

RESOLUTION NO. 06-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING A CONDITIONAL USE PURSUANT TO LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES AND THE COMPREHENSIVE PLAN, TO AUTHORIZE A GASOLINE STATION WHICH ALSO SELLS FOOD AND CONVENIENCE ITEMS BUT DOES NOT ACCOMMODATE REPAIR OR INSTALLATION SERVICES TO OPERATE AT 10 S CONGRESS AVENUE, AS MORE PARTICULARLY DESCRIBED IN EXHIBIT "A"; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, D&N Realty Holdings 2 ("Owner") is the fee simple owner of one (1) parcel of land measuring approximately 1.64 acres  $\pm$  and located at 10 S. Congress Avenue ("Property") situated at the southwest corner of W. Atlantic Avenue and S. Congress Avenue, more particularly described in Exhibit "A"; and

WHEREAS, Owner submitted a conditional use application (File Number 2020-271-USE) to establish a gasoline station which also sells food and convenience items but does not accommodate repair or installation services ("Convenience Mart") at the Property; and

WHEREAS, the Property is zoned Planned Commercial ("PC"); and

WHEREAS, pursuant to the City's Land Development Regulations ("LDR") Section 4.4.12(D)(1), all uses allowed within the General Commercial District are permitted as conditional uses within PC; and

WHEREAS, pursuant to LDR Section 4.4.9(D)(8), gasoline stations or the dispensing of gasoline directly into a vehicle is listed as a permitted conditional use within the General Commercial District; and

WHEREAS, at its meeting on January 25, 2021, the Planning and Zoning Board voted \_\_\_\_ to \_\_\_\_ to recommend \_\_\_\_\_ to the City Commission of the conditional use application (File Number 2020-271-USE); and

WHEREAS, LDR Section 2.4.5(E)(5), which governs the establishment of a conditional use, requires the approving body to make findings that establishing the conditional use will not:

- (a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- (b) Hinder development or redevelopment of nearby properties; and

WHEREAS, the City Commission considered the conditional use request to operate a Convenience Mart at the Property and has considered the respective findings as set forth in the Land Development Regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the forgoing recitals are hereby incorporated herein by this reference and are approved and adopted.

Section 2. The City Commission makes positive findings that the requested conditional use will not have a significantly detrimental effect upon the stability of the neighborhood within which it will be located and will not hinder development or redevelopment of nearby properties.

Section 3. The City Commission approves the conditional use request to allow Owner to operate a Convenience Mart at the Property as more particularly described in Exhibit "A", which is incorporated herein.

Section 4. The City Clerk, or designee, is directed to send a certified copy of this Resolution to D&N Realty Holdings 2.

Section 5. All resolutions or parts of resolutions in conflict herewith shall be and hereby are repealed.

Section 6. This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED in regular session on the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

\_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Lynn Gelin, City Attorney

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION:**

A PORTION OF PARCEL "A" OF "CONGRESS AT ATLANTIC PARCEL", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 88, PAGES 97, 98 AND 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWESTERLY CORNER OF SAID PARCEL "A"; THENCE NORTH 18°18'15" WEST ON THE WEST LINE OF SAID PARCEL "A" 234.83 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL "A" ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ATLANTIC AVENUE AS DEPICTED ON STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROADWAY PLAN NUMBER 413841 - 2- 52- 01 SHEET 34 AND 35, A POINT ON THE ARC OF A CIRCULAR CURVE CONCAVE NORTHWESTERLY, THE RADIUS POINT OF WHICH BEARS NORTH 32°21'25" WEST; THENCE ON SAID RIGHT-OF-WAY LINE THE FOLLOWING 8 NUMBERED COURSES AND DISTANCES 1) NORTHEASTERLY ON THE NORTH LINE OF SAID PARCEL "A" AND ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1970.08 FEET AND A CENTRAL ANGLE OF 00°41'44" AN ARC DISTANCE OF 23.92 FEET; 2) NORTH 6°54'52" EAST 47.30 FEET; 3) NORTH 55°11'19" EAST 177.75 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY; 4) NORTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 89.00 FEET AND A CENTRAL ANGLE OF 21°32'34" AN ARC DISTANCE OF 33.46 FEET TO A POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHWESTERLY; 5) SOUTHEASTERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 19.00 FEET AND A CENTRAL ANGLE OF 81°12'21" AN ARC DISTANCE OF 26.93 FEET TO A POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE, CONCAVE WESTERLY; 6) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 89.00 FEET AND A CENTRAL ANGLE OF 21°33'47" AN ARC DISTANCE OF 33.49 FEET TO A POINT OF TANGENCY; 7) SOUTH 00°29'59" EAST 9.59 FEET; 8) NORTH 89°30'01" EAST 4.00 FEET TO THE INTERSECTION WITH THE EAST LINE OF SAID PARCEL "A", ALSO BEING THE WEST RIGHT-OF-WAY LINE OF CONGRESS AVENUE; THENCE ON SAID EAST LINE AND ON SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING 3 NUMBERED COURSES AND DISTANCES 1) SOUTH 00°29'04" EAST 179.89 FEET TO A POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE WESTERLY; 2) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1,849.86 FEET AND A CENTRAL ANGLE OF 02°31'56" AN ARC DISTANCE OF 81.76 FEET TO A POINT OF REVERSE CURVATURE OF A CIRCULAR CURVE, CONCAVE EASTERLY; 3) SOUTHERLY ON THE ARC OF SAID CURVE, WITH A RADIUS OF 1,969.86 FEET AND A CENTRAL ANGLE OF 01°06'21" AN ARC DISTANCE OF 38.02 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "A"; THENCE NORTH 89°19'14" WEST ON THE SOUTH LINE OF SAID PARCEL "A" 139.93 FEET; THENCE SOUTH 73°41'05" WEST ON SAID SOUTH LINE 61.04 FEET TO THE POINT OF BEGINNING. CONTAINING 71,611 SQUARE FEET, 1.6440 ACRES.

TOGETHER WITH EASEMENTS FOR DRAINAGE, WATER, UTILITY, RECIPROCAL PARKING AND ACCESS RIGHTS, LANDSCAPE MAINTENANCE, INGRESS- EGRESS AND SIGNAGE EASEMENTS AS SET FORTH IN DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS RECORDED IN O.R. BOOK 11681, PAGE 1850, PUBLIC

RECORDS OF PALM BEACH COUNTY, FLORIDA, OVER AND ACROSS THE FOLLOWING DESCRIBED PROPERTY PARCEL "B" OF "CONGRESS AT ATLANTIC PARCEL", ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 88, PAGES 97, 98 AND 99 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.