

RESOLUTION NO. R-96-4

RESOLUTION APPROVING ZONING PETITION DOA76-39(A)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF V.S.H. REALTY, INC.  
BY ALFRED J. MALEFATTO, AGENT  
CUMBERLAND FARMS

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; 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 DOA76-39(A) was presented to the Board of County Commissioners at a public hearing conducted on January 5, 1996; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; 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 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and therefore complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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 Development Order Amendment, 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 DOA76-39(A) the petition of V.S.H. REALTY, INC. by Alfred J. Malefatto, agent, for a Development Order Amendment to amend the site plan and add gas pumps to a previously approved convenience store with gas sales 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 5, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 5, 1996.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

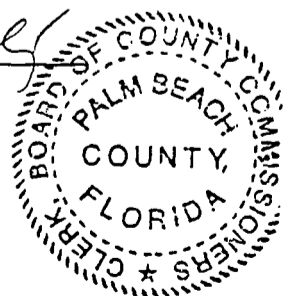


EXHIBIT A  
LEGAL DESCRIPTION

The East 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 12, Township 44 South, Range 42 East, Palm Beach County, Florida, less the East 40.00 feet as right of way for Kirk Road; less the South 33.00 feet thereof as right of way for Forest Hill Boulevard, and less the North 1,020.00 feet thereof, and less right of way in Official Records Book 2996, Page 314 for Forest Hill Boulevard; containing 74,610.448 square feet or 1.712 acres more or less.

EXHIBIT B  
VICINITY SKETCH

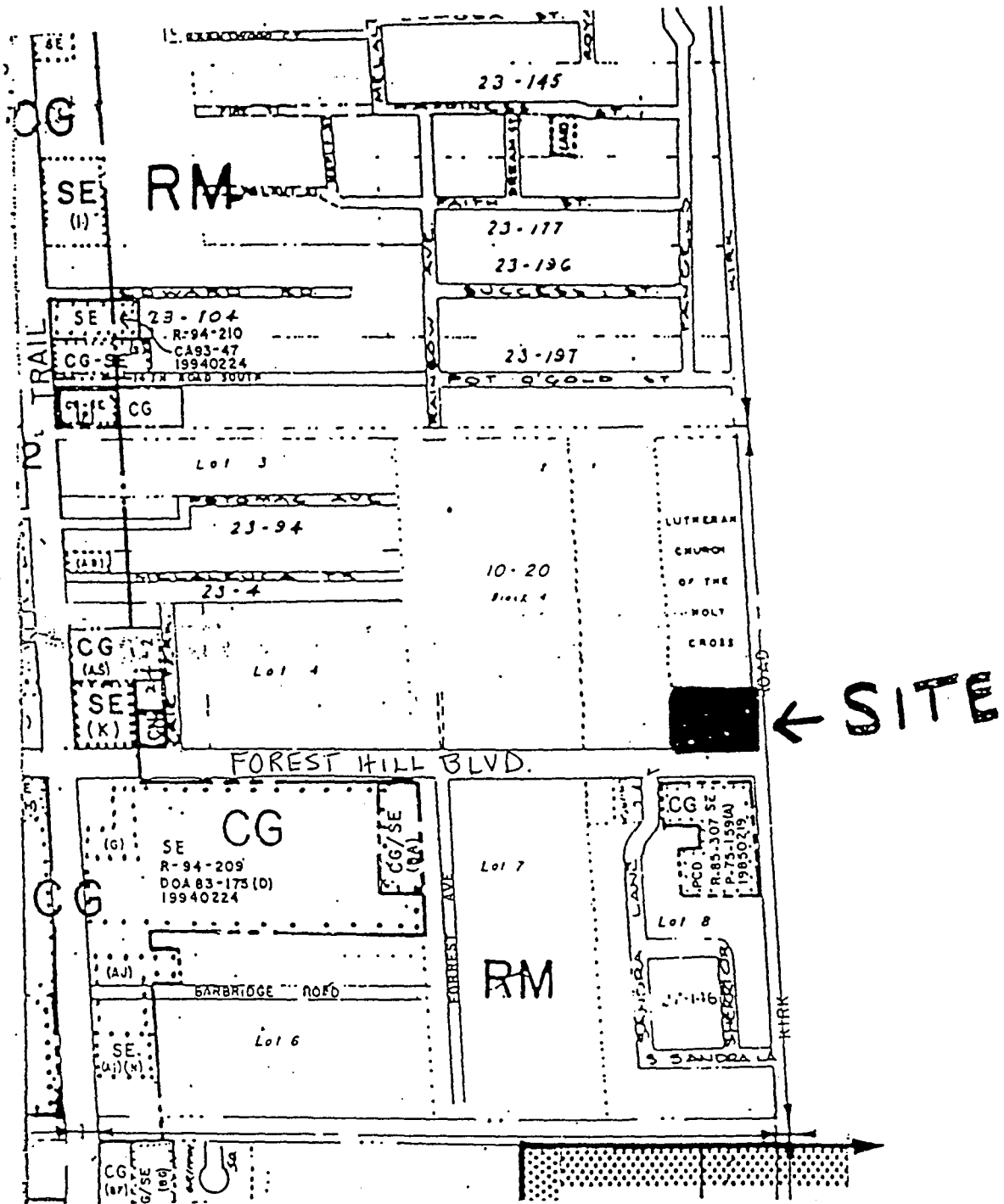


EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified. (MONITORING-Zoning)

B. HEALTH

1. Application and engineering plans to upgrade the existing onsite sewage treatment disposal system (OSTDS), in accordance with chapter 10D-6 FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Public Health Unit prior to final site plan certification. (DRC:HEALTH)
2. No food preparation will be allowed onsite where an OSTDS is required. (ONGOING:HEALTH)
3. No vehicle maintenance or repair will be allowed onsite where an OSTDS is required. (ONGOING:HEALTH)

C. LANDSCAPE

1. All trees required to be planted within the Forest Hill Boulevard and Kirk Road landscape buffers shall meet the following minimum standards at time of installation:
  - a. Tree height: fourteen (14) feet.
  - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
  - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.
  - d. Trees shall be native evergreen species planted at an equivalent of one tree per thirty (30) linear feet of property line. Credit shall be given for existing trees provided they meet current ULDC requirements. (CO:LANDSCAPE-Zoning)
2. All hedge material required to be planted within the Forest Hill Boulevard and Kirk Road landscape buffers shall meet the following minimum standards:
  - a. At time of installation shrub and/or hedge material shall be thirty six (36) inch high spaced no more than twenty four (24) inches on center.
  - b. Hedge material shall be maintained at a minimum height of thirty-six (36) inches. (CO:LANDSCAPE-Zoning)

D. LIGHTING

1. All outdoor lighting used to illuminate the subject property shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BUILDING/CODE ENFORCEMENT-Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO:BUILDING-Zoning)

E. ENGINEERING

1. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project, Zoning Petition 76-93(A) to be paid at the time of issuance of the Building Permit presently is \$22,715.00 (413 trips X \$55.00 per trip) (BLDG. PERMIT:IMPACT FEE COORDINATOR).
2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed on Kirk Road, an additional 11 feet of right-of-way prior to the issuance of the first building permit. Right-of-way conveyance shall be along the projects 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. (BLDG. PERMIT:BUILDING - Engineering)

F. SIGN

1. The subject property shall be limited to one (1) freestanding point of purchase sign located at the corner of Forest Hill Boulevard and Kirk Road. The sign shall be in accordance with the following:
  - a. Maximum sign height, measured from finished grade to highest point - twenty (20) feet;
  - b. Maximum sign face area per side - 100 square feet. (BLDG. PERMIT:BUILDING-Zoning)

G. COMPLIANCE

1. 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; 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.

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)