

RESOLUTION NO. R-2012- 10511

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2011-02915
(CONTROL NO. 1973-00116)
a Requested Use
APPLICATION OF Cumberland Farms, Inc.
BY Lewis Longman and Walker PA, AGENT
(Cumberland Farms SR 7)

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/DOA/R-2011-02915 was presented to the Board of County Commissioners at a public hearing conducted on July 26, 2012; 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 incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Requested Use.

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/DOA/R-2011-02915, the petition of Cumberland Farms, Inc., by Lewis Longman and Walker PA, agent, for a Requested Use to allow a Convenience Store with Gas Sales in the General Commercial with Special Exception (CG/SE) 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 July 26, 2012, subject to the Conditions of Approval described in EXHIBIT C-3, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Burt Aaronson	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2012.

Filed with the Clerk of the Board of County Commissioners on July 31, 2012.

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

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 25, TOWNSHIP 47 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, AS SURVEYED BY THE STATE OF FLORIDA IN MAY AND JUNE 1912 AND AS SHOWN ON RIGHT-OF-WAY MAP OF FLORIDA STATE ROAD DEPARTMENT IN THEIR SURVEY OF STATE ROAD NO. 7 IN FEBRUARY 1941 AS PROJECT 5268; RUN (FOR CONVENIENCE THE SOUTH LINE OF SAID SECTION 25, IS ASSUMED TO BEAR NORTH 88 DEG. 34'16" WEST AND ALL OTHER BEARINGS MENTIONED HEREIN ARE RELATIVE THERETO) THENCE NORTH 88 DEG. 34'16" WEST ALONG THE SOUTH LINE OF SECTION 25 A DISTANCE OF 148.58 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7; THENCE NORTH ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 43.53 FEET TO AN ANGLE POINT; THENCE NORTH 0 DEG. 28'33" EAST CONTINUING ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 501.26 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 89 DEG. 04'09" WEST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SANDALFOOT BOULEVARD WEST A DISTANCE OF 131.61 FEET TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 793.94 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE SUBTENDING A CENTRAL ANGLE OF 13 DEG. 41'24", A DISTANCE OF 189.70 FEET TO A POINT IN THE EASTERLY BOUNDARY OF LANDS SHOWN AND DESCRIBED IN OFFICIAL RECORD BOOK 1955, PAGES 1599 AND 1600, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE DEPARTING FROM SANDALFOOT BOULEVARD WEST AND RUNNING ALONG SAID EASTERLY BOUNDARY NORTH 0 DEG. 28'33" EAST, A DISTANCE OF 222.55 FEET TO THE NORTHWESTERLY CORNER OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE SOUTH 89 DEG. 04'09" EAST A DISTANCE OF 319.68 FEET TO A POINT ON THE AFORESAID WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7; THENCE SOUTH 0 DEG. 28'33" WEST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING. LESS THE EAST 99 FEET THEREOF.

EXHIBIT B
VICINITY SKETCH

VICINITY SKETCH

Cumberland Farms / SR 7
and Sandalfoot Boulevard

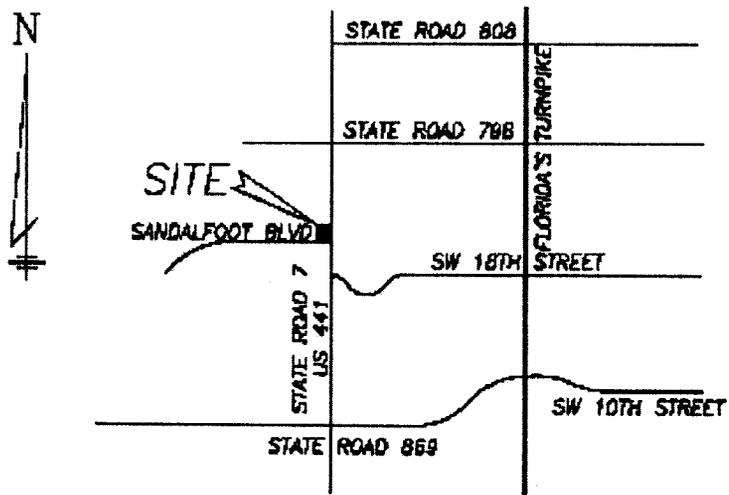


EXHIBIT C-3

CONDITIONS OF APPROVAL Requested Use - Convenience Store with Gas Sales

ALL PETITIONS

1. The approved Preliminary Site Plan for Cumberland Farms is dated May 23, 2012 and the Preliminary Master Plan is dated May 17, 2012. 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 Resolution R-96-003 (Control No.1973-00116) and Resolution R-2007-1035 (Control No. 1973-00116) have been revoked. 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the convenience store and the gas canopy shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the facade elevations prepared by Aharonian & Associates, Inc. and dated November 16, 2012. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

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

- a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- a pitched roof with a minimum slope of 4:12 and a maximum slope of 6:12. The fascia for any canopy may not exceed twenty (20) percent of the overall roof height. No flat roof shall be permitted;
- the clearance of the canopy shall be a maximum of sixteen (16) feet, measured from finished grade to the underside of the canopy;
- lighting for the gas station canopy shall be flush mounted or recessed; and,
- canopy signage shall be limited to a maximum of one (1) sign facing US 441 road frontage. (DRO: ARCH REVIEW - Zoning)

LANDSCAPE - GENERAL

1. All palms shall meet the following minimum standards at installation:

- palm heights: twelve (12) feet clear trunk;
- clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

2. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

In addition to code requirements, the proposed landscaping along the west property line shall be upgraded to include:

- a six (6) foot high opaque hedge. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER

3. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGE OF SANDALFOOT BOULEVARD AND SR 7/ US 441)

In addition to the code requirements, landscaping along the south and east property lines shall be upgraded to include:

- a. one (1) palm or pine tree for each for each thirty (30) linear feet of the property line. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures be setback twenty (20) feet from the west property line. (BLDG PERMIT: BLDG - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to final site plan approval, the petitioner must begin the annexation process into Lake Worth Drainage District's (LWDD) boundaries and enter into a Service Agreement with LWDD. (DRO: LWDD - LWDD)

SIGNS

1. Freestanding signs fronting on US441/State Road 7 shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. maximum sign face area per side - one-hundred (100) square feet;
 - c. maximum number of signs - one(1);
 - d. style - monument style only; and
 - e. location - at the corner of State Road 7 and Sandalfoot Boulevard. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to indicate facilities for the provision of free air and water for customer convenience. (DRO: ZONING - Zoning) (Control No. 1973-00116)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer/property owner shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD - PBCWUD)

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 (CO); 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 Unified Land Development Code (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 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)