

RESOLUTION NO. R-2003-1761

RESOLUTION APPROVING ZONING PETITION CA2003-041
CLASS A CONDITIONAL USE
PETITION OF JNR PETROLEUM INC.
BY BASEHART PLANNING, INC., AGENT
(FOREST HILL 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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2003-041 was presented to the Board of County Commissioners at a public hearing conducted on October 23, 2003; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition CA2003-041, the petition of JNR Petroleum Inc., by Basehart Planning, Inc., agent, for a Class A Conditional Use to allow a convenience store with gas sales in the General Commercial 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 October 23, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Aye
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Absent
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Addie L. Greene	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on October 23, 2003.

Filed with the Clerk of the Board of County Commissioners on 24 day of November, 2003.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK

BY: 
DEPUTY CLERK

Petition CA2003-041
Project No. 5034-000

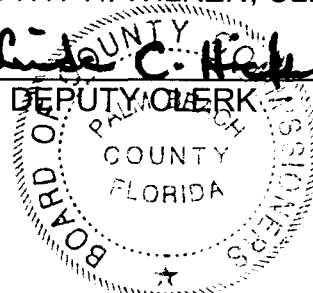


EXHIBIT A

LEGAL DESCRIPTION

BEGINNING AT THE SOUTHEAST CORNER OF TRACT 2, BLOCK 3, SUBDIVISION OF SECTION 12, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH PLANTATIONS, AS RECORDED IN PLAT BOOK 10, PAGE 20, OF PALM BEACH COUNTY PUBLIC RECORDS, WHICH POINT IS THE INTERSECTION OF THE CENTERLINE OF MILITARY TRAIL AND FOREST HILL BOULEVARD; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACT 2 AND THE CENTERLINE OF FOREST HILL BOULEVARD A DISTANCE OF 203.06 FEET; THENCE NORTHERLY AND PARALLEL TO THE CENTERLINE OF MILITARY TRAIL A DISTANCE OF 203.06 FEET; THENCE EASTERLY AND PARALLEL WITH THE CENTERLINE OF FOREST HILL BOULEVARD A DISTANCE OF 203.06 FEET TO THE CENTERLINE OF MILITARY TRAIL; THENCE SOUTHERLY ALONG THE CENTERLINE OF MILITARY TRAIL A DISTANCE OF 203.06 FEET TO THE POINT OF BEGINNING, SUBJECT TO RIGHT-OF-WAY OF MILITARY TRAIL OVER THE EASTERLY 53.06 FEET THEREOF AND SUBJECT TO RIGHT-OF-WAY OF FOREST HILL BOULEVARD OVER THE SOUTHERLY 53.06 FEET, AND FURTHER LESS THE RIGHT-OF-WAY TO PALM BEACH COUNTY, DATED NOVEMBER 12, 1980 IN OFFICIAL RECORDS BOOK 3402 PAGE 1137, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT ALL THAT CERTAIN LAND SITUATE IN PALM BEACH COUNTY, FLORIDA TO-WIT:

BEING A PARCEL OF LAND LYING IN PART OF TRACT 2, BLOCK 3, OF PLAT NO. 1, PALM BEACH PLANTATIONS (MOBIL LAND COMPANY) AS RECORDED IN PLAT BOOK 10, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE CENTERLINE OF MILITARY TRAIL (S.R. 809) AND FOREST HILL BOULEVARD (SOUTHEAST CORNER OF SAID TRACT 2, BLOCK 3); THENCE NORTH 01°30'20" WEST (ASSUMED BEARING) ALONG THE CENTERLINE OF SAID MILITARY TRAIL (A 106' RIGHT-OF-WAY) AS RECORDED IN ROAD PLAT BOOK 3, PAGE 74, OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, A DISTANCE OF 203.07 FEET;

THENCE NORTH 88°46'02" WEST, A DISTANCE OF 53.06 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF SAID MILITARY TRAIL, SAID POINT BEING THE POINT OF BEGINNING OF THIS DESCRIPTION:

THENCE SOUTH 01°30'20" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 116.76 FEET.

THENCE SOUTH 44°51'49" WEST, A DISTANCE OF 36.20 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF SAID FOREST HILL BOULEVARD (A 120 FOOT RIGHT-OF-WAY);

THENCE NORTH 88°46'02" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 7.00 FEET;

THENCE NORTH 44°51'49" EAST, A DISTANCE OF 36.20 FEET; THENCE NORTH 01°30'20" WEST ALONG A LINE THAT IS 7.00 FEET WEST OF AND PARALLEL WITH THE WEST RIGHT-OF-WAY LINE OF SAID MILITARY TRAIL, A DISTANCE OF 116.77 FEET; THENCE SOUTH 88°46'02" EAST, A DISTANCE OF 7.01 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.023+ ACRES, MORE OR LESS

BEING THE SAME PROPERTY CONVEYED FROM CHEVRON, U.S.A., INC. TO PALM BEACH COUNTY BE RIGHT OF WAY WARRANTY DEED DATED MARCH 27, 1985, RECORDED IN OFFICIAL RECORDS BOOK 4578, AT PAGE 807, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SITE AREA CONTAINING 0.461 ACRES

EXHIBIT B
VICINITY SKETCH

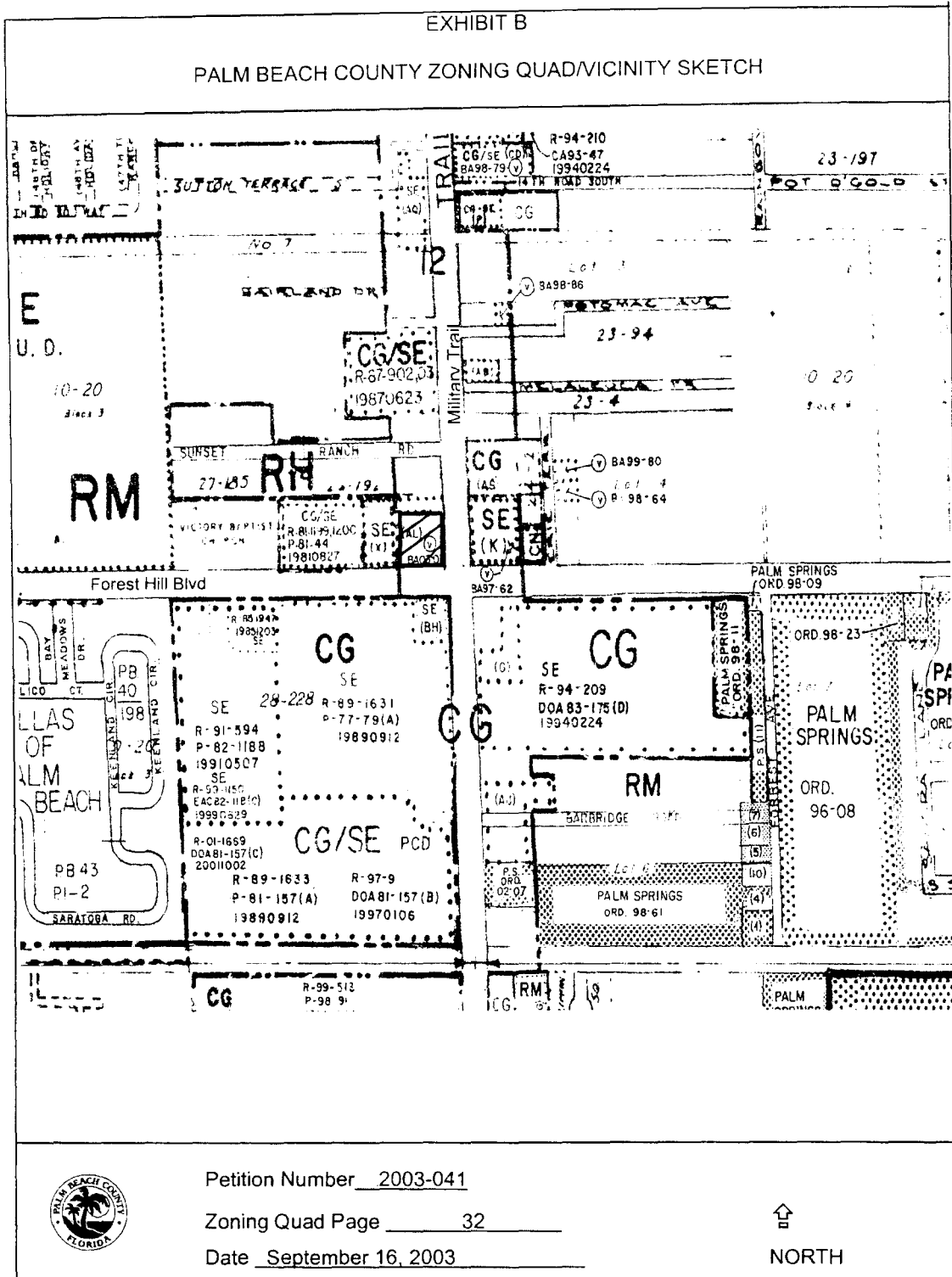


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated July 29, 2003. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING – Zoning)

B. ARCHITECTURE REVIEW

1. At time of submittal for final Development Review Committee (DRC) approval, the architectural elevations of all structures, including decorative fountain, shall be submitted for architectural review and approval. Elevations and the site plan shall be designed to be consistent with Section 6.6.E of the ULDC. Development shall be consistent with the approved architectural elevations and DRC certified site plan. (DRC: ARCH REVIEW – Zoning)
2. Gas station canopies shall be designed consistent with the following standards:
 - a. A maximum height of twenty-five (25) feet;
 - b. The clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
 - c. A pitched roof shall be required with a minimum slope of 5:12, or a maximum slope of 8:12;
 - d. Banding shall not exceed more than twenty-five (25) percent of the roof height provided; and,
 - e. Lighting for the gas station canopy shall be flush mounted or recessed. (BLDG PRMT/CO: BLDG – Zoning)

C. HEALTH

1. Prior to issuance of a building permit, Stage II vapor recovery plans must be approved by the Palm Beach County Health Department in accordance with Rule 62-252 Florida Administrative Code (FAC). (BLDG PRMT: HEALTH – Health)

D. LANDSCAPING – STANDARD

1. Fifty (50) 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;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE – Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. Eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. Twenty-four (24) to thirty-six (36) inches – medium shrub; and
 - c. This condition shall not apply where a single row of shrubs is required. (CO: LANDSCAPE – Zoning)
 4. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE – Zoning)

E. ENGINEERING

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

No Building Permits for the site may be issued after November 1, 2006. 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING – Eng)

2. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for:
 - a. Military Trail, 72 feet from centerline; and,
 - b. Forest Hill Boulevard, 64 feet from centerline.

Additional right of way shall be conveyed prior to October 1, 2004 or prior to the issuance of a building permit whichever shall first occur. Right of way conveyance shall be free of all encumbrances and encroachments. Developer 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. The Grantor further warrants 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 Grantee 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 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 provisions for Expanded Intersection Details and "Corner Clips." (DATE/BLDG. PERMIT: MONITORING-Eng)

3. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Forest Hill Boulevard and Military Trail to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG. PERMIT: MONITORING – Eng)

4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG – Eng)

F. LANDSCAPING ALONG SOUTH PROPERTY LINE (FRONTAGE OF FOREST HILL BOULEVARD)

1. Landscaping and buffering along the south property line fronting on Forest Hill Boulevard shall be upgraded to include:
 - a. A minimum eight (8) foot wide landscape buffer strip, as approved by BA 2003-006. No easement encroachment shall be permitted;
 - b. One (1) native canopy tree for each thirty (30) linear feet of the property line;
 - c. One (1) Royal Palm shall be planted on each side of the Forest Hill Boulevard access point;
 - d. One (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - e. One (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG EAST PROPERTY LINE (FRONTAGE OF MILITARY TRAIL)

1. Landscaping and buffering along the east property line fronting on Military Trail shall be upgraded to include:
 - a. A minimum eight (8) foot wide landscape buffer strip, as approved by BA 2003-006. No easement encroachment shall be permitted;
 - b. One (1) native canopy tree for each thirty (30) linear feet of the property line;
 - c. One (1) pair of Royal Palms shall be planted on the south side of the Military Trail access point;
 - d. One (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
 - e. One (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE – Zoning)
2. Prior to issuance of a Certificate of Occupancy, a decorative wall fountain consistent with the design and construction of the principal structure shall be installed in the right-of-way buffer, to be consistent with the dimensions indicated on the site plan dated July 29, 2003. (CO: BLDG/LANDSCAPE – Zoning)

H. LANDSCAPING ALONG INTERSECTION OF FOREST HILL BOULEVARD AND MILITARY TRAIL

1. Landscaping along the intersection of Forest Hill Boulevard and Military Trail shall be upgraded as follows:
 - a. A minimum five (5) foot wide landscape buffer strip, as approved by BA 2003-006;
 - b. Five (5) Royal Palms evenly spaced; and,
 - c. One (1) medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE – Zoning)

I. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING COMMERCIAL)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. A minimum five (5) foot wide landscape buffer strip. No easement encroachment shall be permitted; however, the width may be reduced, as approved by BA 2003-006 and indicated on the site plan dated July 29, 2003;
 - b. A six (6) foot high concrete screen panel wall shall be provided along the west forty (40) feet of the north property line. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure, with a decorative trellis panel installed along the interior side of the wall. Trellis panel shall be a minimum of two (2) feet in width, spaced a minimum of four (4) feet on center, and the approximate height of the wall;
 - c. An eight (8) foot tall decorative trellis structure forty (40) feet in length shall be provided along the north property line, starting at the eastern terminus of the wall required in Condition I.1.b., and continuing easterly;
 - d. One (1) vine (*Ficus pumila* or similar species) shall be installed along the interior side of the trellis panels and structure, with a minimum spacing of four (4) feet on; and,
 - e. One (1) medium shrub for each two (2) linear feet of the property line, excluding the area where no landscape buffer is provided. Shrub shall be a minimum height of thirty-six (36) inches at installation. (CO: LANDSCAPE/ARCH REV – Zoning)

J. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING COMMERCIAL)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum five (5) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted for each twenty (20) linear feet of the property line;
 - c. One (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters and,
 - d. One (1) medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (CO: LANDSCAPE – Zoning)

K. LANDSCAPING – INTERIOR

1. Decorative planters shall be placed on both ends of each gas pump island, and on either side of the entrance to the convenience store, to consist of the following:
 - a. Decorative planter shall be a minimum of thirty (30) gallons in size, and twenty (24) four inches in height;
 - b. Decorative planter shall designed to be consistent with the architecture of the principal structure. Decorative planter shall be submitted to Architectural Review staff for review and approval; and,
 - c. Each planter shall be planted with one (1) parotis, McArthur or Cabada palm or other similar species, subject to Landscape Staff approval. (DRC/CO: ARCH REV/LANDSCAPE – Zoning)
2. Landscaping for the terminal island in the parking area shall consist of the following:
 - a. One (1) canopy tree; and,

- b. One (1) small shrub for each two (2) linear feet of curb. Shrub shall be a minimum height of eighteen (18) inches at installation;
- c. One (1) medium shrub for each four (4) linear feet of curb. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE – Zoning)

L. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)

M. SIGNAGE

- 1. Freestanding point of purchase signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. Maximum sign face area per side – fifty (50) square feet;
 - c. Maximum number of signs - two (2);
 - d. Style - monument style only; and,
 - e. Location – Sign A: North side of Military Trail entrance; and, Sign B: within fifty (50) feet of Forest Hill Boulevard entrance; and,
 - f. Signs shall be limited to identification of tenants, and any State sign requirements for gasoline sales. (CO: BLDG - Zoning)
- 2. Wall signs shall be limited to southeast facade of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG – Zoning)
- 3. Signs on the gas canopy shall be limited to the south and east facades. Lettering size shall be limited to twenty-four (24) inches high. Canopy signs shall be limited to identification of tenants only. (CO: BLDG – Zoning)

N. USE LIMITATIONS

- 1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property. (ONGOING: CODE ENF – Zoning)
- 2. Total gross floor area for the convenience store with gas sales shall be limited to a maximum of 2,230 square feet with four (4) pumps and a maximum of seven (7) fueling stations. (DRC: ZONING – Zoning)
- 3. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted. (ONGOING: CODE ENF – Zoning)
- 4. Repair or maintenance of vehicles shall not be permitted on the property. (ONGOING: CODE ENF – Zoning)
- 5. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF – Zoning)
- 6. Parking of delivery vehicles or trucks shall not be permitted on the property except within the designated loading space located in the northwest corner of the property. (ONGOING: CODE ENF – Zoning)

O. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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; 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 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 a 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING – Zoning)