

RESOLUTION NO. ZR-2002-003

RESOLUTION APPROVING ZONING PETITION CB1995-091 (A)
CLASS B CONDITIONAL USE
PETITION OF BRUCE FREY
BY DAVID L CARPENTER & ASSOCIATES, AGENT
(OKEECHOBEE SERVICE STATION)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class B 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 CB1995-091(A) was presented to the Zoning Commission at a public hearing conducted on March 7, 2002; and

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; 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 and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Zoning Commission made the following findings of fact:

1. This Class B Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class B 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 B Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class B 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 B 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 B Conditional Use meets applicable local land development regulations.
7. This Class B Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class B Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards.

9. This Class B 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 B Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
11. This Class B Conditional Use, with conditions as adopted, is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CB1995-091(A), the petition of Bruce Frey, by David L Carpenter & Associates, agent, for a Class B Conditional Use to add a car wash facility in the General Commercial (CG) 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 March 7, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kaplan moved for the approval of the Resolution.

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

William Anderson, Chair	-- Aye
Frank A. Barbieri, Jr., Vice Chair	-- Aye
Kevin Foley	-- Aye
Sherry Hyman	-- Aye
Allan Kaplan	-- Aye
Peter Carney	-- Aye
Wayne M. Richards	-- Aye
Herbert Epstein	-- Absent

The Chair thereupon declared that the resolution was duly passed and adopted
on
March 7, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY


BY: 
CHAIR

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

Commence at a point on the North line of Section 29, Township 43 South, Range 43 East, which is located 1300.36 feet East of the East line of Replat of Madrid Park as recorded in Plat Book 20 at page 20 of the public records of Palm Beach County, Florida; said point also being situated 50.00 feet West of the East line of the Northwest $\frac{1}{4}$ of said Section 29; thence run South $0^{\circ}41'20''$ West parallel to the East line of the Northwest $\frac{1}{4}$ of said Section 29 for a distance of 59.39 feet to the Point of Beginning of the tract of land hereinafter described; thence continue South $0^{\circ}41'20''$ West for a distance of 100.61 feet; thence South $90^{\circ}00'00''$ West parallel to the North line of Section 29 for 56.00 feet; thence South $0^{\circ}41'20''$ West parallel to the East line of Section 29 for 50.00 feet; thence South $90^{\circ}00'00''$ West parallel to the North line of Section 29 for a distance of 133.00 feet; thence run North $0^{\circ}41'20''$ East parallel to the East line of the Northwest $\frac{1}{4}$ of said Section 29 for a distance of 192.39 feet to a point on the Southerly right of way line of Okeechobee Road; said point being situated on the arc of a circular curve concave to the Southwest and having for its elements a radius of 726.46 feet, a central angle of $15^{\circ}16'22''$ and a chord bearing of South $77^{\circ}30'16''$ East, thence run Southeasterly along the arc of said curve for a distance of 193.66 feet to the Point of Beginning

Less Parcel No. 100

That part of the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 29, Township 43 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the Northwest $\frac{1}{4}$ of said Section 29; thence North $88^{\circ}45'29''$ West along the North line of said Northwest $\frac{1}{4}$, a distance of 27.85 feet; thence North $1^{\circ}14'31''$ East along a line at right angles to the last described course, a distance of 13.00 feet to the Baseline of Survey for State Road 704 (Okeechobee Boulevard); thence North $88^{\circ}45'29''$ West along said Baseline of Survey, a distance of 211.48 feet; thence South $1^{\circ}14'31''$ West along a line at right angles to the last described course, a distance of 40.00 feet to the Point of Beginning; thence South $88^{\circ}45'29''$ East, a distance of 70.24 feet to a point on the Southerly existing right of way line for said State Road 704 (Okeechobee Boulevard) and a point on a curve concave Southerly, having a chord bearing of North $81^{\circ}07'18''$ West; thence Westerly along said Southerly existing right of way line and said curve, having a radius of 726.46 feet, through a central angle of $5^{\circ}35'09''$, an arc distance of 70.82 feet to the end of said curve; thence South $1^{\circ}44'41''$ West, a distance of 9.41 feet to the Point of Beginning. Containing 371 square feet, more or less.

The total area of the property contains 0.6904 acres more or less.

EXHIBIT B
VICINITY SKETCH

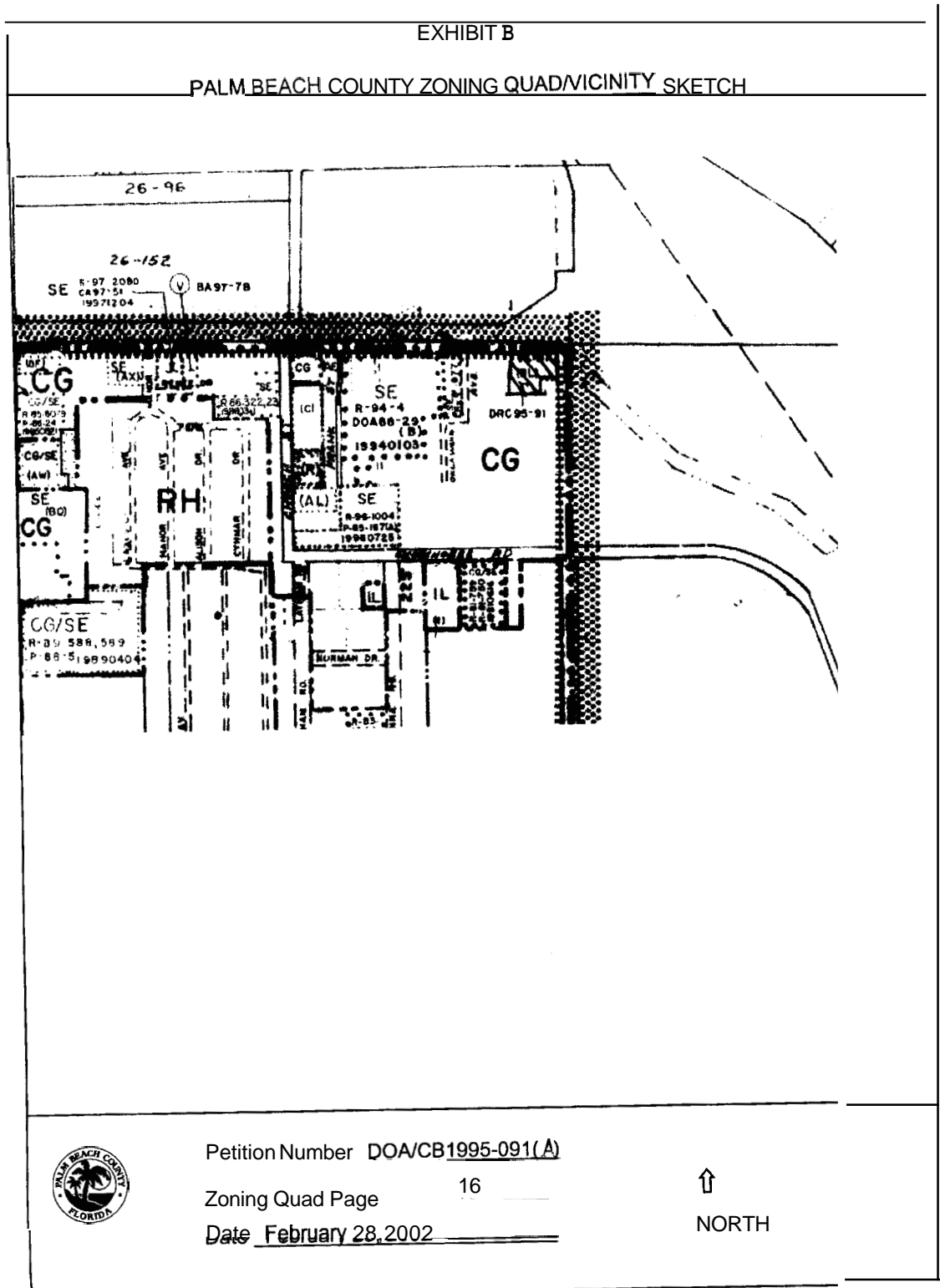


EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-96-0132 (Petition CA95-91), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. Development of the site is limited to the uses and site design as approved by the Zoning Commission. The approved site plan is dated January 8, 2002. All modifications must be approved by the Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. ARCHITECTURAL CONTROL

1. At time of submittal for final DRC certification of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001. Development shall be consistent with the approved architectural elevations. (DRC: ZONING/BLDG PERMIT - Zoning)

C. ERM

1. **Prior to Certificate of Occupancy (CO), a System Tightness test shall be performed and the results reviewed and approved by the Department of Environmental Resources Management.** (CO: MONITORING-ERM) (Previous Condition H.I of Resolution R-96-0132, Petition CA95-91)

D. LANDSCAPING

1. Condition A.I of Resolution R-96-0132, Petition CA95-91 which currently states:

All trees required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. **Tree height: fourteen (14) feet.**
- b. **Trunk diameter: 3.5 inches measured 4.5 feet above grade.**
- c. **Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.** (CO: LANDSCAPE-Zoning)

Is hereby amended to read:

Trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 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 3.5 feet in length.

Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)

- 2. Condition A.2 of Resolution R-96-0132, Petition CA95-91 which currently states:

The right-of-way buffer along Okeechobee Boulevard shall be upgraded to include one canopy tree or group of three palms every twenty (20) feet on center. (CO: LANDSCAPE-Zoning)

Is hereby deleted. [REASON: replaced by new condition].

- 3. 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) (CO: LANDSCAPE - Zoning)

- 4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

- 5. Meandering pattern of planting shall not be applicable to the five (5) foot compatibility buffers. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

- 1. Condition E.1 of Resolution R-96-0132, Petition CA95-91 which currently states:

The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. (BLDG PERMIT: BLDG - Eng)

Is hereby deleted. [REASON: Code Requirement]

- 2. Condition E.1 of Resolution R-96-0132, Petition CA95-91 which currently states:

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project to be paid at the time of issuance of the Building Permit presently is \$7,975.00 (290 trips X \$27.50 per trip). (BLDG PERMIT: IMPACT FEE COORDINATOR)

Is hereby deleted. [REASON: Code Requirement]

F. LANDSCAPING- INTERIOR

1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)
2. Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure;
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover; and
 - d. Prior to final DRC certification of the site plan, the petitioner shall revise the plan to indicate the foundation strip. (DRC / CO: ZONING / LANDSCAPE-Zoning)

G. LANDSCAPING ALONG THE NORTH PROPERTY LINE (FRONTAGE OF OKEECHOBEE BOULEVARD)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum twenty (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. one (1) canopy tree for each thirty (30) feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) 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 thirty (30) inches at installation.
 - f. all shrub materials shall be planted in overlapping, continuous masses. Shrub materials shall be continuously maintained to achieve the following heights:
 - i. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - ii. twenty-four (24) to thirty-six (36) inches – medium shrub; and, (CO: LANDSCAPE-Zoning)

H. LANDSCAPING ALONG THE EAST PROPERTY LINE (ADJACENT TO FLORIDA MANGO ROAD)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. a minimum twenty (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. one (1) canopy tree for each twenty (20) feet on of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) 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 thirty (30) inches at installation.
 - f. all shrub materials shall be planted in overlapping, continuous masses. Shrub materials shall be continuously maintained to achieve the following heights:

- i. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
- ii. twenty-four (24) to thirty-six (36) inches – medium shrub; and,
- iii. forty-eight (48) to sixty (60) inches – large shrub.(CO: LANDSCAPE - Zoning)

I. LIGHTING

- 1. Condition B.I of Resolution R-96-0132, Petition CA95-91 which currently states:

All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF-Zoning)

Is hereby amended to read:

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)

- 2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG-Zoning) (Previous Condition B.2 of Resolution R-96-0132, Petition CA95-91)

J. HEALTH

- 1. Application and engineering plans to upgrade the existing onsite sewage treatment and disposal system (OSTDS), in accordance with Chapter 10D-6 FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Public Health Unit prior to final site plan certification. (DRC: HEALTH) (Previous Condition G.I of Resolution R-96-0132, Petition CA95-91)
- 2. No repair or maintenance of vehicles will take place on this site. (ONGOING: HEALTH/CODE ENF) (Previous Condition G.2 of Resolution R-96-0132, Petition CA95-91)
- 3. No food preparation or cooking will be allowed on site. (ONGOING: HEALTH/CODE ENF) (Previous Condition G.3 of Resolution R-96-0132, Petition CA95-91)

K. SIGNS

- 1. Point of purchase and/or freestanding signs along Florida Mango Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - thirty (30) feet;
 - b. Maximum sign face area per side - 90 square feet;
 - c. Maximum number of signs - one (1);
 - d. Style - monument style only. (BLDG PERMIT: BLDG-Zoning) (Previous Condition K.I of Resolution R-96-0132, Petition CA95-91)

2. Condition C.2 of Resolution R-96-0132, Petition CA95-91 which currently states:

Point of purchase and/or freestanding signs along Okeechobee Boulevard shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 90 square feet;
 - c. Maximum number of signs - one (1);
 - d. Style - monument style only. (BLDG PERMIT: BLDG - Zoning)
3. Wall signs shall be limited to north facades of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of tenants only. (CO: BLDG-Zoning)
 4. Signs on Gas Canopy shall be limited to east and west facades of the canopy. Lettering size shall be limited to eighteen (18) inches high. Canopy signs shall be limited to only identification of tenants only. (CO: BLDG-Zoning)
 5. The sign on Florida Mango Road shall be relocated approximately sixty (60) feet from the south property line (S 90 degrees 00' 00" w 56 ft). (CO:BLDG-Zoning)

L. SITE DESIGN

1. Condition F.1 of Resolution R-96-0132, Petition CA95-91 which currently states:

Prior certification by the DRC the site plan shall be amended to show the eastern existing driveway to Okeechobee Boulevard to have a maximum of twenty-five (25) in width. (DRC: ZONING-Building)

Is hereby amended to read:

At the time of submittal for final DRC certification of the site plan, the petitioner shall revise the site plan to reduce the width of the existing eastern driveway on Okeechobee Boulevard to a maximum of twenty-five (25) feet. (DRC: ZONING-Building)

2. The required right-of-way buffer adjacent to Okeechobee Boulevard shall extend to the edge of the drives providing approximately ninety (90) feet in length of right-of-way buffer. (DRC: ZONING-Building) (Previous Condition F.2 of Resolution R-96-0132, Petition CA95-91)

M. SITE PLAN APPROVAL

1. Condition D.1 of Resolution R-96-0132, Petition CA95-91 which currently states:

Prior to site plan certification, the petitioner shall obtain variance relief from the applicable requirements of the ULDC or revise the plan to meet minimum ULDC requirements. In the event the variance requests are approved, the petitioner shall revise the site plan to clearly indicate all relief granted. (DRC: ZONING)

Is hereby deleted. [REASON: Variances have been granted for building setbacks.]

2. Condition D.2 of Resolution R-96-0132, Petition CA95-91 which currently states:

Use of the site shall be limited to a 1,428 square foot convenience store with gas sales. (DRC: ZONING)

Is hereby amended to read:

Use of the site shall be limited to the to a maximum of 2,760 square foot convenience store with gas sales and a car wash tunnel with a viewing area. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. No further expansion is permitted except subject to ZC approval. (DRC: ZONING- Zoning)

3. Condition D.3 of Resolution R-96-0132, Petition CA95-91 which currently states:

The site shall be limited to a maximum of two (2) pump islands. (DRC: ZONING)

Is hereby amended to read:

The site shall be limited to a maximum total of eight (8) fueling stations. (DRC: ZONING)

4. The subject property shall be limited to the site design and configuration approved by the Board of Adjustment. (DRC: ZONING) (Previous Condition D.4 of Resolution R-96-0132, Petition CA95-91)
5. A Landscape Betterment Plan shall be approved as part of final site plan approval by the DRC for the subject property if it is determined by staff that variance relief for the fifteen (15) foot landscape buffer is not required. (BOARD OF ADJUSTMENT/DRC: ZONING) (Previous Condition D.5 of Resolution R-96-0132, Petition CA95-91)
6. The petitioner shall provide free air and water to the public for minor vehicle maintenance at no charge. (ONGOING: CODE ENF) (Previous Condition D.6 of Resolution R-96-0132, Petition CA95-91)

N. USE LIMITATIONS

1. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
2. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF - Zoning)

O. COMPLIANCE

1. In granting this approval, the Zoning Commission 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 Zoning Commission for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Condition 1.1 of Resolution R-96-0132, Petition CA95-91 which currently states:

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; 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.

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. (MONITORING)

Is hereby amended to read:

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.
(MONITORING)