

RESOLUTION NO. R-94-646

RESOLUTION APPROVING ZONING PETITION DOA79-236(C)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ROBERT & BRUCE ORESKY

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 petitions relating to zoning; and

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

WHEREAS, Zoning Petition **DOA79-236(C)** was presented to the Board of County Commissioners at a public hearing conducted on May 26, 1994; 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 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 relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach county 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 standards imposed on it by applicable provisions of the Palm Beach County 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.
 - a. This Development Order Amendment has a concurrency reservation and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County 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 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 **DOA79-236(C)**, the petition of Robert & Bruce **Oresky** for a DEVELOPMENT ORDER AMENDMENT in the General Commercial (CG) Zoning District, to amend master plan to increase land area and amend Conditions C.1 (use limitation), J.1.F (bay doors) & J.3 (perimeter buffer) of Resolution R-93-245, previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on May 26, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of May, 1994.

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

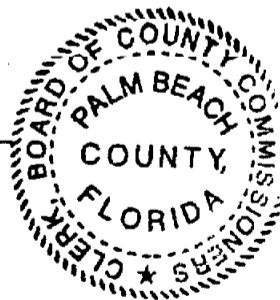


EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

PARCEL III

THE SOUTH 222.4' OF THE S.E. 1/4 OF THE S.E. 1/4 OF THE N.H. 1/4 OF SECTION 1,
TOWNSHIP 44 SOUTH, RANGE 42 EAST, LESS THE EAST 200' AND LESS THE WEST 217',
BEING A PART OF LOT 4, BLOCK 2, OF PALM BEACH PLANTATIONS, ACCORDING TO THE PL,
THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM
BEACH COUNTY, FLORIDA, AS IN PLAT BOOK 10, PAGE 20.
LESS THE SOUTH 50' FOR ROAD RIGHT-OF-WAY.
CONTAINING 0.993 ACRES, MORE OR LESS, AS SURVEYED.



JERRY A. JEFFERS, LS-4159

EXHIBIT B

VICINITY SKETCH

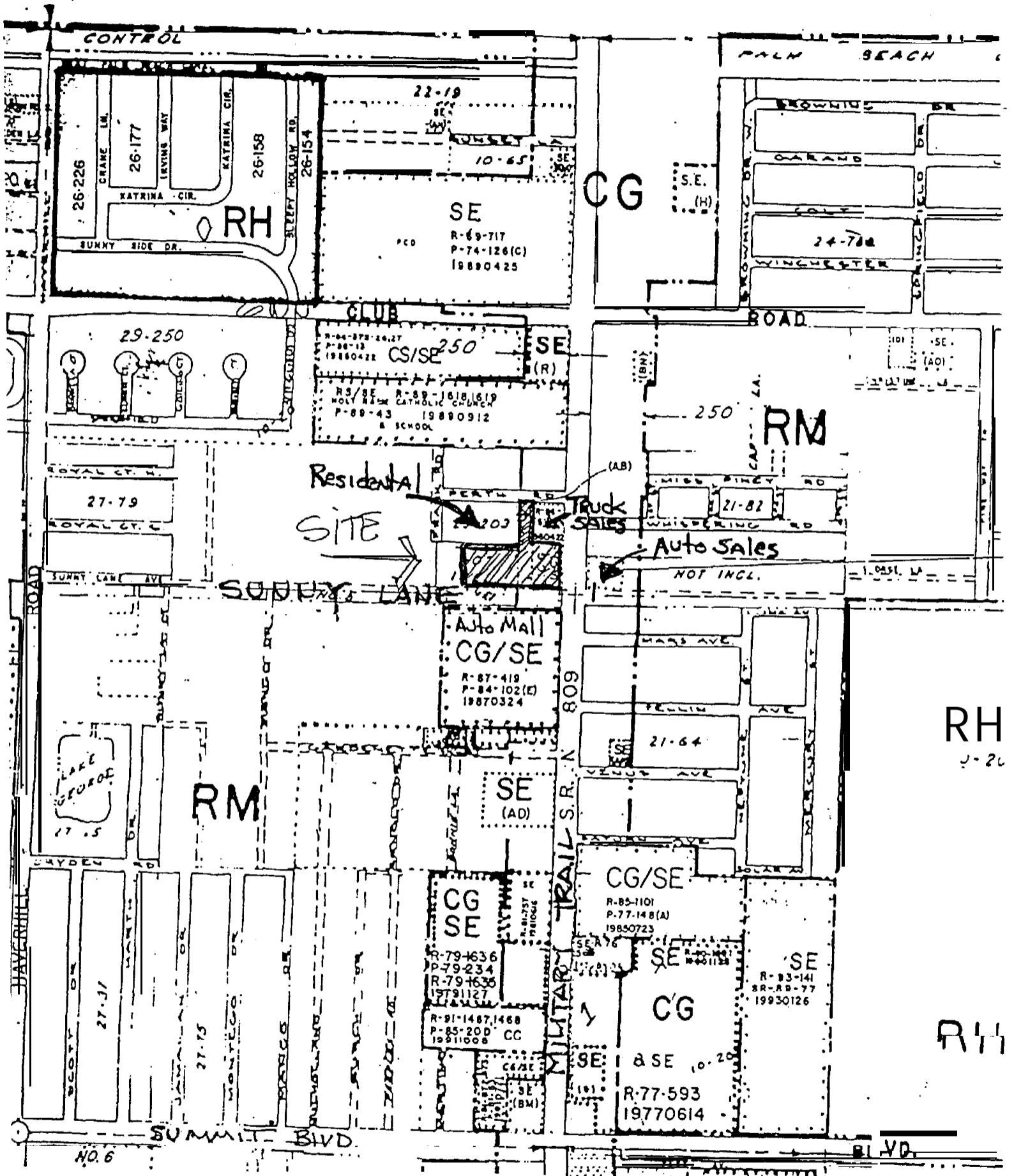


EXHIBIT C

CONDITIONS OF APPROVAL

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**. (Previously Condition No. A.1 of Resolution ~~93-245~~, Petition No. 79-236(B). (ZONING/ MONITORING))

2. Condition No. A.3 of Resolution 93-245, Petition No. 79-236(B), which currently states:

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.

Is hereby amended to state:

All conditions of approval for this site shall be complied with prior to May 1, 1995, unless **otherwise** specified. No administrative time extensions shall be granted for non-compliance with **any** condition of approval. (MONITORING/ZONING)

3. Condition No. A.4 of Resolution 93-245, Petition No. ~~79-~~236(B), which currently states:

The petitioner shall receive certification of the site plan approved by the Board of County Commissioners **for** the subject property, as amended as required by the conditions **of** approval on or before July 30, 1993.

Is hereby amended to state:

The petitioner shall receive site plan certification from the Development Review Committee (DRC) on or before November 1, 1994. No administrative time extensions shall be granted. (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. (Previously Condition No. B.1 of Resolution 93-245, Petition No. 79-236(B). (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. (Previously Condition No. B.2 of Resolution 93-245, P e t i t i o n N o . 7 9 - 2 3 6 (B) . (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. (Previously Condition No. B.3 of Resolution 93-245, P e t i t i o n N o . 7 9 - 2 3 6 (B) . (ENGINEERING/ZONING))

C. BUILDING AND SITE DESIGN

1. Condition No. C.1 of Resolution 93-245, Petition No. 79-236(B), which currently states:

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.

Is hereby amended to state:

Use of the site shall be limited to 4,978 square feet of commercial sales, leasing and repair of new or used automobile, truck and customary accessory uses.
(ZONING/BUILDING)

2. All parking **and** vehicular circulation areas shall be paved. (Previously Condition No. C.3 of Resolution 93-245, Petition No. **79-236(B)**). (ENGINEERING/ZONING)
3. 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. (Previously Condition No. C.4 of Resolution 93-245, Petition No. 79-236(B)). (ZONING)
4. All necessary variances from the Palm Beach County Board of Adjustment shall be obtained prior to DRC certification in accordance with the provisions of the ULDC.

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. (Previously Condition No. D.1 of Resolution 93-245, Petition No. 79-236(B)). (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. (Previously Condition No. D.2 of Resolution 93-245, Petition No. **79-236(B)**). (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. E.1 of **Resolution 93-245**, Petition No. 79-236(B). (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. E.2 of Resolution 93-245, Petition No. 79-236(B). (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. E.3 of Resolution 93-245, Petition No. **79-236(B)**). (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. E.4 of Resolution 93-245, Petition No. 79-236(B). (MONITORING-ENGINEERING) Note: Land Development Data Base indicates compliance with this condition.
5. No direct access to Military Trail will be **allowed**. (Previously Condition No. E.5 of Resolution 93-145, Petition No. **79-236(B)**). (ENGINEERING)
6. Petitioner shall submit a comprehensive drainage **report** prior to Site Plan approval. (Previously Condition No. E.6 of Resolution 93-245, Petition No. 79-236(B). (ENGINEERING)
7. 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 Petition 79-236(C) (expansion of the existing facility) is \$1000.00 (20 trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)
8. Prior to issuance of any permits, the petitioner shall plat the entire property in accordance with all applicable requirements of the UIDC. (ZONING/BUILDING/ENGINEERING)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances (fuels, oils and other hazardous chemicals) is required. The Department of Environmental Resources Management staff is willing to provide guidance on appropriate protective measures. (Previously Condition No. F.1 of **Resolution 93-245**, Petition No. 79-236(B). (BUILDING/ERR)

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. **G.1** of Resolution 93-245, Petition No. 79-236(B). (ERM)

2. **Sewer** service is available to the property. Therefore, no septic tank shall be **permitted on** the site. (**Previously** Condition No. G.2 of Resolution 93-245, Petition No. 79-236(B). (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. G.3 of Resolution 93-245, Petition No. 79-236(B). (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. G.4 of Resolution 93-245, Petition No. **79-236(B) . (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. G.5 of Resolution 93-245, Petition No. 79-236(B). (BUILDING/ HEALTH/ERM)
6. Prior to January 1, 1995 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. (Previously Condition No. G.6 of Resolution 93-245, Petition No. **79-236(B)**. (HEALTH/ MONITORING)

H. IRRIGATION DUALITY 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**. (Previously Condition No. H.1 of Resolution 93-245, Petition No. 79-236(B). (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. (Previously Condition No. I.1 of Resolution 93-215, Petition No. 79-236(B). (ZONING)
2. **All** trees required to be planted on site **by** this **approval** shall meet the following minimum standards 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. (Previously Condition No. I.2 of Resolution 93-245, Petition No. 79-236(B). (**ZONING**))

J. LANDSCAPING

1. Condition No. J.1 of Resolution 93-245, Petition No. 79-236(B), which currently states:

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.

Is hereby amended to state:

A revised site plan shall be submitted for certification by the Development Review Committee (DRC) **indicating**:

- a. Compliance with all landscape requirements of Section 7.3 of the ULDC 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. indicate the method, location, and containment of stormwater runoff. the existing **building**.
(MONITORING-Zoning)
2. All required landscaping and perimeter wall shall be installed prior to Certificate of Occupancy or Certificate of Completion, or whichever occurs **first**. (Previously Condition No. J.2 of Resolution **93-245**, Petition No. 79-236(B). (MONITORING - Zoning)
3. Condition No. J.3, of Resolution 93-245, Petition No. 79-236(B), which currently states:

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.

Is hereby amended to state:

The property owner shall install an eight (8) foot **high** concrete wall along the entire west property **line**.
(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. (Previously Condition No. K.1 of Resolution 93-245, Petition No. 79-236(B). (ZONING)

L. LIGHTING

1. 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. (Previously Condition No. L.1 of Resolution 93-245, Petition No. 79-236(B). (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. (Previously Condition No. L.2 of Resolution 93-245, Petition No. 79-236(B). (CODE ENFORCEMENT)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m. Security lighting only is excluded from this requirement. (Previously Condition No. L.3 of Resolution 93-245, Petition No. 79-236(B). (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. (Previously Condition No. M.1 of Resolution 93-245, Petition No. 79-236(B). (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. N.1 of Resolution 93-245, Petition No. 79-236(B). (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). (Previously Condition No. N.2 of Resolution 93-245, Petition No. 79-236(B). (BUILDING)

3. Condition No. N.3 of Resolution 93-245, Petition No. 79-236(B), which currently states:

No signs shall be permitted fronting on Perth Road or Sunny Lane.

Is hereby amended to state:

One (1) directional sign, with a maximum height of **three** (3) feet and maximum size of fifteen (15) square feet, shall be permitted along Sunny Lane. No signs shall be permitted along Perth Road.

0. 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. (Previously Condition No. 0.1 of Resolution 93-245, Petition No. 79-236(B). (COUNTY ATTORNEY)

P. USE LIMITATIONS

1. No outdoor loudspeaker system shall be permitted. (Previously Condition No. P.1 of Resolution 93-245, Petition No. 79-236(B). (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. (Previously Condition No. P.2 of Resolution 93-245, Petition No. 79-236(B). (CODE ENFORCEMENT)
3. No buildings shall be constructed on the parcel abutting the adjacent residential development west of the westerly driveway onto Sunny Lane. (CODE ENFORCEMENT - Planning)

Q. VEHICLE SALES AND REPAIR

1. All refuse, and junk auto parts must be stored inside the building. (Previously Condition No. Q.1 of Resolution R-93-245, Zoning Petition 79-236(B). (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. Q.2 of Resolution 93-245, Zoning Petition No. 79-236(B). (CODE ENFORCEMENT)
3. 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. (Previously Condition No. 4.3 of Resolution 93-245, Zoning Petition No. 79-236(B). (CODE ENFORCEMENT)
4. Vehicles shall not be tested off-site on residential streets. (Previously Condition No. 4.4 of Resolution 93-245, Zoning Petition No. 79-236(B) (CODE ENFORCEMENT)
5. No outside storage of **disassembled** vehicles or **parts** thereof **shall** be permitted on site. (Previously Condition No. Q.5 of Resolution 93-245, Zoning Petition No. 79-236(B). (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. 4.6 of Resolution 93-245, Zoning Petition No. 79-236(B)). (CODE ENFORCEMENT)

R. COMPLIANCE

1. 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. R.1 of Resolution 93-225, Zoning Petition No. 79-236(B)). (MONITORING)