

RESOLUTION NO. R-2016- 1233

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2015-01918
(CONTROL NO. 2008-00243)
a Requested Use
APPLICATION OF Hypoluxo & I 95 Holdings LLC
BY Atlantic Land Management, AGENT
(Hypoluxo Shoppes)

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 pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA/R-2015-01918 was presented to the Board of County Commissioners at a public hearing conducted on September 22, 2016;

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 ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, THE Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Requested Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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/R-2015-01918, the Application of Hypoluxo & I 95 Holdings LLC, by Atlantic Land Management, Agent, for a Requested Use to allow a Convenience Store with Gas Sales, on a parcel of land generally described as shown on the legal description 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 September 22, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	- Aye
Commissioner Hal R. Valeche, Vice Mayor	- Aye
Commissioner Paulette Burdick	- Absent
Commissioner Shelley Vana	- 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 September 22, 2016.

Filed with the Clerk of the Board of County Commissioners on October 4th, 2016.


This resolution shall not become effective unless or until the effective date of Small Scale Land Use Amendment No. SCA-2016-002.

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

PCN:

00-43-45-04-00-000-7380;

00-43-45-04-00-000-7440

LEGAL DESCRIPTION:

SOUTH ½ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAYS FOR STATE ROAD 9 (US I-95), HYPOLUXO ROAD AND HIGH RIDGE ROAD.

ALSO KNOWN AS:

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE SOUTHWEST QUARTER (S.W. ¼) OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 4, RUN NORTH 02 DEGREES 18 MINUTES 16 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 4, A DISTANCE OF 348.39 FEET; THENCE SOUTH 89 DEGREES 50 MINUTES 23 SECONDS EAST A DISTANCE OF 40.03 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGH RIDGE ROAD (80.00 FEET WIDE RIGHT-OF-WAY); SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; CONTINUE THENCE SOUTH 89 DEGREES 50 MINUTES 23 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 641.64 FEET; THENCE SOUTH 02 DEGREES 17 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 242.87 FEET; THENCE SOUTH 57 DEGREES 39 MINUTES 18 SECONDS WEST A DISTANCE OF 53.35 FEET; THENCE SOUTH 85 DEGREES 48 MINUTES 21 SECONDS WEST A DISTANCE OF 287.09 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HYPOLUXO ROAD (108 FEET WIDE RIGHT-OF-WAY); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 284.07 FEET; THENCE NORTH 46 DEGREES 09 MINUTES 08 SECONDS WEST A DISTANCE OF 34.64 FEET; THENCE NORTH 02 DEGREES 18 MINUTES 16 SECONDS WEST A DISTANCE OF 270.21 FEET TO THE POINT OF BEGINNING.

CONTAINING 183,089 SQUARE FEET/4.203 ACRES MORE OR LESS.

SUBJECT TO RESTRICTIONS, RESERVATIONS AND EASEMENTS OF RECORD.

EXHIBIT B
VICINITY SKETCH

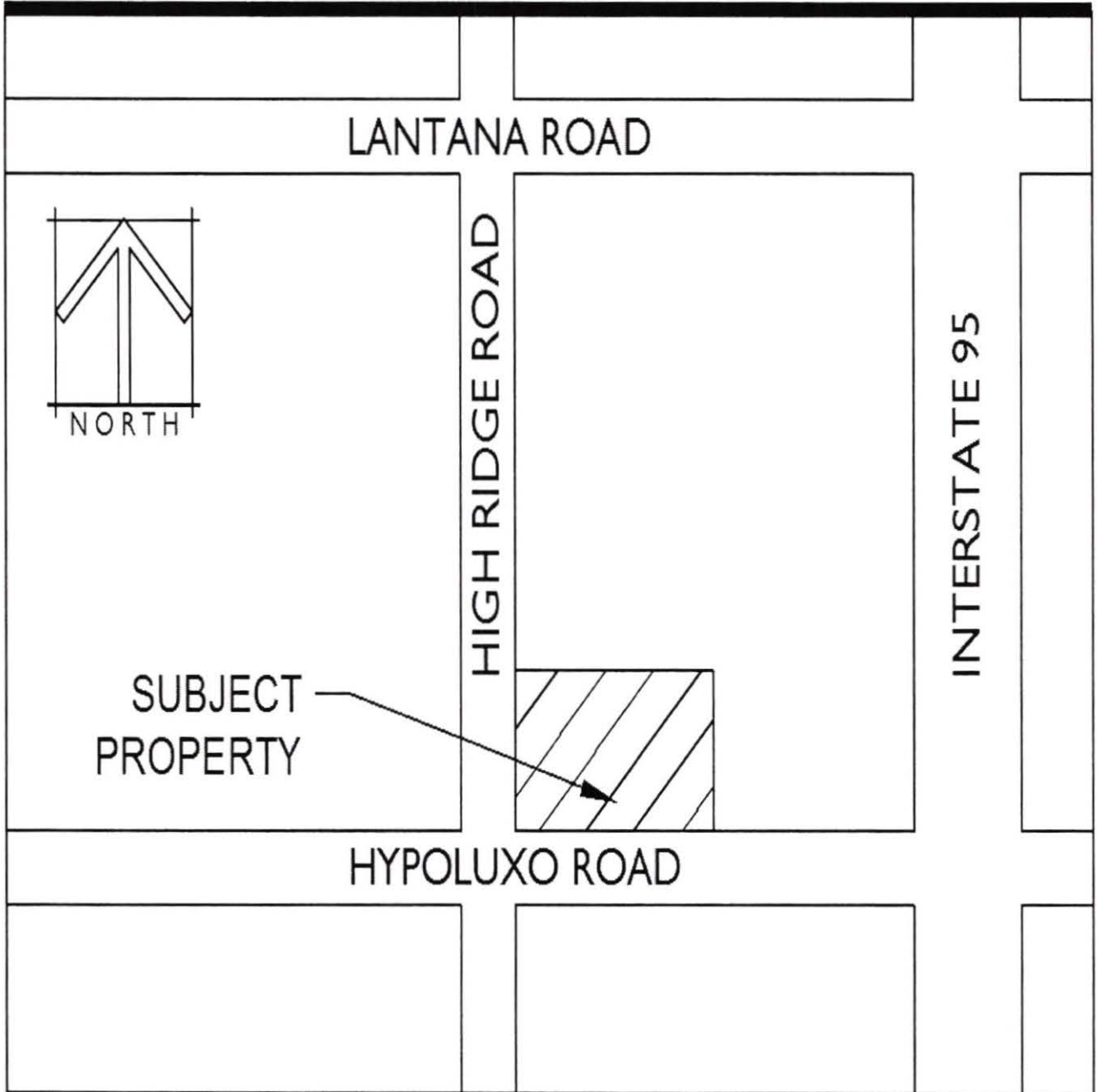


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use – Convenience Store with Gas Sales

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated June 9, 2016. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for Building B Convenience Store and Type I Restaurant, 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: ARCHITECTURAL REVIEW - Zoning)

2. Gas station canopy 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 maximum slope of 5:12. No flat roof shall be permitted;
- 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. a maximum of one (1) canopy sign facing Hypoluxo Road on the south side of the canopy only. (ONGOING: ZONING - 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/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.