.

REPLY: Palm Beach County's additional standards for Voluntary Annexations are attached as Exhibit "B." This application complies with Palm Beach County's standards for Voluntary Annexation, the Site is not located in an Unincorporated Protection Area and the rest of the County regulations pertain to notifications and procedures for the municipality to follow during the annexation.

(5) Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.

REPLY: The Site is contiguous to Delray Beach along the east side of the property as demonstrated on the Location Map and Survey provided with this application. The Voluntary Annexation of the Site does not create an enclave because the property is contiguous to the City of Delray Beach.

(6) Not fewer than 10 days prior to publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located. The notice provision provided in this subsection may be the basis for a cause of action invalidating the annexation.

REPLY: This provision establishes notice requirements for the municipality, not the applicant.

Compliance with City of Delray Beach Policy A-1.7

The FLU application requires a statement to demonstrate compliance with Future Land Use Element Policy A-1.7. Our reply to the five policy standards found in Policy A-1.7 are provided below

- Demonstrated need – This provision does not apply to Future Land Use Map changes associated with Annexations.
- Consistency – The Always Delray Comprehensive Plan sets forth goals, objective and policies for all commercial development with the City. Our application complies with several of these goals by being located on a Major Corridor within close proximity to residential to provide the commercial and retail services required to establish a sustainable and balanced community. Land Use designations should be diverse and providing commercial on Major Corridors is a very important component when establishing balanced neighborhoods. The Site's location was identified decades ago as an appropriate location to provide commercial services to the community. This application continues along the same planning principles that established the Site as commercial decades ago, which locates commercial at the intersection of two major roads to serve the residents of the City of Delray Beach.
- Concurrency – The existing Land Use and Zoning for the site is the highest intensity commercial designation that Palm Beach County provides. The concurrency for the commercial development at the Site has long been factored into the existing service providers calculations for concurrency. The most comparable Land Use and Zoning the City has is General Commercial Land Use and General Commercial Zoning. By utilizing the same/equivalent Land Use and

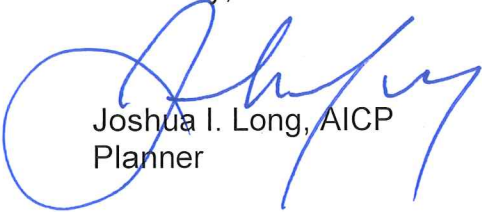
Zoning as what has been approved for this Site for over 35 years ensures that concurrency is available because it had already long been factored for the high intensity Palm Beach County Land Use and Zoning for the Site.

- Compatibility – As mentioned before, the Site's Land Use and Zoning were determined to be consistent and compatible with the surrounding area over 35 years ago. The area has been completely developed for decades and the community has utilized the commercial components of the Site since 1984. The location of the commercial is appropriate and is compatible with the development pattern within the adjacent community.
- Compliance - The current gas station, convenience store and car wash comply with the City's Land Development Regulations, however it our client's intent to build all new facilities at the Site. The new modern 7-Eleven will comply with all of the City's Land Development Regulations. In fact, it is the compliance with the City's Land Development Regulations that is one of the key benefits for the community with this application. The City's Land Development Regulations ensure that the site will be developed in an aesthetically pleasing manner which will provide an enhancement to all that use the store.

A Palm Beach County School Capacity Availability Determination Application was not submitted with this application as it is not applicable; the Site is commercial and will continue to be commercial. There are Deed Restrictions for this Site that prohibit residential, therefore residential is not an option and a SCAD would not be required.

We appreciate your assistance with our annexation application and we look forward to becoming part of the City of Delray Beach. If you have any questions or need additional information please do not hesitate to contact me any time at 561-650-0719.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joshua I. Long', is written over the printed name and title.

Joshua I. Long, AICP
Planner

JIL/op
Enclosures

Exhibit "A"

TABLE III.C.2
Maximum Floor Area Ratios (FARs) For Non-Residential Future Land Use Categories
and Non-Residential Uses

Future Land Use	FLU Category	Tier				
		Urban/Suburb	Exurban	Rural	Ag Reserve	Glades
Residential	All Residential Categories	.35 (Low Density) .45 (Medium & High Density)	.20	.20	.15	.20
Agriculture	AP	not allowed	not allowed	not allowed	not allowed	.10
	SA	.15	.15	.15	.15	.15
	AgR	not allowed	not allowed	not allowed	.15	not allowed
	AGE	not allowed	not allowed	See note ¹⁰	not allowed	not allowed
Commercial Low (Neighborhood Commercial)	CL-O	.35	.20	.20	.20 w/MUPD ⁴	.20
	CL	.20 w/o PDD ^{1,3} .25 w/ PDD ^{1,3}	.10 1.0 w/ TMD	.10 1.0 w/ TMD	.10 ⁵ .20 w/MUPD ⁴ .40 w/ TMD ⁴	.10
Commercial High (Community or Regional Commercial)	CH-O	.35 w/o PDD .50-.85 w/ PDD ²	not allowed	not allowed	not allowed	not allowed
	CH	.35 w/o PDD ¹ .50-.85 w/ PDD ² .85-1.0 ³	not allowed	not allowed	not allowed	not allowed
Industrial	IND	.45-.85 ⁹	not allowed	not allowed	.45	.45
	EDC	.45-.85 ⁹	not allowed	not allowed	not allowed	not allowed ¹¹
Commercial Recreation		.10-.50	not allowed	.05	.05	.05
Parks & Recreation		.10-.45	.10	.10	.10	.10
Conservation		.05	.05	.05	.05	.05
Institutional & Public Facilities ⁸		.1-.45	.20	.10	.15 .35 ⁶	.10
Transportation & Utilities		.10-.45	.10	.05	.05 .15 ⁷	.05
Traditional Town Development		1.0	not allowed	not allowed	not allowed	not allowed

Notes:

- For Commercial Low (CL) and Commercial High (CH), the maximum allowable FAR for medical or professional offices and self-storage projects is .50.
- For Commercial High (CH) and Commercial High Office (CH-O), the maximum allowable FAR is .50 for MUPD, and .85 for MXPD, as defined in the ULDC.
- A maximum FAR up to 1.0 may be permitted to allow for: infill development; mixed-use development (MXPD); Traditional Neighborhood Development (TND); Traditional Market Place Development (TMD); or Lifestyle Commercial Centers (LCC).
- For Ag Reserve TMDs and Ag Reserve MUPDs, the FAR is calculated on the total area of the development, including both the developed and preserve area.
- Commercial properties which received a commercial future land use designation prior to January 31, 2016 and/or identified in Policy 1.5-4 are limited to a maximum FAR of .10 unless developed as an AGR-MUPD or AGR-TMD.
- An FAR greater than .15 is only permitted for a) hospitals and related hospital campus uses, and b) AgR-MUPDs that meet the Preserve Area requirements.
- An FAR greater than .05 is only permitted east of S.R. 7.
- Institutional and Public Facilities uses within any FLU designation are allowed to utilize the maximum allowable FAR of the Institutional and Public Facilities FLU designation per the applicable Tier. In the case of multiple or mixed use projects, only proposed institutional and public facility uses shall be permitted to exceed the FAR of the project's FLU designation.
- Industrial and storage related uses may be approved for up to .85 FAR.
- The intensity of an Agricultural Enclave shall be determined utilizing the provisions of Policy 2.2.5-d, and shall be clearly indicated in the Site Data of the adopted Conceptual Plan for each Agricultural Enclave.
- Within the Economic Development Center (EDC) future land use designation in the Glades Area Protection Overlay, the FAR of the Urban/Suburban Tier shall apply.

Exhibit "B"



Voluntary Annexation Process Overview

The process for a voluntary annexation in Palm Beach County is governed by Chapter 171.044, Florida Statutes (F.S.) and by County Ordinance 2007-018 as summarized below:

1. **Preliminary Notification.** Municipalities proposing to process a petition for voluntary annexation are required to provide early notification to the County pursuant to County Ordinance 2007-018. In summary: Within ten (10) calendar days of receipt of a voluntary annexation petition that bears the signatures of all owners of property in the area proposed to be annexed, the annexing municipality shall submit a copy of the said petition to the County Administrator and the County Planning Director. In addition to the signed voluntary petition(s), the municipality is required to submit an Annexation Data Sheet providing detailed information including the location, size, and land use. A copy of the Data Sheet is found at this link:

<http://discover.pbcgov.org/pzb/planning/PDF/Annexation/annexationinfosheet.pdf>

Both documents must be mailed to the following:

- Verdenia C. Baker, County Administrator, 301 N. Olive Ave., West Palm Beach, FL 33401
- Patricia Behn, Planning Director, 2300 N. Jog Rd., West Palm Beach, FL 33411

A courtesy copy *may* be emailed to:

- Nicole Delsoin, Planner at ndelsoin@pbcgov.com

2. **Hearing Notification.** Pursuant to County Ordinance and Ch. 171.004, F.S., municipalities must provide notification to the County regarding the proposed annexation public hearing. Not fewer than (10) days prior to publishing or posting the ordinance required under subsection 171.044(2), Florida Statutes, the governing body of the municipality must provide a copy of the notice, via certified mail, to the County Administrator and the County Planning Director at the above addresses.
3. **County Review.** Upon receiving the annexation notification, the County Planning Division notifies the District Commissioner and sends the notice to all pertinent County Departments for review. County staff also reviews the annexation for consistency with Chapter 171, F.S., and whether or not the annexation is located within the Unincorporated Protection Area (see notes below). The County responds in writing to the municipality prior to the first reading of the annexation. The response letter identifies whether or not the annexation is in compliance with Chapter 171, F.S., is located in the UPA, and whether there are any issues that need to be resolved before the annexation is adopted.
4. **Public Hearings.** The municipality holds two public hearings on the proposed annexation. Pursuant to 171.044(2), F.S., the second hearing must be preceded by a notice in the local paper for two consecutive weeks.
5. **Adoption.** Pursuant to Ch. 171.044, F.S., the annexing municipality must file the voluntary annexation ordinance with the clerk of the circuit court, the County Administrator, and with the Department of State within 7 days after the adoption of such ordinance. The ordinance must include a map which clearly shows the annexed area and a complete legal description of that area by metes and bounds.
6. **Final Processing.** Once the County Planning Division receives a copy of the signed ordinance, the County notifies the Property Appraiser and all pertinent County departments and agencies. Municipalities may submit a request for transfer of property files (such as building records and permits) for the annexed property to Denise Parker at DParker2@pbcgov.org or mail to Planning, Zoning & Building Department, 2300 N. Jog Rd., West Palm Beach, FL 33411.

Notes:

- Voluntary annexations in the Unincorporated Protection Area (UPA) require approval by an affirmative vote of at least five members of the Board of County Commissioners (BCC). The County's Planning Division presents the item for BCC approval following the first reading by the municipality. (Click this [link](#) to view UPA map.)
- Some areas in the UPA are designated as unincorporated rural neighborhoods. Voluntary annexation in an unincorporated rural neighborhood requires approval by an affirmative vote of at least five members of the BCC and a majority of the registered electors residing within the boundaries of the unincorporated rural neighborhood.

If you have any questions, please call the Palm Beach County Planning Division at 561-233-5300.