

RESOLUTION NO. R-98- 566

**RESOLUTION APPROVING ZONING PETITION DOA/CA75-144(B)
DEVELOPMENT ORDER AMENDMENT AND CLASS A CONDITIONAL USE
PETITION OF HESS REALTY
BY SARA LOCKHART, AGENT
(HESS STATION)**

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 DOA/CA75-144(B) was presented to the Board of County Commissioners at a public hearing conducted on March 26, 1998; 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 and Class A Conditional Use are consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment and Class A Conditional Use 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 and Class A Conditional Use are consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment and Class A Conditional Use, with conditions as adopted, are 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 and Class A Conditional Use, 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 and Class A Conditional Use meets applicable local land development regulations.
7. This Development Order Amendment and 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 Development Order Amendment and Class A Conditional Use has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment and 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 Development Order Amendment and 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 **DOA/CA75-144(B)**, the petition of Hess Realty, by Sara Lockhart, agent, for a Development Order Amendment (DOA) to add land area (**0.35** acres) and Class A Conditional Use (CA) to allow a Convenience store with Gas sales and accessory car wash 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 March **26**, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on April 23, 1998.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

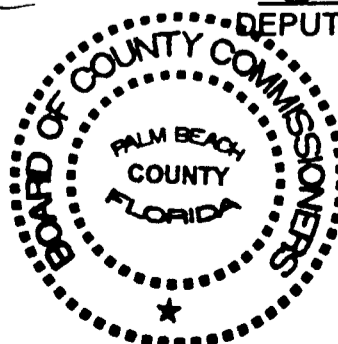
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

Petition DOA/CA75-144(B)
Project No. 9999-000



Page 2

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

HESS STATION AT **3965** CONGRESS AVENUE,
PALM BEACH COUNTY, FLORIDA.

PORTION OF SECTION **19**, TOWNSHIP **44** SOUTH, RANGE **43** EAST

ALL THAT PARCEL OF LAND LOCATED AT THE NORTHWEST CORNER OF CONGRESS AVENUE (S.R. NO. **807**) AND LAKE WORTH ROAD (S.R. NO. **802**) IN PALM BEACH COUNTY, FLORIDA AND DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN THE PLAT OF "MILLERS ADDITION", AS RECORDED IN PLAT BOOK **16**, PAGE **16** OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE CENTERLINE OF ABANDONED RIGHT-OF-WAY OF CORAL AVENUE (AS SHOWN ON SAID PLAT) WITH THE WEST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (S.R. NO. **807**), AS NOW CONSTRUCTED AND IN USE; THENCE ON AN ASSUMED BEARING OF DUE WEST ALONG SAID CENTER LINE, A DISTANCE OF **150.00** FEET; THENCE SOUTH **03** DEGREES **28** MINUTES **38** SECONDS EAST, A DISTANCE OF **215.86** FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD (S.R. NO. **802**), AS NOW CONSTRUCTED AND IN USE; THENCE DUE EAST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF **150.00** FEET TO A POINT OF INTERSECTION WITH SAID WEST RIGHT-OF-WAY LINE OF CONGRESS AVENUE (S.R. NO. **807**); THENCE NORTH **04** DEGREES **21** MINUTES **22** SECONDS WEST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF **101.94** FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF **1960.08** FEET, A CENTRAL ANGLE OF **03** DEGREES **19** MINUTES **50** SECONDS, FOR AN ARC DISTANCE OF **113.94** FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

ALL OF LOTS **8**, **9**, **22**, **23**, **24**, AND **25** AND A PORTION OF LOTS **10**, **20**, **21**, AND A PORTION OF THE SOUTH ONE-HALF OF THE ABANDONED RIGHT-OF-WAY OF CORAL AVENUE LYING NORTH OF LOTS **8**, **9** AND A PORTION OF LOT **10**, ALL IN BLOCK **6**, ACCORDING TO THE PLAT OF "MILLER'S ADDITION" AS RECORDED IN PLAT BOOK **16**, PAGE **16** IN AND FOR THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY OF LAKE WORTH ROAD (S.R. NO. **802**) MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WEST LINE OF LOT **25** AND THE NORTH RIGHT-OF-WAY LINE OF S.R. NO. **802** (LAKE WORTH ROAD); THENCE EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF

EXHIBIT A

LEGAL DESCRIPTION

S.R. NO. 802, A DISTANCE OF 127.02 FEET TO **A** POINT; THENCE NORTHWESTERLY MAKING AN **ANGLE** OF 86 DEGREES **31** MINUTES 22 SECONDS WITH THE PREVIOUS COURSE AS MEASURED FROM WEST TO NORTHWEST, A DISTANCE OF 215.86 FEET TO A POINT; THENCE WESTERLY MAKING AN ANGLE OF 93 DEGREES 28 MINUTES **36** SECONDS WITH THE PREVIOUS COURSE AS MEASURED FROM SOUTHEAST TO WEST, **A** DISTANCE OF 115.14 FEET TO A POINT; THENCE SOUTHERLY MAKING AN ANGLE OF 89 DEGREES **40** MINUTES 40 SECONDS WITH THE PREVIOUS COURSE **AS** MEASURED FROM EAST TO SOUTH, A DISTANCE **OF** 215.45 FEET TO THE POINT OF BEGINNING. (LESS THE SOUTH 20.00 FEET OF THE **ABOVE** TRACT OF **LAND**).

AND

THE SOUTH **HALF** ($\frac{1}{2}$) OF LOT 20 AND THE EAST $33 \frac{1}{3}$ FEET **OF** THE SOUTH HALF ($\frac{1}{2}$) LOT 21, BLOCK 3; **EAST** $33 \frac{1}{3}$ FEET **OF** LOT **6**, ALL **OF** LOTS 7, **26**, 27 AND **28**; AND THE EAST $8 \frac{1}{3}$ FEET **OF** LOT 29, BLOCK 6 OF "MILLER'S ADDITION", ACCORDING TO PLAT BOOK 16, PAGE 16, PALM BEACH COUNTY RECORDS, EXCEPTING THEREFROM THE **ABOVE** DESCRIBED PROPERTY THE SOUTH 29.55 FEET OF LOTS 26, 27, 28 AND THE EAST **8** $\frac{1}{3}$ FEET OF LOT 29, BLOCK 6;

AND ALSO

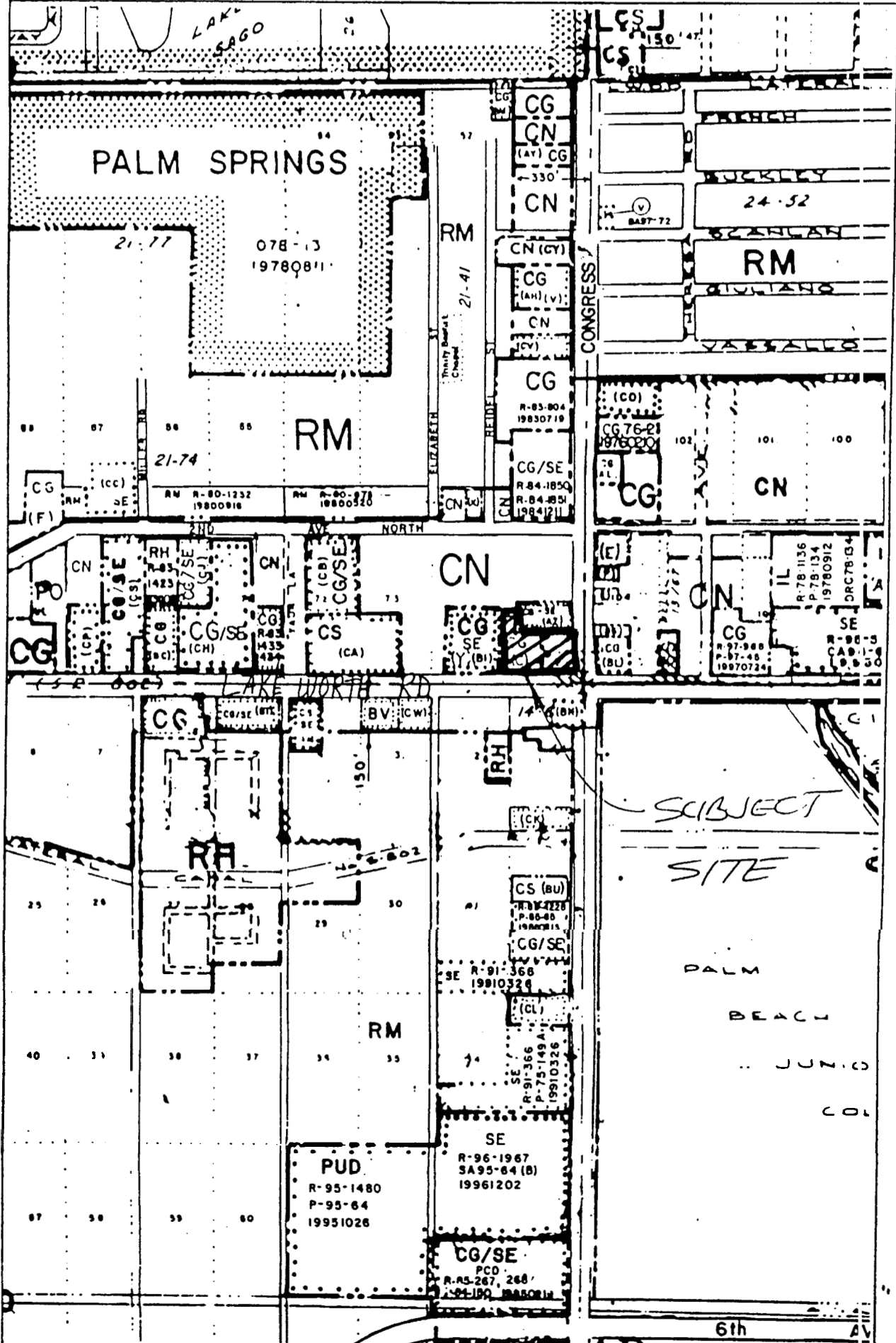
THAT PORTION OF LAND IN "MILLER'S ADDITION" ACCORDING TO PLAT **BOOK** 16, PAGE 16, PALM BEACH COUNTY RECORDS DESCRIBED **AS** FOLLOWS :

BOUNDED ON THE SOUTH BY THE NORTH LINE OF LOT 7 AND THE EAST $33 \frac{1}{3}$ FEET **OF** LOT 6, BLOCK 6; ON THE **WEST** BY THE NORTHERLY EXTENSION OF **A** NORTH-SOUTH LINE $33 \frac{1}{3}$ FEET **WEST** OF THE EAST LINE OF LOT 6, **BLOCK 6**; ON THE NORTH BY THE SOUTH LINE **OF** LOT 20 AND THE EAST $33 \frac{1}{3}$ FEET OF LOT 21, **BLOCK 3**, **AND** ON THE EAST BY THE NORTHERLY EXTENSION OF THE EAST LINE OF LOT 7, BLOCK 6.

SAID PARCELS **OF LAND** CONTAINING 1.7760 ACRES, MORE **OR** LESS.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: **75-144B**

Zoning Quad Page **# 18**

Date: **11/19/97**



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are *shown* in **BOLD** and will **be** carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. The approval granted by Resolution R-76-128, Petition 75-144, shall remain in full force and effect. (MONITORING)
2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated March 4, 1998. 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 CONTROL

1. Similar architectural character and roof treatment shall be provided on all sides of the Convenience store and canopy. (BLDG PERMIT: BLDG-Zoning)

C. BUILDING AND SITE DESIGN

1. The maximum height for all structures, measured from finished grade to highest point, shall be one story and not exceed twenty-five (25) feet. (BLDG PERMIT: BLDG-Zoning)
2. All air conditioning and mechanical equipment 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)

D. CONCURRENCY

1. Prior to final site plan approval by the Development Review Committee (DRC) the petitioner shall revise their concurrency to match the uses and square footages as shown on the approved site plan dated March 4, 1998. (DRC: ZONING)

E. ENGINEERING

1. Prior to **June 1**, 1998 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for
 - a) Lake **Worth** Road, 60 feet from centerline along the projects frontage
 - b) Congress Avenue, **71 1/2** feet from centerline in accordance with Palm Beach County's **expanded** intersection detail

All additional right of way shall be free of all encumbrances and encroachments. Property owner 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 at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

2. Prior to **June 1, 1998** the property owner shall convey a temporary roadway construction easement along Lake Worth Road and Congress Avenue to Palm Beach County. The geometrics for the temporary roadway construction easement shall be in accordance with Palm Beach County's expanded intersection details. Construction within this easements by the applicant 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. (DATE: MONITORING-Eng)

F. LANDSCAPING - STANDARD

1. All perimeter canopy trees required to be planted on site by this approval, shall meet the following minimum standards at 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. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE-Zoning)
2. All palms (except foxtail palms) to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Palm heights: twelve (12) feet clear trunk;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE-Zoning)
3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE-Zoning)

G. LANDSCAPING ALONG LAKE WORTH ROAD AND CONGRESS AVENUE

1. Landscaping and buffering along Lake Worth Road and Congress Avenue shall include:
 - a. minimum fifteen (15) foot wide landscape buffer strip;
 - b. undulating berm having an average height of two (2) feet measured from the top of curb.
 - c. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of frontage with a maximum spacing of one hundred (100) feet on center between clusters;

- e. twenty four **(24)** inch high shrub **or** hedge material spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty-six (36) inches. (CO / ONGOING: LANDSCAPE / CODE ENF - Zoning)

H. 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. (CO/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. (CO: BLDG - Zoning)

I. PARKING

1. **No** overnight parking of any vehicle or trucks shall **be** permitted. (ONGOING: CODE ENF)

J. SIGNS

1. Freestanding point of purchase sign shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twelve feet **(12)** and six **(6)** inches;
 - b. Maximum sign face area per side - 150 square feet;
 - c. Maximum number of signs - **one (1)**; and
 - d. Style - monument style only; and
 - e. Location - southeast corner of the property (CO/BLDG PERMIT: BLDG)
2. Canopy signage shall be limited to the north, east and south sides of the canopy. (CO/BLDG PERMIT: BLDG)
3. Wall signage shall be limited to the east and southwest facade of the Convenience store. (CO/BLDG PERMIT: BLDG)
4. **No** advertising flags, pennants, banners, streamers, balloons, objects, gimmicks **or** similar signs designed to attract the attention of the general public shall be permitted outdoors on any building, vehicle or wall. (ONGOING: CODE ENF -Zoning)

K. USE LIMITATIONS

1. The storage of Rental trucks/trailers **or** outside vendors shall not be permitted **on** the property. (ONGOING: CODE ENF-Zoning)
2. The owner of the gas sales facility shall provide air and water to the public at no charge. (DRC/ONGOING: ZONING/CODE ENF)
3. **Parking of** delivery vehicles **or** trucks shall not **be** permitted **on** site **except** within **the** designated loading space located in the southeast corner of the property. (ONGOING: CODE ENF)

L. 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; 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)