

RESOLUTION NO. R-2012- 0781

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/CA-2011-02630
(CONTROL NO. 1981-00010)
a Class A Conditional Use
APPLICATION OF Francalby Corp
BY Urban Design Kilday Studios, AGENT
(Hypoluxo Convenience With Gas Sales)

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 ZV/ABN/CA-2011-02630 was presented to the Board of County Commissioners at a public hearing conducted on May 24, 2012; 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 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 ZV/ABN/CA-2011-02630, the petition of Francalby Corp, by Urban Design Kilday Studios, agent, for a Class A Conditional Use to allow a Convenience Store with Gas Sales in the General Commercial (CG) 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 May 24, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Taylor moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 24, 2012.

Filed with the Clerk of the Board of County Commissioners on June 8, 2012.

This resolution shall not become effective unless or until the effective date of Small Scale Land Use Amendment No. SCA-2012-007.

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 West Half (W 1/2) of East Half (E 1/2) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, Township 45 South, Range 43 East, Palm Beach County, Florida, LESS the North 1019.90 feet thereof, as measured along the East and West lines of the said West Half (W 1/2) of the East Half (E 1/2) of the Southwest Quarter (SW 1/4) of the Southwest Quarter (SW 1/4) of Section 4, and LESS the Right-of-Way for I-95.

EXHIBIT B

VICINITY SKETCH

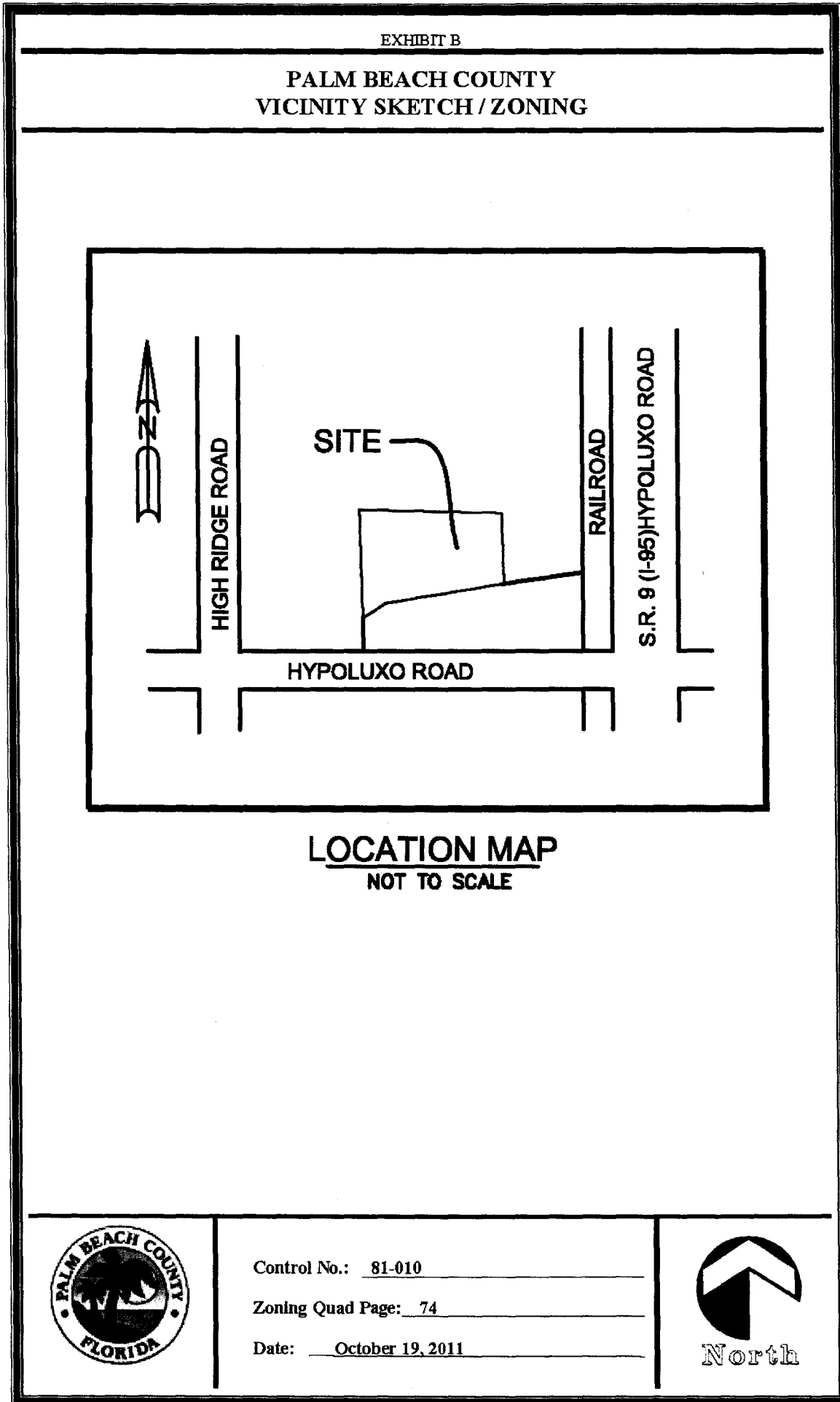


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The approved Preliminary Site Plan is dated March 15, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, 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 approval by the Development Review Officer (DRO), the architectural elevations for Convenience Store and Gas Canopy shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (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 canopies shall be designed consistent with the following standards:

- a. a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- b. a pitched roof with a minimum slope of 5:12;
- c. the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- d. lighting for the gas station canopy shall be flush mounted or recessed; and,
- e. canopy signage shall be limited to a maximum of two (2) signs. (DRO: ARCH REV - Zoning)

ENGINEERING

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

a.No Building Permits for the site may be issued after December 31, 2016. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

b.No Building Permits for the site may be issued until the contract has been awarded for the construction of intersection modifications to Hypoluxo Road and I-95. (BLDG PERMIT: MONITORING-Eng)

2.The Property Owner shall construct:

- i) separate left and right turn lane north approach of the maximum length practicable on the frontage road at Hypoluxo Road, and
- ii) the extension of the right turn lane east approach on Hypoluxo Road at the frontage road to a minimum length of 280 feet plus a 50 foot taper, both as determined by the County Engineer and FDOT as applicable.

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 from Palm Beach County and/or FDOT for this construction 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)

3. The Property Owner shall fund the cost of:

i) signal installation if warranted as determined by the County Engineer at Hypoluxo Road and the frontage road and

ii) a modified traffic separator on Hypoluxo Road between High Ridge Road and the frontage road to provide for maximum length back-to-back left turn lanes and a 50-foot taper.

Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. No Building Permits shall be issued until the developer provides acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng).

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING-Eng)

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

5. Prior to Final Site Plan Approval by the DRO, the property owner shall abandon, and relocate if necessary, the existing easements in conflict with the proposed structures. (DRO: ENGINEERING - Eng)

HEALTH

1. Prior to the issuance of a building permit, the property owner shall obtain an Onsite Sewage Treatment and Disposal System (OSTDS) permit from the Palm Beach County Health Department. (BLDG PERMIT: HEALTH- Health)

LANDSCAPE - GENERAL

1. At time of submittal for Building Permit, the property owner shall submit a 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. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER

3. Prior to final approval by the Development Review Officer (DRO), a fifteen (15)-foot wide Type 2 Incompatibility buffer with a six (6)-foot high hedge shall be provided along the north property line except that the buffer may taper to five (5) feet in width for a maximum of sixty (60) feet with no loss of plant material where the buffer abuts the septic field. (DRO: ZONING - Zoning)

4. In addition to Code requirements, five (5) foxtail palms shall be planted in the area northwest of the building. (BLDG PERMIT: LANDSCAPE - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), a complete

Certificate to Dig shall be submitted to the County Archaeologist. (DRO-PLANNING-Planning)

2. If any archaeological artifacts are uncovered during development or soil disturbing activity, then excavation shall halt and the County Archaeologist shall be contacted to evaluate the significance of the archaeological find as provided for in Article 9 of the Unified Land Development Code (ULDC). (ONGOING: PLANNING-Planning)

SIGNS

1. Ground mounted 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 - one hundred fifty (150) square feet;
- c. maximum number of signs - one (1); and,
- d. style - monument style only.

(BLDG PERMIT: BLDG - Zoning)

2. Wall signage shall not be located on the north building facade or the north half of the west building facade. (BLDG PERMIT: BLDG - Zoning)

3. Canopy signage shall not be visible from the residential uses to the northwest of the site. (BLDG PERMIT: BLDG - Zoning)

4. Prior to final approval by the Development Review Officer (DRO) the property owner shall remove the two (2) existing Freestanding Sign structures pursuant to a demolition permit. (DRO: ZONING - 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)