

RESOLUTION NO. R-99- 2257

RESOLUTION APPROVING ZONING PETITION CA99-056
CLASS A CONDITIONAL USE
PETITION OF AMERADA HESS CORPORATION
BY JEFF H. IRAVANI, AGENT
(HESS #09076)

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 CA99-056 was presented to the Board of County Commissioners at a public hearing conducted on December 2, 1999; 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 CA99-056, the petition of Amerada Hess Corporation, by Jeff H. Iravani, agent, for a Class A Conditional Use (CA) to allow a convenience store with gas sales and specialty restaurant in the Community Commercial (CC) 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 December 2, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on December 2, 1999.

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 CA99-056
Project No. 5582-000

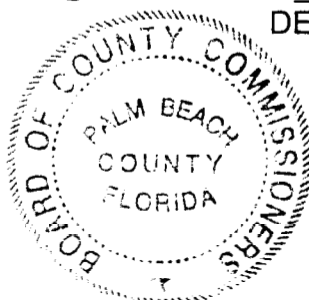


EXHIBIT A

LEGAL DESCRIPTION

A parcel of land in Tract 32, Block 35, of the Palm Beach Farms Co. Plat No. 3, lying in Section 36, Township 44 South, Range 41 East, according to the Plat thereof, as recorded in Plat Book 2, Page 45, of the Public Records of Palm Beach County, Florida being more particularly described as follows:

Commencing at the Southeast corner of said Section 36, thence North 88°33'26" West along the South line of said Section 36, a distance of 222.99 feet to a point on the Westerly right of way line of State Road #7 (US. #441) as shown on the Florida Department of Transportation Right of Way Map for Section 93210-2525; thence North 01°28'04" East, along said right of way line, a distance of 25.00 feet to a point on the South line of said Tract 32, of the Palm Beach Farms Co. Plat No. 3, and the POINT OF BEGINNING; thence North 88°33'26" East, along said South line of Tract 32, a distance of 270.00 feet; thence North 01°28'04" East a distance of 270.00 feet; thence South 88°33'26" East a distance of 270.00 feet, to a point on said Westerly right of way line of State Road #7; thence South 01°28'04" West, along said Westerly right of way line, a distance of 270.00 feet to the POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH

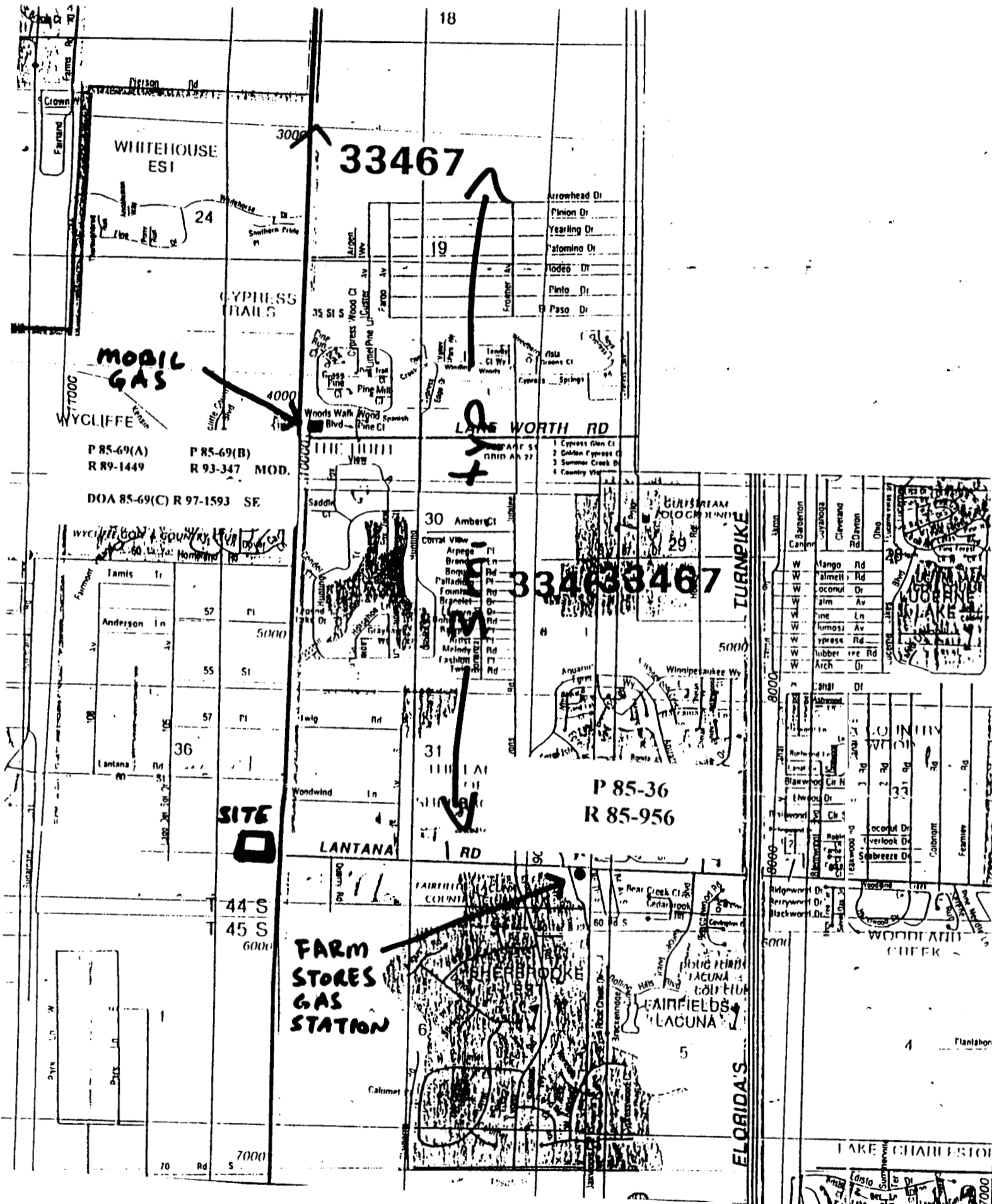


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. 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 September 23, 1999. 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/specialty restaurant building and gas canopy. (BLDG PERMIT: BLDG-Zoning)
2. Prior to final DRC approval of the site plan, the petitioner shall submit revised architectural elevations of all structures to the Zoning Review Section. (BLDG PERMIT: BLDG - Zoning)
3. The gas canopy shall have a pitched roof consistent to the roof treatment of the principal structure. Consistency shall include, but not be limited to roof pitch, roof color and roof materials. (BLDG PERMIT: BLDG - Zoning)

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 3,493 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less and subject to DRC and Traffic Divisions' approval. (DRC/ENG: ZONING)
2. The maximum height for the convenience store/specialty restaurant building, including air conditioning mechanical equipment and satellite dishes, measured from finished grade to the highest point shall be one story and not exceed twenty-five (25) feet. (BLDG PERMIT: BLDG-Zoning)
3. 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)
4. Restroom facilities shall be accessed only from the interior of the building. (BLDG PERMIT: BLDG - Zoning)
5. Gas station canopy 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. 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 lighting fixtures. (BLDG PERMIT: BLDG - Zoning)

D. 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 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)

E. ENGINEERING

1. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF SR 7
 - 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 cutouts within the concrete median of SR 7 load 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 and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the Florida Department of Transportation, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject to approval by the Florida Department of Transportation. (BLDG PERMIT: MONITORING - Eng.)
 - b. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. All 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 or 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. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out area. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out areas. All landscape material shall be installed prior to March 1, 2001. (DATE: MONITORING - Eng)

c. If the County does not assume maintenance responsibility, 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)

2. In order to comply with the mandatory Traffic Performance Standards the Developer shall be restricted to the following phasing schedule:

No Building Permits shall be issued until construction has begun for:

1. Widening of SR 7 as a 6 lane median divided facility from Boynton Beach Boulevard to Lake Worth Road plus the appropriate paved tapers
2. Widening of Lantana Road as a 4 lane median divided facility from SR 7 to Grand Lacuna Boulevard to Lake Worth Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

F. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north and west property lines shall include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. A continuous two (2) foot high berm measured from top of curb;
- c. A minimum six (6) foot high concrete opaque wall to be placed on the plateau of the berm. The location of the wall shall be consistent to the site plan dated September 23, 1999. The total length of this wall shall measure no less than two hundred and eighty (280) feet. The exterior side of the wall shall be given a finished architectural treatment.

2. The following landscaping requirements shall be installed on the exterior side of the required wall:

- a. One (1) canopy tree planted every twenty (20) feet on center;
- b. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; and
- c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

G. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING LANTANA ROAD)

I. Landscaping and buffering along the south property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. A continuous two (2) foot high berm measured from top of curb;
- c. One (1) canopy tree planted every thirty (30) feet on center;
- d. One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and,
- e. Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

H. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING SR7/US 441)

1. Landscaping and buffering along the east property line shall be upgraded to include:

- a. A minimum twenty (20) foot wide landscape buffer strip;
- b. A continuous two (2) foot high berm measured from top of curb;
- c. One (1) canopy tree planted every thirty (30) feet on center;
- d. One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and,
- e. Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, 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. (BUILDING-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)

J. PLANNING

1. Prior to final site plan approval by the Development Review Committee the Planning Division shall ensure that the site plan conforms with the plan presented to the BCC dated September 23, 1999. The notation of a sidewalk along State Road 7 and the placement of pedestrian/vehicular cross access easements to the adjacent west and north parcels shall remain on the site plan. (DRC: PLANNING)

K. SIGNS

1. Freestanding point of purchase sign shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twelve (12) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1);
 - 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 south and east sides of the gas canopy. (CO/BLDG PERMIT: BLDG)
3. Wall signage shall be limited to the east 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)

L. USE LIMITATIONS

1. On-site operation of heavy machinery or refrigerated vehicles shall be prohibited from 7:00 p.m. to 7:00 a.m. daily. (ONGOING: CODE ENF)
2. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF)
3. No overnight parking of trucks and trailers shall be permitted on site. (ONGOING: CODE ENF)
4. The owner of the gas sales facility shall provide air and water to the public at no charge. (DRC/ONGOING: ZONING/CODE ENF)
5. Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space as indicated on the site plan dated September 23, 1999. (ONGOING: CODE ENF)

M. 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)