

RESOLUTION APPROVING ZONING APPLICATION CA-2009-00979
(CONTROL NO. 2009-01842)
CLASS A CONDITIONAL USE
APPLICATION OF HEFAZ ENTERPRISE INC
BY JON E SCHMIDT & ASSOCIATES, AGENT
(TEXACO GAS 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, 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 CA-2009-00979 was presented to the Board of County Commissioners at a public hearing conducted on August 27, 2009; 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.
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 CA-2009-00979, the application of Hefaz Enterprise Inc, by Jon E Schmidt & Associates, agent, for a Class A Conditional Use to allow a Convenience Store with Gas Sales and an Accessory Car Wash. in the CG 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 27, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burt Aaronson 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:

Commissioner John F. Koons, Chairman	—	Aye
Commissioner Burt Aaronson, Vice Chairman	—	
Commissioner Karen T. Marcus	—	Aye
Commissioner Shelley Vana	—	Aye
Commissioner Steven L. Abrams	—	Aye
Commissioner Jess R. Santamaria	—	Aye
Commissioner Priscilla A. Taylor	—	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 27, 2009.

Filed with the Clerk of the Board of County Commissioners on September 10, 2009.

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



EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION:

A PORTION OF TRACTS 127 AND 128, BLOCK 23, PALM BEACH FARMS COMPANY, PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TOGETHER WITH A PORTION OF THE "NOT INCLUDED" PARCEL LYING SOUTH OF LOT 1, BLOCK 9, PALM BEACH NATIONAL GOLF AND COUNTRY CLUB ESTATES, PLAT NO. 3A, RECORDED IN PLAT BOOK 27, PAGE 205, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 9; THENCE S.00°00'42"W. (AS A BASIS OF BEARING) ALONG THE SOUTHERLY PROLONGATION OF THE EAST LINE OF SAID LOT 1 AND THE WESTERLY RIGHT-OF-WAY LINE OF PINEHURST DRIVE (AN 80 FOOT WIDE RIGHT-OF-WAY), A DISTANCE OF 194.71 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.00°00'42"W., A DISTANCE OF 116.02 FEET; THENCE S.45°00'48"W., A DISTANCE OF 42.41 FEET TO THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD (STATE ROAD NO. 809) AS DESCRIBED IN OFFICIAL RECORD BOOK 2584, PAGE 781, PARCEL 85, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.90°00'00"W. ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 195.01 FEET; THENCE N.00°00'42"E. ALONG A LINE PARALLEL WITH AND 225.00 FEET WEST OF SAID WEST RIGHT-OF-WAY LINE OF PINEHURST DRIVE, A DISTANCE OF 146.00 FEET; THENCE N.90°00'00"E., A DISTANCE OF 225.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.744 ACRES OR 32,400 SQUARE FEET.

EXHIBIT B
VICINITY SKETCH

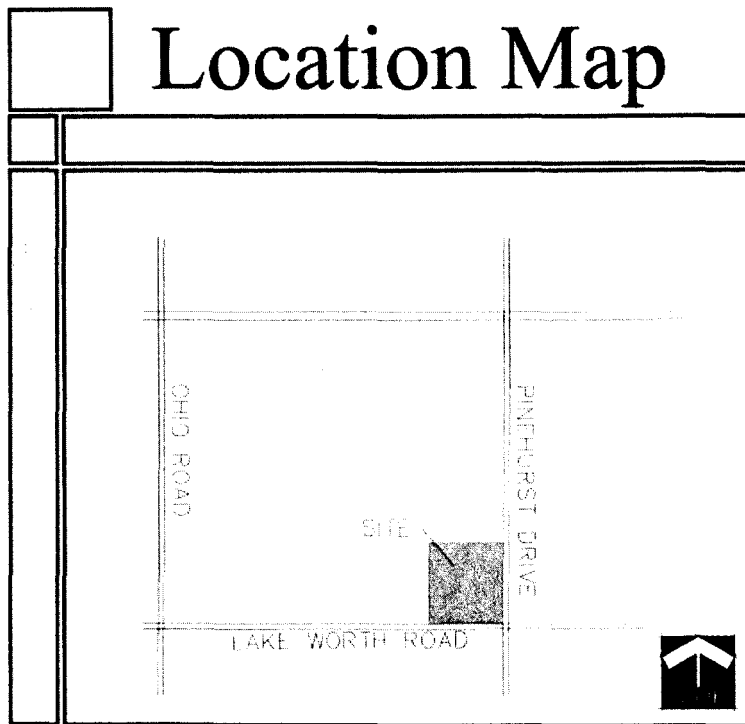


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The approved Site Plan is dated May 22, 2009. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1.At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all structures 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.The Gas Station Canopy shall be designed to be consistent with the following standards:

- a. A maximum height of twenty eight (28) feet to the highest point. The roof shall be entirely pitched with a slope no less than 3:12. No flat roofs shall be permitted.
- b. The clearance under the canopy shall be a maximum of eighteen (18) feet, measured from the finish grade to the underside of the canopy,
- c. Lighting for the canopy shall be flush mounted or recessed. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

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

a.No building permits for the site shall be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2.E of the Unified Land Development Code. (DATE: MONITORING - Eng)

2.The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 64 feet of right of way from centerline of Lake Worth Road prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear 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, including a topographic survey. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer additional right of way for Expanded Intersections and corner clips. (BLDG PERMIT: MONITORING -Eng)

3.The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 43 feet of right of way from centerline of Pinehurst Drive prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear 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, including a topographic survey. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer additional right of way for

Expanded Intersections and corner clips. (BLDG PERMIT: MONITORING -Eng)

4. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING -Eng)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

2. The maximum illumination at the property line shall not exceed zero (0). Illumination levels shall be measured in foot-candles with a direct-reading, calibrated, portable light meter. The light meter shall be placed not more than six inches above grade level. (ONGOING: CODE ENF - Zoning)

PLANNING

1. Prior to final Development Review Officer (DRO) approval of the final site plan the property owner shall record a cross access easement from the subject property to the North and West, in locations acceptable to the Planning Division, the Traffic Division and in a form acceptable to the County Attorney. (DRO: PLANNING-Planning/County Attorney)

2. Prior to the issuance of the Certificate of Occupancy, the property owner shall pave the property to the edge of the northern property line and to the edge of the western property line at the locations shown on the certified site plan. (CO: MONITORING-Planning)

SIGNS

1. Freestanding Signs along Pinehurst Drive frontage shall be limited to the following:

- a. maximum sign height, measured from finished grade to highest point ten (10) feet;
- b. maximum sign face area per side - one hundred and twenty (120) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only. (BLDG PERMIT: BLDG Zoning)

2. Freestanding Signs fronting Lake Worth Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point fifteen (15) feet;
- b. maximum sign face area per side - one hundred and twenty (120) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only. (BLDG PERMIT: BLDG Zoning)

SITE DESIGN

1. Prior to final Development Review Officer (DRO) approval of the final site plan the site plan shall be amended to include a type-D curb:

- a. Beginning at the south west corner of the parcel;
- b. ending in a minimum three (3) foot radius; and
- c. connecting to the future cross-access in the northwest corner of the site

Should the adjoining property to the west provide a landscape buffer consistent with the requirements of the ULDC, the curbing may be removed. (DRO: ZONING - Zoning)

USE LIMITATIONS - CONVENIENCE STORE

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to indicate facilities for the provision of free air and water for customer convenience. (DRO: ZONING - Zoning)

USE LIMITATIONS - RETAIL

1. Outdoor retail business activities shall not be allowed on the property, excluding deliveries and petroleum sales only. (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 the Code Enforcement Special Master 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)