

RESOLUTION NO. R-2007- 1441

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1938
(CONTROL NUMBER 1987-103)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF CRESCENT CENTER VENTURES, LLC
BY BERIL KRUGER, AGENT
(MILITARY 6)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

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

WHEREAS, Zoning Application DOA2006-1938 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2007; 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, 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; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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 DOA2006-1938, the application of Crescent Center Ventures, LLC, by Beril Kruger, agent, for a Development Order Amendment to reconfigure the site plan and modify conditions of approval n 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 August 23, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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:

Addie L. Greene, Chairperson	-	Aye
John F. Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
District 3 Robert Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 23, 2007.

Filed with the Clerk of the Board of County Commissioners on 23rd day of August.

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

BY: 
COUNTY ATTORNEY

SHARON BOCK,
CLERK & COMPTROLLER
BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

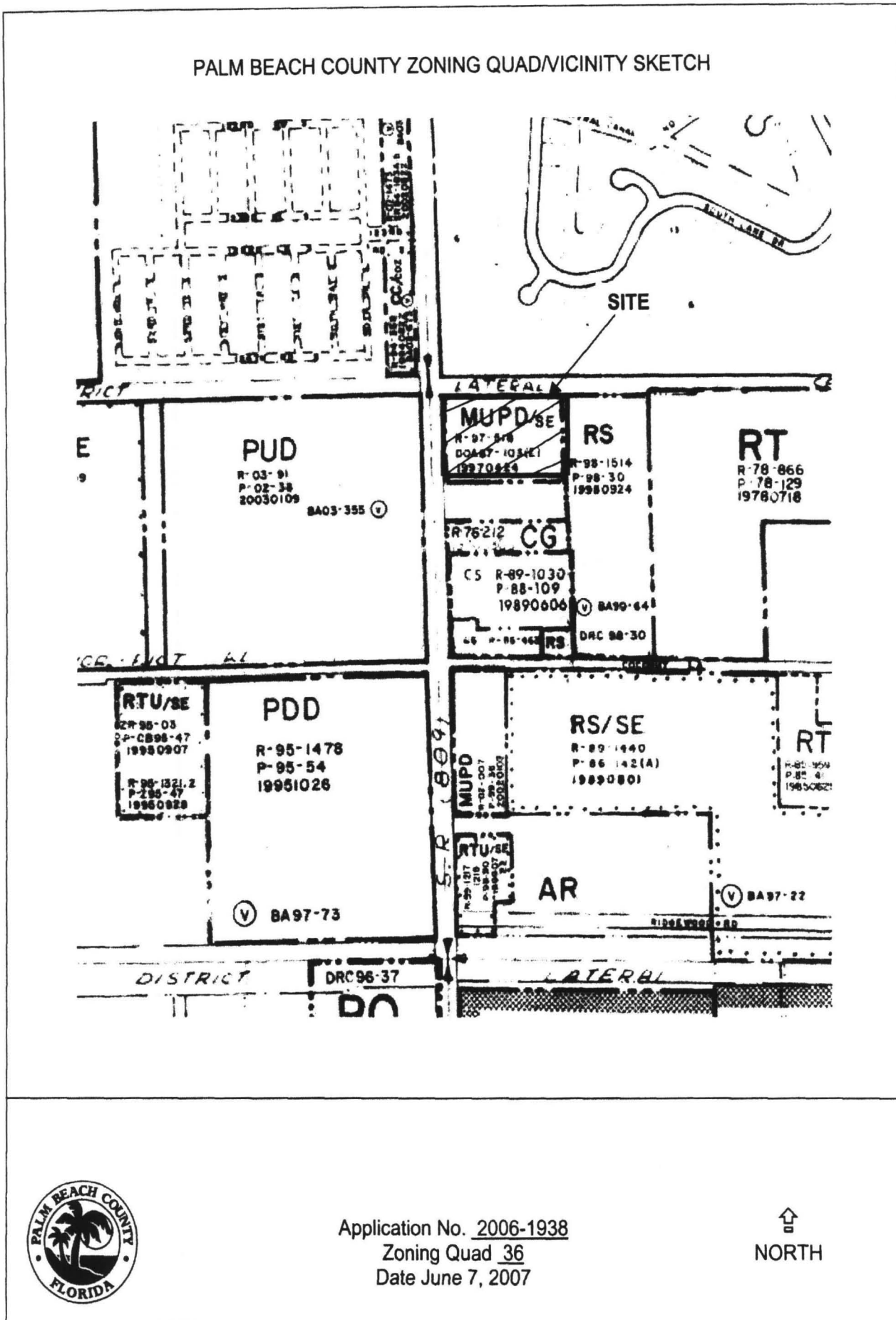
Lot A, MILITARY 6, M.U.P.D., according to the plat thereof recorded in Plat Book 8, page 136 of the Public Records of Palm Beach County, Florida., LESS the following described portion thereof conveyed to the City of Boynton Beach, Florida, by that certain Warranty Deed recorded in Official Records Book 9791 page 1296;

A portion of the Northwest one-quarter of the Northwest one-quarter of the Southwest one-quarter of Section 1, Township 46 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of said Southwest one-quarter of Section 1; thence South $01^{\circ} 46' 16''$ East, a distance of 60.06 feet; thence South $89^{\circ} 11' 21''$ East, a distance 60.06 feet; thence South $01^{\circ} 46' 18''$ East, a distance of 415.53 feet to the Point of Beginning of this description; thence continue South $01^{\circ} 46' 18''$ East, a distance of 25.03 feet; thence South $89^{\circ} 02' 53''$ East, a distance of 50.06 feet; thence North $01^{\circ} 46' 18''$ West, a distance of 25.03 feet; thence North $89^{\circ} 02' 53''$ West, a distance of 50.06 feet to the Point of Beginning.

EXHIBIT B

VICINITY SKETCH



Application No. 2006-1938
 Zoning Quad 36
 Date June 7, 2007

↑
 NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition A.1 of Resolution R-97-518, Petition DOA87-103(E)), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-518 (Petition 87-103(E)), 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-518 (Petition 87-103(E)), have been consolidated as contained herein. The 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. Condition A.2 of Resolution R-97-518 (Petition 87-103(E)), which currently states:

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 18, 1997. 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)

Is hereby amended to read:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated March 19, 2007. 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.)

3. Previous zoning approvals, and applicable conditions, as granted by Resolutions R-90-522, R-89-743, and R-89-367, are hereby revoked. (ONGOING: MONITORING - Zoning) (Previously Condition A.3 of Resolution R-97-518 (Petition 87-103(E)))

4. Condition A.4 of Resolution R-97-518 (Petition 87-103(E)), which currently states:

All abandoned buildings on site shall be removed prior to December 1, 1995. (DATE: MONITORING - Bldg)

Is hereby deleted. [REASON: No longer applicable.]

5. Condition A.5 of Resolution R-97-518 (Petition 87-103(E)), which currently states:

Prior to certification of the site plan by the Development Review Committee, the petitioner shall:

a. obtain a release or abandonment from Florida Power & Light for the concrete block wall, chain link fence, landscaping and directional signage in the easement along the eastern property line; and

b. record in the public record a Unity of Control for the entire subject property in a form acceptable to the County Attorney. (DRC: CTY ATTY / ZONING)(Previously Condition A.5 of Resolution R-97-518 (Petition 87-103(E))

Is hereby deleted. [REASON: The condition has been completed.]

ANNEXATION

1. Condition B.1 of Resolution R-97-518 (Petition 87-103(E), which currently states:

The property owner shall voluntarily annex into the City of Boynton Beach at such time the subject property becomes contiguous to or is the subject of an annexation proposal by the City of Boynton Beach. (ONGOING: PLANNING)

Is hereby deleted. [REASON: Redundant. City of Boynton Beach annexation agreement for provision of water and sewer provides for annexation.]

BUILDING AND SITE DESIGN

1. No bay door openings, shall be permitted on the north facade of buildings along the LWDD L-29 Canal. (DRC: BLDG - Zoning) (Previously Condition C.1 of Resolution R-97-518 (Petition 87-103(E))
2. All roof-top mechanical and electrical equipment shall be screened so as not to be visible from adjacent land uses. The screen shall be opaque and extend from the roof of the building to the full height of the structures being screened. (BLDG PERMIT: BLDG - Zoning) (Previously Condition C.2 of Resolution R-97-518 (Petition 87-103(E))
3. Parking and storage shall be limited to the areas designated on the site plan only. Outdoor storage spaces shall be limited to five (5) rental trucks and fifteen (15) recreational vehicle spaces. Parking/Loading spaces shall be provided at each entry point to the limited access storage areas. (ONGOING: CODE ENF) (Previously Condition C.3 of Resolution R-97-518 (Petition 87-103(E))
4. All disassembled or inoperative vehicles, and vehicle parts, shall be stored indoors. (ONGOING: CODE ENF)(Previously Condition C.4 of Resolution R-97-518 (Petition 87-103(E))
5. On site repairs shall be limited to general auto repairs and maintenance only. No paint or body repair shall be permitted on site. (ONGOING: CODE ENF - Zoning) (Previously Condition C.5 of Resolution R-97-518 (Petition 87-103(E))
6. When not open, the self service and open storage areas shall be locked and gated. (ONGOING: CODE ENF) (Previously Condition C.6 of Resolution R-97-518 (Petition 87-103(E))
7. There shall be no outdoor display of vehicles, or parts thereof, for sale or rent. Storage of rental vehicles and recreational vehicles shall be limited to the outdoor storage area located on the east side of Building 2. There shall be no outdoor repair of vehicles or parts. (ONGOING: CODE ENF - Zoning) (Previously Condition C.7 of Resolution R-97-518 (Petition 87-103(E))

8. No outdoor loudspeaker systems shall be permitted. (ONGOING: CODE ENF - Zoning) (Previously Condition C.8 of Resolution R-97-518 (Petition 87-103(E)))

ENGINEERING

1. Condition E.1 of Resolution R-97-518 (Petition 87-103(E)), which currently states:

If required by the County Engineer or the South Florida Water Management District the Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site. (BLDG PERMIT: ENG)

Is hereby deleted. [Reason Drainage is now a code requirement.]

2. The developer shall reconstruct the existing median at the project's south entrance in accordance with the County Engineer's approval. Construction shall be concurrent with paving and drainage permits for the site. Construction shall be completed prior to the issuance of a Certificate of Occupancy. (CO: ENG) (Previously Condition E.2 of Resolution R-97-518. Note: Data Base Indicates condition complete.

3. Condition E.3 of Resolution R-97-518 (Petition 87-103(E)), which currently states:

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, Zoning Petition Number 87-103(D), to be paid at the time of issuance of the Building Permit presently is \$71,445.00 (1,209 trips X \$55.00 per trip). (BLDG PERMIT: FAIR SHARE FEE COORDINATOR).

Is hereby deleted. [Reason Impact fees are now a code requirement.]

LANDSCAPE WITHIN MEDIAN

4. A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: BLDG - Eng)

B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy.

C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (Previously Condition E.4 of Resolution R-97518. (CO: BLDG - Cty Atty)

[Note: Data Base Indicates condition complete.]

5. Prior to Final Site Plan approval by the Development Review Committee, the property owner shall pay a Fair Share Fee for the new use in the amount required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. (DRO APPROVAL: ACCOUNTING-Impact Fee Coordinator)
6. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule: A) No Building Permits for the site may be issued after June 28, 2010. 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)

ENVIRONMENTAL

1. All vehicular parking and storage shall be on an impervious surface. (DRC:ERM) (Previously Condition D-1 of Resolution R-1997-518 of Control No. 1987-103(E)

is hereby deleted. [Reason: The condition has been completed]

ZONING - LANDSCAPING-STANDARD

1. Prior to June 7, 2008, the property owner shall replace all dead and missing plant materials on the entire subject property. (DATE: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (ONGOING / BLDG PERMIT: BLDG / CODE ENF - Zoning) (Previously Condition H.1 of Resolution R-97-518 (Petition 87-103(E))
2. All outdoor lighting fixtures shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previously Condition H.2 of Resolution R-97-518 (Petition 87-103(E))
3. All outdoor lighting shall be extinguished no later than 11:00 p.m., excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previously Condition H.3 of Resolution R-97-518 (Petition 87-103(E))

SIGNS

1. The freestanding point of purchase signs fronting on Military Trail shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point: six (6) feet;
 - b. maximum sign width: fourteen (14) feet;
 - c. maximum number: two (2); and

- d. both signs shall have consistent colors, architectural details and lettering styles as the principal buildings. (BLDG PERMIT: BLDG)
- e. the second sign shall not be issued a building permit until after December 1, 1997. (DATE: MONITORING - Zoning) (Note: Completed)(Previously Condition I.1 of Resolution R-97-518 (Petition 98-103(E)))

Is hereby deleted. [REASON: No longer applicable.]

2. Condition I.2 of Resolution R-97-518 (Petition 98-103 (E)) which currently states: The existing billboard located in the northwest corner of the property shall be removed prior to December 1, 1997. No additional time extensions shall be granted. (DATE: MONITORING - Zoning)

Is hereby deleted. [REASON: The condition has been completed.]

3. Condition I.3 of Resolution R-97-518 (Petition 87-103(E)) which currently states: No wall signage shall be allowed on the north and south sides of Building 1 (Auto Service). Wall signage shall not be allowed on the sides of Buildings 2 and 3 (Self service storage). (ONGOING: CODE ENF/ZONING)

Is hereby amended to read:

No wall signage shall be allowed on the north and south sides of Building 1 (Auto Service). The existing wall signage (B97001575 and B9001782) located on the south facad of Building 1 shall not be replaced. Wall signage shall not be allowed on the sides of Buildings 2 and 3 (Self service storage). (ONGOING: CODE ENF/ZONING)

MASTER SIGN PROGRAM PLAN

4. The property owner, shall submit a Master Sign Plan prior to August 23, 2007 BCC Hearing that identifies the status to replace or maintain existing and/or proposed signs. All replacement signs shall comply with the Master Sign Plan which is consistent with the ULDC Article 8 as of July 5, 2007. (DATE-MONITORING-ZONING)
5. All new or replacement building mounted signs shall meet the Unified Land Development Code (ULDC) requireemtns and the Master Sign Plan dated August 1, 2007, which includes but not limited to back lit Blue channel lettering and dimensions. (BLDG PERMIT-BLDG-Zoning)
6. Prior to December 1, 2007, the property owner shall obtain a Certificate of Completion for the modification to the existing freestanding sign (B96024753), to be in compliance with the Master Sign Plan dated August 1, 2007, which includes color and dimensioning.

USE LIMITATIONS

1. Hours of operation for all automotive repair and related services shall be limited to 7 a.m. to 7 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previously Condition G.1 of Resolution R-97-518 (Petition 87-103(E))
2. Hours of operation for the open storage area shall be from 7 a.m. to 10 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previously Condition G.2 of Resolution R-97-518 (Petition 87-103(E))
3. In the event the Zoning Director received notice from the Code Enforcement Division that vehicles are obstructing vehicular circulation during loading/unloading, the applicant shall be required to provide one loading space in proximity to the building. (ONGOING-CODE ENF-Zoning)

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. 2.Condition J.1 of Resolution R-97-518 (Petition 87-103(E)) which currently states:

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; cease and desist 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 Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
- 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;
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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 Conditional Use, 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. (MONITORING)

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 Article 2.E 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)