

RESOLUTION NO. R-2007- 1445

RESOLUTION APPROVING ZONING APPLICATION CA2006-1678
(CONTROL NO. 2006-522)
CLASS A CONDITIONAL USE
APPLICATION OF BP PRODUCTS
BY SIEGEL, LIPMAN, DUNAY, SHEPARD, & MISKEL, AGENT
(BP AT WALLIS AND HAVERHILL)

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 applications relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, 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 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application CA2006-1678 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant 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 2.E (Monitoring) 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 has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use, contingent upon the approval of Small Scale Land Use Amendment SCA 2007-003;
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. 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.
3. 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.

4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. 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.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Application CA2006-1678, the application of BP Products, by Siegel, Lipman, Dunay, Shepard, & Miskel, Agent, for a Class A Conditional Use to allow a convenience store with gas sales and car wash in the General Commercial District with a Conditional Overlay Zone, 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 23, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	- Aye
Jeff Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
District 3 Robert Kajian	- Aye
Mary McCarty	- Absent
Burt Aaronson	- Absent
Jess R. Santamaria	- Aye

The Chairperson thereupon declared that this resolution shall not become effective until Small Scale Land Use Amendment SCA 2007-003 is effective.

Filed with the Clerk of the Board of County Commissioners on 11th day of September 2007.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK FLORIDA



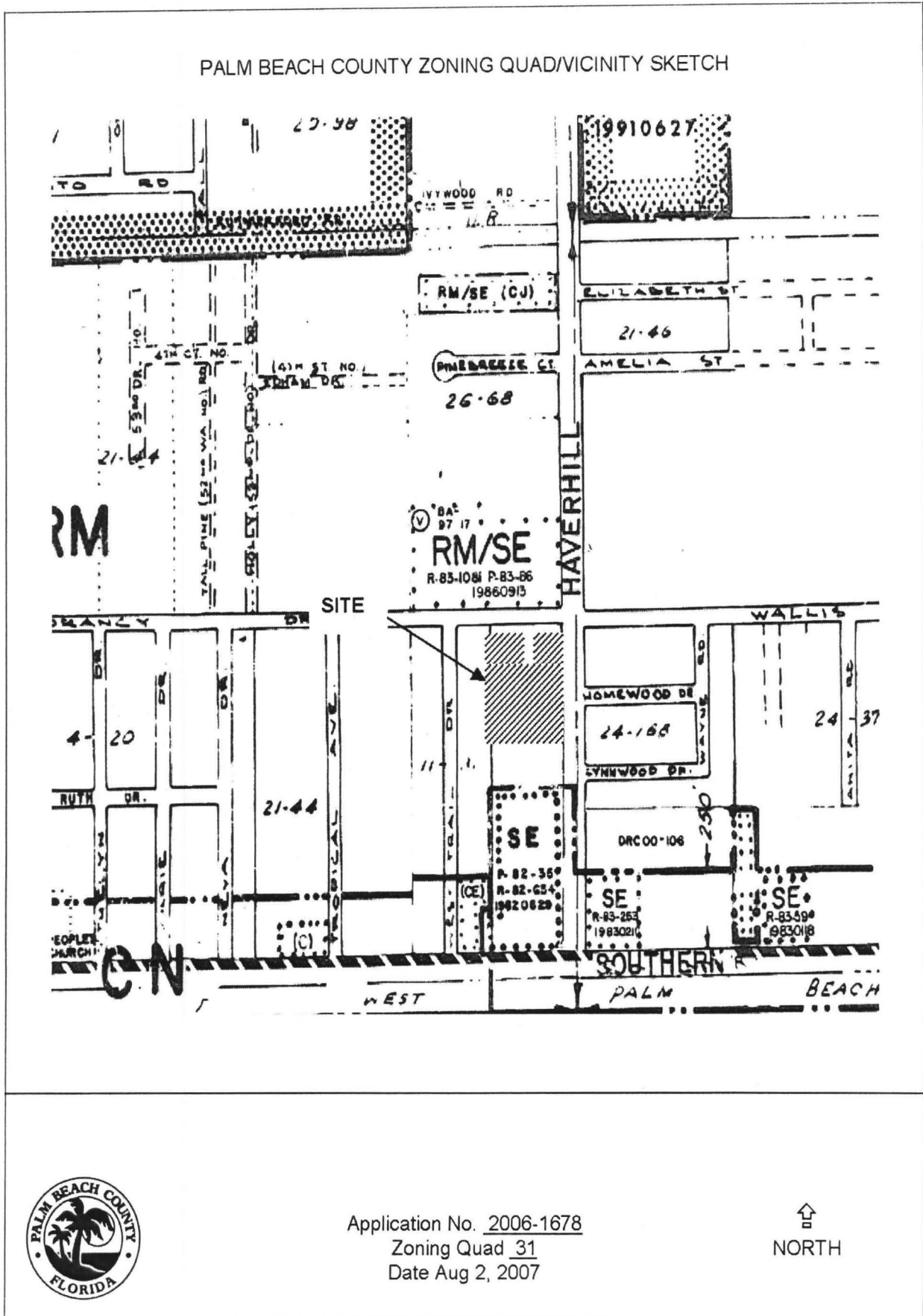
EXHIBIT A

LEGAL DESCRIPTION

THE NORTHERLY 349.24 FEET OF TRACT 49, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 5, PAGE 77, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR SAID COUNTY; LESS MODEL LAND COUNTY SUBDIVISION (LIFT STATION PARCEL) THE WEST 40 FEET OF THE EAST 158.31 FEET OF THE NORTH 100 FEET TO TRACT 49.

ALSO LESS THE FOLLOWING DESCRIBED PARCEL: (O.R.B. 13019, PAGE 92)
A PORTION OF TRACT 49, MODEL LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND PALM BEACH COUNTY DISC IN CUT OUT MARKING THE NORTHEAST CORNER OF THE SOUTHEAST ¼ OF SAID SECTION 35, (SAID POINT BEING THE BASELINE OF SURVEY OF HAVERHILL ROAD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION NO. 93120-2553; THENCE SOUTH 01'22'32" WEST ALONG THE EAST LINE OF THE SOUTHEAST ¼ OF SAID SECTION 35 AND SAID BASELINE OF SURVEY A DISTANCE OF 407.540 METERS (1,337.07 FEET); THENCE SOUTH 88'37'28" WEST ALONG A LINE AT A RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 12.192 METERS (40.00 FEET) TO A POINT ON THE WESTERLY EXISTING RIGHT OF WAY LINE FOR SAID HAVERHILL ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 01'22'32" WEST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 106/579 METERS (349.67 FEET); THENCE NORTH 88'36'46" WEST A DISTANCE OF 11.834 METERS (38.83 FEET); THENCE NORTH 06'57'41" EAST, A DISTANCE OF 10.025 METERS (32.89 FEET) TO A POINT ON A CURVE CONCAVE TO THE WEST HAVING A CHORD BEARING OF NORTH 06'51'08" EAST; THENCE NORTHWESTERLY ALONG SAID CURVE, HAVING A RADIUS OF 1,242.500 METERS (4,076.44 FEET), THROUGH A CENTRAL ANGLE OF 03'00'58", AN ARC DISTANCE OF 65.612 METERS (215.26 FEET) TO THE END OF SAID CURVE; THENCE NORTH 36'57'00" WEST, A DISTANCE OF 16.990 METERS (55.74 FEET) TO A POINT ON THE SOUTHERLY EXISTING RIGHT-OF-WAY LINE FOR WALLIS ROAD; THENCE SOUTH 88'50'30" EAST ALONG SAID SOUTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 24.346 METERS (79.88 FEET) TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH



Application No. 2006-1678
Zoning Quad 31
Date Aug 2, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

CLASS A CONDITIONAL USE

ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved preliminary site plan is dated May 25, 2007. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the convenience store building and gas canopy shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. Gas station canopy design shall be consistent with the following standards:
 - a. A maximum height of twenty-five (25) feet with a pitched roof. Roofs shall be peaked or hip on deck with a minimum slope of 4:12 and a maximum slope of 6:12. The fascia for any canopy may not exceed twenty percent (20%) of the overall roof height;
 - b. The clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
 - c. All lighting for the gas station canopy shall be recessed; and,
 - d. Canopy signage shall be limited to a maximum of one (1) wall sign per right-of-way frontage with a maximum height of eighteen (18) inches. (BLDG PERMIT/CO: BLDG - Zoning)
3. The maximum height for the convenience store including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-six (26) feet. All heights shall be measured from finished grade to highest point. (DRO: ARCH REVIEW - Zoning)

CONVENIENCE STORE WITH GAS SALES

1. Prior to the issuance of a Certificate of Occupancy (CO) for the Convenience Store with Gas sales, the facility shall be equipped with a generator that complies with the following requirements:
 - a. operates essential electrical systems, including A/C systems, for the gross interior floor area of the building;
 - b. an above ground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
 - c. setback in accordance with the Property Development Regulations for a (Recreation or Civic) Pod in accordance with ULDC Table 3.E.2.D-16;

- d. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
- e. subject to review and approval by the Building Division; and,
- f. deviation from these requirements and/or required building size shall be permitted if consistent with future ULDC regulations (CO: MONITORING - Zoning)

HEALTH

1. Prior to the issuance of the certificate of occupancy, the property owner shall install the Healy Phase II EVR system with back-end clean air separator combined with a veeder Root diagnostic system as outlined in the February 23, 2007 agreement letter submitted to the Palm Beach County Health Department.

USE LIMITATIONS

1. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be modified to indicate the total number of gasoline pumps limited to a maximum of eight (8) pumps/ sixteen (16) fueling positions. No further expansion is permitted except subject to BCC approval. (DRO: ZONING - Zoning)
3. Hours of operations for the car wash shall be limited from 6 a.m. to 11 p.m. daily. (ONGOING: CODE ENF- Zoning)

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 Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Type II Variance,

Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Board of County Commissioners decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)