



CITY OF LAKE WORTH BEACH

# Community Sustainability<sup>SM</sup>

# 7-11 Appeal

Appeal of PZB Project # 20-005000003:

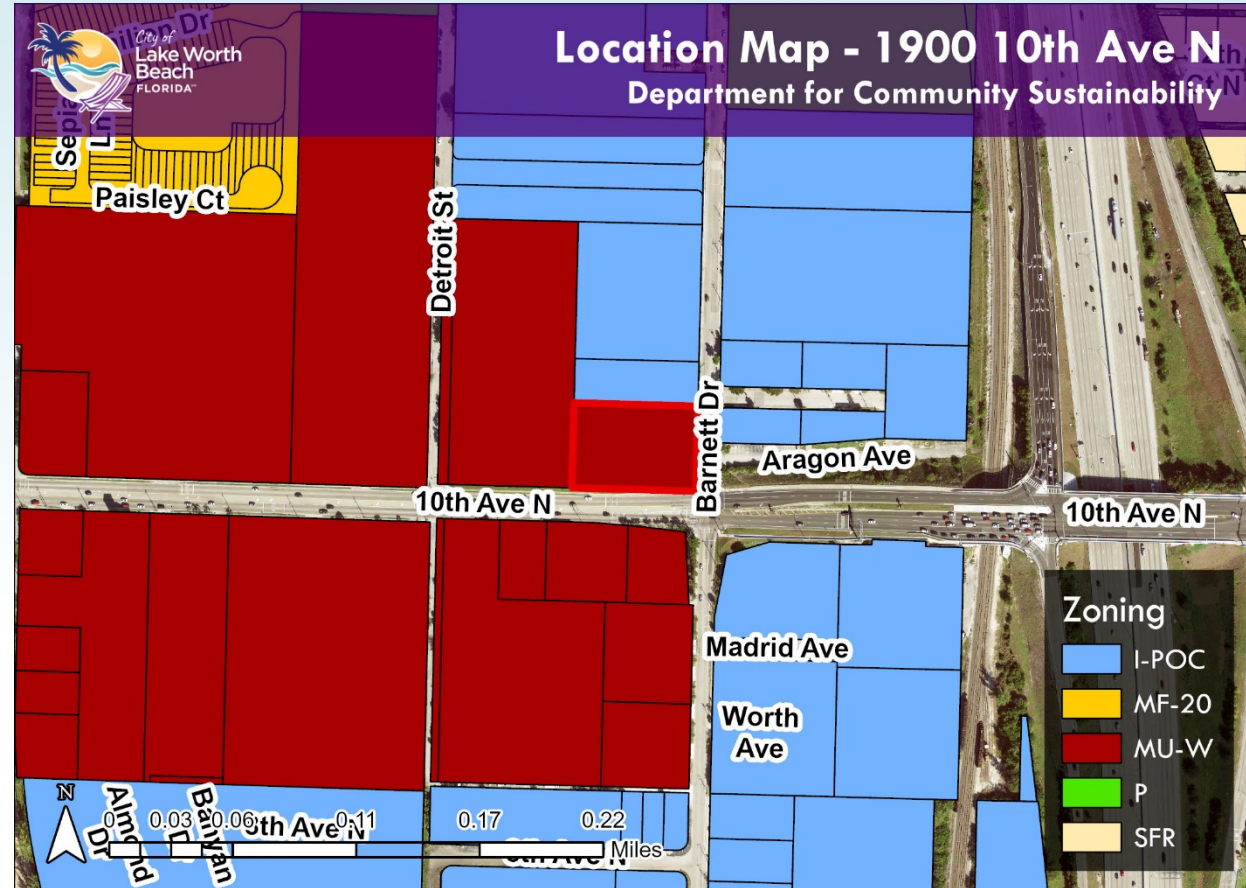
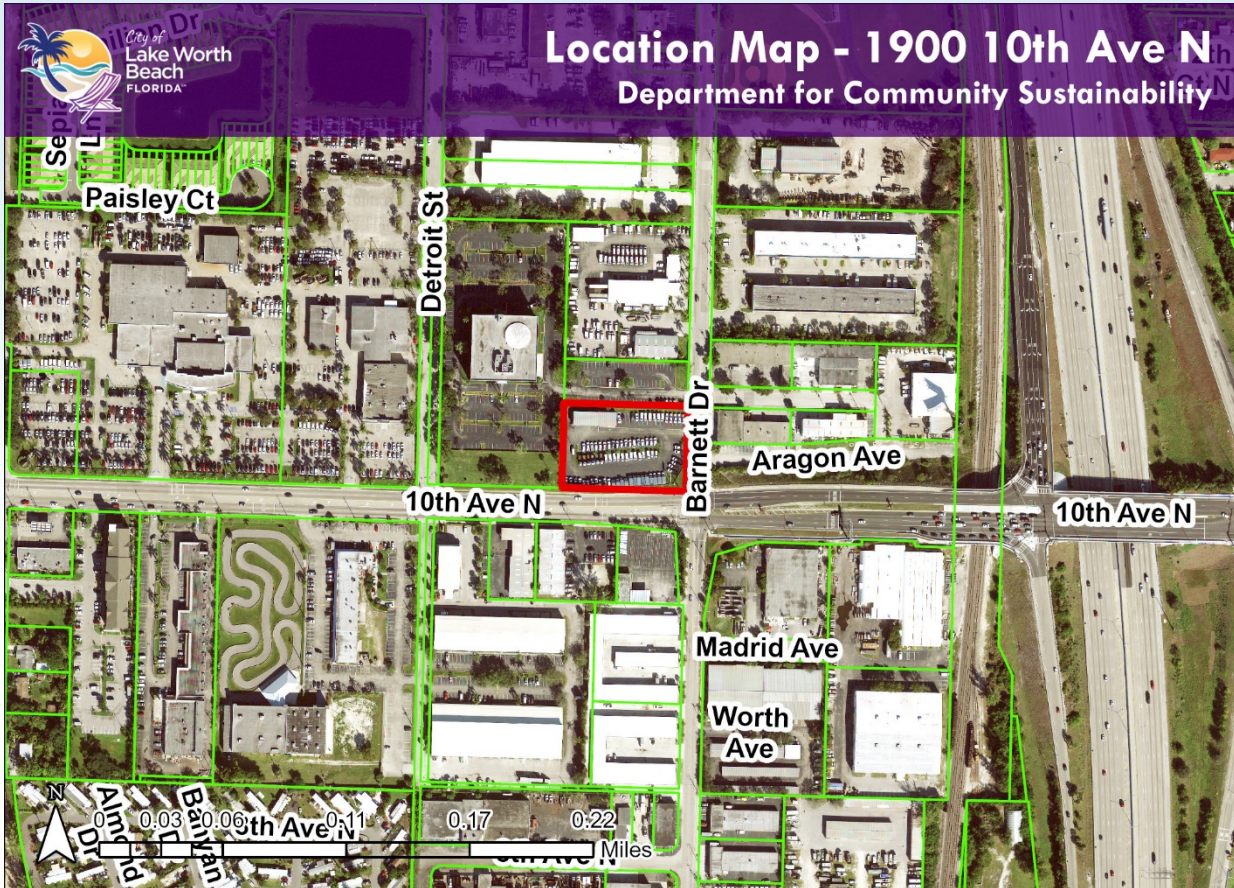
by Thomas J. Baird, Esq. on behalf of 1920 10th Avenue, LLC, and  
by Alfred Malefatto on behalf of Daniel Hiatt and Frederick Schmidt.

The subject application included site plan and conditional use approvals to allow for the construction of a new vehicle fueling/charging station, single-destination retail, and restaurant at 1900 10th Avenue North (7-Eleven).

# Background/Proposal

- Background
  - Applicant: Gunster, Yoakley & Stewart, P.A. on behalf of 1900 10<sup>th</sup> Ave, LLC
  - Address: 1900 10<sup>th</sup> Avenue North
  - Request: to construct a 7-Eleven retail store with quick-service restaurant and 7 fuel pumps (14 total fueling positions).
- Request
  - **Major Site Plan** for 4,730 s.f. retail and restaurant building and 3,520 s.f. canopy structure
  - **Conditional Use** for Vehicle Charging & Fueling Station (Vehicular Use), Single-Destination Retail (Retail Use), and Restaurant uses (Commercial Use).
  - **Variance** of 8 feet from the maximum building setback line to allow for a front setback of 40 feet from 10th Avenue North. **The variance is not part of this appeal.**

# Site Location



# Project History

- The Project was originally heard at the July 15, 2020 Planning & Zoning Board Meeting.
- The Project was approved by a vote of 4-2 with staff recommended conditions and a Board recommended condition requiring the applicant to address school crossing safety and signage with the City, Palm Beach County, and School District staff.



# Project History

- Subsequent to the Planning & Zoning approval of the project, the project was appealed to the City Commission. The associated variance approval was appealed directly to the circuit court.
  - Appealed on September 3, 2020 by Thomas J. Baird, Esq. on behalf of Mr. Francisco Gil, manager of 1920 10<sup>th</sup> Avenue LLC, an affected party.
  - The City Commission heard the appeal of the Major Site Plan and Conditional Use at the December 15, 2020 City Commission hearing, and voted 3-0 to remand the project back to the Planning & Zoning Board.
  - Again, the variance was appealed to circuit court after the affected party, 1920 10<sup>th</sup> Avenue LLC, filed a writ of certiorari. The appeal is outstanding.

# Project History

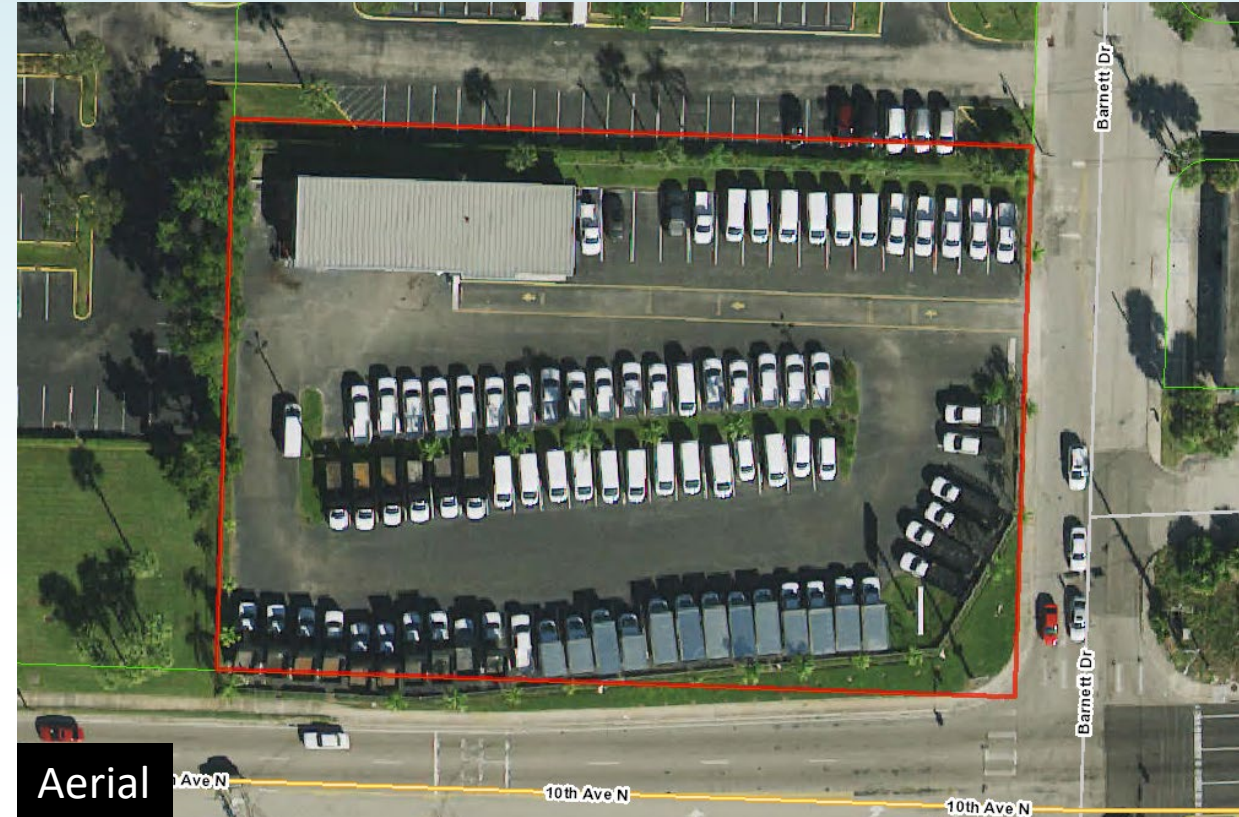
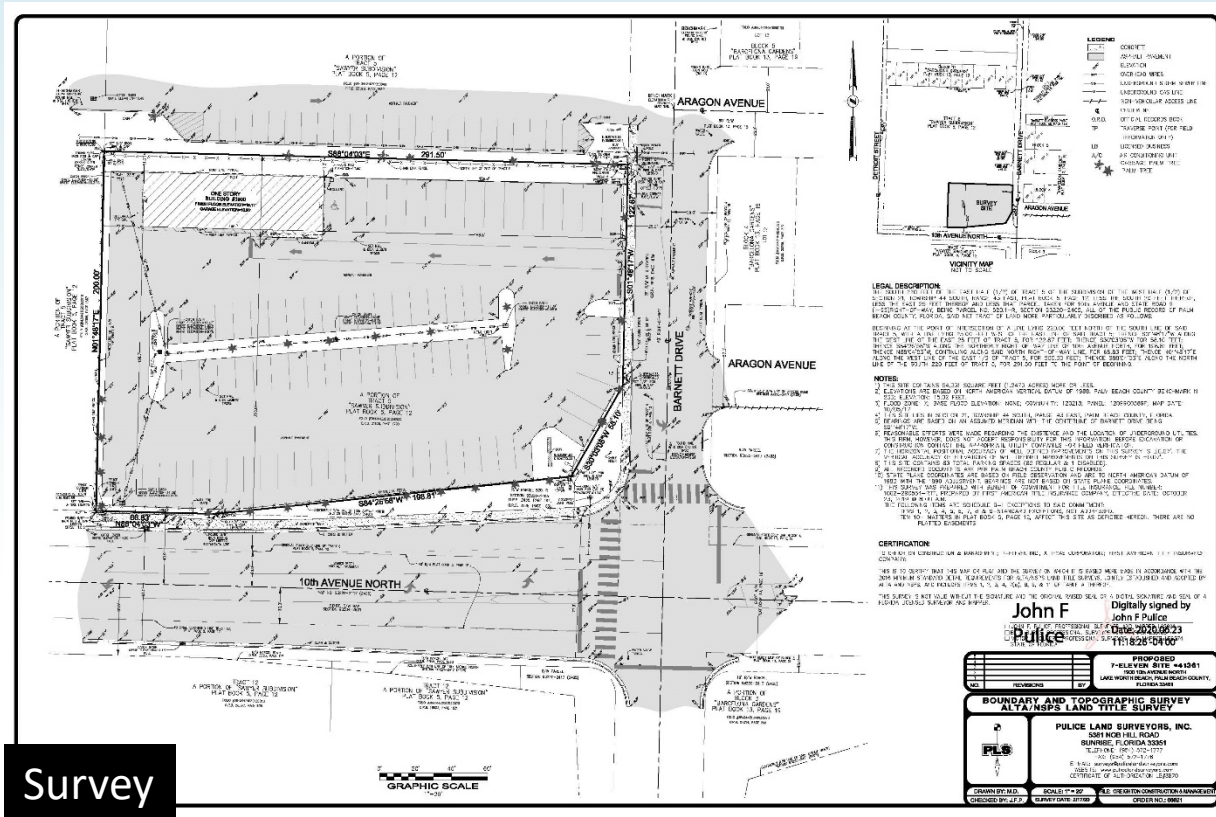
- The PZB reheard the application on January 27, 2021 and voted (5-2) to approve the application with conditions.
- The final order was issued on February 2, 2021. The application was appealed again by Thomas J. Baird, Esq. on behalf of 1920 10th Avenue, LLC and a new appeal was filed by Alfred Malefatto on behalf of Daniel Hiatt and Frederick Schmidt.

# Existing Conditions





# Existing Conditions





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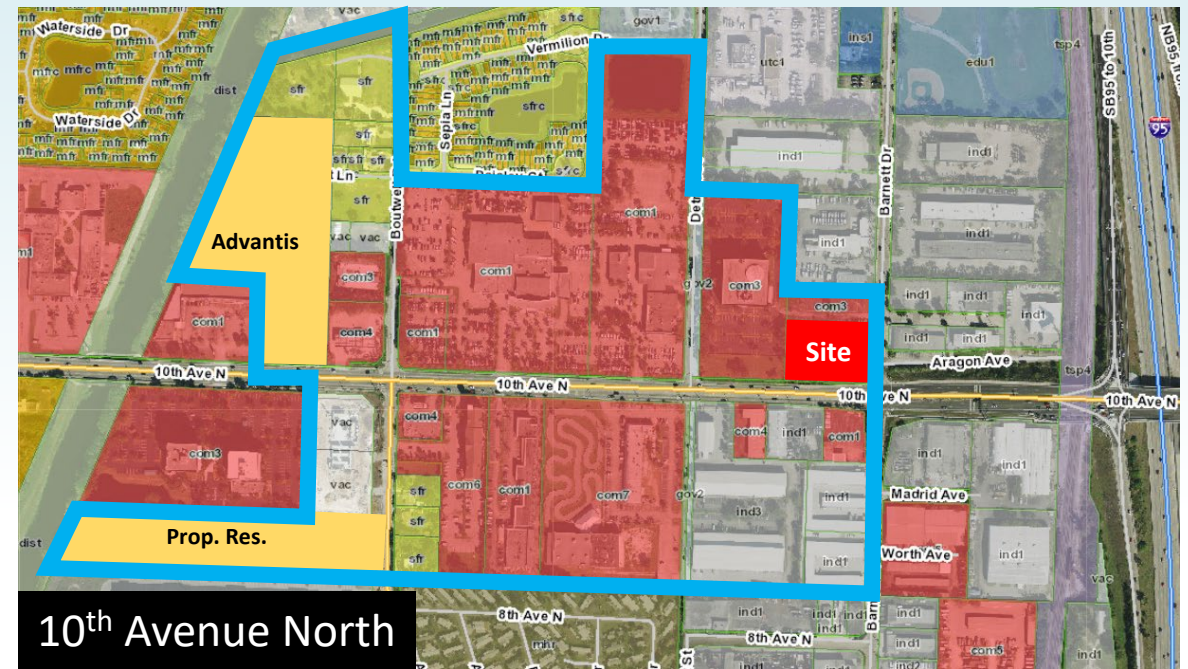
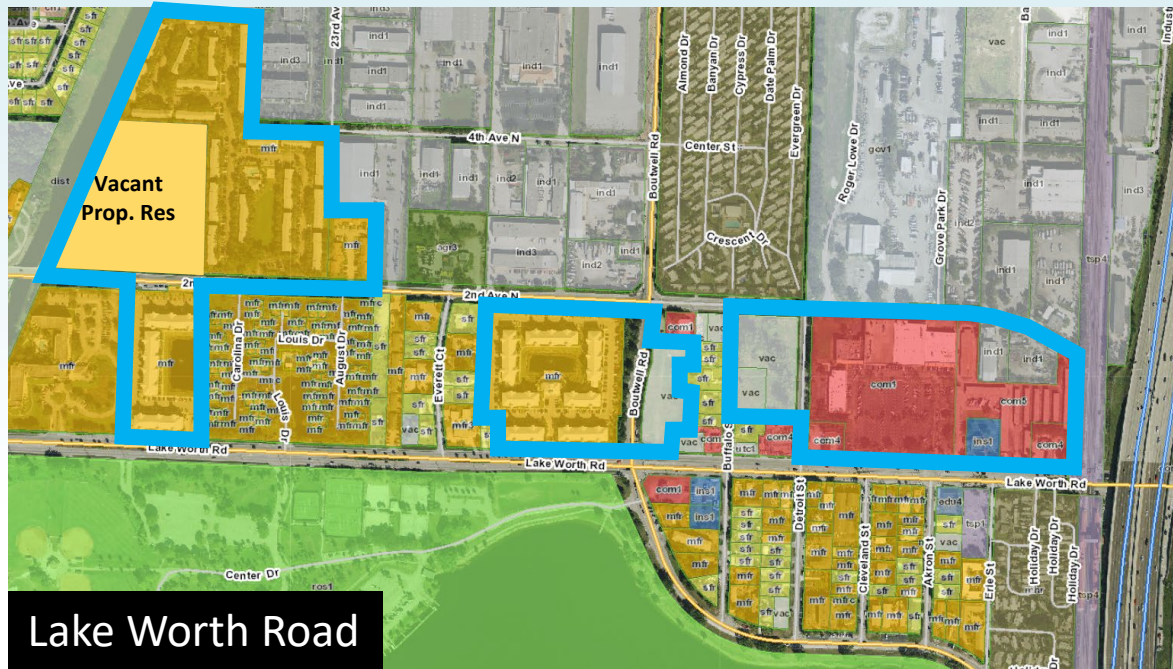
## Policy 1.1.1.6 – Mixed Use West

The Mixed Use West category is intended to provide for a mixture of residential, office, service and commercial retail uses within specific areas west of I-95. The distinguishing characteristic of the Mixed Use West land use area is that it allows higher-intensity uses as well as higher height limits along the City's western thoroughfares. The maximum density of permitted residential development is 30 dwelling units per acre. **The preferred mix of uses area-wide is 75% residential and 25% non-residential. While mixed-use projects are allowed on a single site, it is not a requirement that each site within the category incorporate multiple uses.**

Zoning regulations implementing the Mixed Use West category shall permit the establishment and expansion of residential (including single family, two-family and multi-family), office, service and commercial retail uses either as uses permitted by right or through conditional use permit provisions. All buildings are required to provide transitional buffering and design features to mitigate impact of the MU-W sites adjacent to residential zoning districts. The implementing zoning district is MU-W.

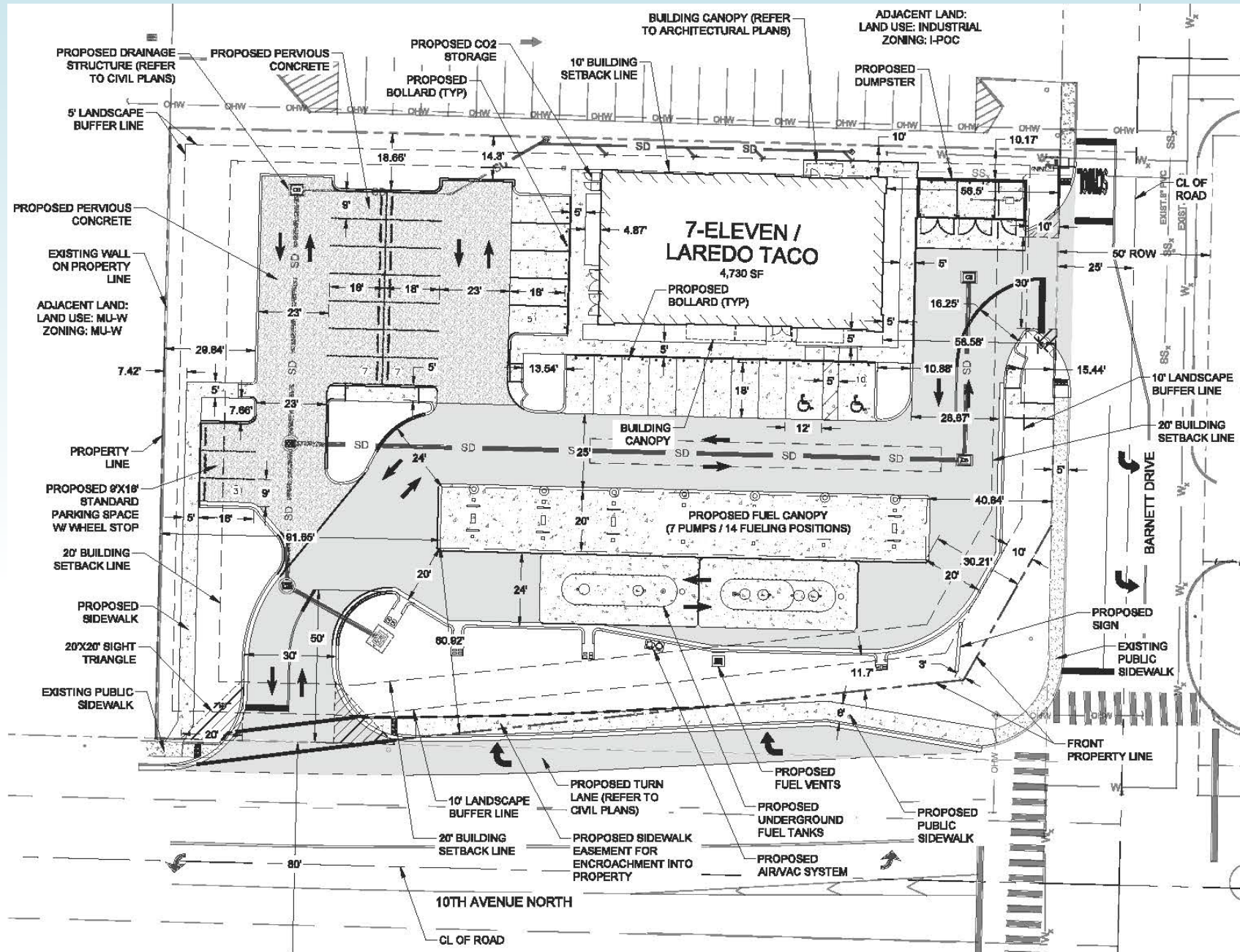


# Existing Land Use

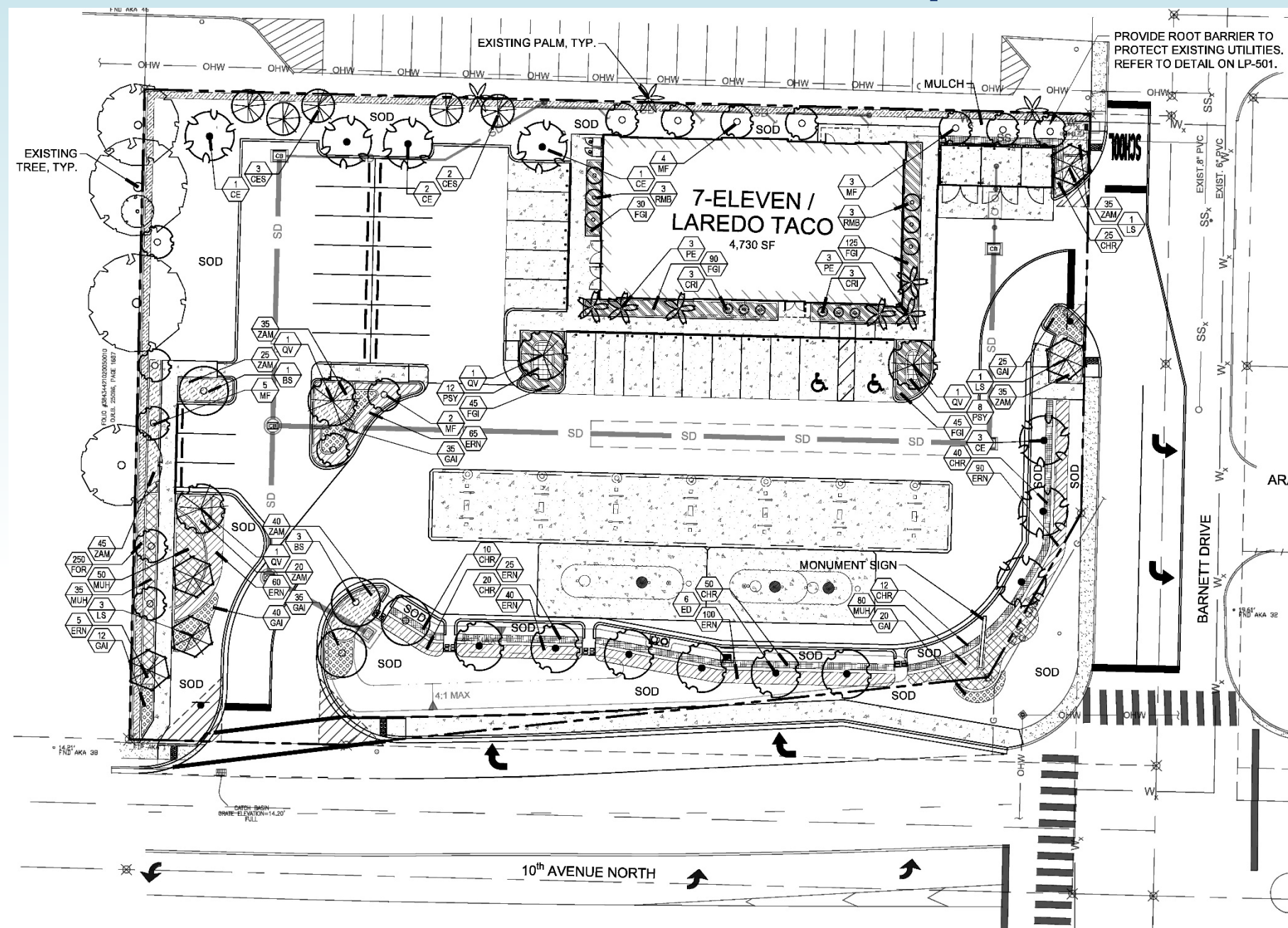




# Site Plan



# Landscape Plan



## PLANT LIST

	CANOPY TREES			
QTY	** N	KEY	PLANT NAME	SIZE / REMARKS
4	** N	BS	<i>Bursera simaruba</i> GUMBO LIMBO	14' HT; 7' SPRD; 4" C.; FULL CANOPY
6	*	ED	<i>Eleocarpus decipiens</i> JAPANESE BLUEBERRY	12' HT; 8' SPRD; FULL CANOPY
5	*	LS	<i>Lagerstroemia speciosa</i> QUEEN CREPE MYRTLE	12' HT; 6' SPRD; FULL CANOPY
4	** N	QV	<i>Quercus virginiana</i> LIVE OAK	14' HT; 7' SPRD; 3" C.; FULL CANOPY

### SMALL/MEDIUM TREES

QTY	** N	KEY	PLANT NAME	SIZE / REMARKS
7	** N	CE	<i>Conocarpus erectus</i> GREEN BUTTONWOOD	12' HT; 8' SPRD; 2" C.; FULL CANOPY
5	** N	CES	<i>Conocarpus e. 'sericeus'</i> SILVER BUTTONWOOD	8' HT; 4' SPRD; 2" C.; MULTI-STEM; FULL CANOPY
12	** N	MF	<i>Myrcianthes fragrans</i> SIMPSON STOPPER	8' HT; 4' SPR; 2" C.; STANDARD; FULL CANOPY

## PALMS

QTY	** N	KEY	PLANT NAME	SIZE / REMARKS
6	**	PE	<i>Ptychosperma elegans</i> SOLITAIRE PALM	10' CT; 16' OA HTS; HEAVY

## SHRUBS

QTY	** N	KEY	PLANT NAME	SIZE / REMARKS
157	** N	CHR	<i>Chrysobalanus icaco</i> COCOPLUM	24" HT; 24" SPRD; 24" O.C.
6	**	CRI	<i>Crinum asiaticum</i> CRINUM LILY	36" HT; 36" SPRD; TRIPLE
250	** N	FOR	<i>Forestiera segregata</i> FLORIDA PRIVET	24" HT; 24" SPRD; 24" O.C.
165	** N	MUH	<i>Muhlenbergia capillaris</i> GULF MUHLY GRASS	24" HT; 24" SPRD; 24" O.C.
20	* N	PSY	<i>Psychotria nervosa</i> WILD COFFEE	24" HT; 24" SPRD; 24" O.C.
6	**	RMB	<i>Raphiolepis i. 'Majestic Beauty'</i> INDIAN HAWTHORN 'STD'	48" HT; 24" SPRD; FULL STANDARD

## GROUNDCOVERS

QTY	** N	KEY	PLANT NAME	SIZE / REMARKS
320	**N	ERN	<i>Erodia littoralis</i> GOLDEN CREEPER	12" HT; 14" SPRD; 18" O.C.
335	**	FGI	<i>Ficus m. 'Green Island'</i> <i>GREEN ISLAND FICUS</i>	12" HT; 14" SPRD; 18" O.C.
132	**	GAI	<i>Gaillardia puchella</i> INDIAN BLANKET	10" HT; 16" SPRD; 18" O.C.
210	** N	ZAM	<i>Zamia pumila</i> ( <i>Zamia floridana</i> ) COONTIE	18" HT; 18" SPRD; 24" O.C.
	**	SOD	ST. AUGSTINE 'FLORATAM'	SOLID SOD



# Conditions of Approval

## Electric Utilities:

- Prior to the issuance of a Certificate of Occupancy, the following shall be completed:
  - Provide the load calculations and voltage requirements
- Electric Utilities shall approve all easements and/or alternate transformer configurations prior to the issuance of a building permit.
- Should no alternate transformer and/ or easements be approved by the Electric Utilities, then the following shall be provided and approved prior to the issuance of a building permit:
  - Show the service entrance location on the site plan
  - Provide a ten ft. clearance in front of the transformer and four ft. on the remaining sides
  - Relocate the proposed tree from the transformer location
  - Provide a ten foot easement from the transformer location to the power pole across the street on Barnett Drive. Please keep the utility easement free of landscaping or any other structures.

## Planning:

- The landscape screen adjacent to the air/vac mechanical equipment along 10<sup>th</sup> Avenue North shall be maintained at a height of at least  $\frac{3}{4}$  of the height of said equipment so

that it is screened from the right-of-way.

- All proposed signage will be reviewed against the location and size on sheets A200 and A202, as well as in conformance with the Code. Should the type of signage submitted as part of the building permit be significantly different in size, scale, scope, or style from what was indicated in the Site Plan package, the signage will be required to be approved administratively through a Minor Site Plan amendment process prior to the approval of the building permit.
- There shall be no outdoor display of any kind of merchandise.
- Prior to the issuance of a building permit, the following shall be completed:
  - Continue the fenestration toward the ground across the entire building on both sides of the entrance doors.
  - Paint the retail/restaurant building a color other than beige as described in the Major Thoroughfare Design Guidelines; alternative colors and/or materials shall be presented to the PZB for consideration and approval; and architectural plans shall be updated and approved by staff prior to the issuance of a building permit to reflect an alternate color or materials.
  - The comments from the Palm Beach County Traffic Performance Standards Letter dated July 22, 2020 shall be addressed and implemented into the site plan if applicable.

# Conditions of Approval

## Public Works:

- The issuance of any permits shall comply with all provisions of the Lake Worth Municipal Code and all other applicable standards including but not limited to the Florida Department of Transportation (FDOT), Manual on Uniform Traffic Control Devices (MUTCD), and City of Lake Worth Public Services Construction Standards and Policy and Procedure Manual.
- Prior to performing work in the right of way, the applicant shall apply for and receive issuance of a “Right of Way/Utility Permit” application.
- Prior to the issuance of a certificate of occupancy, the following shall be completed:
  - the Applicant shall ensure the entire surrounding off-site infrastructure inclusive of the roadway, sidewalk, curbing, stormwater system piping and structures, valve boxes, manholes, landscaping, striping, signage, and other improvements are in the same condition as prior to construction.
  - all conditions of approval shall be satisfied under jurisdiction of the Department of Public Services.
  - the applicant shall fine grade and sod all disturbed areas with Bahia sod.
  - the applicant shall broom sweep all areas of the affected right of way and remove of all silt and debris collected as a result of construction activity.
  - the applicant shall restore the right of way to a like or better condition. Any damages to pavement, curbing, striping, sidewalks or other areas shall be restored in kind
- Prior to the issuance of a building permit, the following shall be completed:
  - The applicant shall contact the Lake Worth Drainage (LWDD) District’s Engineering Department and obtain any required permit(s), if necessary, and furnish to the City.
  - The applicant shall contact the South Florida Water Management District’s (SFWMD) Engineering Department and obtain any required permit(s), if necessary.
  - The Applicant shall contact and meet with a representative from the Public Services Refuse and Recycling Division to confirm dumpster enclosure location, accessibility and demand on property and that it is compatible with the requirements of the Department of Public Services. Refuse Division contact number is 561-533-7344.
  - The applicant shall submit an Erosion Control plan and indicate the BMP’s and NPDES compliance practices.

## Utilities Water & Sewer:

- System data shows the site uses an existing 1-inch meter, however the drawing reference utilizing the existing 2-inch service. No taps or fitting are allowed upstream of the City water meter on the City’s water service. The potable water service also requires an RPZ.
- Prior to the issuance of a building permit, the following shall be completed:
  - Ensure the plan conforms/integrates with the Palm Beach County (PBC) Roadway widening/improvement project, and provide an acknowledgement from PBC.
  - The vehicular access from Barnett Drive shall permit only right-in/right-out access to and from the site for customer and employee traffic, excluding fuel delivery which can use the driveway for ingress. The improvements limiting such movement shall be approved by the Lake Worth Beach City Engineer, including striping and signage, and should include a mountable curb if feasible.
  - Provide a collection structure in the dumpster pad that is connected to an oil/grease inceptor. This will manage the runoff in this area and will be connected to the stormwater collection system. This shall not be connected to the sanitary sewer system. Minimum size of the oil/grease inceptor is 750 gallons.

## July 15, 2020 Planning & Zoning Board Condition:

- The applicant shall provide additional school area signage by working in conjunction with City Staff, the Palm Beach County School Board, and/or Palm Beach County. Any new signage shall be installed prior to the issuance of a Certificate of Occupancy.