

RESOLUTION APPROVING ZONING APPLICATION ZV/Z/CA-2012-02085
(CONTROL NO. 2012-00253)
a Class A Conditional Use
APPLICATION OF Race Trac Petroleum
BY Land Design South, Inc., AGENT
(Raceway Market)

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/Z/CA-2012-02085 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2013; 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 finds that the Zoning application meets all the standards contained in Article 2.B.2.B.

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/Z/CA-2012-02085, the petition of Race Trac Petroleum, by Land Design South, Inc., agent, for a Class A Conditional Use to allow a Convenience Store with Gas Sales in the Community Commercial (CC) 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 August 22, 2013, 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 Burdick and, upon being put to a vote, the vote was as follows:

Commissioner Steven L. Abrams, Mayor	- Aye
Commissioner Priscilla A. Taylor, Vice Mayor	- Aye

Commissioner Hal R. Valeche
Commissioner Paulette Burdick
Commissioner Shelley Vana
Commissioner Mary Lou Berger
Commissioner Jess R. Santamaria

- Aye
- Nay
- Absent
- Aye
- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 22, 2013.

Filed with the Clerk of the Board of County Commissioners on August 29th, 2013

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

**RACEWAY MARKET
NWC OF LANTANA ROAD AND HAVERHILL ROAD
LEGAL DESCRIPTION**

A PARCEL OF LAND LYING IN THE EAST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 35, THENCE NORTH $88^{\circ}26'25''$ WEST ALONG THE SOUTH LINE OF SAID SECTION 35, A DISTANCE OF 336.27 FEET; THENCE NORTH $02^{\circ}07'22''$ EAST, A DISTANCE OF 60.50 FEET TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF LANTANA ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12022, PAGE 197, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND THE WEST LINE OF SAID EAST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE SOUTH $88^{\circ}26'25''$ EAST ALONG SAID NORTH RIGHT-OF-WAY LINE OF LANTANA ROAD, A DISTANCE OF 177.70 FEET; THENCE NORTH $46^{\circ}51'16''$ EAST ALONG THE SAFE TRIANGLE RIGHT-OF-WAY LINE AT THE INTERSECTION OF SAID LANTANA ROAD AND HAVERHILL ROAD AS RECORDED IN OFFICIAL RECORD BOOK 12022, PAGE 197, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 56.28 FEET; THENCE NORTH $02^{\circ}08'57''$ EAST ALONG THE WEST RIGHT-OF-WAY LINE OF SAID HAVERHILL ROAD, A DISTANCE OF 280.82 FEET; THENCE CONTINUE NORTH $13^{\circ}27'33''$ EAST ALONG SAID WEST RIGHT-OF-WAY LINE OF HAVERHILL ROAD, A DISTANCE OF 40.90 FEET; THENCE NORTH $88^{\circ}26'25''$ WEST, A DISTANCE OF 225.48 FEET TO A POINT ON SAID WEST LINE OF THE EAST HALF OF THE EAST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER; THENCE SOUTH $02^{\circ}07'22''$ WEST ALONG THE AFORE DESCRIBED LINE, A DISTANCE OF 360.43 FEET TO THE AFORE DESCRIBED POINT OF BEGINNING.

CONTAINING 77,723 SQUARE FEET OR 1.78 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

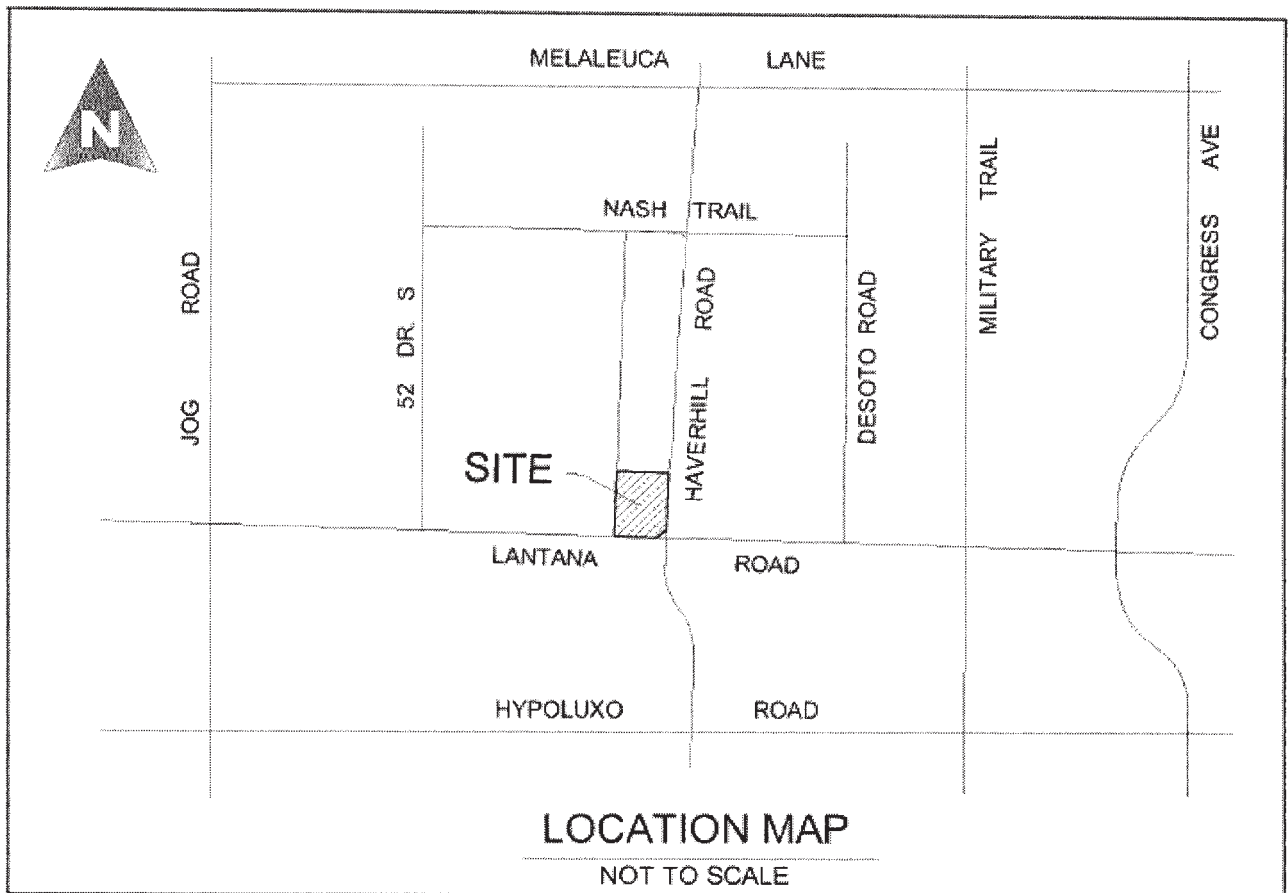


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 13, 2013. 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 the Convenience Store with Gas Sales and the Gas Canopy shall be submitted for review and approval by the Zoning Division. Architectural 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 Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

2. Gas station canopy shall be designed consistent with the following standards:

- a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy, and;
- lighting for the gas station canopy shall be recessed. (DRO: ZONING - 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, 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

b. No Building Permits for the site may be issued until the Property Owner makes a proportionate share payment the Palm Beach County Board of County Commissioners to pay for its proportionate share of the required improvement to widen Haverhill Road from a 2-lane roadway to a 4-lane divided roadway from Lantana Road to Lake Worth Road. The proportionate share payment shall be 1.67% of the total cost to construct the additional southbound lane. The amount of the proportionate share payment shall be \$41,237 if submitted prior to October 1, 2013. Otherwise the amount shall be recalculated at the time of payment based on the best estimate of the total cost of the required improvement as approved by the County Engineer. (BLDG PERMIT: MONITORING-Eng)

2. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, 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 Lantana Road between Haverhill Road and the project's entrance road. 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 approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall include a 40 foot corner clip at the intersection of Lantana Road and Haverhill Road. This additional right of way shall be free 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. The Grantor must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. 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)

3. The Property Owner shall fund the construction plans and construction of:

i. A right turn lane on Lantana Road from Haverhill Road west to the Project's Lantana Road access to be consistent with Palm Beach County standards for a 110' right of way Thoroughfare plan street.

ii. An internal non-plan collector road from Haverhill Road to the west end to be consistent with Palm Beach County standards for an 80 foot right of way non-plan collector street and to provide access to non-residential subdivided lots

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, signal modification, and acquisition of any additional required right-of-way.

a. Prior to the issuance of the first Building Permit, permits required for Improvements identified above shall be obtained from Palm Beach County. (BLDG PERMIT: MONITORING-Eng)

b. Prior to the issuance of the first Certificate of Occupancy, construction of the right turn lane shall be completed. (CO: MONITORING-Eng)

ENVIRONMENTAL

1. A Phase II Environmental Audit for the subject site shall be submitted to the Department of Environmental Resources Management prior to DRO Site Plan Approval. (DRO:ERM-ERM)

LANDSCAPE - GENERAL

1. Concurrent with the Final Approval by the Development Review Officer, the Property Owner shall submit an Alternative Landscape Plan (ALP) to the Landscape Section for review and approval. The ALP and/or supporting documents shall demonstrate that all preserved vegetation meets or exceeds the Unified Land Development Code requirements. Native vegetation may be relocated to the buffers to meet the minimum requirements of the Code. The ALP shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (DRO: LANDSCAPE - Zoning)

2. A minimum of eighty (80%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

a. tree height: fourteen (14) feet; and,

b. credit may be given for existing or relocated trees provided they meet the Unified Land Development Code requirements. (DRO: LANDSCAPE - Zoning)

3. The Alternative Landscape Plan shall incorporate the following:

a. A tree survey that depicts the location and size of all trees on site before clearing;

b. All trees not preserved within the buffers shall be mitigated as required by Article 7 of the Code;

c. All pines shall be planted in clusters of five (5) to seven (7) pines;

d. Pine heights shall range from a minimum of six (6) feet to sixteen (16) feet at installation; and,

e. credit may be given for existing native trees provided they meet current Unified Land Development Code requirements. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR

4. Prior to Final Approval by the Development Review Officer, the Alternative Landscape Plan shall include the following:

- a. Ten (10) additional native trees shall be planted in a naturalistic design along the banks of the detention area;
- b. The subject trees shall meet the minimum standards for Interior trees as defined by the Code but shall not be included in the minimum require Interior tree count. (DRO: ZONING - Zoning)

LANDSCAPE – PERIMETER LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINE (FRONTAGE OF LANTANA ROAD AND HAVERHILL ROAD)

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

- a. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line; and,
- b. one (1) palm (Royal Palm) for each thirty (30) linear feet of the property line. (DRO: LANDSCAPE - Zoning)

SIGNS- Gas Station Canopy

1. Signage on the Gas Canopy shall be limited to the following:

- a. a maximum of 1 (one) canopy sign on the Lantana Road side and one (1) canopy sign on the Haverhill Road side of the canopy only;
- b. the gas station canopy signage shall be included within the maximum wall signage calculation allowed for the Convenience Store. (ONGOING: BUILDING - Zoning)

SITE DESIGN

1. Prior to final approval by the Development Review Officer, the Site Plan shall be modified to indicate the total number of gas pumps limited to a maximum of five (5) pumps with each pump having up to two (2) fueling stations each. (ONGOING: MONITORING - Zoning)

USE LIMITATIONS - CONVENIENCE STORE

1. Prior to Final Approval by the Development Review Officer, 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

1. Outdoor speaker or public address systems shall not be permitted on the property. (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; 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; the 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 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 of Approval; 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)