

RESOLUTION NO. R-2015- 0235

RESOLUTION APPROVING ZONING APPLICATION CA-2014-00915  
(CONTROL NO. 1988-00100)  
a Class A Conditional Use  
APPLICATION OF F G H Inc  
BY Jon E Schmidt & Associates, AGENT  
(Thomas Colony Shell)

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;

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;

WHEREAS, Zoning Application CA-2014-00915 was presented to the Board of County Commissioners at a public hearing conducted on February 26, 2015;

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;

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;

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;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

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; and,

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-2014-00915, the petition of F G H Inc, by Jon E Schmidt & Associates, Agent, for a Class A Conditional Use to allow a Convenience Store with Gas Sales with an accessory car wash, 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 February 26, 2015, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger 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 Shelley Vana, Mayor	-	Aye
Commissioner Mary Lou Berger, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on February 26, 2015.

Filed with the Clerk of the Board of County Commissioners on February 26th, 2015.

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

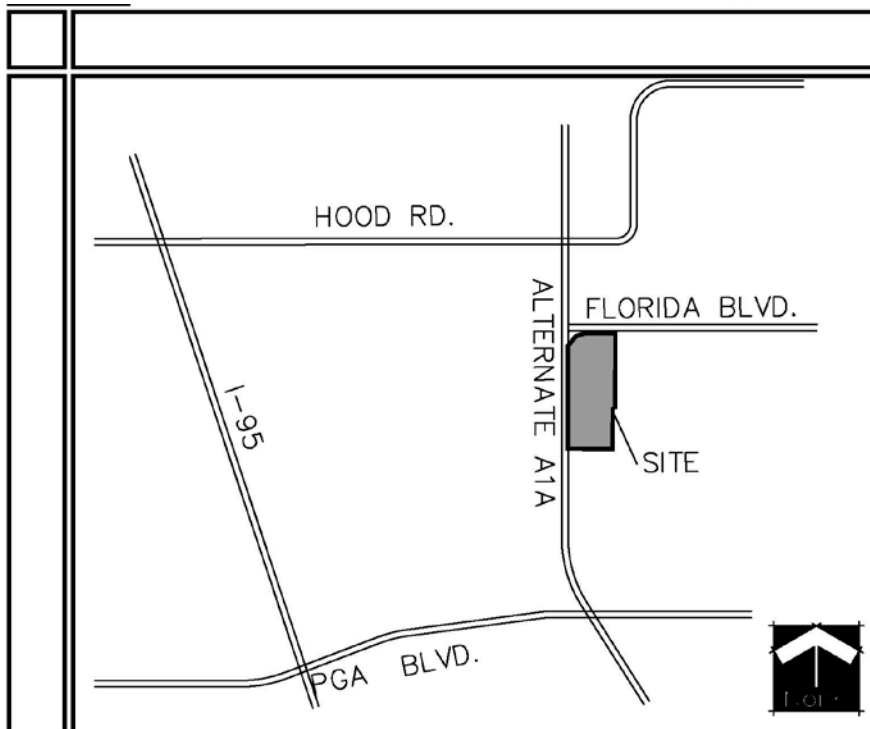
LEGAL DESCRIPTION

LOT A-10, PALM BEACH CABANA COLONY COMMERCIAL AREA, A SUBDIVISION IN PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 59, BEING THE SAME PROPERTY CONVEYED TO AMERICAN TELEPHONE AND TELEGRAPH COMPANY BY DEED FROM PERRY PUBLICATIONS, INC., DATED DECEMBER 6, 1965, FILED DECEMBER 8, 1965 AND RECORDED IN OFFICIAL RECORD BOOK 1300, PAGE 156, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA EXCLUDING THAT PORTION OF PROPERTY GRANTED TO THE FLORIDA DEPARTMENT OF TRANSPORTATION BY DEED DATED JULY 20, 1981 AND BEING PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SE CORNER OF SAID LOT A-10; THENCE N 87°53'27"W ALONG THE SOUTH LINE OF SAID LOT A-10, A DISTANCE OF 206.21 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N87°53'27"W, A DISTANCE OF 38.97 FEET; THENCE N02°06'19"E, A DISTANCE OF 100.00 FEET; THENCE S87°53'26" E, A DISTANCE OF 38.38 FEET; THENCE S01°45'54"W, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING. CONTAINING 3868 SQUARE FEET, MORE OR LESS. 'ALSO EXCLUDING' THE EAST 100 FEET OF LOT A-10, PALM BEACH CABANA COLONY COMMERCIAL AREA CONVEYED TO DONALD E. BUSHORE AND MAY BUSHORE BY DEED FROM AMERICAN TELEPHONE AND TELEGRAPH COMPANY DATED MAY 14, 1984, FILED MAY 30, 1984 AND RECORDED IN OFFICIAL RECORD DEED BOOK 4252, PAGE 1374, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LOT A-11, PALM BEACH CABANA COLONY COMMERCIAL AREA, PLAT BOOK 27, PAGE 59, PALM BEACH COUNTY, FLORIDA; LESS THAT PORTION CONVEYED TO THE STATE OF FLORIDA FOR S.R. A-1-A RIGHT OF WAY IN OFFICIAL RECORDS BOOK 3667, PAGE 915, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

Total Acreage: .68 or 29,966 square feet.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Conditional Use Class A

##### ALL PETITIONS

1. The approved Preliminary Site and Preliminary Phasing Plans are dated January 14, 2015. 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)

2. Prior to submittal of the first building permit for commencement of any Phase II improvements as indicated on the Preliminary Site and the Preliminary Phasing Plans dated January 14, 2015, the Property Owner shall submit an application to the Zoning Division for the Abandonment of Phase I, specifically Resolution Number R-89-716, which granted approval for an Auto Service Station (No Major Repairs). (BLDGPM: MONITORING - Zoning)

3. Development Order for Phase II shall expire on April 3, 2015, unless a time extension for the Type II Variances granted under Resolution Numbers ZR-2014-0019 and ZR-2014-0021, is applied for and approved. If at any time the Type II Variances expire and no building permits have been submitted for Phase II as indicated on the Preliminary Site and Preliminary Phasing Plans dated January 14, 2015, the approval for all Phase II improvements shall be null and void. (DATE/ONGOING: MONITORING - Zoning)

##### ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for Phase II 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) and shall be generally consistent with the Architectural Elevations dated May 19, 2013. 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)

##### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:  
No Building Permits for the site may be issued after December 31, 2017. 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 - Engineering)

2. 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. (BLDGPM: MONITORING - Engineering)

##### HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.  
(ONGOING:HEALTH-Health)

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING:HEALTH-Health)

3. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection(FDEP), the Florida Department of Health (FDOH), and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (ONGOING:CODE ENF-Health)

### **LIGHTING**

1. Outdoor lighting used to illuminate the premises shall be low intensity and directed away from adjacent properties and streets, shining only on the subject site. (ONGOING: ZONING - Zoning)

### **PLANNING**

1. Prior to Final Approval by the Development Review Officer (DRO), the Preliminary Site Plan shall be revised to indicate the future location of the vehicular and pedestrian connection at the location of the existing propane tank. (DRO: PLANNING – Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to include a note to indicate a pedestrian connection, from the Convenience Store to the adjacent parcel to the east. (DRO: PLANNING - Planning)

3. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall pave all vehicular and pedestrian access points to the property line with a break in any landscape buffer, specifically the vehicular and pedestrian connection to the east and the pedestrian connection to the south, in the locations shown on the Final Site Plan as approved by the Development Review Officer (DRO). (CO: MONITORING - Planning)

### **SIGNS**

1. There shall be no off-premise signs permitted on the site. (ONGOING: ZONING - Zoning)

### **SITE DESIGN**

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to indicate the Base Building Line. (DRO: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to include a Non-Conformity Chart for the Existing Sign A and the Existing Propane Area information. The chart shall also include the Building Permit information as provided on the Preliminary Site Plan. (DRO: ZONING - Zoning)

### **USE LIMITATIONS**

1. Vehicle parking shall be limited to the parking spaces designated on the approved site plan. No vehicular parking is to be permitted in landscape areas, Right-of-Ways or interior drive aisles. (ONGOING: 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: ZONING - 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: ZONING - Zoning)

#### **DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.