

RESOLUTION NO. R-2009- 2085

RESOLUTION APPROVING ZONING APPLICATION DOA/CA-2008-01358
(CONTROL NO. 1999-00029)
Development Order Amendment
APPLICATION OF BDG Delray LLC
BY Jon E Schmidt & Associates, AGENT
(Stop and Shop)

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 notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application DOA/CA-2008-01358 was presented to the Board of County Commissioners at a public hearing conducted on December 8, 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 recommendation of the Zoning Commission; and

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment.

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 DOA/CA-2008-01358, the petition of BDG Delray LLC, by Jon E Schmidt & Associates, agent, for a Development Order Amendment to add square footage, reconfigure site plan and to modify and delete conditions of approval in the AGR 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 8, 2009, 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 Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair - Aye

Commissioner Karen T. Marcus, Vice Chair	-	Aye
Commissioner Jeff Koons	-	Absent
Commissioner Shelley Vana	-	
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 December 8, 2009.

Filed with the Clerk of the Board of County Commissioners on December 9, 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

The North 420.00 feet of the West 477.80 feet of Tract 1, Block 67 of THE PALM BEACH FARMS COMPANY PLAT NO. 3, as recorded in Plat Book 2, Page 45 to 54 inclusive, Palm Beach County Records.

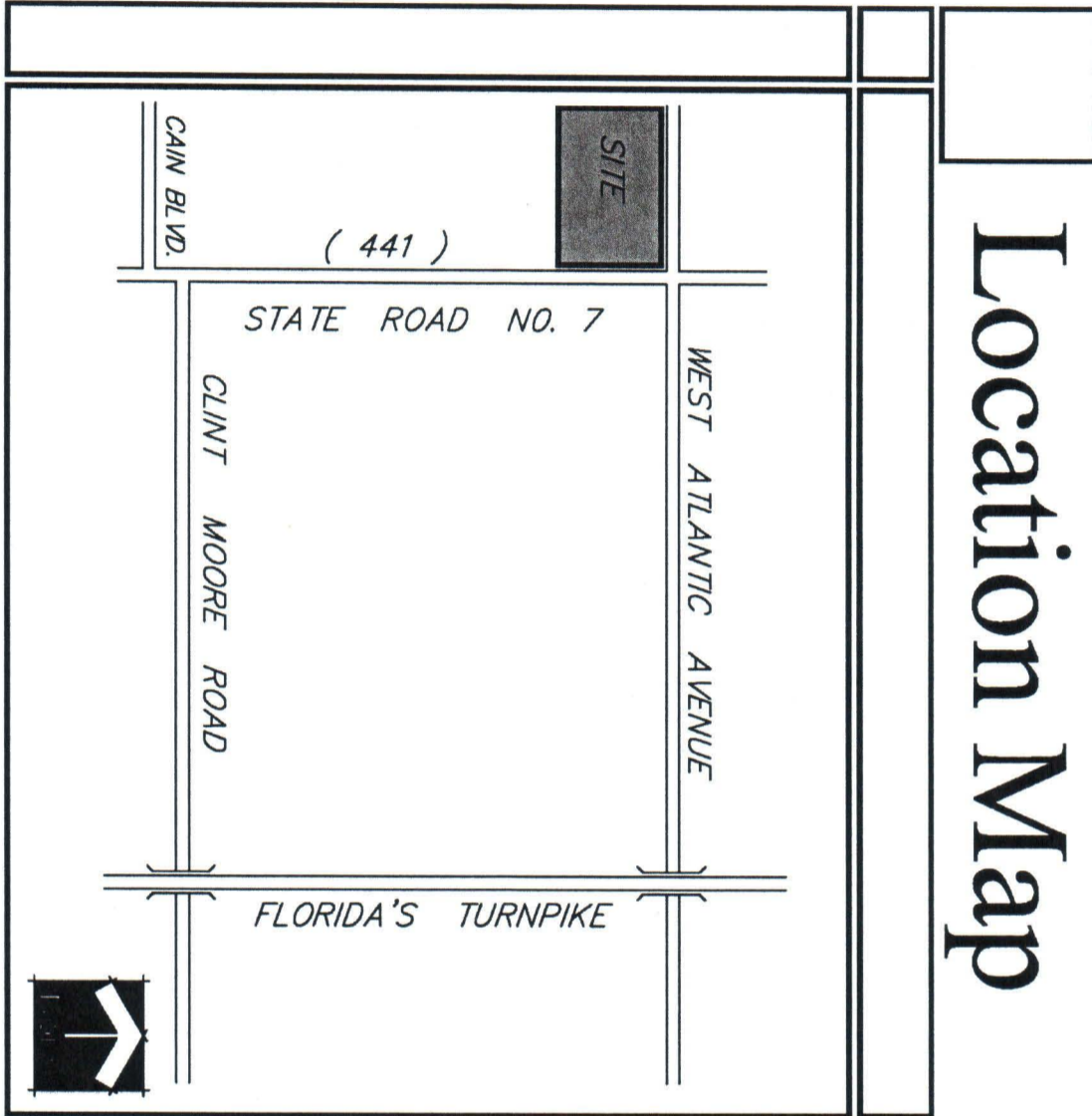
TOGETHER WITH:

A portion of Tract 1, Block 67 of THE PALM BEACH FARMS COMPANY PLAT NO. 3, according to the plat thereof, as recorded in Plat Book 2, Page 45 of the Public Records of Palm Beach County, Florida, lying in Section 24, Township 46 South, Range 41 East, Palm Beach County, Florida, being more particularly described as follows:

Commence at a found Palm Beach County Brass Cap marking the Northwest corner of Section 19, Township 46 South, Range 42 East; thence South 88°44'06" West along the North line of said Section 24, a distance of 6.77 feet to a point on the Baseline of Survey for State Road 7 (U.S. 441) as shown on the Florida Department of Transportation Right of Way Map for Section 93210-2515; thence South 00°18'44" East along said Baseline of survey, a distance of 2.58 feet; thence South 00°39'54" East continuing along said Baseline of Survey, a distance of 57.24 feet; thence South 89°20'06" West at right angles to the last described course a distance of 235.08 feet to a point on the Westerly Existing Right of Way line for said State Road 7 (U.S. 441); as shown on the Florida Department of Transportation Right of Way Map for Section 93210-2515 and the POINT OF BEGINNING; thence South 00°34'56" East along said Westerly Existing Right of Way line, a distance of 420.01 feet; thence South 89°06'45" West, a distance 51.42 feet; thence North 00°47'54" West, a distance of 420.01 feet; thence North 89°06'45" East along the North line of said Tract 1, a distance of 53.00 feet to the POINT OF BEGINNING.

Containing 2.0680± hectares (5.1103± acres), more or less.

EXHIBIT B
VICINITY SKETCH



Location Map

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-2256 (Control 1999-029.3), R-2006-1536 (Control 1999-029), R-2004-0517 (Control 1999-029) and R-2000-120 (Control 1999-029) have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous All Petitions Condition 1 of Resolution R-2000 120 (Control No. 1999 - 029), which currently states:

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 January 26, 2000. 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 3)

Is hereby amended to read:

The approved site plan is dated July 14, 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. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG - Zoning) (Previous condition B1 of Resolution R-2008-2256, Control No. 2000-120)

2. Condition B.2 of Resolution R-2000-120, Petition 1999-29, which currently states:

The proposed buildings and gas station canopies shall be designed and constructed to be consistent with the architectural elevations by Kenneth Carlson, Architect, P.A. dated January 7, 2000. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings 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)

3. Gas station canopies shall be designed consistent with the following standards:

- a. A pitched roof with a minimum slope of 5:12;
- b. Maximum height of twenty-five (25) feet from finished grade to top of the roof;
- c. The clearance of each canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- d. Lighting for the canopies shall be flush mounted or recessed; and,
- e. No canopy signage shall be permitted.

All canopy heights shall include air conditioning and mechanical equipment and satellite dishes and be measured from finished grade to the highest point. (BLDG PERMIT: BLDG

- Zoning) (Previous condition B3 of Resolution R-2008-2256, Control No. 2000-120)

4.All proposed canopies shall have a pitched roof which are consistent to the roof treatment with the principal structures. Consistency shall include, but not limited to, roof pitch, roof color and roof materials. (BLDG PERMIT: BLDG - Zoning) (Previous condition B4 of Resolution R-2008-2256, Control No. 2000-120)

ENGINEERING

1.Previous Engineering Condition 1 of Resolution R-2008-2256, Control No. 2000-120, which currently states: The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 40 foot corner clip at the intersection of West Atlantic Ave & SR 7. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 25 foot corner clip at the intersection of West Atlantic Ave & SR 7 prior to issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

2.Previous condition E2 of Resolution R-2008-2256, Control No. 1999-029, which currently states:

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

a. Building permits for no more than 3,000 sf of C-Store and a Gas Station with 9 FP (the equivalent of 73 AM peak hour trips shall be issued until construction commences on Atlantic Avenue from Lyons Road to Florida Trunpike as a 4-lane section. (BLDG Permit: Monitoring - Eng)

b. No building permits for the site shall be issued after December 31, 2011. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study which complies with the 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 Development Code.

(DATE: MONITORING - Eng)

Is hereby amended to read:

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

a. Building Permits for no more than 3,000 sf of C-Store and a Gas Station with 8 FP (the equivalent of 73 PM peak hour trips) shall be issued until construction commences on Atlantic Ave from Lyons Rd to Florida Turnpike as a 4-lane section. (BLDG PERMIT: MONITORING-Eng)

b.No building permits for the site shall be issued after December 31, 2014. 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)

3.The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if 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 Section 5.8 of the Unified Land Development Code. (ONGOING: ENGINEERING-Eng) (Previous condition E3 of Resolution R-2008-2256, Control No. 2000-120)

4.LANDSCAPE WITHIN MEDIAN OF STATE ROAD 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 landscape the adjacent median of SR 7 right-of-way. 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, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standard may be allowed subject to approval by the County Engineer. (ONGOING:ENGINEERING - Eng)

b. All required median landscaping, including an irrigation system if required, shall be installed at the property owner's expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or as signs 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 approval by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owners Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in or to maintain healthy plant material. All landscape material shall be installed prior February 1, 2001. (DATE: MONITORING-Eng)

c. If the County does not assume maintenance responsibility, the 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) (Previous condition E4 of Resolution R-2008-2256, Control No. 2000-120) [NOTE: COMPLETED]

5. The Property owner shall construct:

- i. A directional median opening on West Atlantic Avenue at the project's western entrance, allowing for right-in, right-out, and left-in movements.
- ii. A left turn lane east approach on West Atlantic Avenue at the project's western entrance. This turn lane should be 280 feet in length plus 50 feet of taper, or as approved by the County Engineer.
- iii. A right turn lane, of a length as approved by the FDOT, north approach, on SR-7 at project entrance.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required by the Palm Beach County for construction in 5.i and 5.ii and by the FDOT for 5.iii shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING -Eng).

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING - Eng)

6. Prior to the issuance of the first building permit, the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on SR7 at the project's entrance. This right of way shall be

a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as otherwise approved by the Florida Department of Transportation and the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate, as determined by the County Engineer. 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng)

7. 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)

8. Prior to final approval of the Site Plan by the Development Review Officer, the Property owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels. The project's stormwater management system shall be designed to address any historical drainage. The property owner shall provide drainage easements, as required, to accommodate offsite drainage. (DRO: ENGINEERING-Eng)

9. Previous Engineering Condition 2 of Resolution R-2000-0120, Control 1999-029 which currently states:

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

Building Permits for only the 12 fueling position gas station & 936 square feet of convenience store (1022 ext trips/day) shall be issued until construction has begun for:
a. SR 7 as a 6 lane section from West Atlantic Ave to Clint Moore Road (BLDG PERMIT: MONITORING-Eng)

Is hereby deleted. [REASON: Amended by Engineering Condition 2]

10. Prior to Final DRO approval, the Property Owner shall revise the site plan to be consistent with the traffic study submitted on 9/16/2009 or provide documentation that the site meets TPS for the uses and quantities shown on the plan. (DRO: ENGINEERING-Eng)

HEALTH

1. Health Condition D.1 of Resolution R-2000-120, Control 1999-029 which currently states:

Application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 64E-6 FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Health Department prior to the final site plan approval. (DRO: HEALTH)

Is hereby deleted. [REASON: No longer applicable]

2. Health Condition D.2 of Resolution R-2000-120, Control 1999-029 which currently states:

Application and engineering plans to construct a non-community well in accordance with Rule 62-555FAC and Palm Beach County ECR-II must be submitted to the Palm Beach County Health Department prior to final site plan approval. (DRO: HEALTH)

Is hereby deleted. [REASON: No longer applicable]

LANDSCAPE - GENERAL

1. Prior to the issuance of a building permit, the property owner shall submit a

Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2.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. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Landscape Condition F.1 of Resolution R-2000-120 (Control No. 1999-029)

3.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. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Landscape Condition F.1 of Resolution R-2000-120 (Control No. 1999-029)

4.A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Landscape Condition F.1 of Resolution R-2000-120 Control No. 1999-029)

LANDSCAPE - INTERIOR

5.Previous Landscape Condition J.1 of Resolution R-2000-120 Control No. 1999-029), which currently states:

A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)

Is hereby deleted [Reason: Code Requirement]

6.Previous Landscape Condition J.2 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Landscaping shall be provided in the open space area west of the western vehicular driveway and south of the loading/oversized vehicle parking and shall include the following:

- a. A minimum of eleven (11) canopy trees with a maximum spacing of thirty (30) feet on center;
- b. A minimum of nine (9) palms, in groups of three (3). (CO: LANDSCAPE)

Is hereby deleted [Reason: No longer applicable]

7.Previous Landscape Condition J.3 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Foundation planting or grade level planters shall be provided along the front and side facades of all structures (excluding area under canopy) to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet;
- b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO:

ZONING/ LANDSCAPE)

Is hereby deleted [Reason: Code Requirement]

8.Previous Landscape Condition J.4 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Landscaping shall be provided in the area west of the Convenience store and shall include the following:

- a. The minimum planting area shall be fifteen (15) feet in width sixty (60) feet in length;
- b. A minimum of three (3) canopy trees with a maximum spacing of thirty (30) feet;
- c. A minimum of six (6) palms, in groups of three (3);
- d. Appropriate ground cover shall also be installed in the entire planting area. (CO: LANDSCAPE)

Is hereby deleted [Reason: No longer applicable]

9.Landscaping shall be provided in the area on both sides of the access driveway adjacent to SR7/US441 and shall include the following on each side:

- a. A minimum of two (2) canopy trees with a maximum spacing of thirty (30) feet;
- b. A minimum of three (3) palms. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition J.5 of Resolution R-2000-120, Control No. 1999-029)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING SR7/US441 AND WEST ATLANTIC AVENUE)

10.Previous Landscape Condition G.1 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Landscaping and buffering along the north and east property lines shall be upgraded to include:

- a. A minimum thirty (30)foot wide landscape buffer strip(except in area where air, water, vacuum stations are located);
- b. A minimum three (3) foot high continuous berm measured from the finished grade to top of berm;
- c. One (1) canopy tree planted every thirty (30) feet on center;
- d. One (1) palm or pinetree for each thirty (30)linear feet off rontage, with a maximum spacing of sixty (60) feet between clusters; and,
- e. Twenty four (24) inch high shrub or hedge material shall be spaced no moret han twenty four (24) inches on center and maintained at thirtysix (36) inches high. A minimum of 40 % of the above shrub or hedge materials shall be planted on the plateau of the berm. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to code requirements, landscaping and buffering along the north and east property lines shall be upgraded to include:

- a. a minimum 20 foot wide landscape buffer with no easement encroachment or width reduction;
- b. quantity of native canopy trees shal be one tree for each 20 lineal feet;
- c. minimum 2-3 foot high undulating berm, with an average height of 2-1/2 feet measured from the finished grade to top of curb;
- d. one (1) palm or pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters and the clusters shall be in groups of no less than 5 trees; and,
- e. saw palmettos shall be utilized to meet the large shrub requirements. (BLDG PERMIT: LANDSCAPE-Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH PROPERTY LINE
(ABUTTING PROPANE GAS SALES)

11. Previous Landscape Condition H.1 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

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

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) canopy tree planted every thirty (30) feet on center;
- c. One (1) pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and,
- d. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at seventy two (72) inches high. (CO: LANDSCAPE)

Is hereby amended to read:

In addition to code requirements, landscaping and buffering along the south property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters and the clusters shall be in groups of no less than 5 trees; and
- c. Saw palmettos shall be utilized to meet the shrub requirement. (CO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE
(ABUTTING POST OFFICE)

12. Previous Landscape Condition I.1 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Landscaping and buffering along the west property line shall include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) canopy tree planted every thirty (30) feet on center;
- c. One (1) pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and
- d. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at seventy two (72) inches high. (CO: LANDSCAPE)

Is hereby amended to read:

In addition to code requirements, landscaping and buffering along the west property line shall include:

- a. A minimum fifteen (15) foot wide landscape buffer strip;
- b. One (1) pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters and the clusters shall be in groups of no less than 5 trees; and
- c. Saw palmettos shall be utilized to meet the shrub requirement. (BLDG PERMIT: LANDSCAPE - Zoning)

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) (Previous Lighting Condition K.1 of Resolution R-2000-120, Control No. 1999-029)

2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured

from finished grade to highest point. (BUILDING: ZONING-Zoning) (Previous Lighting Condition K.2 of Resolution R-2000-120 Control No. 1999-029)

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 - Zoning) (Previous Lighting Condition K.3 of Resolution R-2000-120 Control No. 1999-029)

PALM TRAN

1.Prior to issuance of the first Building Permit, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (BLDG PERMIT: MONITORING/Palm Tran)

SIGNS

1.Previous Signs Condition L.1 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Freestanding point of purchase sign shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point ten (10) 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- intersection of SR7/US441 and Atlantic Avenue. (CO/BLDG PERMIT: BLDG)

Is hereby amended to read:

1. Freestanding signs 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 150 sq ft for SR7/441; 100 sq ft for Atlantic Avenue;
 - c. Maximum number of signs two (2) along SR7/441, and one (1) along Atlantic Avenue;
 - d. Style monument style only; and,.
 - e. Location one sign at the intersection of SR7/US441 and Atlantic Avenue, the second sign at the ingress/egress point on Atlantic Avenue; and the 3rd sign at the ingress/egress on SR 7/441.(CO/BLDG PERMIT: BLDG-Zoning)

2.Previous Signs Condition L.2 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Wall signage shall not be permitted on the south and west facades of the Convenience store and the Pool Hall/Office building. (CO/BLDG PERMIT: BLDG-Zoning)

Is hereby amended to read:

Wall signage shall not be permitted on the south and west facades of all structures. (CO/BLDG PERMIT: BLDG - Zoning)

3.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) (Previous Signs Condition L.3 of Resolution R-2000-120, Control No. 1999-029)

4.No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING) (Previous Signs Condition L.2 of Resolution R-2000-120, Control No. 1999-029)

SITE DESIGN

1.Previous Building and Site Design Condition 1 of Resolution R-2000-120 (Control No. 1999-029), which currently states:

Total gross floor area shall be limited to a maximum of 7,000 square feet with the following breakdown:

- a. convenience store with gas sales - 3,000 square feet;
- b. office - 2,500 square feet; and
- c. pool hall -1,500 square feet. (DRC: ZONING)

Is hereby amended to read:

Total gross floor area shall be limited to a maximum of 7,980 square feet with the following breakdown:

- a. Convenience Store with Gas Sales: 5,000 square feet (6 pumps w/ 12 fueling stations);
- b. Office, Business or Professional: 2,012 square feet; and,
- c. Accessory Car Wash: 968 square feet.

Prior to final approval by the Development Review Officer (DRO), the owner shall revise the final site plan to reflect a total square footage of not more than 7,980 square feet. (DRO: ZONING - Zoning)

2.The maximum height for all structures(except for the gas canopies), 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) (Previous Building and Site Design Condition 2 of Resolution R-2000-120, Control No. 1999-029)

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) (Previous Building and Site Design Condition 3 of Resolution R-2000-120 Control No. 1999-029)

4.Restroom facilities shall be accessed only from the interior of the building. (BLDG PERMIT: BLDG - Zoning) (Previous Building and Site Design Condition 4 of Resolution R-2000-120, Control No. 1999-029)

5.Previous Building and Site Design Condition 5 of Resolution R-2000-120, Control No. 1999-029), which currently states:

A non-mountable curb shall be provided along the non-vehicular use area of the entire site as indicated on site plan dated January 26, 2000. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted [Reason: Code Requirement]

6.Prior to Final Site plan approval, the petitioner shall revise the site plan to reflect the following:

- a. Provide a minimum five (5) foot wide median excluding curbs with planting at the access point along SR7IUS441. (DRC: ZONING) (Previous Building and Site Design Condition 6 of Resolution R-2000-120, Control No. 1999-029),

7.Condition 2 of Resolution R-2004-517, Control 1999-029 which currently states:

Prior to the issuance of a building permit, the property owner shall have a new site plan approved by the Development Review Officer (DRO) which complies with the Unified Land Development Code. (BLDG PERMIT: MONITORING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

USE LIMITATIONS

1.Repair or maintenance of vehicles shall not be permitted on site. (ONGOING:CODE ENF - Zoning) (Previous Use Limitations Condition M.1 of Resolution R-2000-120, Control No. 1999-029))

2.No overnight parking of trucks and trailers shall be permitted on site. (ONGOING:CODE ENF - Zoning) (Previous Use Limitations Condition M.2 of Resolution R-2000-120 (Control No. 1999-029))

3.The owner of the gas sales facility shall provide air and water to the public at no charge. (DRC/ONGOING: ZONING/CODE ENF - Zoning) (Previous Use Limitations Condition M.3 of Resolution R-2000-120, Control No. 1999-029)

4.Previous Use Limitations Condition M.4 of Resolution R-2000-120 (Control No. 1999-029)), which currently states:

Parking of oversized vehicles or trucks shall not be permitted on site except within the designated spaces as indicated on the site plan dated November 23,1999. (ONGOING: CODE ENF - Zoning)

Is hereby deleted [Reason: No longer applicable]

5.Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition M.5 of Resolution R-2000-120, Control No. 1999-029)

6.Outdoor retail activities or vendors shall not be allowed on site. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition M.6 of Resolution R-2000-120, Control No. 1999-029)

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)