

RESOLUTION NO. R-2005-0376

RESOLUTION APPROVING ZONING APPLICATION DOA2004-643
(CONTROL NUMBER 200010)
DEVELOPMENT ORDER AMENDMENT
PETITION OF G. BROCKWAY
BY KILDAY & ASSOCIATES, INC., AGENT
(GOLFVIEW PLAZA)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA2004-643 was presented to the Board of County Commissioners at a public hearing conducted on February 24, 2005; and

WHEREAS, the Board of County Commissioners has 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 2.E (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 Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b 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 DOA-2004-643, the petition of G. Brockway, by Kilday & Associates, Inc., agent, for a Development Order Amendment to reconfigure the site plan, add square footage, and modify a condition of approval for a Multiple Use Planned Development 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on February 24, 2005, 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 Greene and, upon being put to a vote, the vote was as follows:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on February 24, 2005.


Filed with the Clerk of the Board of County Commissioners on 9 day of March, 2005.

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

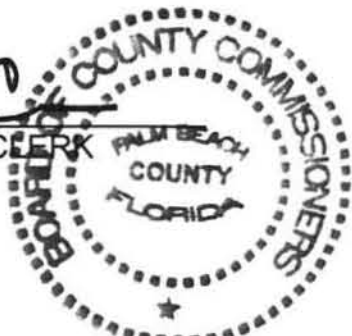


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BOUNDED AS FOLLOWS:

BOUNDED ON THE WEST BY THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 809 (MILITARY TRAIL); BOUNDED ON THE NORTH BY THE SOUTH LINE OF THE NORTH 100.00 FEET OF THE SOUTH ONE-HALF (S 1/2) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHEAST ONE QUARTER (NE 1/4) OF SAID SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST; BOUNDED ON THE EAST BY THE WEST LINE OF LAND DESCRIBED IN OFFICIAL RECORD BOOK 139, PAGE 100, PUBLIC RECORDS OF PALM BEACH COUNTY; BOUNDED ON THE SOUTH BY THE SOUTH LINE OF SOUTHWEST ONE-QUARTER (SW 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF SAID SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND CONTAINING 262,865 SQUARE FEET OR 6.0346 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

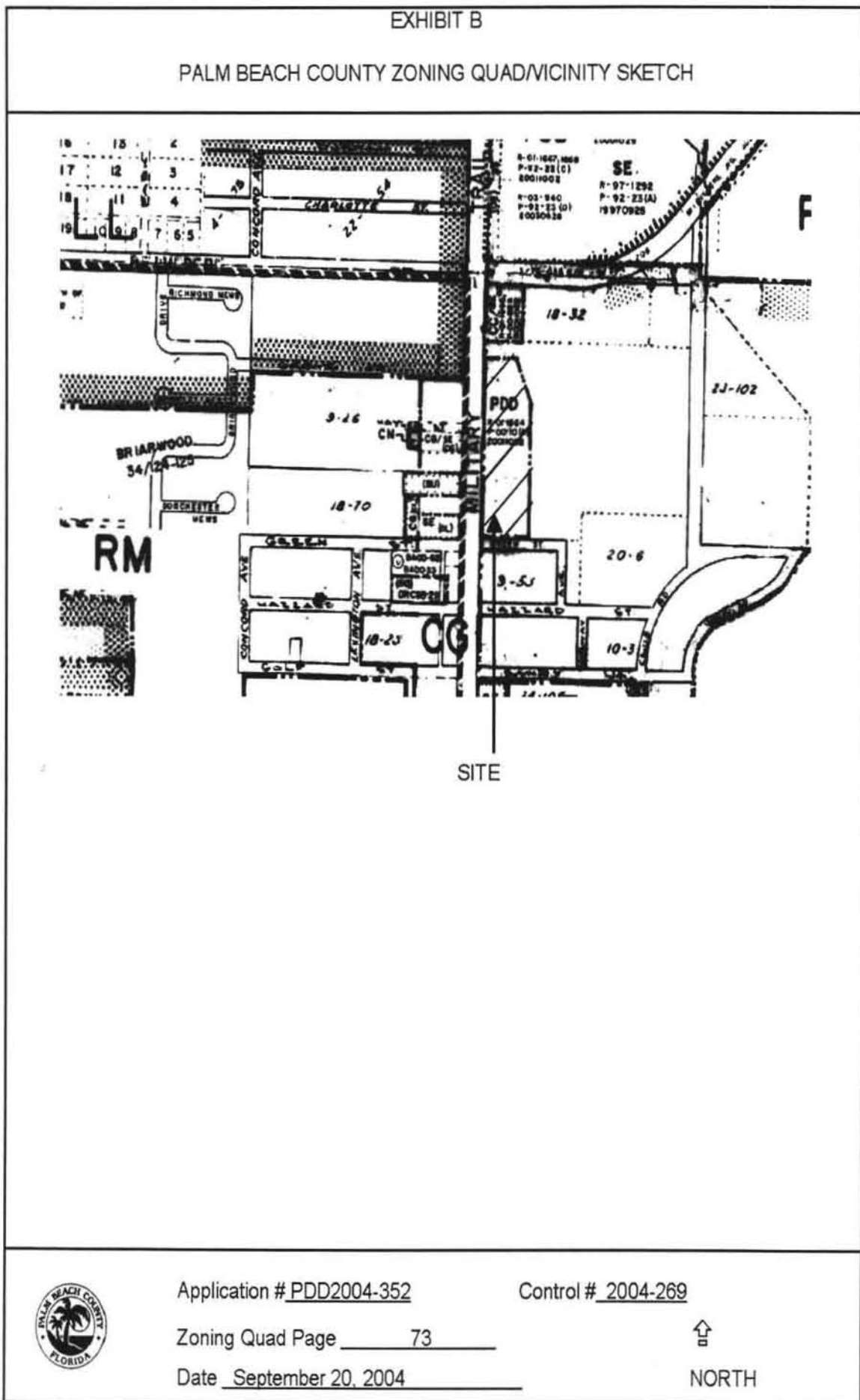


EXHIBIT C

CONDITIONS OF APPROVAL

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

ALL PETITIONS

1. Condition 14 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

The Site Plan Approval Application of the developer shall be substantially consistent with the Master Plan approved by this order. Minor modifications in the location and siting of the buildings and structures may be included on the Site Plan application if warranted by engineering or other such circumstances not foreseen at the time of this approval. However, such modifications shall not:

- a) **Increase the acreage or building square footage more than five percent, except that the acreage may be increased a greater amount for the purpose of providing landscaping or off-street parking.**
- b) **Reduce the area set aside for open space, or landscaping.**

Is hereby amended to read:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated December 10, 2004. 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. (DRO: ZONING - Zoning)

2. Condition 15 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

Prior to Site Plan Approval, the applicant shall demonstrate availability of the following services:

- a) **Fire Protection**
- b) **Potable Water**
- c) **Waste Water Treatment.**

Is hereby deleted. [Reason: Code requirement.]

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the car wash and fast food restaurant buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Sections 3.E.1.1.4 and 5.C of the ULDC. 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. Design of gutters and downspouts shall be integrated into the architectural design of the car wash and fast food restaurant buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW - Zoning)

BUILDING AND SITE DESIGN

1. Condition 7 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

All mechanical equipment and structures located on building roofs shall be screened in a manner illustrated on the Master Plan.

Is hereby deleted. [Reason: Code requirement.]

HEALTH

1. Condition 11 of Resolution R-2001-1664, Petition PDD2000-010A which currently states:

The developer shall take reasonable precautions during the development of this property to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties.

Is hereby deleted. [Reason: Code requirement.]

2. Condition 12 of Resolution R-2001-1664, Petition PDD2000-010A which currently states:

The developer shall take necessary measures during the development of this property to prevent runoff to neighboring property.

Is hereby deleted. [Reason: Code requirement.]

ENGINEERING

1. **A minimum of 75' of pavement on Green Street directly eastward of Military Trail shall be provided concurrent with any access point onto Green Street from the site being established. Such access point shall not be greater than 75' eastward of the existing roadbed of Military Trail. Further, such access point to Green Street from Phase 1 of the project as approved shall be paved with a minimum of 20' of pavement.** (Previous Condition 1 of Resolution R-2001-1664, Petition PDD2000-010(A))
[Note: Completed.]

2. Condition 10 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

The developer shall retain onsite 85% of the stormwater runoff generated by a three (3) year storm per the requirements of the Permit Section, Land Development Division, of Palm Beach County, except that these standards may be greater if deemed necessary by the Land Development Division. Further, the stormwater drainage system for the project shall consist of underground facilities. A Drainage Plan shall be submitted as part of the Site Plan Approval Application.

Is hereby deleted. [Reason: Code requirement.]

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

Building Permits for the Car Wash or Fast Food shall not be issued after February 24, 2008. 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 Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING - Eng)

LANDSCAPING - STANDARD

1. Prior to the issuance of a Certificate of Occupancy or Certificate of Completion, whichever shall first occur, the property owner shall replace all dead and missing plant materials on the entire subject site. (CO: LANDSCAPE - Zoning)
2. A minimum of fifty (50) percent of all new and replacement canopy trees to be planted in the perimeter landscape buffers shall 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. (BLDG PERMIT: LANDSCAPE - Zoning)
3. All new and replacement palms required to be planted on the property 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. (BLDG PERMIT: LANDSCAPE - Zoning)
4. Field adjustment of plant material location may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easement crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPING - INTERIOR

1. **An eight foot concrete block buffer wall shall be installed concurrently with the construction of building walls and shall be erected within 21 days from the time that building construction commences. A stucco finish on the wall shall be required prior to the issuance of a Certificate of Occupancy. The wall shall be located along the eastern property line of the site as illustrated on the Master Plan.** (Previous Condition 2 of Resolution R-2001-1664, Petition PDD2000-010(A)) [Note: Completed.]
2. **When constructing the buffer wall (see 2 above) and installing utility lines in the buffer area to the east of the subject parcel, the developer shall take precaution to minimize the removal of any existing vegetation. As part of the Landscape Plan to be submitted with the Site Plan Approval Application, the developer shall indicate any vegetation requiring removal in the buffer area, and the Town Council may require replacement of said vegetation.** (Previous Condition 3 of Resolution R-2001-1664, Petition PDD2000-010(A)) [Note: Completed.]
3. A native canopy tree, Booted Sabal palm, or other species that is acceptable to the Landscape Section shall be installed within each of the six (6) southernmost interior landscape islands along the frontage of Military Trail. This condition shall not apply to the landscape island that supports sign A

until such time that the sign is removed or relocated. (BLDG PERMIT: LANDSCAPE - Zoning)

4. A continuous row of medium shrub or hedge material shall be planted along all perimeter boundaries of the dry detention area located to the east of building 5. Shrub or hedge material shall be maintained at a minimum height of thirty-six (36) inches at maturity. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security and low voltage landscape/accent type lights used to emphasize plant material only. (ONGOING: CODE ENF - Zoning)
2. New and replacement outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grad to highest point. (BLDG PERMIT: BLDG - Zoning)

MULTIPLE USE PLANNED DEVELOPMENT

1. **Prior to Site Plan Approval, the applicant shall demonstrate unity of title or some other method of development control for the entire site.** (Previous Condition 16 of Resolution R-2001-1664, Petition PDD2000-010A) [NOTE: completed]

2. Condition 17 of Resolution R-2001-1664, Petition PDD2000-010A, which currently states:

The applicant shall include the provisions of paragraphs 4, 5, 6, and 8 above in all leases with tenants, and shall so demonstrate compliance with this condition to the Town Council.

Is hereby deleted. [Reason: No longer applicable and Code requirement]

3. Condition 9 of Resolution R-2001-1664, Petition PDD2000-010A, which currently states:

A Lighting and Signage Plan shall be submitted by the developer as part of the Site Plan Approval Application. Exterior lighting shall be directed away from residential uses.

Is hereby deleted. [Reason: Code requirements.]

SIGNS

1. New and replacement freestanding point of purchase signs 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 - one hundred (100) square feet;
 - c. maximum number of signs - two (2) for the entire site;
 - d. style - monument style only;
 - e. location - frontage of Military Trail only; and,
 - f. sign content shall be limited to identification of tenant name(s) and/or project name only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. Condition 4 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

The mechanical removal of refuse from dumpsters shall be restricted to between the hours of 7:30 A.M. and 7:30 P.M., except that no such removal shall occur on Sundays. Further, no dumpster shall be located in the required rear setback area (20') of buildings.

Is hereby deleted. [Reason: No longer applicable.]

2. Condition 5 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

Loading in loading areas facing residentially zoned property shall occur only between the hours of 7:00 A.M. and 7:30 P.M., except that no loading shall occur on Sundays.

Is hereby deleted. [Reason: No longer applicable.]

3. **All businesses located in the project shall operate only between the hours of 7:00 A.M. and 10:00 P.M. (ONGOING: CODE ENF - Zoning) (Previous Condition 6 of Resolution R-2001-1664, Petition PDD2000-010(A))**

4. Condition 8 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

With the exception of dumpsters, there shall be no outdoor storage of any material, equipment, or refuse in the rear of buildings. Further, with the exception of parking in designated parking spaces illustrated on the Master Plan, no vehicles shall be parked in the rear of buildings except for the purpose of loading. Loading areas shall be designated on the Site Plan Approval Process.

Is hereby amended to read:

Storage or placement of any material, refuse, equipment or debris shall not be permitted at the rear of any building. (ONGOING: CODE ENF - Zoning)

5. Condition 13 of Resolution R-2001-1664, Petition PDD2000-010(A), which currently states:

The shopping center shall be restricted to the following uses:

- 1) Professional services, including legal, financial, real estate, engineering, insurance and architectural services.
- 2) Drugstore.
- 3) Hobby, card, and gift shops.
- 4) Clothing and apparel stores, including shoe stores.
- 5) Sporting goods stores.
- 6) Financial institution.
- 7) Hair salon.
- 8) Medical, optical, or dental clinic or offices.
- 9) Retail photography or photo studios, not including photo processing.
- 10) Travel agency.
- 11) Florist shop.
- 12) Electronics (such as radio, television, or computer) store.
- 13) U.S. Post Office.
- 14) Fitness center with nautilus facilities.
- 15) Jewelry store.

Due to the size and nature of this project and its impact on establishing the character of the commercial district in Golfview, and thereby its impact on the economic, social and aesthetic well being of the entire

Town, the Town Council hereby declares the need to ensure that tenants of the development are those which serve the needs of Golfview residents and promote the health, safety and welfare of the Town. For this purpose, the developer shall submit an application to the Town Council for approval of individual tenants on a form prescribed by the Town Clerk. The Town Council shall then either approve or disapprove the proposed tenant at its next regular meeting or a special meeting. However, the Council shall make its decision within 45 days of the application being submitted. No action taken within the 45 day period by the Town Council shall be considered an approval of the application.

For any retail, professional, or business service use not listed above, the developer may submit an application to amend this Special Exception approval to allow said use.

Is hereby deleted. [Reason: Code requirement and superseded by All Petitions Condition 1.]

6. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning)
7. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
8. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. 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 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.

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)

2. 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.