

RESOLUTION NO. R-2016- 0410

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2015-01227  
(CONTROL NO. 1983-00045)  
a Class A Conditional Use  
APPLICATION OF JCL Management LLC  
BY 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 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application Z/CA-2015-01227 was presented to the Board of County Commissioners at a public hearing conducted on March 24, 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 hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Class A Conditional Use;

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, 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 Z/CA-2015-01227, the Application of JCL Management LLC, by Urban Design Kilday Studios, Agent, for a Class A Conditional 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 March 24, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana 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           | - | Nay |
| 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 March 24, 2016.

Filed with the Clerk of the Board of County Commissioners on April 14th, 2016

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



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a small star. The center of the seal contains the text 'PALM BEACH COUNTY FLORIDA'.

EXHIBIT A

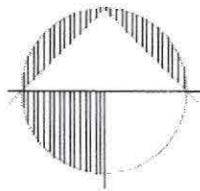
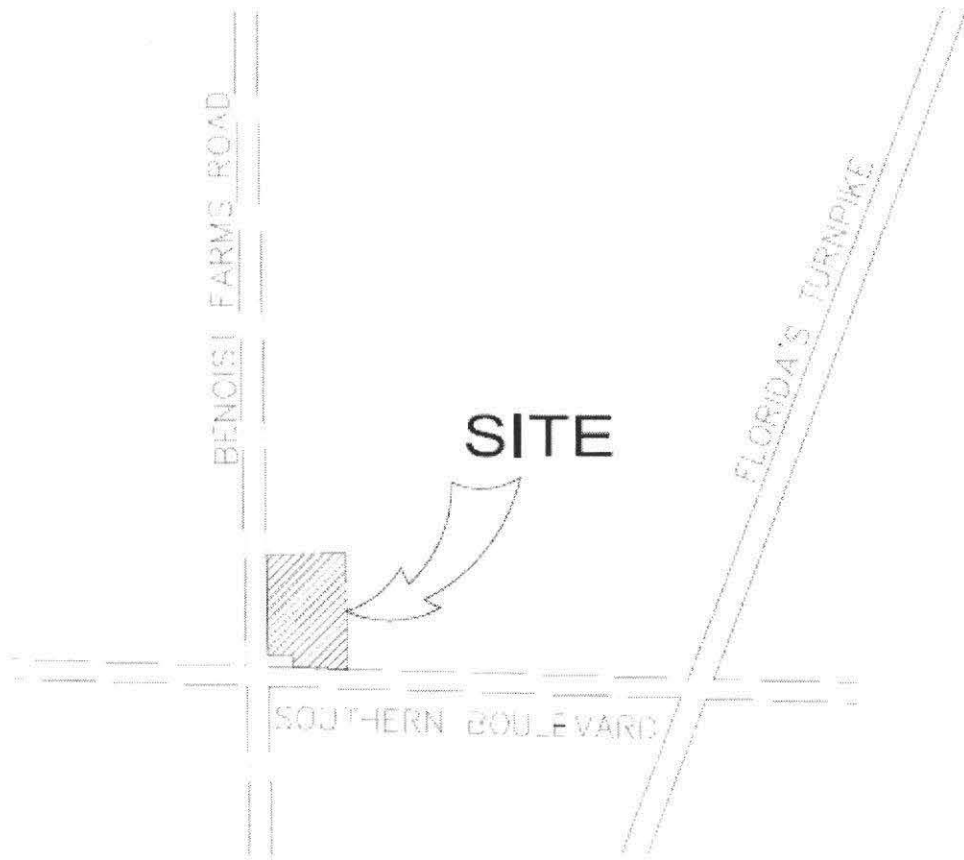
LEGAL DESCRIPTION

DESCRIPTION:

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; TOGETHER WITH A PORTION OF "SOUTHERN BOULEVARD PINES NO. 2" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18 AT PAGE 71, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALSO KNOWN AS EXHIBIT "A" OF THE AFFIDAVIT OF WAIVER, AS RECORDED IN OFFICIAL RECORD BOOK 24390, PAGES 1885 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; BEING 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, ALONG A LINE 35 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID TRACT 42, 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; SAID POINT ALSO LYING 15 FEET EAST OF THE EAST LINE OF BLOCK ONE OF SAID PLAT OF "SOUTHERN BOULEVARD PINES NO. 2". 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, ALONG A LINE 125 FEET NORTH OF AND PARALLEL TO THE ORIGINAL NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 CONVEYED BY DEED RECORDED IN DEED BOOK 1027, PAGE 398, PALM BEACH COUNTY RECORDS, 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.  
SAID LANDS CONTAINING 83,964 SQUARE FEET, (1.9275 ACRES) MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



**LOCATION MAP**

N.T.S.

## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Conditional Use Class A –Convenience Store

##### ALL PETITIONS

1. 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 or the Zoning Commission. (ONGOING: ZONING - Zoning)

##### ARCHITECTURAL REVIEW

1. 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)

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 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)

##### ENGINEERING

###### 1. 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)

2. 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. (BLDGPM: MONITORING - Engineering)

3. 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)

4. 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)

5. 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. (BLDGPM: MONITORING - Engineering)

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

6. 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. (BLDGPM: MONITORING - Engineering)

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

#### **LAKE WORTH DRAINAGE DISTRICT**

1. 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)

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

1. 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)

#### **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: ZONING - Zoning)

#### **SIGNS**

1. 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)

#### **USE LIMITATIONS**

1. 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)

## **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.