

RESOLUTION NO. R-2007- 1617

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1697
(CONTROL NUMBER 1988-019)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF BROWN LANDHOLDING, INC
BY ANNA S. COTTRELL & ASSOCIATES, AGENT
(BROWN LANDHOLDING, INC.)

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, as amended, 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 Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2006-1697 was presented to the Board of County Commissioners at a public hearing conducted on September 24, 2007; 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, 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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 DOA2006-1697, the application of Brown Landholding, Inc, by Anna S. Cottrell & Associates, agent, for a Development Order Amendment to modify/delete Conditions of Approval (Landscaping) and to reconfigure the site plan 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 September 24, 2007, 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 McCarty and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Absent
Jeff Koons, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 24, 2007.

Filed with the Clerk of the Board of County Commissioners on October 11th, 2007

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 BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

The North 494.58 feet of Tract 12, Block 7 of PALM BEACH FARMS COMPANY PLAT No. 3, a subdivision of Palm Beach County, Florida, less the East 110 feet thereof, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for said County, in Plat Book 2, Pages 45 to 54 inclusive.

EXHIBIT B
VICINITY SKETCH

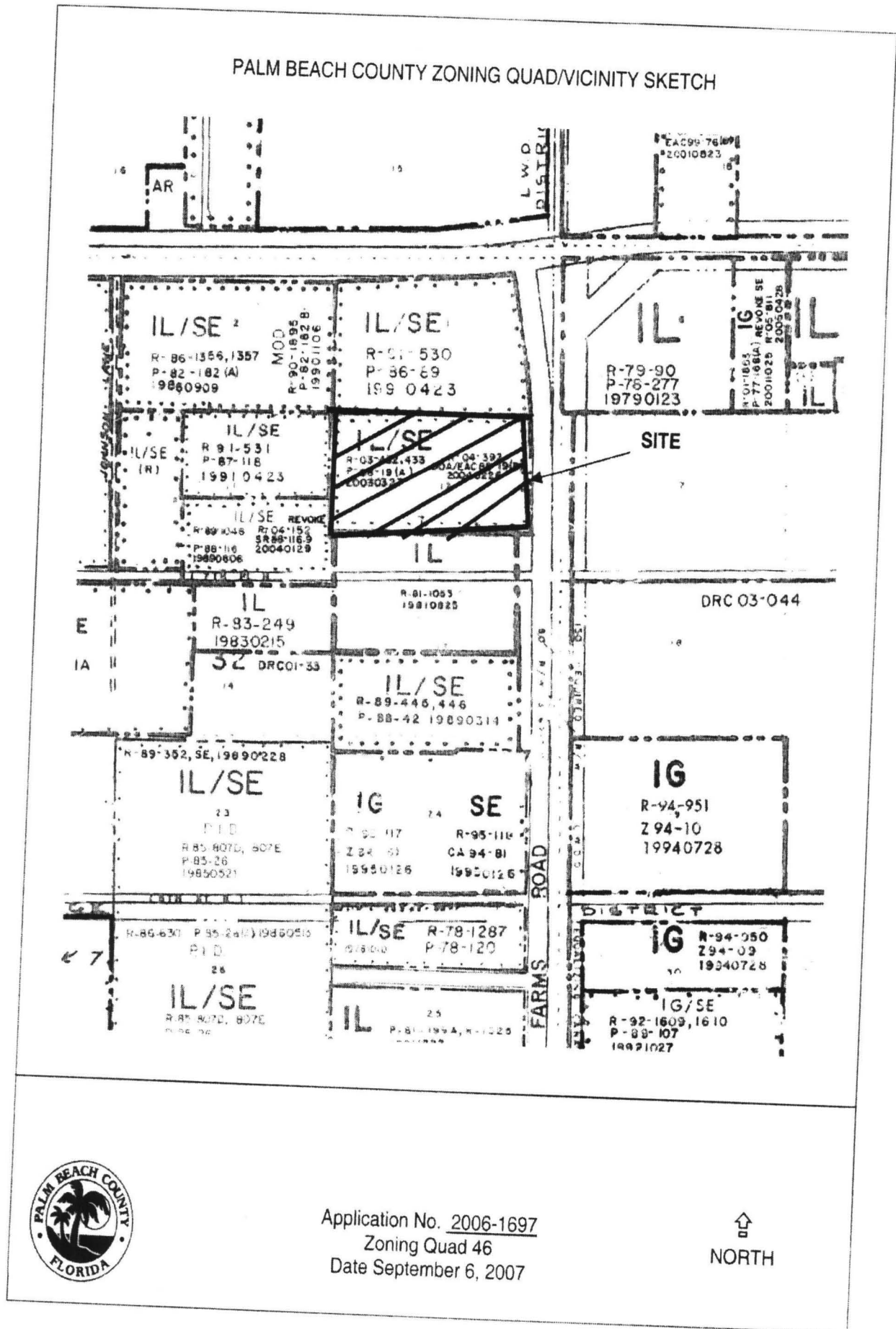


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition A.1 of Resolution R-2004-0392, Control 1988-019, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2003-0433 (Petition DOA1988-019A) 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-392 (Control 1988-19), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Condition A.2 of Resolution R-2004-0392, Control 1988-019, which currently states:

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 January 20, 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. (ONGOING: ZONING-Zoning)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated July 16, 2007. 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)

ARCHITECTURAL REVIEW

1. Condition B.1 of Resolution R-2004-0392, Control 1988-019, which currently states:

At time of submittal for final DRC certification of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and the certified DRC site plan. (DRC: ZONING - Zoning)

Is hereby amended to read:

At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 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)

ENGINEERING

1. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Benoist Farms Road, 80 feet west of the west right-of-way line of the Lake Worth Drainage District E-2 Canal, as determined by the County Engineer, free of all encumbrances and encroachments. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Land Acquisition Division to ensure that the property is free of all encumbrances and encroachments. (ENG) (Previous Condition E.3 of Resolution 2004-392, Control 1988-019) [NOTE: COMPLETED]

2. Condition E.5 of Resolution R-2004-0392, Control 1988-019, which currently states:

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Benoist Farms Road 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)

Is hereby amended to read:

Prior to issuance of a building permit the property owner shall provide a temporary roadway construction easement along Benoist Farms Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG. PERMIT: MONITORING-Eng)

3. Condition E.6 of Resolution R-2004-0392, Control 1988-019, which currently states:

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 December 31, 2006. A time extension for this condition may be approved by the County Engineer only if 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)

Is hereby deleted. [Reason: there is now a new buildout date condition.]

4. Condition E.7 of Resolution R-2004-0392, Control 1988-019, which currently states:

The Property owner shall construct a left turn lane south approach on Benoist Farms Road at the Projects south entrance.

- a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
- b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby deleted. [Reason: Traffic volumes no longer warrant a turn lane.]

5. 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 September 27, 2010. 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)

6. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY - BENOIST FARMS ROAD

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for Benoist Farms Road, 80 feet west of the ultimate west right of way line of the LWDD E 2 Canal.

All right of way deed(s) and associated documents shall be provided and approved prior to March 15, 2008, or prior to the issuance of a Building Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. Property owner 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 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 provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING)

ENVIRONMENTAL

1. All vehicle parking and storage shall be on an impervious surface. (ONGOING:CODE ENF-ERM)

ZONING - LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. Fifty-percent (50%) of 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; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE Zoning) (Previous Condition F.1.of Resolution R-2004-0392, Petition DOA1988-019B)
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) (Previous Condition F.2 of Resolution R-2004-0392, Petition DOA1988-019B)

4. Previous Condition F.3. of Resolution R-2004-0392, Control No. 1988-019, which currently states:

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) to three (3) 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;
- c. forty-eight (48) to seventy-two (72) inches large shrub; and
- d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: superseded by current code]

5. Condition F.4 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: superseded by current code]

6. 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) (Previous Condition F.5 of Resolution R-2004-0392, Petition DOA1988-019B)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE EAST PROPERTY LINE (BENOIST FARMS ROAD FRONTAGE)

7. Previous Condition G.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping and buffering along the east property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum two (2) foot high continuous berm, measured from top of curb;
- c. a six (6) foot high poly vinyl opaque fence to be located on the plateau of the berm, where applicable. The fence shall be black or green or a color consistent with the wall along the north property line. The fence shall begin from the north end of the east property line extending southward

- approximately 320 linear feet continuing west approximately 200 linear feet, continuing south approximately 170 linear feet;
- d. one (1) native canopy tree for each thirty (30) linear feet of the property line, to be planted on the exterior side of the fence where applicable;
 - e. 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, to be planted on the exterior side of the fence, where applicable;
 - f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of twenty-four (24) inches at installation;
 - h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of thirty (30) inches at installation; and
 - i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to code requirements for a right of way buffer, the property owner shall provide:

- a. a minimum twenty (20) foot wide landscape buffer strip, and
- b. a minimum two (2) foot high continuous berm, measured from top of curb. (CO: LANDSCAPE - Zoning)

ZONING – LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING INDUSTRIAL)

8. Previous Condition H.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping along the east 170 feet of the south property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum two (2) foot two foot high continuous berm, measured from top of curb;
- c. a six (6) foot high poly vinyl opaque fence located on the plateau of the berm. The fence shall be black or green or a color consistent with the wall along the north property line The fence will not be required if the petitioner submits documentation demonstrating existence of an opaque barrier along the adjacent property line meeting the intent of this condition. If the adjacent opaque barrier is removed the petitioner will be required to provide fencing;
- d. one (1) native canopy tree for each twenty (20) linear feet of the property line, to be planted on the exterior side of the fence; if applicable;
- e. 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;
- f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, if applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
- g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of twenty-four (24) inches at installation;
- h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of thirty (30) inches at installation; and
- i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: current code requirement is sufficient]

ZONING - LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING INDUSTRIAL)

9. Previous Condition I.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip;
- b. a six (6) foot high concrete screen panel wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the principal structure of the adjacent northern parcel;
- c. one (1) canopy tree planted for each twenty (20) linear feet of the property line, to be planted on the exterior side of the wall;
- d. 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, to be planted on the exterior side of the wall;
- e. 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, to be planted on the exterior side of the wall; and
- f. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation, and to be planted on the exterior side of the wall. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: current code requirement is sufficient]

ZONING - LANDSCAPING-INTERIOR

10. Previous Condition J.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping along the southern edge (approximately 170 linear feet) of the retention pond shall consist of the following:

- a. one (1) native canopy tree for each twenty (20) linear feet of the southern edge; and,
- b. one (1) medium shrub for each two (2) linear feet of the southern edge. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: not applicable due to redesign]

11. Prior to issuance of a building permit, a landscape screen including a six (6)-foot high vinyl-coated chain link fence with a continuous six (6)-foot high hedge, and trees planted twenty-five (25) feet on center, shall be installed to screen the trailer display and storage area from the customer parking area. The landscape screen shall be a minimum length of three hundred twenty (320) feet, located along the east boundary of the display and storage area, excluding Building C, and as shown on the site plan dated July 16, 2007. (BLDG PERMIT: LANDSCAPE - Zoning)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)

2. Prior issuance of the first Building Permit, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (/BLDG PERMIT: MONITORING-PalmTran)

SIGNS

1. Any new freestanding sign fronting on Benoist Farms Road 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 fifty (50) square feet;
 - c. maximum number of signs - one (1) along the entire road frontage of Benoist Farms Road;
 - d. style - monument style only;
 - e. location - Benoist Farms Road; and
 - f. the sign shall be limited to identification of tenants only. (CO: BLDG - Zoning) (Previous Condition k.1 of Resolution R-2004-0392, Petition DOA1988-019B)

COMPLIANCE

1. Condition L.1 of Resolution R-2004-0392, Control No. 1988-019 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; 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) (Previous Condition P.1 of Resolution R-2003-0433, Petition DOA1988-019A)

Is hereby amended to read:

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 L2 of Resolution No. R-2004-0392, Control No. 1988-019 which currently states:

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)

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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

Brown Landholding
strike-out

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

- 1. Condition A.1 of Resolution R-2004-0392, Control 1988-019, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2003-0433 (Petition DOA1988-019A) 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-392 (Control 1988-19), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

- 2. Condition A.2 of Resolution R-2004-0392, Control 1988-019, which currently states:

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 January 20, 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. (ONGOING: ZONING-Zoning)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated July 16, 2007. 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)

ARCHITECTURAL REVIEW

- 1. Condition B.1 of Resolution R-2004-0392, Control 1988-019, which currently states:

At time of submittal for final DRC certification of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and the certified DRC site plan. (DRC: ZONING - Zoning)

Is hereby amended to read:

At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 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)

ENGINEERING

1. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Benoist Farms Road, 80 feet west of the west right-of-way line of the Lake Worth Drainage District E-2 Canal, as determined by the County Engineer, free of all encumbrances and encroachments. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Land Acquisition Division to ensure that the property is free of all encumbrances and encroachments. (ENG) (Previous Condition E.3 of Resolution 2004-392, Control 1988-019) [NOTE: COMPLETED]

2. Condition E.5 of Resolution R-2004-0392, Control 1988-019, which currently states:

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Benoist Farms Road 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)

Is hereby amended to read:

Prior to issuance of a building permit the property owner shall provide a temporary roadway construction easement along Benoist Farms Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG. PERMIT: MONITORING-Eng)

3. Condition E.6 of Resolution R-2004-0392, Control 1988-019, which currently states:

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 December 31, 2006. A time extension for this condition may be approved by the County Engineer only if 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)

Is hereby deleted. [Reason: there is now a new buildout date condition.]

4. Condition E.7 of Resolution R-2004-0392, Control 1988-019, which currently states:

The Property owner shall construct a left turn lane south approach on Benoist Farms Road at the Projects south entrance.

- a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
- b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

Is hereby deleted. [Reason: Traffic volumes no longer warrant a turn lane.]

5. 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 September 27, 2010. 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)

6. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY - BENOIST FARMS ROAD

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for Benoist Farms Road, 80 feet west of the ultimate west right of way line of the LWDD E 2 Canal.

All right of way deed(s) and associated documents shall be provided and approved prior to March 15, 2008, or prior to the issuance of a Building Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. Property owner 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 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 provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING)

ENVIRONMENTAL

1. All vehicle parking and storage shall be on an impervious surface. (ONGOING:CODE ENF-ERM)

ZONING - LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. Fifty-percent (50%) of 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; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE Zoning) (Previous Condition F.1.of Resolution R-2004-0392, Petition DOA1988-019B)
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) (Previous Condition F.2 of Resolution R-2004-0392, Petition DOA1988-019B)
4. Previous Condition F.3. of Resolution R-2004-0392, Control No. 1988-019, which currently states:

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) to three (3) 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;
- c. forty-eight (48) to seventy-two (72) inches large shrub; and
- d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: superseded by current code]

5. Condition F.4 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: superseded by current code]

6. 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) (Previous Condition F.5 of Resolution R-2004-0392, Petition DOA1988-019B)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE EAST PROPERTY LINE (BENOIST FARMS ROAD FRONTAGE)

7. Previous Condition G.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping and buffering along the east property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum two (2) foot high continuous berm, measured from top of curb;
- c. a six (6) foot high poly vinyl opaque fence to be located on the plateau of the berm, where applicable. The fence shall be black or green or a color consistent with the wall along the north property line. The fence shall begin from the north end of the east property line extending southward

- approximately 320 linear feet continuing west approximately 200 linear feet, continuing south approximately 170 linear feet;
- d. one (1) native canopy tree for each thirty (30) linear feet of the property line, to be planted on the exterior side of the fence where applicable;
 - e. 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, to be planted on the exterior side of the fence, where applicable;
 - f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of twenty-four (24) inches at installation;
 - h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence, where applicable. Shrub shall be a minimum height of thirty (30) inches at installation; and
 - i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

In addition to code requirements for a right of way buffer, the property owner shall provide:

- a. a minimum twenty (20) foot wide landscape buffer strip, and
- b. a minimum two (2) foot high continuous berm, measured from top of curb. (CO: LANDSCAPE - Zoning)

ZONING – LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING INDUSTRIAL)

8. Previous Condition H.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping along the east 170 feet of the south property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum two (2) foot two foot high continuous berm, measured from top of curb;
- c. a six (6) foot high poly vinyl opaque fence located on the plateau of the berm. The fence shall be black or green or a color consistent with the wall along the north property line The fence will not be required if the petitioner submits documentation demonstrating existence of an opaque barrier along the adjacent property line meeting the intent of this condition. If the adjacent opaque barrier is removed the petitioner will be required to provide fencing;
- d. one (1) native canopy tree for each twenty (20) linear feet of the property line, to be planted on the exterior side of the fence; if applicable;
- e. 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;
- f. one (1) small shrub for each two (2) linear feet of the property line, to be planted on the exterior side of the fence, if applicable. Shrub shall be a minimum height of eighteen (18) inches at installation;
- g. one (1) medium shrub for each four (4) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of twenty-four (24) inches at installation;
- h. one (1) large shrub for each six (6) linear feet of the property line, to be planted on the exterior side of the fence. Shrub shall be a minimum height of thirty (30) inches at installation; and
- i. planting and fencing shall be exempted in area where the safe sight triangles are located. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: current code requirement is sufficient]

ZONING - LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING INDUSTRIAL)

9. Previous Condition I.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. a minimum ten (10) foot wide landscape buffer strip;
- b. a six (6) foot high concrete screen panel wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the principal structure of the adjacent northern parcel;
- c. one (1) canopy tree planted for each twenty (20) linear feet of the property line, to be planted on the exterior side of the wall;
- d. 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, to be planted on the exterior side of the wall;
- e. 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, to be planted on the exterior side of the wall; and
- f. one (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation, and to be planted on the exterior side of the wall. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: current code requirement is sufficient]

ZONING - LANDSCAPING-INTERIOR

10. Previous Condition J.1 of Resolution R-2004-0392, Control No. 1988-019, which currently states:

Landscaping along the southern edge (approximately 170 linear feet) of the retention pond shall consist of the following:

- a. one (1) native canopy tree for each twenty (20) linear feet of the southern edge; and,
- b. one (1) medium shrub for each two (2) linear feet of the southern edge. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE - Zoning)

Is hereby deleted. [REASON: not applicable due to redesign]

- ~~11. Prior to issuance of a building permit, a 6-foot high vinyl-coated chain link fence with a continuous 6-foot high hedge, and trees planted 25 feet on center, shall be installed along the fence line shown on the site plan, 290 feet east of the east property line. (DATE: BLDG - Landscape)~~

11. Prior to issuance of a building permit, a landscape screen including a six (6)-foot high vinyl-coated chain link fence with a continuous six (6)-foot high hedge, and trees planted twenty-five (25) feet on center, shall be installed to screen the trailer display and storage area from the customer parking area. The landscape screen shall be a minimum length of three hundred twenty (320) feet, located along the east boundary of the display and storage area, excluding Building C, and as shown on the site plan dated July 16, 2007. (BLDG PERMIT: LANDSCAPE - Zoning)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior issuance of the first Building Permit, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (/BLDG PERMIT: MONITORING-PalmTran)

SIGNS

1. Any new freestanding sign fronting on Benoist Farms Road 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 fifty (50) square feet;
 - c. maximum number of signs - one (1) along the entire road frontage of Benoist Farms Road;
 - d. style - monument style only;
 - e. location - Benoist Farms Road; and
 - f. the sign shall be limited to identification of tenants only. (CO: BLDG - Zoning) (Previous Condition k.1 of Resolution R-2004-0392, Petition DOA1988-019B)

COMPLIANCE

1. Condition L.1 of Resolution R-2004-0392, Control No. 1988-019 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; 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) (Previous Condition P.1 of Resolution R-2003-0433, Petition DOA1988-019A)

Is hereby amended to read:

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 L2 of Resolution No. R-2004-0392, Control No. 1988-019 which currently states:

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)

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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)