

RESOLUTION NO. R-93- 245

RESOLUTION APPROVING ZONING PETITION NO. 79-236(B)
SPECIAL EXCEPTION PETITION OF ROBERT M. AND BRUCE ORESKY

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 79-236(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on February 25, 1993; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 79-236(B), the petition of ROBERT M. AND BRUCE ORESKY, BY ROBERT A. BENTZ, AGENT, for a SPECIAL EXCEPTION TO AMEND AND EXPAND THE SITE PLAN FOR AN EXISTING AUTOMOTIVE REPAIR FACILITY AND VEHICLE SALES AND RENTAL SERVICE TO INCREASE LAND AREA on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on February 25, as advertised, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for approval of the Resolution.

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

Mary McCarty, Chair	--	Aye
Burt Aaronson	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Absent

The Chair thereupon declared the resolution was duly passed and adopted this 25th day of February, 1993.

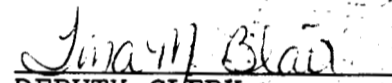
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA'
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

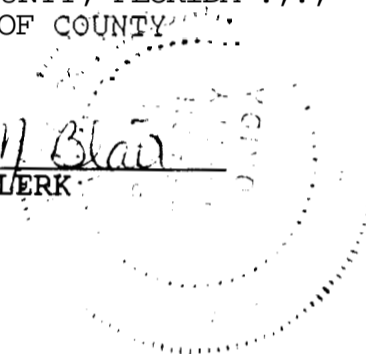


EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

LOT 12, AURORA ESTATES, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 23, PAGE 203. (CONTAINING 0.40 ACRES MORE OR LESS)

AND

THE WEST 147 FEET OF THE EAST 200 FEET OF THE SOUTH 222.4 FEET OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THEREFROM THE RIGHT-OF-WAY OF MILITARY TRAIL THAT IS NOW LOCATED AND IN USE AND LESS THE SOUTH 50 FEET OF PREMISES CONVEYED TO PALM BEACH COUNTY IN OFFICIAL RECORD BOOK 2329, PAGE 1986, BEING A PORTION OF TRACT 4, BLOCK 2, PALM BEACH PLANTATIONS. (CONTAINING 0.554 ACRES MORE OR LESS)

LESS THE FOLLOWING DESCRIBED PARCEL:

THAT PART OF THE SOUTHWEST ONE-QUARTER (S.W.1/4) OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF SECTION 1, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT A P.K. NAIL & TIN TAG AT THE CENTER OF SAID SECTION 1; THENCE N.01° 25' 52"E. (AS A BASIS OF BEARING) ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF SAID SECTION 1, A DISTANCE OF 50.00 FEET; THENCE N.88° 51' 19"W., A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE N.88° 51' 19"W., A DISTANCE OF 24.88 FEET; THENCE N.46° 17' 17"E., A DISTANCE OF 35.27 FEET; THENCE S.01° 25' 52"W., A DISTANCE OF 24.88 FEET TO THE POINT OF BEGINNING. CONTAINING 309.39 SQUARE FEET MORE OR LESS.

EXHIBIT B

SKETCH

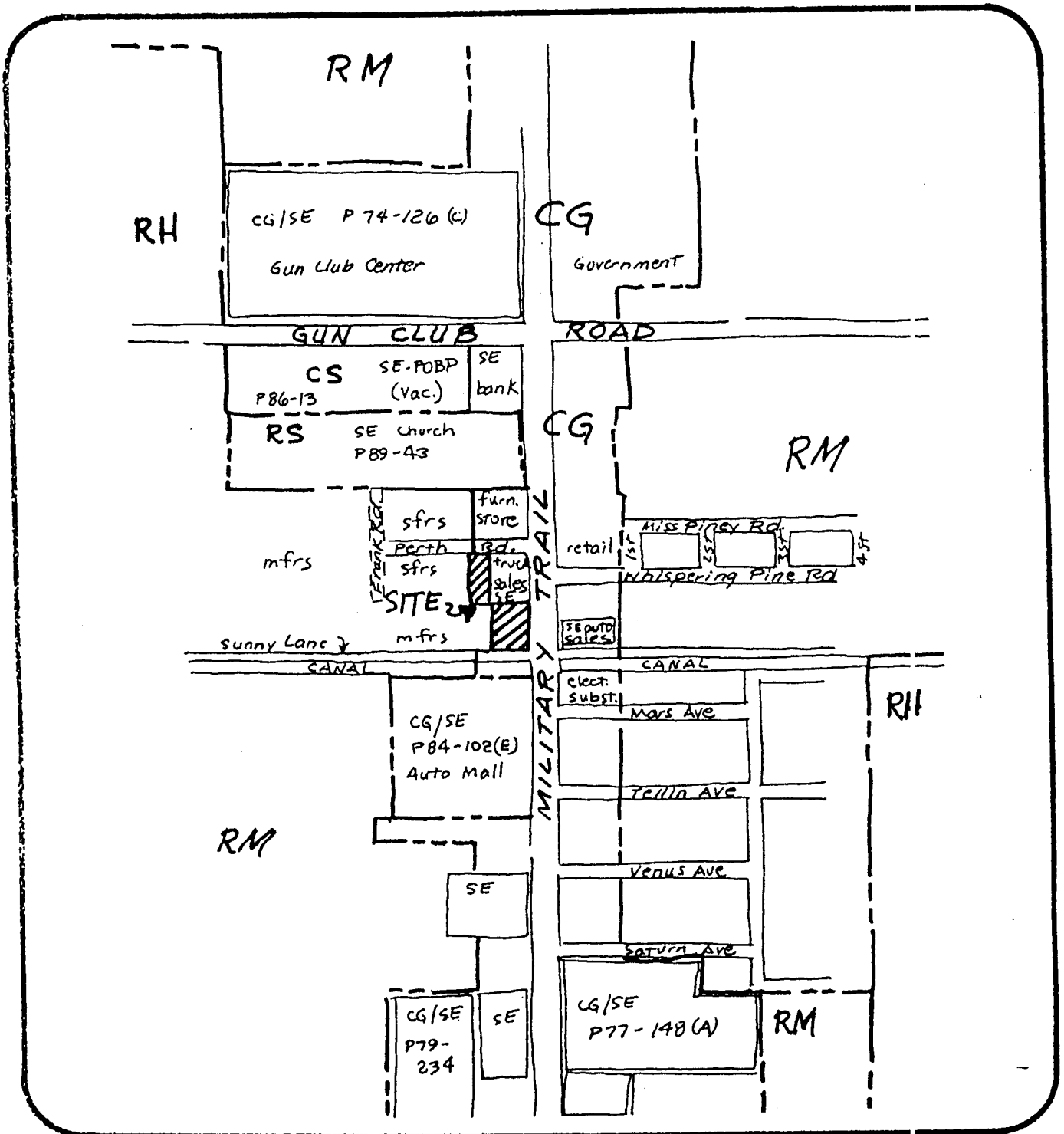


EXHIBIT C

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property have been consolidated as contained herein (i.e. in bold). The petitioner shall comply with all previous conditions of approval, including all original deadlines, unless expressly modified. (ZONING/MONITORING)
2. Condition No. 1 of Resolution 90-1297, Zoning Petition No. 79-236(A), which currently states:

The petitioner shall comply with all previous conditions of approval unless expressly modified herein.

Is hereby deleted.

[REASON: Conditions consolidated]
3. All conditions of approval for this site shall be complied with prior to June 30, 1993, unless otherwise specified. No administrative time extensions shall be granted for non-compliance with any condition of approval. (MONITORING/ZONING)
4. The petitioner shall receive certification of the site plan approved by the Board of County Commissioner; for the subject property, as amended as required by the conditions of approval on or before July 30, 1993. (MONITORING-Zoning)

B. ACCESS

1. Prior to Site Plan Certification, the petitioner shall record in the public records of Palm Beach County the access easement indicated on the Site Plan (Exhibit 55, Petition 79-236(B), in a manner and form acceptable to the County Attorney and Zoning. (ATTORNEY/ZONING)
2. Prior to Site Plan Certification, the petitioner shall record in the public records of Palm Beach County a five (5) foot limited access easement along the Entire property line along Perth Road, in a manner and form acceptable to the County Attorney, County Engineer and Zoning. (ATTORNEY/ENGINEERING/ZONING)
3. Ingress and Egress to and from Perth Road shall not be permitted, unless determined necessary by the Department of Fire-Rescue. (ENGINEERING/ZONING)

C. BUILDING AND SITE DESIGN

1. **Use of the site shall be limited to 3,678 square feet of commercial sales, leasing and repair of new or used automobile, truck and customary accessory uses.** (Previously Condition No. 4 of Resolution 90-1297, Zoning Petition No. 79-236(A). (ZONING/BUILDING)

2. Condition No. 5, Resolution R-1638, Zoning Petition 79-236), which currently states:

Petitioner shall honor the parking arrangement as shown on site plan submitted.

Is hereby deleted.

[REASON: Not necessary, site plan regulates parking arrangement.

3. **All parking and vehicular circulation areas shall be paved.** (Previously condition no. 7, Resolution R-1638, Zoning Petition 79-236). (ENGINEERING/ZONING)
4. Prior to Site Plan Certification, the site plan shall be amended to indicate compliance with all minimum property development regulations, land development requirements of Palm Beach County and all conditions of approval. (ZONING)

D. DUMPSTER

1. **All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within twenty five (25) feet of the west property line; shall be confined to areas designated on the site plan and shall be screened by a solid opaque enclosure. The open end of the enclosure shall have an obscuring, opaque gate.** (BUILDING)
2. All exterior sides of such enclosures, except the open end, shall be landscaped with thirty (30) inch high shrub and hedge material planted twenty-four (24) inches on center at installation. Alternative landscaping may be permitted which is acceptable to the Zoning Division. This provision shall not apply to litter containers provided for the convenience of pedestrians. (BUILDING/ZONING)

E. ENGINEERING

1. **The Developer shall provide discharge control and treatment for the storm water runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on site the storm water runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. 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.** (Previously Condition No. 17 of Resolution 90-1297, Zoning Petition No. 79-236(A)). (ENGINEERING)

2. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from storm water runoff from the remainder of the site. (Previously Condition No. 18 of Resolution 90-1297, Zoning Petition No. 79-236(A) (ENGINEERING))
3. 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 presently is \$770.00 (14 trips X \$55.00 per trip). (Previously Condition No. 19 of Resolution 90-1297, Zoning Petition No. 79-236(A) (IMPACT FEE COORDINATOR))
4. Within ninety (90) days of Special Exception approval, petitioner shall convey to Palm Beach County sixty (60) feet from centerline for the ultimate right-of-way for Military Trail. (Previously condition no. 1, Resolution R-1638, Zoning Petition 79-236). (MONITORING-ENGINEERING)
5. No direct access to Military Trail will be allowed. (Previously condition no. 2, Resolution R-1638, Zoning Petition 79-236). (ENGINEERING)
6. Petitioner shall submit a comprehensive drainage report prior to Site Plan approval. (Previously condition no. 3, Resolution R-1638, Zoning Petition 79-236). (ENGINEERING)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances- fuels, oils, solvents, or other hazardous chemicals is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BUILDING/ERM)

G. HEALTH

1. Generation and disposal of hazardous effluent into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (Previously Condition No. 12 of Resolution 90-1297, Zoning Petition No. 79-236(A). (ERM))
2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition No. 13 of Resolution 90-1297, Zoning Petition No. 79-236(A). (HEALTH))
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition No. 14 of Resolution 90-1297, Zoning Petition No. 79-236(A). (HEALTH))
4. The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (Previously Condition No. 15 of Resolution 90-1297, Zoning Petition No. 79-236(A). (ERM))

5. No portion of this project is to be approved on well and/or septic tank, existing or new. Existing septic tanks are to be abandoned in accordance with Chapter 10-D-6 F.A.C. (Previously Condition No. 16 of Resolution 90-1297, Zoning Petition No. 79-236(A). (BUILDING/HEALTH/ERM)
6. Prior to March 31, 1993, the property must be connected to public water and sewer service in accordance with the conditions of approval and all applicable code requirements. No administrative time extension to this condition of approval shall be allowed. (HEALTH/MONITORING)

H. IRRIGATION QUALITY WATER

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

I. LANDSCAPING - GENERAL

1. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape conditions of approval. (ZONING)
2. All trees required to be planted on site by this approval shall meet the following minimum standard; 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. (Zoning)

J. LANDSCAPING

1. Condition No. 2 of Resolution 90-1297, Zoning Petition No. 79-236(A), which currently states:

Prior to Site Plan Review Submittal, the site plan shall be amended to indicate:

- a. Upgraded landscaping along the east, south and west property lines with trees a minimum twelve (12) feet high with a minimum six (6) foot spread, spaced thirty (30) feet on center, and a minimum thirty (30) inch hedge, spaced twenty-four (24) inches on center.
- b. No bay door openings along the west side of the existing building.

Is hereby amended to state:

Prior to May 31, 1993, a revised site plan shall be submitted for certification by the Development Review Committee (DRC) indicating:

- a. Compliance with all landscape requirements of Section 500.35 of the Zoning Code and all conditions of approval;
 - b. location of access easement;
 - c. limited access easement along Perth Road;
 - d. required perimeter wall;
 - e. location of all security lighting; and
 - f. no bay door openings along the west side of the existing building. (MONITORING-Zoning)
2. Condition no. 4, Resolution R-1638, Zoning Petition 79-236), which currently states:

All landscaping shall be installed as shown on the site plan submitted prior to the issuance of a Certificate of Occupancy.

Is hereby amended to state:

All required landscaping and perimeter wall shall be installed prior to June 30, 1993. (MONITORING - Zoning)

3. Condition no. 8, Resolution R-1638, Zoning Petition 79-236), which currently states:

Petitioner must install a 6 ft. high masonry wall along the west property line.

Is hereby amended to state:

The property owner shall install an eight (8') foot high concrete wall along the entire west property line and the south property line of the northwest parcel. (ZONING)

K. LANDSCAPING ALONG NORTH, EAST AND SOUTH PROPERTY LINES (ABUTTING RIGHTS-OF-WAY)

1. Landscaping within the required buffer along Military Trail, Sunny Lane and Perth Road shall be upgraded to include:
- a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (ZONING)

L. LIGHTING

1. Condition No. 10 of Resolution 90-1297, Zoning Petition No. 79-236(A), which currently states:

Security lighting shall be low intensity and directed away from surrounding residences through the use of house side shields. Lighting fixtures shall not exceed twelve (12) feet in height.

Is hereby amended to state:

Security lighting shall be low intensity and directed away from surrounding residences through the use of house side shields. Lighting fixtures shall not exceed eighteen (18) feet in height. (CODE ENFORCEMENT)

2. All outdoor lighting used to illuminate the premises; and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CODE ENFORCEMENT)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

M. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA/CODE ENFORCEMENT)

N. SIGNS

1. No advertising flags, foreign flags, pennants, banners, streamers or balloons shall be permitted on site. No gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors or upon any building, vehicle or wall, or other than inside a window as may be permitted by the Sign Code. Also, flashing signs, electronic message boards, etc, shall not be permitted on-site. (Previously Condition No. 11 of Resolution 90-1297, Zoning Petition No. 79-236(A). (CODE ENFORCEMENT)
2. Any new or replaced free standing point of purchase signs on site shall be limited to the maximum height and face area currently permitted for the adjacent property to the north (Brothers Trucking). (BUILDING)
3. No signs shall be permitted fronting on Perth Road or Sunny Lane. (BUILDING/ZONING)

O. UNITY OF CONTROL

1. Prior to site plan certification, petitioner shall record in the public record a Unity of Control for the entire subject property in a form acceptable to the County Attorney. (COUNTY ATTORNEY)

P. USE LIMITATIONS

1. Condition No. 3 of Resolution 90-1297, Zoning Petition No. 79-236(A), which currently states:

No outdoor speaker or public address systems which are audible from the exterior of the development shall be permitted on site.

Is hereby amended to state:

No outdoor loudspeaker system shall be permitted. (CODE ENFORCEMENT)

2. No retail business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. (CODE ENFORCEMENT)

Q. VEHICLE SALES AND REPAIR

1. All refuse, and junk auto parts must be stored inside the building. (Previously Condition No. 6, Resolution R-1638, Zoning Petition 79-236). (CODE ENFORCEMENT)
2. **No vehicles, other than for customer and employee parking, shall be stored or displayed on the site except those which are intended for sale and are in running condition.** (Previously Condition No. 5 of Resolution 90-1297, Zoning Petition No. 79-236(A). (CODE ENFORCEMENT)
3. **Condition No. 6 of Resolution 90-1297, Zoning Petition No. 79-236(A), which currently states:**

No vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.

Is hereby amended to state:

No vehicle, nor any portion of any vehicle, shall be elevated off the ground or above the roof of the vehicle in any way for display purposes. No vehicle shall be parked with its hood or trunk open for display purposes. Vehicles shall not be parked in any right of way or driveway. (CODE ENFORCEMENT)

4. **Vehicles shall not be tested off-site on residential streets.** (Previously Condition No. 7 of Resolution 90-1297, Zoning Petition No. 79-236(A)
5. **No outside storage of disassembled vehicles or parts thereof shall be permitted on site.** (Previously Condition No. 8 of Resolution 90-1297, Zoning Petition No. 79-236(A). (CODE ENFORCEMENT)
6. **Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles is to be allowed in landscaped areas, right-of-way, or interior drives.** (Previously Condition No. 9 of Resolution 90-1297, Zoning Petition No. 79-236(A). (CODE ENFORCEMENT)

Q. COMPLIANCE

1. **As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:**
 - a. **The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or**
 - b. **The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or**
 - c. **A requirement of the development to conform with updated standards of development, applicable 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.**

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

(Previously Condition No. 20 of Resolution 90-2297, Zoning Petition No. 79-236(A). (MONITORING))