

RESOLUTION NO. R-2010-0439

RESOLUTION APPROVING RECOMMENDATION OF  
STATUS REPORT NO. STR-1988-0094-1  
TO APPROVE A CONDITIONAL USE "A" TO ALLOW A CONVENIENCE STORE WITH  
GAS SALES AND AN ACCESSORY CAR WASH  
FOR PROPERTY PREVIOUSLY REZONED BY  
RESOLUTION NO. R-2006-1187  
CONTROL NO. 1988-0094  
APPLICATION NO. PDD/R-2005-01122  
THE APPLICATION OF Amoco Oil

WHEREAS, the Board of County Commissioners, as the governing body, 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, systematic monitoring and review of approved zoning actions help implement the goals and objectives of the Comprehensive Plan; and

WHEREAS, the notice and hearing requirements as provided for in Article 2.E. of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, pursuant to Article 2.E., Status Report **STR-1988-0094-1** was presented to the Board of County Commissioners of Palm Beach County at a public hearing conducted on March 31, 2010; and

WHEREAS, the Board of County Commissioners has reviewed Status Report STR-1988-0094-1 and considered testimony, and the recommendations of the various county review agencies; and

WHEREAS, Article 2.E. of the Palm Beach County Land Development Code authorizes the Board of County Commissioners to approve a zoning map amendment; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. Development has not commenced for the site as required by Article 2.E, Monitoring, of the ULDC;
2. The existing business on the site does not conform to the requirements of the Zoning District approved by R-2006-1187;
3. The property owner wishes to use the existing business and requested that the rezoning approved by R-2006-1187 and R-2006-1188 be revoked and the property rezoned to allow the current use;
4. The Palm Beach County Unified Land Development Code (ULDC) allows the BCC to "adopt a resolution which will rezone the property to an appropriate zoning district;"
5. The appropriate Zoning District to allow the current use is Commercial High (CG) with a Conditional Use A to allow a convenience store with gas sales and an accessory automatic car wash;
6. The site was developed in conformance with the conditions of previously approved Resolution R-89-709 which approved a Special Exception to permit a Planned Commercial Development including an Auto Service Station (no major repairs) and a Car Wash; and
7. The adoption of the conditions from Resolution R-89-709 as part of this resolution will insure that the site will remain in compliance with the previous conditions of approval.

WHEREAS, Section 5.3 of the 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 the recommendation of Status Report No. STR-1988-0094-1, to approve a Conditional Use A for property previously rezoned by the approval of the application of Amoco Oil, Control No. 1988-0094, confirmed by the adoption of Resolution R-2006-1187, which approved a rezoning to Multiple Use Planned Development (MUPD) in the Commercial High Land Use, on property legally described as PARCEL 1:  
THE SOUTH 90.02 FEET OF TRACT B, AND THE NORTH 72.50 FEET OF TRACT C, BLOCT 65, OF THE PALM BEACH FARMS COMPANY PLAT NO. 7 OF SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST, ACCORDING TO THE PLAT FILED WITH THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA IN PLAT BOOK 5, PAGE 72, ALL LYING SOUTH OF THE SOUTH RIGHT-OF-WAY LINE OF 6<sup>th</sup> AVENUE SOUTH AND WEST OF THE WEST RIGHT-OF-WAY LINE OF SR 807 (CONGRESS AVENUE). AS RECORDED IN OFFICIAL RECORDS BOOK 4269. PAGE 499 (NORTH 1' OF PARCEL 1) AND OFFICIAL RECORDS BOOK 6093. PAGE 476 (NORTH 17.5 FEET, THE EAST 4 FEET, AND THE CORNER CLIP)

PARCEL 2:

THE POINT OF BEGINNING BEING 3.5 FEET NORTH OF THE LINE BETWEEN TRACTS "C" AND "D", BLOCK 65, PALM BEACH FARMS COMPANY PLAT NO. 7, SECTION 30, TOWNSHIP 44 SOUTH, RANGE 43 EAST; THENCE WESTERLY A DISTANCE OF 107.4 FEET TO A POINT; THENCE SOUTHWESTERLY AT AN ANGLE MEASURED FROM WEST TO SOUTHWEST OF 41 DEGREES 26' FOR A DISTANCE OF 56.35 FEET TO A POINT; THENCE WESTERLY A DISTANCE OF 157.75 FEET TO A POINT ON THE WEST LINE OF TRACT 'D' AFORESAID; THENCE NORTHERLY ALONG THE WEST LINE OF TRACTS "D" AND "C", AFORESAID, FOR A DISTANCE OF 97.29 FEET TO A POINT; THENCE EASTERLY A DISTANCE OF 307.4 FEET TO A POINT ON THE EAST LINE OF TRACT "C", AFORESAID, THENCE SOUTHERLY ALONG EAST LINE OF TRACT "C", A DISTANCE OF 60 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT LAND DESCRIBED IN RIGHT-OF WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 6093, PAGE 463 (THE EAST 4.00 FEET THEREOF.)

being located on the Southwest corner of Congress Avenue and 6th Avenue South, is approved subject to the following conditions:

1. Prior to certification, the site plan shall be amended to indicate the following:
  - a. The required perimeter landscape strip along the entire west property line.
  - b. The required perimeter landscape strip along the entire south property line.
  - c. Relocation of all non-landscape items out of required landscape areas.
2. The site plan shall be amended to indicate that the western 82 feet of the property is to remain undeveloped and shall be subject to future review by the Board of County Commissioners.
- 2a. The approved site plan for this site is Exhibit 20, dated October 26, 1988. 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. (DRO: ZONING – Zoning)
- 2b. Prior to issuance of the first building permit for a new structure on this site, 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)
3. The application and engineering plans, calculations, etc. to construct well and/or septic tank must be submitted to the Health Department prior to site plan approval (or prior to issuance of Building Permit for straight rezoning).
4. The car wash facility shall have a water recycling system. There shall be no connection of this system to the septic tank.
5. Detailed engineering plans and drawings of water recycling system for the car wash facility shall be submitted to the Health Department prior to site plan approval.

6. Storage system must be designed, constructed and operated according to all F.A.C. Chapter 17-61 and RCRA Subtitle I requirements. Plans must be submitted to and approved by ERM.
7. Registration notification must be submitted to DER at least 10 days prior to the commencement of construction activities.
8. Written or verbal notification shall be provided to ERM at least 48 hours prior to tank installation.
9. The property owner shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. (Condition deleted – Reason: Code Requirement)
10. The developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaced area shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site.
11. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of way warranty deed for Sixth Avenue South – 71.5 feet from centerline and Congress Avenue – 64 feet from centerline free of all encumbrances and encroachments. Petitioner 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 “Safe Site Corners” where appropriate at intersection as determined by the County Engineer. (Completed)
12. The property owner shall pay a Fare Share Fee in the amount and manner required by the “Fair Share Contribution for Road Improvements Ordinance” as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$38,176 (1425 trips X \$26.79 per trip). The funds shall be paid prior to site plan approval.
13. Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violations of the Palm Beach County Zoning Code.

The foregoing Resolution was offered by Commissioner Marcus  
 moved its adoption. The motion was seconded by Commissioner Vana who  
 being put to a vote, the vote was as follows: and, upon

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

The Chair thereupon declared the resolution duly passed and adopted this 31st day of March, 2010

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK AND COMPTROLLER

By:   
Assistant County Attorney

By:   
Deputy Clerk



Filed with the Clerk of the Board of County Commissioners on the 2nd day of April, 2010.