

RESOLUTION NO. R-2000- 1232

RESOLUTION APPROVING ZONING PETITION CA75-104(A)
CLASS A CONDITIONAL USE
PETITION OF MARATHON ASHLAND PETROLEUM, LLC
BY ROBERT E. BASEHART, AGENT
(SPEEDWAY # 8361)

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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA75-104(A) was presented to the Board of County Commissioners at a public hearing conducted on August 24, 2000; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code 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 Petition CA75-104(A), the petition of Marathon Ashland Petroleum, LLC, by Robert E. Basehart, agent, for a Class A Conditional Use (CA) to allow a convenience store with gas sales in the General Commercial (CG) Zoning District, on a parcel of land legally described 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 August 24, 2000, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

Maude Ford Lee, Chair		Aye
Warren Newell, Vice Chair	—	Aye
Karen T. Marcus		Aye
Carol A. Roberts		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye

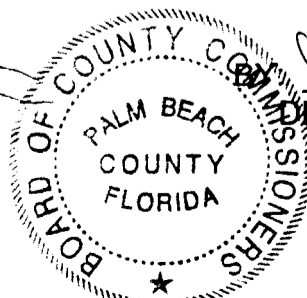
The Chair thereupon declared that the resolution was duly passed and adopted on August 24, 2000.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY




DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTH 165.00 FEET OF THE WEST 175.00 FEET OF TRACT 66, SUBDIVISION OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT, IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 6, PAGE 66, LESS AND EXCEPT, HOWEVER, THE SOUTH 15.00 FEET AND THE WEST 25.00 FEET THEREOF AND LESS THE AREA BOUNDED ON THE NORTHEAST BY THE CHORD OF A CURVE HAVING A RADIUS OF 20.00 FEET, ON THE SOUTH BY THE NORTH LINE OF THE SOUTH 15.00 FEET OF SAID TRACT 66 AND ON THE WEST BY THE EAST LINE OF THE WEST 25.00 FEET OF SAID TRACT 66.

SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE POINT OF INTERSECTION OF A LINE LYING 190.00 FEET NORTH OF, AND PARALLEL WITH, THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19, WITH A LINE LYING 190.00 FEET EAST OF, AND PARALLEL WITH, THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19; THENCE SOUTH 02 DEGREES 04 MINUTES 34 SECONDS WEST, PARALLEL WITH THE WEST LINE OF SAID SECTION 19, FOR 150.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD; THENCE NORTH 87 DEGREES 40 MINUTES 14 SECONDS WEST, ALONG SAID NORTH RIGHT-OF-WAY LINE, FOR 130.09 FEET; THENCE NORTH 42 DEGREES 47 MINUTES 50 SECONDS WEST FOR 28.22 FEET TO THE EAST RIGHT-OF-WAY LINE OF KIRK ROAD; THENCE NORTH 02 DEGREES 04 MINUTES 34 SECONDS EAST, ALONG SAID EAST RIGHT-OF-WAY LINE, FOR 130.09 FEET; THENCE SOUTH 87 DEGREES 40 MINUTES 14 SECONDS EAST, PARALLEL WITH THE SOUTH LINE OF SAID SECTION 19, FOR 150.00 FEET TO THE POINT OF BEGINNING.
(CONTAINING: 22,302 SQUARE FEET)

LEGAL DESCRIPTION: ADDITIONAL PARCEL

A PORTION OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE POINT OF INTERSECTION OF A LINE LYING 190.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19 WITH A LINE LYING 190.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 19; THENCE NORTH 87 DEGREES 40 MINUTES 14 SECONDS WEST ALONG THE NORTH LINE OF THE SOUTH 190.00 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION 19 FOR A DISTANCE OF 16.66 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 87 DEGREES 40 MINUTES 14 SECONDS WEST ALONG SAID NORTH LINE FOR A DISTANCE OF 133.34 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF KIRK ROAD; THENCE RUN NORTH 02 DEGREES 04 MINUTES 34 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE FOR A DISTANCE OF 150.00 FEET TO A POINT; THENCE RUN SOUTH 87 DEGREES 40 MINUTES 14 SECONDS EAST FOR A DISTANCE OF 133.34 FEET TO A POINT; THENCE RUN SOUTH 02 DEGREES 04 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING.
(CONTAINING: 20,001 SQUARE FEET).

EXHIBIT B
VICINITY SKETCH

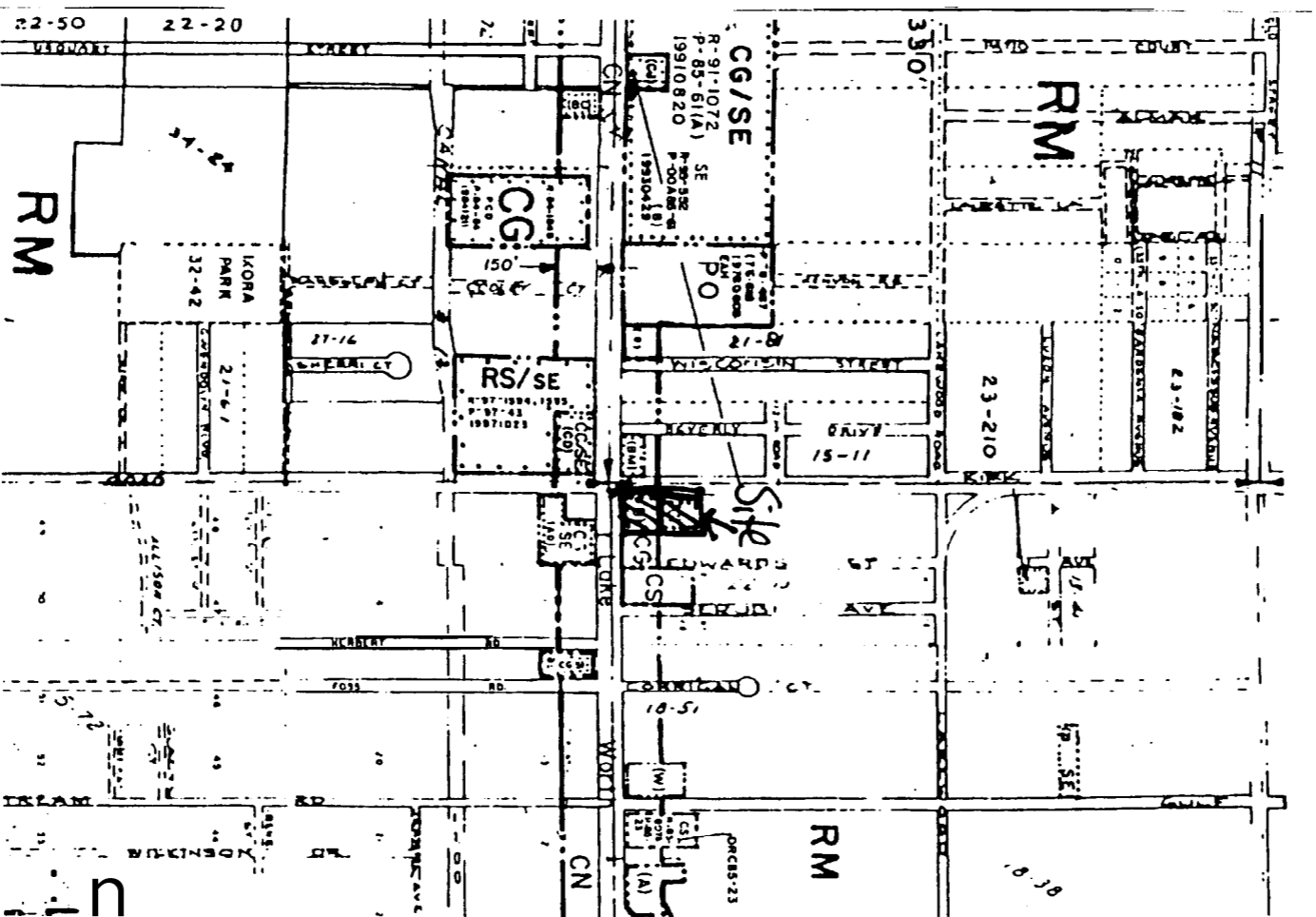


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: For landscape conditions, reference Exhibit D (Board of Adjustment Result letter dated April 20, 2000)

A. ALL PETITIONS

1. Development of the site is limited to the use as approved by the Board of County Commissioners. The approved site plan is dated June 14, 2000. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. ARCHITECTURAL

1. Prior to issuance of the first building permit, the petitioner shall submit architectural elevations to the Architectural Review Section, Zoning Division for review. Development shall be consistent with the approved architectural elevations. (BLDG PERMIT - Zoning)

C. BUILDING AND SITE DESIGN

1. All air conditioning and mechanical equipment including satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)
2. Similar architectural character and treatment, including but not limited to color (earth tones and pastel colors), material, fenestration and roof treatment, shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG - Zoning)
3. Total gross floor area shall be limited to a maximum of 3,362 square foot convenience store with gas sales with 6 pumps (12 fueling stations). (DRC: ZONING)
4. The maximum height for all structures, including all mechanical equipment, measured from finished grade to highest point, shall not exceed twenty five (25) feet. (BLDG PERMIT: BLDG - Zoning)
5. Gas station canopies shall be limited to a maximum of twenty-five (25) feet in height, including air conditioning and mechanical equipment and satellite dishes, measured from finished grade to the highest point. No flat roof shall be permitted. The clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy or attached outdoor fixtures. (BLDG PERMIT: BLDG - Zoning)
6. The roof color and building materials for the gasoline canopy shall be consistent with the convenience store. (BLDG PERMIT: BLDG - Zoning)

D. HEALTH

1. Application and engineering plans to construct the force main and lift station must be submitted to the Palm Beach County Health Department prior to final site plan review. (DRC: HEALTH)

E. ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along:

- Kirk Road;
- Lake Worth Road

Dedication shall be to Palm Beach County Land Development Division. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING-Eng)

2. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:

- a) Lake Worth Road, 76 feet from center line;
- b) Kirk Road, 54½ feet from center line,

Dedication shall be on or before **June 1, 2001** or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the project's entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

3. CUTOUT LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF

A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide landscape cutouts within the concrete median of Lake Worth Road right-of-Way contiguous to the frontage. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. When landscape cutouts are permitted by the Florida Department of Transportation, landscaping shall, consist of Landscape Material approved by the County Engineer. All new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. Alternative plant and paver block material other than those listed in the County standards may be permitted subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)

B. All required median landscaping, including an irrigation system, the cost of Cutting out or removing the existing concrete median as well as the cost of the Landscape material shall be funded at the property owners expense. All new and existing landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. The maintenance may be assumed by the County upon

payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and the irrigation system. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)

C. If the County does not assume maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

4. Prior to the issuance of any Building Permit, the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

F. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (ONGOING: BLDG -Zoning)
3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)
4. Lighting for the gas station canopy shall be flush mounted or recessed. (BLDG PERMIT/CO: BLDG - Zoning)

G. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to modify the notation which currently reads "proposed cross access". The notation shall be amended to read "proposed cross access to be paved to the property line for future access to adjacent parcel". (DRC: PLANNING)
2. Prior to the issuance of the, certificate of occupancy, the petitioner shall pave the property to the edge of the eastern property line at the location shown on the site plan labeled "proposed cross access". (BLDG PERMIT: MONITORING-BUILDING)

3. Prior to final site plan approval by the Development Review Committee, the site plan shall provide for pedestrian pathways (decorative sidewalks) across the driveways at the Lake Worth Road entrance and across the Kirk Road driveway entrance and continued from the existing sidewalk to the walkway which starts at the southwest corner of the proposed building as indicated on the site plan dated June 29, 2000. These decorative pedestrian pathway areas are to be constructed of pavers, brick, decorative / stamped concrete or similar pavement treatment to clearly indicate that the pathway is intended for pedestrians. (DRC: PLANNING)
4. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to remove the 5 foot chain link fence between the subject site and the commercial property to the east to provide pedestrian and/or vehicular cross-access between the sites. (DRC: PLANNING)
5. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to place a notation on the proposed fence in the western buffer as shown on the site plan dated June 29, 2000. This notation shall read: "6' decorative fence" This decorative fencing shall not be opaque in nature in order to provide visibility to the rear portion of the site for public safety and security. (DRC: PLANNING)

H. SIGNS

1. Freestanding sign shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side, including canopy sign face area - 100 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG)
2. No off-premise signs, relocated billboards, or wall signs (excluding canopy) shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)

I. USE LIMITATIONS

1. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF)
2. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
3. No exterior pay phones shall be permitted on site. (ONGOING: CODE ENF - Zoning)
4. No outdoor seating shall be permitted on site. (ONGOING: CODE ENF - Zoning)

J. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 ULDC 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; 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 a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)