

RESOLUTION NO. R-2002-0834

RESOLUTION APPROVING ZONING PETITION DOA1984-173(C)
DEVELOPMENT ORDER AMENDMENT
PETITION OF MEDINA L.L.C.
BY HELEN LAVALLEY, AGENT
(LEWIS PCD)

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

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1984-173(C) was presented to the Board of County Commissioners at a public hearing conducted on May 23, 2002; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA1984-173(C), the petition of Medina L.L.C., by Helen LaValley, agent, for a Development Order Amendment to modify site plan, to add square footage and to allow an auto paint and body shop 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 May 23, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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:

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on May 23, 2002.

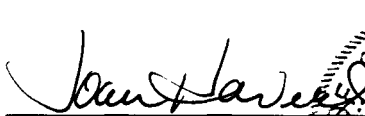
Filed with the Clerk of the Board of County Commissioners on 10 day of June, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

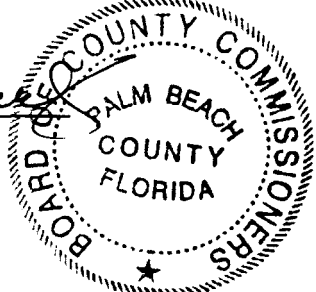


EXHIBIT A
LEGAL DESCRIPTION

Lots 11, 12, 13, 14, 15, 16, 17, 18, and 19, including south 40 feet of Lots 20 and 21, Lots 41, 42, and 43 including Lots 46, 47, 48, 49, and 50, Block 33, all of Westgate Estates (Northern Section), according to the plat thereof on file in the Office of the Clerk of Court, in and for Palm Beach County, Florida, recorded in Plat Book 8, Page 38; said lands situate, lying and being in Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

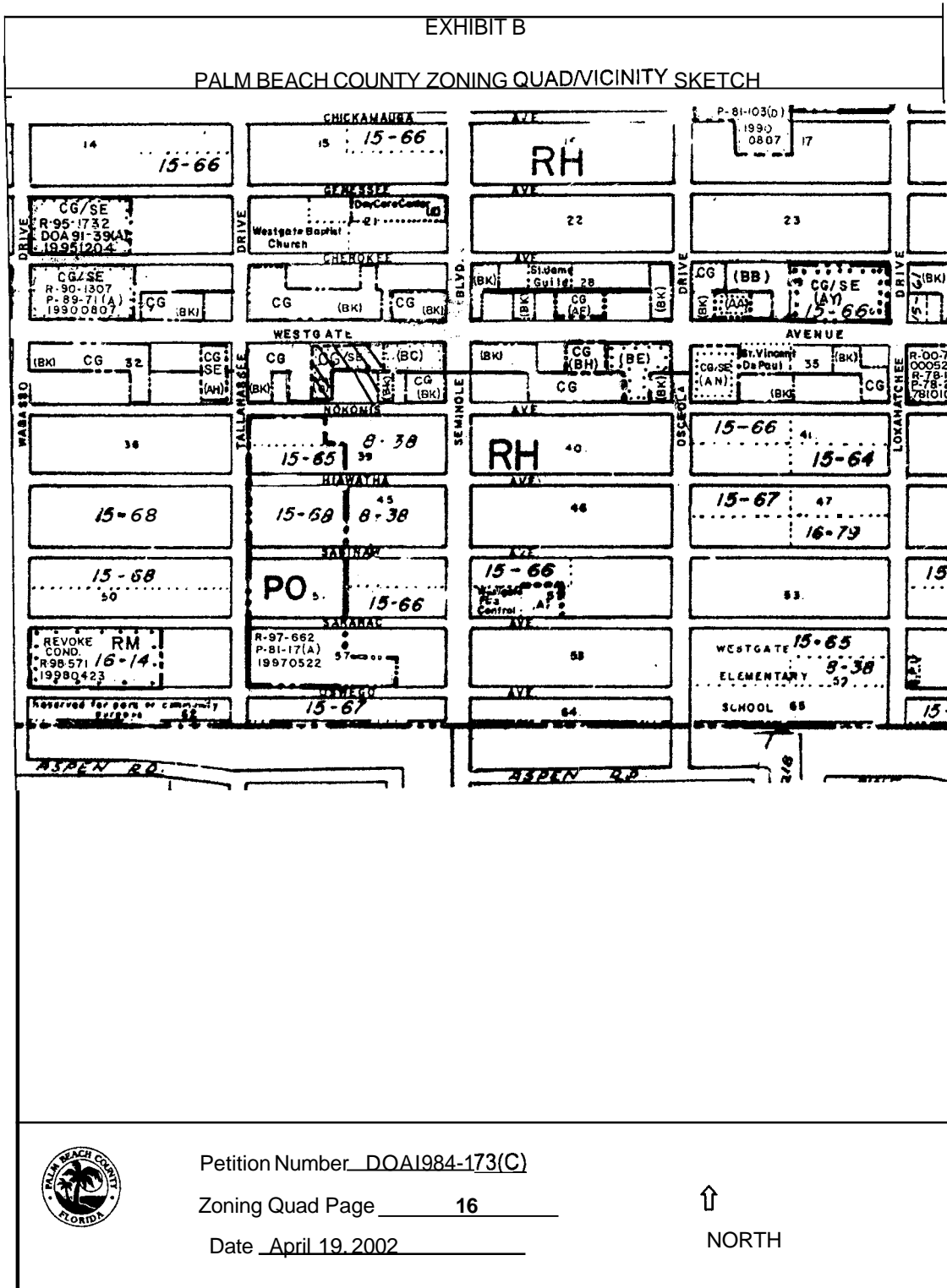


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-90-1438 (Petition 84-173(A)), 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)
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 February 15, 2002. 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)

B. BUILDING AND SITE DESIGN

1. Condition 1.d of Resolution R-90-1438, Petition 84-173(A), which currently states:

Landscaping, exterior speaker systems, sign area, lighting, building design and fences shall comply with the "special development standards for nonresidential development" in Section 627.F.2.

~~Is hereby deleted. [REASON: Code requirement/redundant Condition.]~~
2. Existing access points on Nokomis Avenue shall be limited to use by emergency vehicles only. (ONGOING: CODE ENF – Zoning)

C. ERM

1. Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management (ERM) prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping shall be a Part of those measures. (ONGOING: ERM – ERM) (Previous Condition 9 of Resolution R-90-1438, Petition 84-173(A))
2. Secondary containment for stored Regulated Substances-fuels, oils, solvents, or other hazardous chemicals is required. The Department of Environmental Resources Management (ERM) will provide guidance on appropriate protective measures. (ONGOING: ERM/CODE ENF – ERM) (Previous Condition 10 of Resolution R-90-1438, Petition 84-173(A))

D. HEALTH

1. Condition 11 of Resolution R-90-1438, Petition 84-173(A), which currently states:

Generation and disposal of hazardous effluents into 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 effluents.

Is hereby amended to read:

Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF – Health)

2. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING: HEALTH – Health) (Previous Condition 12 of Resolution R-90-1438, Petition 84-173(A))
3. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH – Health) (Previous Condition 13 of Resolution R-90-1438, Petition 84-173(A))
4. Condition 14 of Resolution R-90-1438, Petition 84-173(A), which currently states:

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.

Is hereby amended to read:

The owner, occupant or tenant of this facility shall participate in an oil-recycling program, which ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH/CODE ENFORCEMENT – Health)

5. Condition 15 of Resolution R-90-1438, Petition 84-173(A), which currently states:

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 IOD-6 Florida Administrative Codes (F.A.C.).

Is hereby deleted. [REASON: Redundant Condition.]

6. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products as programs are available. (ONGOING: SWA - SWA) (Previous Condition 16 of Resolution R-90-1438, Petition 84-173(A))
7. Any toxic or hazardous waste, which may be generated at this site, shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENFORCEMENT – Health)

E. ENGINEERING

1. Condition 17 of Resolution R-90-1438, Petition 84-173(A), which currently states:

The Developer shall provide discharge control and treatment for the stormwater 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 stormwater 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 Engineer, this matter will determined by the County be referred to the Code Enforcement Board for enforcement.

~~Is~~ hereby deleted. [REASON: Code Requirement.]

2. Condition 18 of Resolution R-90-1438, Petition 84-173(A), which currently states:

The Developer shall design the drainage system such that drainage 4 from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.

~~Is~~ hereby deleted. [REASON: Code Requirement.]

3. The Property Owner shall construct or fund the construction of a five foot (5') concrete sidewalk along Westgate Avenue and a five foot (5') concrete sidewalk along Nokomis Boulevard concurrent with on site paving and drainage improvements. Funding or construction shall be completed prior to the issuance of the first Certificate of Occupancy. The County Engineer shall make the sole determination as to require this applicant to fund the construction or construct these sidewalks. (CO: BLDG – Eng) (Previous Condition 19 of Resolution R-90-1438, Petition 84-173(A))

F. LANDSCAPING STANDARD

1. All replacement trees to be planted in the right-of-way buffers 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 relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All new and/or replacement 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)
3. 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)

G. LANDSCAPING – INTERIOR

1. One ten foot (10') to twelve foot (12') tall native palm tree shall be maintained on either side of each bay door. Bay doors shall be painted a color similar to that of the building facade. (ONGOING: LANDSCAPE/CODE ENF – Zoning) (Previous Condition 1.e. of Resolution R-90-1438, Petition 84-173(A))
2. Foundation or grade level plantings along the north side of the automotive paint and body facility shall be upgraded, as follows:
 - a. The minimum width of the required landscape area shall be ten (10) feet;

- b. The length of the required landscaped area shall be no less than 50% of the total width of the structure;
- c. One (1) canopy tree or cluster of palms for each twenty (20) linear feet of building facade; and
- d. One (1) shrub for each two (2) linear feet of building facade. Shrub to be planted at a minimum height of eighteen (18) inches at installation, and shall be maintained at a height of thirty-six (36) inches. (DRC/CO: ZONING/LANDSCAPE – Zoning)

H. LANDSCAPING ALONG NORTH PROPERTY LINE (WESTGATE AVENUE FRONTAGE)

- 1. Frontage on Westgate Avenue shall comply with the streetscape design guidelines of the **Westgate/Belvedere** Homes Community Redevelopment Area Plan. (Previous Condition 1.c. of Resolution R-90-1438, Petition 84-173(A))
- 2. Landscaping along the east one-hundred (100) feet of the north property line abutting Westgate Avenue, shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide right-of-way buffer strip. No easement encroachment or width reduction shall be permitted. Exceptions may be permitted to accommodate entranceway;
 - b. One (1) canopy tree for each thirty (30) linear feet of property line;
 - c. One (1) palm or pine for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters;
 - d. One (1) small shrub for each two (2) linear feet of property line, to be installed at a minimum height of eighteen (18) inches;
 - e. One (1) medium shrub for each four (4) linear feet of property line, to be installed at a minimum height of twenty-four (24) inches; and
 - f. All shrub or hedge material shall be planted in continuous masses consisting of a minimum of two (2) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - 1. eighteen (18) to twenty-four (24) inches – groundcover and small shrub; and
 - 2. twenty-four (24) to thirty-six (36) inches – medium shrub. (CO: LANDSCAPE – Zoning)

I. LANDSCAPING ALONG SOUTH PROPERTY LINE (FRONTAGE ON NOKOMIS AVENUE)

- 1. Buffering and landscaping on Nokomis Avenue shall consist of a five foot (5') wide concrete sidewalk, a six foot (6') tall opaque concrete block wall textured or surfaced with Stucco or other appropriate materials which coordinate with or echo the design and colors of the principal structure on the property, with a hedge of native vegetation twenty-four inches (**24"**) in height and spaced twenty-four inches (**24"**) on center, and native canopy trees a minimum of ten feet (**10'**) in height and a six foot (6') spread, spaced twenty feet (**20'**) on center and placed on alternative sides of the wall. (CO: LANDSCAPE – Zoning) (Previous Condition 1.b. of Resolution R-90-1438, Petition 84-173(A))

J. LANDSCAPING ALONG SOUTH, EAST AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL USES)

- 1. Prior to Site Plan Review submittal, the site plan shall be amended to indicate:
 - a. Upgraded landscaping on property lines abutting residential districts including a row of native canopy trees, twelve feet (**12'**) tall spaced twenty feet (20') on center, a six foot (6') tall solid masonry and stucco wall and a five foot (5') tall ficus hedge.

Landscape materials shall be placed on the exterior of the required wall. The petitioner may obtain variance relief from the Palm Beach County Board of Adjustment to replace the wall with any other structure. (CO: LANDSCAPE – Zoning) (Previous Condition 1.a. of Resolution R-90-1438, Petition 84-173(A))

2. Landscaping along the south one hundred fifteen (115) feet of the west property line (interior and adjacent to automotive paint and body) abutting residential shall be further upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip. No easement encroachment or width reduction shall be permitted;
 - b. A six (6) foot high solid masonry/stucco or opaque screen panel wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the overall development. The petitioner may obtain variance relief from the Board of Adjustment to replace the wall with any other structure;
 - c. One (1) native canopy tree for each twenty (20) linear feet of the of the property line;
 - d. One (1) palm or pine for each thirty (30) linear feet of property line with a maximum spacing of ninety (90) feet between clusters;
 - e. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches; and
 - f. Along the interior side of the required wall, the property owner shall install thirty (30) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center, to be maintained at a minimum height of seventy-two (72) inches. (CO: LANDSCAPE – Zoning)

K. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)
2. Condition 8 of Resolution R-90-1438, Petition 84-173(A), which currently states:

Lighting on the southern side of the building shall be low intensity, shielded and no greater than twelve feet (12') tall.

Is hereby amended to read:

All new outdoor lighting fixtures on the southern side of all structures or within fifty (50) feet of existing residential uses shall not exceed twelve (12) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)

3. All outdoor lighting on the southern side of all structures or within fifty (50) feet of existing residential uses shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF-Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning)

L. PLANNING

1. Prior to the issuance of the certificate of occupancy, the petitioner shall pave a vehicular drive-way to the edge of the western property line at the location shown on the site plan that reads "future cross connection". (CO: MONITORING-Planning)

M. SIGNAGE

1. All new or relocated freestanding signs shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point : ten (10) feet;
 - b. Maximum total sign face area - 100 square feet;
 - c. Maximum number of signs - one (1);
 - d. Style - monument style only; and,
 - e. Location: Westgate Avenue frontage; and
 - f. Signs shall be limited to project identification only. (CO: BLDG-Zoning)
2. **All** new wall signs shall be limited to the north facades of the buildings and individual lettering size shall be limited to eighteen (18) inches high. Wall signs shall be limited to project identification only. (CO: BLDG-Zoning)

N. USE LIMITATIONS

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, other than inside a window as may be permitted by the Sign Code. Also, flashing signs, shall not be permitted electronic message boards, etc. on-site. (ONGOING: CODE ENF –Zoning) (Previous Condition 2 of Resolution R-90-1438, Petition 84-173(A))
2. Condition 3 of Resolution R-90-1438, Petition 84-173(A), which currently states:

Use of the site shall be limited to 7,000 square feet of commercial sales and repair of automobiles, and accessory retail and office uses.

Is hereby deleted. [REASON: Superseded by Condition A.2.]
3. Condition 4 of Resolution R-90-1438, Petition 84-173(A), which currently states:

No vehicles, other than those 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.

Is hereby deleted. [REASON: Code Requirement/conflicts with other uses.]
4. Condition 5 of Resolution R-90-1438, Petition 84-173(A), which currently states:

No vehicle shall be parked with its hood or trunk open, or elevated off the ground in any way. Vehicles shall not be parked in any right-of-way or driveway.

Is hereby deleted. [REASON: Code Requirement.]
5. Vehicles shall not be tested off-site on residential streets. (ONGOING: CODE ENF – Zoning) (Previous Condition 6 of Resolution R-90-1438, Petition 84-173(A))

6. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: CODE ENF – Zoning) (Previous Condition 7 of Resolution R-90-1438, Petition 84-173(A))
7. Condition 20 of Resolution R-90-1438, Petition 84-173(A), which currently states:

Time of auto repair activity shall be limited from 7:00 a.m. to 7:00 p.m. on this site.

Is hereby amended to read:

Auto repair and auto paint and body shall be limited as follows:
 - a. Auto repair: Monday thru Saturday, 7:00 a.m. to 7:00 p.m.; and
 - b. Auto paint and body: Monday thru Friday, 8:00 a.m. to 5:00 p.m. (ONGOING: CODE ENF – Zoning)
8. A maximum of eight (8) cars shall be displayed on site at any time. (ONGOING: CODE ENF – Zoning)
9. When this facility is not open, the parking area shall be locked and gated. (ONGOING: CODE ENF - Zoning)

O. COMPLIANCE

1. 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)
2. Condition 21 of Resolution R-90-1438, Petition 84-173(A), which currently states:

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.

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 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)