

RESOLUTION NO. R-2019- 1229

RESOLUTION APPROVING ZONING APPLICATION DOA-2018-01316
(CONTROL NO. 1983-00045)
a Development Order Amendment
APPLICATION OF JCL Management, LLC
BY Halperin Law, Urban Design Kilday Studios, AGENT
(Southern Station)

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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application DOA-2018-01316 was presented to the Board of County Commissioners at a public hearing conducted on August 22, 2019;

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 (Application Processes and 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 Processes) for a Development Order Amendment;

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.B.6.C (Board Action) 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-2018-01316, the Application of JCL Management, LLC, by Halperin Law, Urban Design Kilday Studios, Agent, for a Development Order Amendment to reconfigure the Site Plan for a Convenience Store with Gas Sales; and, to amend Conditions of Approval (Engineering), 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 August 22, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	- Absent
Commissioner Dave Kerner, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Robert S. Weinroth	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Melissa McKinlay	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 22, 2019.

Filed with the Clerk of the Board of County Commissioners on September 5th, 2019

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

PARCEL I

THAT CERTAIN PARCEL OF LAND IN TRACT 42, BLOCK 6 OF "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 42, RUN EAST ALONG THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 275.04 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 265.00 FEET; THENCE RUN WEST ON A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 125.00 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 55.97 FEET; THENCE RUN EAST ON A LINE MAKING AN ANGLE WITH THE LAST DESCRIBED COURSE FROM NORTH TO EAST OF 92 DEGREES 47 MINUTES 52 SECONDS A DISTANCE OF 19.74 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 112.6 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, AS SAID RIGHT-OF-WAY IS CONVEYED BY DEED RECORDED IN DEED BOOK 1027, PAGE 398, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE RUN NORTH 89 DEGREES 58 MINUTES 25 SECONDS WEST ALONG THE SAID NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 A DISTANCE OF 170.53 FEET TO THE WEST LINE OF SAID TRACT 42; THENCE RUN NORTH ALONG THE WEST LINE OF SAID TRACT 42 A DISTANCE OF 426.78 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID TRACT 42 AND THE POINT OF BEGINNING;
LESS THE WEST 35 FEET THEREOF;

AND

LESS AND EXCEPT THE SOUTH 125 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THAT CERTAIN PARCEL OF LAND IN TRACT 42, BLOCK 6, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 42, RUN EAST ALONG THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 150.04 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42, A DISTANCE OF 228.24 FEET; THENCE RUN WEST ON A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 40.22 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 205.33 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, AS SAID RIGHT-OF-WAY IS CONVEYED BY DEED RECORDED IN DEED BOOK 1027, PAGE 398, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE RUN NORTH 89 DEGREES 58 MINUTES 25 SECONDS WEST ALONG SAID NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, A DISTANCE OF 110.53 FEET TO THE WEST LINE OF SAID TRACT 42; THENCE RUN NORTH ALONG SAID WEST LINE OF SAID TRACT 42 A DISTANCE OF 426.78 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID TRACT 42 AND THE POINT OF BEGINNING. TOGETHER WITH ANY RIGHT, TITLE OR INTEREST OF THE PARTY OF THE FIRST PART IN OR TO THE LAND SUBJECT TO THE RIGHT-OF-WAY OF STATE ROAD NO. 80 LYING SOUTH OF THE PARCEL HEREIN ABOVE DESCRIBED.

LESS THE WEST 35 FEET THEREOF.

AND LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY;

A PORTION OF TRACT 42, BLOCK 6, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 32, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 42; THENCE SOUTH 00 DEGREES 56 MINUTES 52 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT 42, A DISTANCE OF 130.048 METERS (426.67 FEET) TO A POINT ON THE NORTHERLY EXISTING RIGHT-OF-WAY LINE FOR STATE ROAD 80 (SOUTHERN BOULEVARD) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 93120-2543; THENCE SOUTH 88 DEGREES 21 MINUTES 16 SECONDS EAST ALONG SAID NORTHERLY EXISTING RIGHT-OF-WAY LINE, A DISTANCE OF 33.562 METERS (110.12 FEET) TO THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 56 MINUTES 52 SECONDS WEST, A DISTANCE OF 26.495 METERS (86.93 FEET); THENCE SOUTH 88 DEGREES 21 MINUTES 12 SECONDS EAST, A DISTANCE OF 18.290 METERS (60.01 FEET); THENCE SOUTH 00 DEGREES 57 MINUTES 00 SECONDS EAST, A DISTANCE OF 26.494 METERS (86.92 FEET) TO A POINT ON SAID NORTHERLY EXISTING RIGHT-OF-WAY LINE; THENCE NORTH 88 DEGREES 21 MINUTES 16 SECONDS WEST ALONG SAID NORTHERLY EXISTING RIGHT-OF-WAY LINE, A DISTANCE OF 18.291 METERS (60.01 FEET) TO THE POINT OF BEGINNING.

PARCEL II

LOTS 6A, THROUGH 8, INCLUSIVE, IN BLOCK 1 OF "SOUTHERN BOULEVARD PINES NO. 2", A SUBDIVISION OF TRACT 42, BLOCK 6, "PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 71, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

TOGETHER WITH:

COMMENCING AT THE NORTHEAST CORNER OF LOT 6, BLOCK 1 OF SOUTHERN BOULEVARD PINES NO. 2 AS SHOWN ON PLAT WHICH IS NOW RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF PALM BEACH COUNTY, FLORIDA, SAID SUBDIVISION BEING FURTHER DESCRIBED AS TRACT 42, BLOCK 6, PALM BEACH FARMS COMPANY PLAT NO. 3, RUN SOUTHERLY ALONG THE EAST LINE OF SAID LOT 6 AND OF LOT 6-A OF SAID BLOCK 1 TO THE SOUTHEAST CORNER OF SAID LOT 6-A, THENCE WESTERLY ALONG THE SOUTH LINE OF SAID LOT 6-A TO A POINT WHERE THE WESTERLY LINE OF LOT 8 OF SAID BLOCK 1 IF EXTENDED NORTHERLY WOULD INTERSECT THE SOUTH LINE OF SAID LOT 6-A, THENCE SOUTHERLY 15 FEET TO THE NORTHWEST CORNER OF SAID LOT 8, THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 8 AND LOT 7 OF SAID BLOCK 1 TO THE NORTHEAST CORNER OF SAID LOT 7, THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 7 TO THE SOUTHEAST CORNER OF SAID LOT 7, THENCE EASTERLY 15 FEET TO A POINT, THENCE NORTHERLY ALONG A LINE PARALLEL TO AND 15 FEET EASTERLY OF THE EASTERLY LINE OF SAID LOTS 7, 6 AND 6-A TO A POINT 15 FEET EASTERLY OF THE NORTHEAST CORNER OF SAID LOT 6, THENCE WESTERLY TO THE POINT OF BEGINNING.

LESS:

PARCEL 128 AS DESCRIBED IN OFFICIAL RECORDS BOOK 13748, PAGE 1826 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

THE SOUTH 15 FEET OF THAT CERTAIN 30 FOOT WIDE PARCEL OF LAND WITHIN BLOCK 6, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BOUNDED ON THE EAST AND WEST BY THE EXTENSION OF THE EAST AND WEST PROPERTY LINES OF THE FOLLOWING DESCRIBED PARCEL:

THAT CERTAIN PARCEL OF LAND IN TRACT 42, BLOCK 6 OF "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 42, RUN EAST ALONG THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 275.04 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 265.00 FEET; THENCE RUN WEST ON A LINE PARALLEL TO THE NORTH LINE OF SAID TRACT 42 A DISTANCE OF 125.00 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 55.97 FEET; THENCE RUN EAST ON A LINE MAKING AN ANGLE WITH THE LAST DESCRIBED COURSE FROM NORTH TO EAST OF 92 DEGREES 47 MINUTES 52 SECONDS A DISTANCE OF 19.74 FEET; THENCE RUN SOUTH ON A LINE PARALLEL TO THE EAST LINE OF SAID TRACT 42 A DISTANCE OF 112.6 FEET, MORE OR LESS, TO THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, AS SAID RIGHT-OF-WAY IS CONVEYED BY DEED RECORDED IN DEED BOOK 1027, PAGE 398, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE RUN NORTH 89 DEGREES 58 MINUTES 25 SECONDS WEST ALONG THE SAID NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 A DISTANCE OF 170.53 FEET TO THE WEST LINE OF SAID TRACT 42; THENCE RUN NORTH ALONG THE WEST LINE OF SAID TRACT 42 A DISTANCE OF 426.78 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID TRACT 42 AND THE POINT OF BEGINNING;
LESS THE WEST 35 FEET THEREOF.

OVERALL PARCEL

THAT CERTAIN PARCEL OF LAND IN TRACT 42, BLOCK 6 OF "THE PALM BEACH FARMS CO. PLAT NO. 3" ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SAID TRACT 42; THENCE RUN NORTH 89 DEGREES 00 MINUTES 44 SECONDS EAST ALONG THE NORTH LINE OF SAID TRACT 42 FOR A DISTANCE OF 35.00 FEET TO THE POINT OF BEGINNING; THENCE RUN NORTH 00 DEGREES 56 MINUTES 52 SECONDS WEST FOR A DISTANCE OF 15.00 FEET; THENCE RUN NORTH 89 DEGREES 00 MINUTES 44 SECONDS EAST ALONG A LINE 15 FEET NORTH OF AND PARALLEL TO THE NORTH LINE OF SAID TRACT 42 FOR A DISTANCE OF 239.96 FEET; THENCE RUN SOUTH 00 DEGREES 57 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 367.36 FEET TO A POINT LYING ON THE NORTHERLY EXISTING RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 (SOUTHERN BOULEVARD) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 93120-2543; THENCE RUN NORTH 88 DEGREES 21 MINUTES 12 SECONDS WEST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 165.14 FEET; THENCE RUN NORTH 00 DEGREES 56 MINUTES 52 SECONDS WEST FOR

A DISTANCE OF 38.20 FEET; THENCE RUN NORTH 88 DEGREES 21 MINUTES 16 SECONDS WEST FOR A DISTANCE OF 75.08 FEET; THENCE RUN NORTH 00 DEGREES 56 MINUTES 52 SECONDS WEST ALONG A LINE 35.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACT 42 FOR A DISTANCE OF 303.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 83,965 SQUARE FEET/1.9276 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

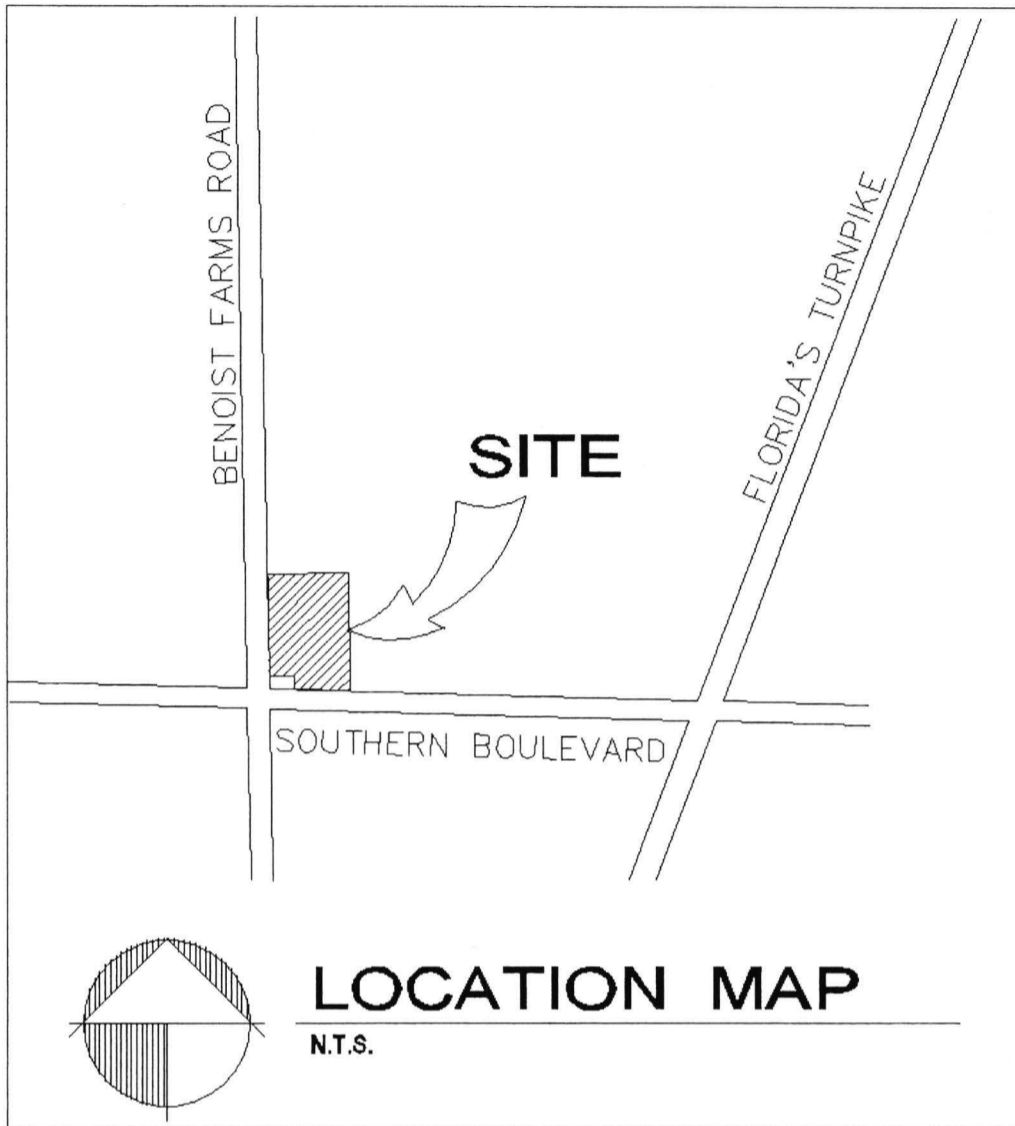


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Retail Gas and Fuel Sales with Convenience Store)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

The approved Preliminary Site Plan is dated November 18, 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. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

The approved Preliminary Site Plan is dated June 10, 2019. 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. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2016-0410 (Control 1983-00045), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Convenience Store with Gas Sales 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 September 28, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Applicant may submit Architectural Elevations at DRO or Building Permit stage.]

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2016-410, Control No.1983-00045, which currently states:

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 pitched roof with a minimum 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; and,
 - d. lighting for the gas station canopy shall be flush mounted or recessed;
 - e. canopy signage shall be limited to a maximum of two (2) signs facing road frontages.
- (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Existing ULDC requirement.]

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

TPS PHASING

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, 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)
- b. No Building Permits for the site shall be issued until the Property Owner makes a proportionate share payment in the amount of \$283,638 towards the widening of Lyons Road from Southern Boulevard to Forest Hill Boulevard to a four lane cross-section. This proportionate share amount may be applied towards construction of this improvement or one or more other improvements that will benefit the mobility in the area impacted by the project, as determined by the County Engineer.

In recognition that construction prices may change over the life of the project, the above noted Payment shall be subject to the following adjustment calculation:

Adjusted payment = Original Payment Amount x (BONS payment month / BONS Month of Prop Share Execution)

Original Payment Amount = proportionate share payment amount specified
BONS payment month = latest published value (including preliminary values) at time of payment
BONS Month of Prop Share Execution = Published Value

The cost adjustment for the total amount of each payment shall be based on the Bureau of Labor and Statistics Producer Price Index (PPI) for Other Non-Residential Construction (Series Id: WPUIP23122301). There shall be no negative cost adjustment.

Reference the following link for PPI index information:
<http://data.bls.gov/timeseries/WPUIP2312301> (BLDGPM: MONITORING - Engineering)

Is hereby amended to read:

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 February 23, 2022, or as amended. 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)
- b. No Building Permits for the site shall be issued until the Property Owner makes a proportionate share payment in the amount of \$283,638 towards the widening of Lyons Road from Southern Boulevard to Forest Hill Boulevard to a four lane cross-section. This proportionate share amount may be applied towards construction of this improvement or one or more other improvements that will benefit the mobility in the area impacted by the project, as determined by the County Engineer.

In recognition that construction prices may change over the life of the project, the above

noted Payment shall be subject to the following adjustment calculation:

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect. (BLDGPM: MONITORING - Engineering)

2. Previous ENGINEERING Condition 2 of Resolution R-2016-410, Control No.1983-00045, which currently states:

The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Southern Boulevard (SR 80), 220 feet north of the south right of way line.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT 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 Property Owner, the Property Owner agrees to hold the County and FDOT 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed.

Is hereby amended to read:

The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Southern Boulevard (SR 80), 200 feet north of the south right of way line.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT 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 Property Owner, the Property Owner agrees to hold the County and FDOT 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. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM: MONITORING - Engineering)

3. Previous ENGINEERING Condition 3 of Resolution R-2016-410, Control No.1983-00045, which currently states:

Within ninety (90) days notice from the County Engineer, the Property Owner shall fund the construction of a sidewalk along the entire frontage of Benoist Farms Road. (ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2016-410, Control No.1983-00045)

Is hereby deleted. [REASON: Code Requirement.]

4. Previous ENGINEERING Condition 4 of Resolution R-2016-410, Control No.1983-00045, which currently states:

The Property Owner shall revise the pavement striping to provide for dual left turn lanes on the west approach on Southern Boulevard at Benoist Farms Road, including sufficient modifications at the north approach to accept the dual left turn lanes.

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 FDOT for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

B. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer required.]

5. Previous ENGINEERING Condition 5 of Resolution R-2016-410, Control No.1983-00045, which currently states:

The Property Owner shall construct dual left-turn lanes north approach on Benoist Farms Road at Southern Boulevard.

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 for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

B. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer required.]

6. Previous ENGINEERING Condition 6 of Resolution R-2016-410, Control No.1983-00045, which currently states:

The Property Owner shall construct a right turn lane south approach on Benoist Farms Road at Project's entrance.

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 for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

B. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

Is hereby deleted. [REASON: Required ROW not available.]

7. The Property Owner shall construct an east approach, right turn lane on Southern Boulevard, for the Southern Boulevard and Benoist Farms Road intersection, as required and approved by the Florida Department of Transportation.

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. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

8. Only approved landscaping and approved signage shall be allowed within 220ft north of the south R-O-W line of Southern Boulevard. (ONGOING: ENGINEERING - Engineering)

9. The Property Owner shall fund the construction plans and construction of the ultimate curb and gutter, guardrail and adjacent northbound lane on Benoist Farms Road along their frontage to be consistent with Palm Beach County standards for a major street. 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 for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

LAKE WORTH DRAINAGE DISTRICT

1. Previous LAKE WORTH DRAINAGE DISTRICT Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

Prior to platting, approval from LWDD for Technical Compliance, or the issuance of any LWDD permits, the owner shall convey to LWDD either by warranty deed or easement

deed the east 20 feet of the west 55 feet of the remaining portion of Tract 42, Block 6, PBFCP3, PB 2, PG 45 for the E-2 Canal (North of Southern Blvd). (PLAT: ENGINEERING - Lake Worth Drainage District)

Is hereby deleted. [REASON: Condition no longer applicable]

2. LWDD will require a 36-foot Ingress/Egress Easement entering the site from Southern Boulevard and then turning westerly 18-foot, unobstructed access to LWDDs E-2 Canal Right-of-Way prior to issuance of LWDD permits. (DRO: ENGINEERING - Lake Worth Drainage District)

3. Prior to approval from LWDD for Technical Compliance or the issuance of any LWDD permits, the owner shall convey to LWDD either by warranty deed or easement deed the east 20 feet of the west 55 feet of the remaining portion of Tract 42, Block 6, PBFCP3, PB 2, PG 45 for the E-2 Canal. (North of Southern Blvd) (DRO: LAKE WORTH DRAINAGE DISTRICT - Lake Worth Drainage District)

LANDSCAPE - PERIMETER-ALONG WEST PROPERTY LINE (ABUTTING BENOIST FARMS ROAD)

1. Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the landscaping and buffering along the west property line shall be upgraded to include:

a. a minimum ten (10) feet wide landscape buffer. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: A 10 ft. Landscape Buffer is delineated on the Preliminary Site Plan.]

LANDSCAPE - PERIMETER-ALONG EAST PROPERTY LINE (ABUTTING AGRICULTURAL PROPERTIES - NURSERY)

2. Prior to final site plan approval by the Development Review Officer (DRO), the landscaping and buffering along the east property line shall be upgraded to include:

a. a minimum of six (6) feet in height vinyl chain link fence to be installed on the property line. (DRO/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2016-410, Control No.1983-00045)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney, submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)

2. Construct, and pave to the property line, the cross access as shown on the site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

Ground Mounted Freestanding signs fronting on Southern Boulevard shall be limited as follows:

- a. maximum sign height - 20 feet, measured from finished grade to highest point;
- b. maximum sign face area per side - 200 square feet;
- c. maximum number of signs - one (1); and,
- d. style - monument style only.
- e. to be relocated to the interior of the Base Building Line (BBL), or shall be subject to a BBL Waiver. (DRO/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Revised Site Plan provides a note at sign location addressing necessary approvals required. Master Sign Plan meets all requirements of previous condition.]

USE LIMITATIONS

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2016-410, Control No.1983-00045, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the Property Owner shall revise the site plan to:

- a. limited the gas sales to nineteen (19) fueling stations; and
- b. indicate a two (2) way drive aisle to the east of the canopy. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: The DOA revises the gas sales to 16 fueling stations, and a 2 way drive aisle is included on the Site Plan to the east of the canopy.]

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)

DISCLOSURE

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