

RESOLUTION NO. R-2013- 1758

RESOLUTION APPROVING ZONING APPLICATION DOA-2013-01606
(CONTROL NO. 1978-00273)
a Development Order Amendment
APPLICATION OF Pine Trail Square Llc
BY Dunay, Miskel, Backman and Blattner, LLP, AGENT
(Pine Trail Shopping Center)

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;

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied;

WHEREAS, Zoning Application DOA-2013-01606 was presented to the Board of County Commissioners at a public hearing conducted on December 5, 2013;

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;

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;

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;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order Amendment; and,

WHEREAS, Article 2.A.1.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 DOA-2013-01606, the petition of Pine Trail Square Llc, by Dunay, Miskel, Backman and Blattner, LLP, agent, for a Development Order Amendment to reconfigure the Site Plan to add square footage, in the Multiple Use Planned Development (MUPD) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on December 5, 2013, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

Commissioner Priscilla A. Taylor, Mayor	- Aye
Commissioner Paulette Burdick, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Jess R. Santamaria	- Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 5, 2013.

Filed with the Clerk of the Board of County Commissioners on December 9, 2013.


This resolution is effective when filed with the Clerk of the Board of County Commissioners.

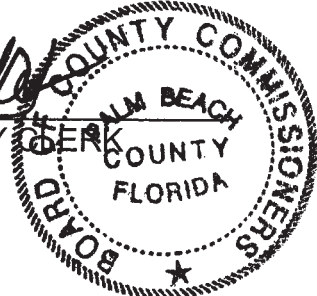
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



The seal is circular with a double-line border. The outer ring contains the text "PALM BEACH COUNTY COMMISSIONERS" at the top and "BOARD OF COUNTY COMMISSIONERS" at the bottom, separated by a star. The inner circle contains the text "PALM BEACH COUNTY FLORIDA".

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1 (FEE SIMPLE) A Parcel of land lying in the Northeast one-quarter of the Northwest one-quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, and being more particularly described as follows:

Commencing at a found Palm Beach County Concrete Monument marking the North one-quarter corner of said Section 25; thence run South 00 degrees 43 minutes 36 seconds West, along the East line of the Northwest one-quarter of said Section 25 and the centerline of Military Trail (a 120 foot road Right of Way), a distance of 70.01 feet; thence South 89 degrees 52 minutes 06 seconds West, a distance of 253.04 feet to the Point of Beginning.

Thence South 00 degrees 43 minutes 36 seconds West, a distance of 155.02 feet to the South line of the North 40 feet of Lot 1 of Eastview Estates, according to the Plat thereof as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida; thence North 89 degrees 52 minutes 06 seconds East, along said South line of the North 40 feet of Lot 1, 193.02 feet to the Westerly Right of Way line of Military Trail; thence South 00 degrees 43 minutes 36 seconds West along said Right of Way line, a distance of 160.00 feet to a point on the North line of Lot 3 of said Eastview Estates Plat; thence South 89 degrees 52 minutes 7 seconds West along said North line of Lot 3, a distance of 284.03 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 200 feet; thence North 89 degrees 52 minutes 06 seconds East, a distance of 125.01 feet; thence South 00 degrees 41 minutes 33 seconds West along a line 118 feet Easterly of, as measured at right angles to the West line of Lots 5 and 6, a distance of 150.00 feet to the South line of the North one-half of Lot 6 of said Eastview Estates; thence South 89 degrees 52 minutes 06 seconds West, along said North line, a distance of 7.00 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 150.00 feet to the South line of Lot 7, of said Eastview Estates; thence North 89 degrees 52 minutes 07 seconds East, along said South line of Lot 7, a distance of 7.00 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 100.00 feet to the North line of Lot 9 of said Eastview Estates; thence South 89 degrees 52 minutes 06 seconds West, along said North line, a distance of 118.01 feet to the West line of said Plat of Eastview Estates; thence South 00 degrees 41 minutes 36 seconds West, along said West line, a distance of 315.99 feet to a point on the Northerly ultimate Right of Way line of Elmhurst road; said ultimate Right of Way line lying 40.00 feet Northerly of the South line of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 89 degrees 51 minutes 55 seconds West, along said ultimate Right of Way line of Elmhurst Road, a distance of 672.93 feet to a point on the East line of the West one-half of the West one-half of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East, along said line, a distance of 89.48 feet to a point on the South line of the North 129.48 feet of the South 258.96 feet of the West one-half of the Southwest one-quarter of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 89 degrees 51 minutes 55 seconds West, along said South line, a distance of 336.52 feet to a point on the West line of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees, 35 minutes 21 seconds East, along said West line, a distance of 279.68 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 196.70 feet; thence South 00 degrees 00 minutes 05 seconds West, a distance of 120.00 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 130.00 feet; thence North 00 degrees 00 minutes 05 seconds East, a distance of 120.00 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 10.00 feet to a point on the East line of the West one-half of the West one-half of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East along said line, a distance of 727.89 feet to a point on the South line of the North 200.00 feet of the Northeast one-quarter of the Northwest one-quarter of

said Section 25; thence North 89 degrees 52 minutes 06 seconds East, along said South line, a distance of 132.01 feet to a point on the East line of the West 132.00 feet of the East one-half of the Northwest one-quarter the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East, along said line, a distance of 130.01 feet to a point on the South Right of Way line of Lake Worth Drainage District Canal L-1; according to the lands recorded in O.R. Book 1732, Page 612, of the Public Records of Palm Beach County, Florida; thence North 89 degrees 52 minutes 06 seconds East along said Right of Way line, a distance of 626.63 feet to the Point of Beginning.

LESS AND EXCEPT Parcels 125 and 126 under Case No. CL96-4237-AO Condemnation Proceedings by Palm Beach County, for Elmhurst Road, as evidenced by Lis Pendens recorded in O.R. Book 10584, Page 1337, and Final Judgment recorded in O.R. Book 12073, Page 52.

Containing 1,176,071 square feet.

PARCEL 2: (LEASEHOLD/TAPLIN-ORB 2723, PAGE 72):

Lots 3 and 4, Eastview 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 18, Page 18; said lands situate, lying and being in Palm Beach County, Florida; less the East 10 feet for road Right of Way purposes.

Containing 53,385 square feet.

PARCEL 3: (LEASEHOLD/TAPLIN-ORB 3348, PAGE 1831):

A Parcel of land in the Northwest one-quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, said Parcel of land being bounded as follows:

Bounded on the North by the Westerly prolongation of the North line of Lot 3, Eastview Estates, according to the Plat thereof, as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida.

Bounded on the West by a line 7.0 feet Westerly of, as measured at right angles to the West lines of Lots 3 and 4 of said Plat of Eastview Estates.

Bounded on the South by the Westerly prolongation of the South line of Lot 4 of said Plat of Eastview Estates,

Bounded on the East by the West lines of Lots 3 and 4 of said Plat of Eastview Estates.

Containing 1,400 square feet.

PARCEL 4 (FEE SIMPLE):

The South one-half (S 1/2) of Lot 6 and all of Lot 7, Eastview Estates, according to the Plat thereof, as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida. Excepting the West 111 feet and the East 10 feet thereof.

Containing 23,359 square feet.

PARCEL 5: (LEASEHOLD/SWANGER-ORB 3596, PAGE 1008):

Lot 8, less the West 118 feet and less the East 10 feet thereof, Eastview Estates, a Subdivision of Palm Beach County, Florida, 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 18, Page 18.

Containing 14,865 square feet.

PARCEL 6: (FEE SIMPLE)

Lots 9, 10 and 11, Eastview 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 18,n Page 18, less the East 10 feet thereof.

LESS AND EXCEPT Parcels 125 and 126 under Case No. CL96-4237-AO Condemnation Proceedings by Palm Beach County, for Elmhurst Road, as evidenced by Lis Pendens recorded in O.R. Book 10584, Page 1337, and Final Judgment recorded in O.R. Book 12073, Page 52.

Containing 83,704 square feet.

PARCEL 7: (EASEMENT/LWDD-ORB 3206, PAGE 592):

Easements for drainage, ingress and egress purposes as set forth in the Grant of Easement dated December 12, 1979, and recorded on January 3, 1980, in O.R. Book 3206, Page 592, of the Public Records of Palm Beach County, Florida.

PARCEL 8: (EASEMENT) Easements contained in Declaration of Easement and Covenants dated February 1, 1980 and recorded on February 4, 1980 in O.R. Book 3224, Page 1406, together with the Release and Cancellation in part of the Declaration of Easements and Covenants, as recorded in O.R. Book 3627, Page 869 of the Public Records of Palm Beach County, Florida.

PARCEL 9: (FEE SIMPLE)

A parcel of land lying in the Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4) of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida; Said Parcel being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4); thence South 89°24'28" West, along the South line of said Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4), a distance of 1009.33 feet; thence departing from said line, North 00°06'00" West, a distance of 409.95 feet; thence South 89°16'29" West, a distance of 10.00 feet to the Point of Beginning; thence continuing South 89°16'28" West, a distance of 130.00 feet; thence South 00°43'32" East, a distance of 120.00 feet; thence North 89°16'28" East, a distance of 130.00 feet; thence North 00°43'32" West, a distance of 120.00 feet to the Point of Beginning.

Containing 15,599 square feet.

PARCEL 10: (FEE SIMPLE)

The South 175 feet of the North 225 feet of the West 200 feet of the East 253 feet of the Northwest 1/4 of Section 25, Township 43 South, Range 42 East, Palm County, Florida, Less Right-of-Way and more fully described as follows:

Commence at the Northeast corner of the Northeast one-quarter (NE 1/4) of said Section 25; thence run South 00°43'36" West along the East line of Northwest one-quarter (NW 1/2) of said Section 25 for a distance of 225.02 feet to a point; thence run North 89°52'06" West along the South line of the North 225.00 feet of the Northwest one-quarter (NW 1/4) of said Section 25 for a distance of 60.01 feet to the Point of Beginning; thence continue North 89°52'06" West for a distance of 193.02 feet to a point; thence run North 00°43'36" East along the West line of the East 253.00 feet of the Northwest one-quarter (NW 1/4) of said Section 25 for a distance of 163.02 to a point on the South right-of-way line of Okeechobee Boulevard; thence North 89°52'06" East along said Right-of-Way line for a distance of 157.02 feet; thence

**South 44°42'43" East for a distance of 49.12 feet to a point on the West Right-of-Way line of Military Trail; thence run South 00°16'44" West along said Right-of-Way line for a distance of 128.02 feet to the Point of Beginning.
Containing 30,751 square feet.**

All of said lands situate, lying and being in the City of West Palm Beach, Palm Beach County, Florida and containing 1,222,421 square feet or 28.0629 acres more or less.

EXHIBIT B
VICINITY SKETCH

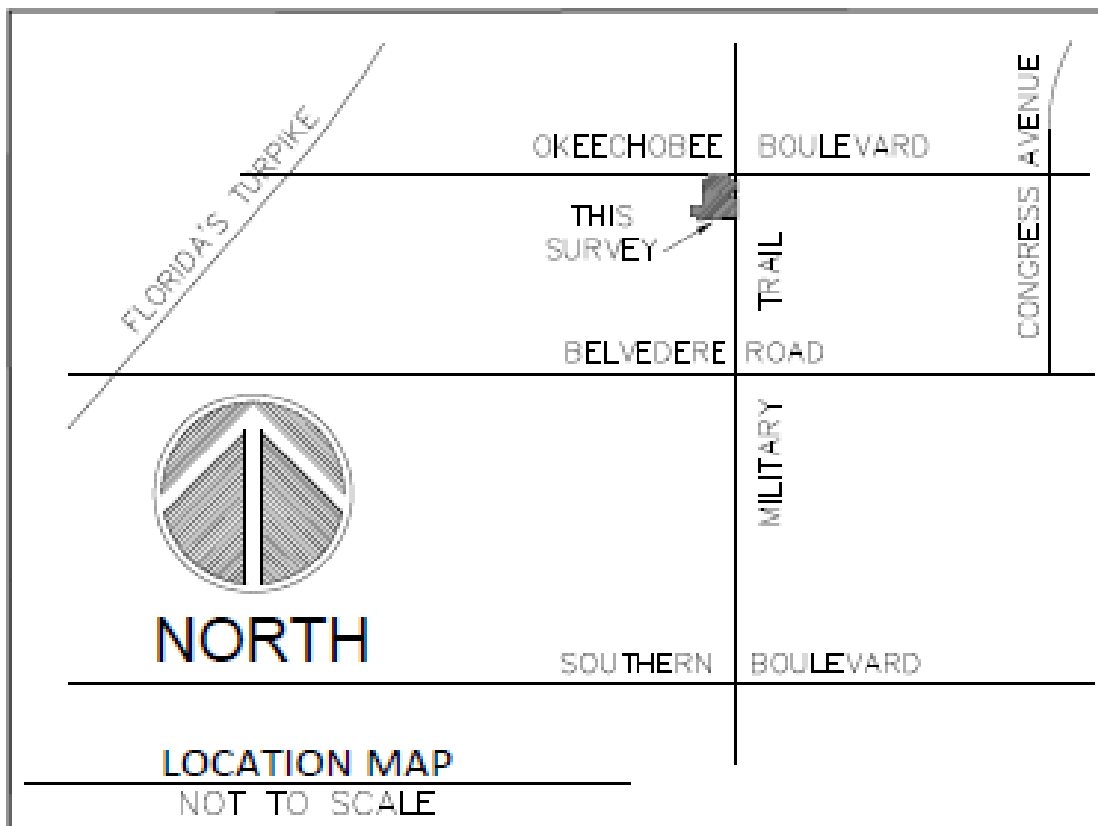


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-76-494 (Petition 76-48), R-89-608 (Petition 76-48(B)), R-91-1222 (Petition SR 76-48(B)), R-93-1024 (Petition 76-48C), R-76-1029 (Petition 76-155), R 78-977 (Petition 78-124), R-79-87 (Petition 78-273), R-79-605 (Petition 79-90), R 79-1764, R79-1765 (Petition 79-265) R-2002-0836, Petition DOA1978-273(A) and R-2004-148 Petition DOA1978-273(B) 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 Unified Land Development Code and the Board of County Commissioners or Zoning Commission, 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 2006-0913 (DOA 2005-1727) Control No. 1978-00273 have been consolidated as contained herein. The Property Owner/applicant 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. 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 March 2, 2006. 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.

Is hereby amended to read:

The Approved Preliminary Site Plan is dated August 15, 2013. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type II Restaurant shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated June 19, 2013. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. Previous Condition 3 of Zoning Resolution R-2006-0913, Petition No. 1978-00273, which currently states:

The Property Owner shall pave or Astroturf the Triangular Waiting Station at the corner. Hedge and landscaping to be behind the property line of the twenty-five (25) foot diagonal safe corner at the intersecting right-of-way lines. (ONGOING: ENG-Eng)

Is hereby amended to read:

Prior to issuance of a Building Permit for enclosed building square footage, the Property Owner shall legally create the lot in accordance with Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING - Eng)

2.The Property Owner shall provide a wheelchair ramp in the curb when constructing the curb and sidewalk at the south-east corner of Military Trail and Okeechobee Boulevard. (ONGOING:ENGINEERING-Eng) (Previous Condition 4 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

3.The Property Owner shall place Restrictive Covenant on the property to insure auto facility will post signs and stripe the sidewalk on their entrance by September 1, or prior to building permit of sales office, whichever is first. (ONGOING:ENGINEERING-Eng) (Previous Condition 5 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

4.The Property owner shall construct sidewalks and curb gutters along Military Trail and Okeechobee Boulevard. (ONGOING:ENGINEERING-Eng) (Previous Condition 6 of Zoning Resolution R-2006-0913, Petition 1978-00273) [Note:COMPLETED]

5.The Property Owner shall convey the twenty-five (25) foot safe corner to the County at the intersection of Military Trail and Okeechobee Boulevard. (ONGOING:ENGINEERING--Eng) (Previous Condition 7 of Zoning Resolution R-2006-0913, Petition 1978-00273) [Note:COMPLETED]

6.Property Owner shall construct sidewalk along Military Trail. (ONGOING:ENGINEERING-Eng) (Previous Condition 9 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

7.Within ninety (90) days off Special Exception approval, Property Owner shall convey to Palm Beach County forty (40) feet from existing centerline for Elmhurst Road right-of-way. (ONGOING:ENGINEERING-Eng) (Previous Condition 10 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

8.Within ninety (90) days off Special Exception approval, Property Owner shall convey to Palm Beach County an additional seven (7) feet of right-of-way, and further reserve a maximum of another nine (9) feet for the ultimate right-off-way for Military Trail, as approved by the County Engineer. The petitioner has agreed to waive compensation for the reserved right-of-way area and any improvements thereon. (ONGOING:ENGINEERING-Eng) (Previous Condition 11 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

9.Property Owner shall construct Elmhurst Road from Military Trail westerly to the west property line to County Standards. (ONGOING:ENGINEERING-Eng) (Previous Condition 12 of Zoning Resolution R-2006-00913, Petition No. 1978-00273) [Note:COMPLETED]

10.Property Owner shall construct an additional travel lane for both eastbound and westbound traffic on Okeechobee Boulevard from Military Trail to west property line. (ONGOING:ENGINEERING-Eng) (Previous Condition 13 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

11.Property Owner shall extend right turn lane, east approach, at the intersection of Okeechobee Boulevard and Military Trail easterly to the intersection with Zip Code Place. (ONGOING:ENGINEERING-Eng) (Previous Condition 14 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

12.Property Owner shall reconstruct and lengthen left turn lane, south approach, at the intersection of Military Trail and Elmhurst Road. (ONGOING:ENGINEERING-Eng) (Previous Condition 15 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

13. Property Owner shall construct left turn lane, east approach, at intersection of Okeechobee Boulevard and west driveway entrance. (ONGOING:ENGINEERING-Eng) (Previous Condition 16 of Zoning Resolution R-2006-0913, Petition No. 1978-00273) [Note:COMPLETED]

14. Previous Condition 21 of Zoning Resolution R-2006-0913, Petition No. 1978-00273, which currently states:

Unless prevented by factors beyond the control of the Property Owner, the construction of Elmhurst Road, as noted in Conditions #9 and #12, shall proceed simultaneously with the construction of the proposed shopping center and shall be completed prior to the issuance of any Certificate of Occupancy. (CO:MONITORING-Eng)

Is hereby amended to read:

Unless prevented by factors beyond the control of the Property Owner, the construction of Elmhurst Road, as noted in Engineering Conditions 6 and 9, shall proceed simultaneously with the construction of the proposed shopping center and shall be completed prior to the issuance of any Certificate of Occupancy. (CO:MONITORING-Eng)

[Note: COMPLETED]

15. Prior to issuance of a building permit, the Property Owner shall convey a temporary roadway construction easement along Elmhurst 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) (Previous Condition 25 of Zoning Resolution R-2006-0913, Control No. 1978-00273)

[Note: COMPLETED]

16. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. Building Permits for the proposed 4,222 square foot bank shall not be issued after January 1, 2008. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study, which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng) (Previous Condition 26 of Zoning Resolution R-2006-0913, Control No. 1978-00233) [Note: COMPLETED]

17. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. Building Permits for the proposed 7,516 square foot Type II Restaurant shall not be issued after December 31, 2014. 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)

18. Landscape Within the Median of Okeechobee Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting rights of way of both Okeechobee Boulevard and Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph d below. (ONGOING:MONITORING-Eng) (Previous Condition 27.a of Zoning Resolution R-2006-0913, Control No. 1978-00273)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng) (Previous Condition 27.b of Zoning Resolution R-2006-0913, Control No. 1978-00273)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng) (Previous Condition 27.c of Zoning Resolution R-2006-0913, Control No. 1978-00273)

d. At the Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING:ENGINEERING-Eng) (Previous Condition 27.d of Zoning Resolution R-2006-0913, Control No. 1978-00273)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along both Okeechobee Boulevard and Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING:ENGINEERING-Eng) (Previous Condition 27.e of Zoning Resolution R-2006-0913, Control No. 1978-00273)

[Note: COMPLETED]

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; 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; the 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 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 of Approval; 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)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.