

RESOLUTION APPROVING ZONING APPLICATION W-2011-02698
CONTROL NO. 2007-00407
TYPE II WAIVER
APPLICATION OF Stanton Optical
BY Construction Solutions & Services, LLC, AGENT
(STANTON OPTICAL)

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

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, (Ordinance 2003-67 as amended) have been satisfied; and

WHEREAS, Zoning Application W-2011-02698 was presented to the Board of County Commissioners at a public hearing conducted on March 22, 2012; 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, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; and

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings of Facts in the staff report addressing the standards contained in Article 2.B.2.G, and

WHEREAS, Article 2.A.1.K.3.b (Board Action) 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 W-2011-02698, the application of Stanton Optical, by Construction Solutions & Services, LLC, agent, for Type II Waivers to allow a corner building to not meet the build-to-lines for both streets; a reduction in the minimum build-to-line; an increase in the maximum build-to-line; a reduction in building frontage, a reduction in storefront percentage; a reduction in the planting amenity zone; a reduction in the minimum number of stories; and, to allow a dumpster to face a street, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on March 22, 2012, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof, and Type II Waiver request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

- Commissioner Shelley Vana, Chair - Aye
- Commissioner Steven L Abrams, Vice Chairman - Aye
- Commissioner Karen T. Marcus - Aye
- Commissioner Paulette Burdick - Aye
- Commissioner Burt Aaronson - Aye
- Commissioner Jess R. Santamaria - Aye
- Commissioner Priscilla A. Taylor - Aye

The Chairperson thereupon declared the resolution was duly passed and adopted on March 22, 2012.

Filed with the Clerk of the Board of County Commissioners on April 9, 2012.

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

LAND DESCRIPTION:

BEGINNING at the southeast corner of Tract 2, Block 3, subdivision of Section 12, Township 44 South, Range 42 East, PALM BEACH PLANTATIONS, as recorded in Plat Book 10, Page 20 of Palm Beach County Public Records, which point is the intersection of the center line of Military Trail and Forest Hill Boulevard; thence westerly along the south line of said Tract 2 and the center line of Forest Hill Boulevard, a distance of 203.06 feet; thence northerly and parallel to the center line of Military Trail, a distance of 203.06 feet; thence easterly and parallel to the center line of Forest Hill Boulevard, a distance of 203.06 feet to the center line of Military Trail; thence southerly, along the center line of Military Trail, a distance of 203.06 feet to the POINT OF BEGINNING; LESS the right of way of Military Trail over the easterly 53.06 feet thereof and LESS the right of way of Forest Hill Boulevard over the southerly 53.06 feet thereof; and LESS the right of way to Palm Beach County, dated November 12, 1980 in Official Records Book 3402, Page 1137, Public Records of Palm Beach County, Florida.

LESS AND EXCEPT all that certain land situate in Palm Beach County, Florida to wit:

Being a parcel of land lying in part of Tract 2, Block 3, PALM BEACH PLANTATIONS, as recorded in Plat Book 10, Page 20 of the Public Records of Palm Beach County, Florida, and being more particularly described as follows:

COMMENCING at the intersection of the center line of Military Trail (S.R. 809) and Forest Hill Boulevard (southeast corner of Tract 2, Block 3); thence N01°30'20"W (assumed bearing), along the centerline of said Military Trail (a 106' right of way) as recorded in Road Plat Book 3, Page 74 of the Public Records of said Palm Beach County, a distance of 203.07 feet; thence N88°46'02"W, a distance of 53.06 feet to a point of intersection with the west right of way line of said Military Trail, said point being the POINT OF BEGINNING of this description; thence S01°30'20"E, along said west right of way line, a distance of 116.76 feet; thence S44°51'49"W, a distance of 36.20 feet to a point of intersection with the north right of way line of said Forest Hill Boulevard (a 120 foot right of way); thence N88°46'02"W, along said north right of way line, a distance of 7.00 feet; thence N44°51'49"E, a distance of 36.20 feet; thence N01°30'20"W, along a line that is 7.00 feet west of and parallel with the west right of way line of said Military Trail, a distance of 116.77 feet; thence S88°46'02"E, a distance of 7.01 feet to the POINT OF BEGINNING.

LESS AND EXCEPT the following described parcel conveyed to Palm Beach County, for road right-of-way in O.R. Book 23077, Page 490 of the Public Records of Palm Beach County, Florida:

A parcel of land being a portion of Tract 2, Block 3, Subdivision of Section 12, Township 44 South, Range 42 East, PALM BEACH PLANTATIONS, as recorded in Plat Book 10, Page 20, and a portion of that certain parcel of land described in Official Records Book 13107, Page 894, all of the Public Records, Palm Beach County, Florida, being more particularly described as follows:

COMMENCING at the intersection of the centerline of Military Trail (S.R. 809) and Forest Hill Boulevard, said intersection also being the southeast corner of said Tract 2; thence N01°30'20"W, along the centerline of said Military Trail, as recorded in Road Plat Book 3, Page 74, Public Records, Palm Beach County, Florida, and the east line of said Tract 2, a distance of 203.07 feet; thence N88°46'02"W, departing said centerline and said east line, a distance of 60.07 feet to the northeast corner of that said certain parcel of land, said point also being on the west right of way line of said Military Trail and on a line parallel with and 60.00 feet west of, as measured at right angles to, the said centerline of Military Trail, and the POINT OF BEGINNING; thence S01°30'20"E, along the east line of that said certain parcel of land, the said right of way line and the said parallel line, a distance of 116.77 feet; thence S44°51'49"W, along the southeasterly line of that said certain parcel of land, a distance of 36.20 feet to a point on the north right of way line of Forest Hill Boulevard (State Road 882), as recorded in Official Record Book 3404, Page 1136, Public Records, Palm Beach County, Florida, said point also being on the south line of that said certain parcel of land and on a line parallel with and 60.00 feet north of the centerline of said Forest Hill Boulevard; thence N88°46'02"W, along said north right of way line, the south line of that said certain parcel of land, and said parallel line, a distance of 26.28 feet; thence N44°51'49"E, departing said right of way line, said south line, and said parallel line, a distance of 55.20 feet; thence N01°30'20"W, a distance of 103.00 feet to a point on the north line of that said certain parcel of land; thence S88°46'02"E, along said north line, a distance of 12.51 feet to the POINT OF BEGINNING.

Said lands situate in Palm Beach County, Florida and containing 17,841 square feet (0.41 acres) more or less.

SURVEYOR'S NOTE:

Official Records Book 3402, Page 1137, as mentioned in paragraph one of the above legal description is incorrect. The surveyor believes the correct instrument to be recorded in Official Records Book 3404, Page 1136 of the Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

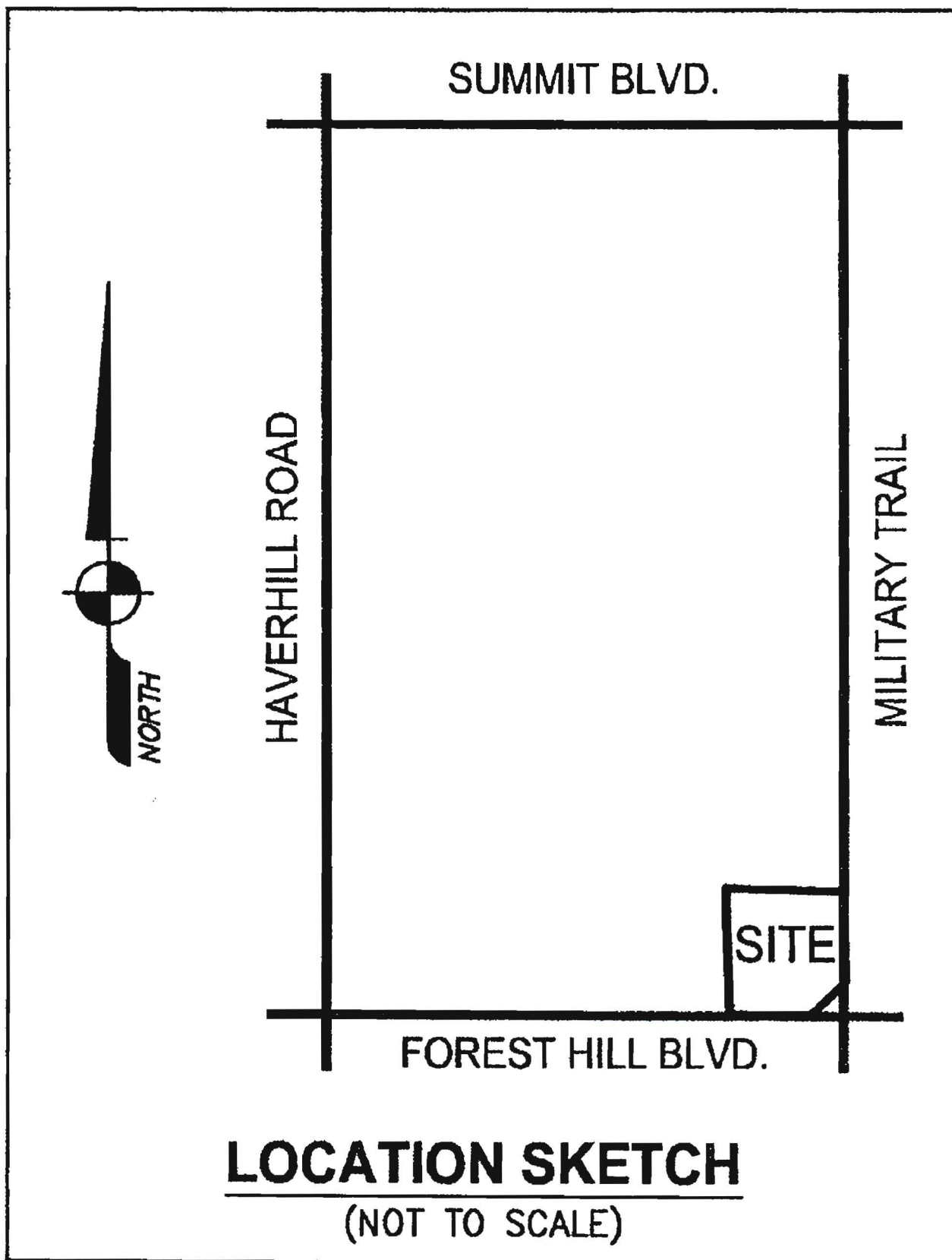


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. The approved Preliminary Site Plan is dated January 31, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the approved Type II Waivers and any associated Conditions of Approval shall be reflected on the Final Site Plan. (DRO:ZONING-Zoning)

3. The Development Order for the Type II Waivers shall be tied to the Time Limitations of the Development Order for DRO-2011-2658. (ONGOING: MONITORING - Zoning)

LANDSCAPE - INTERIOR

1. Additional landscape material such as areca palms or similar plant materials shall be provided to screen the dumpster enclosure from view of the right-of-ways. (CO: LANDSCAPE - Landscape)

ARCHITECTURAL REVIEW

1. Prior to approval by the Development Review Officer (DRO), the architectural elevations for the retail building shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the elevations prepared by Steven Z. Epstein Architects and dated January 31, 2012. Development shall be consistent with the approved architectural elevations, the Final Site Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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 Unified Land Development Code (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. (ONGOING: MONITORING - Zoning)

EXHIBIT D

	CODE SECTION	REQUIRED	PROPOSED	WAIVER
W.1	Art. 3.B.16.F.6.a.2) Building Placement, Corners	* Building must meet build-to-lines for both streets	Building does not meet build-to-lines for both streets	As indicated in W.2, W.3, W.4, W.5
W.2	Table 3.B.16.F PRA Block Building PDRs, Building Placement, A. Primary Frontage	* Maximum build-to- line 25 feet (Forest Hill Blvd.)	Maximum of 29.17 feet	+4.17 feet
W.3	Table 3.B.16.F PRA Block Building PDRs, Building Placement, A. Primary Frontage	* Maximum build-to- line 25 feet (Military Trail)	Maximum of 28.08 feet	+3.08 feet
W.4	Table 3.B.16.F PRA Block Building PDRs, Building Placement, A. Primary Frontage	* Minimum build-to- line 20 feet (Forest Hill Blvd.)	Building corner 10.92 feet from the corner property line	12.58 feet of encroachment beyond minimum build-to-line
W.5	Table 3.B.16.F PRA Block Building PDRs, Building Placement, A. Primary Frontage	* Minimum build-to- line 20 feet (Military Trail)	Building corner 10.92 feet from the corner property line	12.92 feet of encroachment beyond minimum build-to-line
W.6	Table 3.B.16.F PRA Block Building PDRs, G. Primary Building Frontage %	Minimum of 65% of building frontage	55.31% of frontage (Forest Hill Blvd.)	-9.69%
W.7	Table 3.B.16.F PRA Block Building PDRs, G. Primary Building Frontage %	Minimum of 65% of building frontage	62.83% of frontage (Military Trail)	-2.17%
W.8	Art. 3.B.16.F.6.d.4) Additional Architectural Design Standards - Storefronts	Storefronts (glass) shall extend across 70% of the non- residential space	38.36% glass across non-residential space (Forest Hill Blvd.)	-31.64%
W.9	Art. 3.B.16.F.6.d.4) Additional Architectural Design Standards - Storefronts	Storefronts (glass) shall extend across 70% of the non- residential space	48.57% glass across non-residential space (Military Trail)	-21.43%
W.10	Art. 3.B.16.F.6.c.1) Building Floors	minimum of 2 stories	1-story building	-1 story
W.11	Art. 3.B.16.F.9.a.5) Service Area Standards	Shall be within or adjacent to building footprint; shall not face a street unless screened from view	Dumpster is not adjacent to the building footprint and is partially screened from Forest Hill Blvd.	To allow the dumpster as proposed and partially screened from view
W.12	Art. 3.B.16.F.7.b.1 Planting Amenity Zone	Minimum 5-foot width between vehicular and pedestrian circulation zones	Planting Amenity Zone stops at the corner property line (Forest Hill Blvd.)	-10.25 feet
W.13	Art. 3.B.16.F.7.b.1 Planting Amenity Zone	Minimum 5-foot width along primary building facades between vehicular and Pedestrian Circulation Zones	Planting Amenity Zone stops at the corner property line (Military Trail)	-10.25 feet

* The building (including recesses and projections required pursuant to Art. 5.C.) must be placed within the build-to-line. The build-to-line is 20 to 25 feet (20-foot minimum and 25-foot maximum) along Primary Frontages (both Forest Hill Blvd. and Military Trail)