

RESOLUTION NO. R-2008- 0686

RESOLUTION APPROVING ZONING APPLICATION DOA-2007-883
(CONTROL NUMBER 1983-161)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF NEW COUNTRY MOTOR CARS OF PALM BEACH LLC
BY GARY M. BRANDENBURG AND ASSOCIATES, AGENT
(MERACEDES MASERATI DEALERSHIP)

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 DOA-2007-883 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2008; 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 DOA-2007-883, the application of New Country Motor Cars Of Palm Beach LLC, by Gary M. Brandenburg and Associates, agent, for a Development Order Amendment to add land area, add building square footage, to allow vehicle sales and rental and to restart the commencement clock 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 April 24, 2008, 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 McCarty and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Absent
Jeff Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 24, 2008.

Filed with the Clerk of the Board of County Commissioners on 24 day of April 2008.

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND SITUATE IN SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST; BEING ALL OF TRACT A, MERCEDES BENZ OF PALM BEACH, M.U.P.D., AS RECORDED IN PLAT BOOK 105, PAGES 90 TO 91, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

A PARCEL OF LAND SITUATE IN SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST; BEING PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 8, PAGE 38; THE AMENDED PLAT OF BLOCKS 1, 2, 3, 4, 5, 6 AND THE NORTHERN PART OF BLOCK A WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 9, PAGE 20; AND SHARON'S REPLAT OF PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 15, PAGE 64; ALL RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 30, A DISTANCE OF 15 FEET TO A POINT IN THE SOUTH RIGHT OF WAY LINE OF OKEECHOBEE (ROAD) BOULEVARD, AND THE POINT OF BEGINNING; THENCE EASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE WHICH IS 15 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 30, A DISTANCE OF 243.98 FEET TO A POINT; THENCE SOUTHERLY, AT RIGHT ANGLES, A DISTANCE OF 273 FEET TO A POINT IN THE SOUTH LINE OF TRACT "B", ACCORDING TO SHARON'S REPLAT OF PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 15, PAGE 64, PALM BEACH COUNTY RECORDS; THENCE A DISTANCE OF 246.06 FEET, TO A POINT IN THE WEST LINE OF SECTION 30, THENCE A DISTANCE OF 273 FEET MORE OR LESS TO THE POINT OF BEGINNING.

AND

LOTS 33 THROUGH 39, BLOCK 7, ACCORDING TO THE PLAT OF "WEST GATE ESTATES", AS RECORDED IN PLAT BOOK 8, PAGE 38 IN AND FOR PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT

THE NORTHERLY 5.50 FEET THEREOF FOR ROAD RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 6633, PAGE 163, AND OFFICIAL RECORDS BOOK 7309, PAGE 1452, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

THE ABOVE-DESCRIBED NOW KNOWN AS:

A PARCEL OF LAND SITUATE IN SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST; AND IN SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST; BEING ALL OF TRACT A, MERCEDES BENZ OF PALM BEACH, M.U.P.D., AS RECORDED IN PLAT BOOK 105, PAGES 90 TO 91; AND PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 8, PAGE 38; THE AMENDED PLAT OF BLOCKS 1, 2, 3, 4, 5, 6 AND THE NORTHERN PART OF BLOCK A WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 9, PAGE 20; AND SHARON'S REPLAT OF PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 15, PAGE 64; ALL RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. BEING MORE

PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 30, TOWNSHIP 43 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; THENCE ALONG THE WEST LINE OF SAID SECTION 30, ON AN ASSUMED BEARING OF SOUTH 01°58'21" WEST A DISTANCE OF 20.50 FEET TO A POINT IN THE SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE (ROAD) BOULEVARD, AS SET BY ORDER OF TAKING FOR STATE ROAD 704, SECTION 93280-2507 IN OFFICIAL RECORDS BOOK 6633, PAGE 163, AND THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE WHICH IS 20.50 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID SECTION 30, SOUTH 88°28'19" EAST A DISTANCE OF 244.02 FEET TO A POINT; THENCE, DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 01°31'41" WEST, A DISTANCE OF 267.50 FEET TO A POINT IN THE SOUTH LINE OF TRACT "B", SHARON'S REPLAT OF PORTIONS OF WEST GATE ESTATES, AS RECORDED IN PLAT BOOK 15, PAGE 64, PALM BEACH COUNTY RECORDS; THENCE ALONG SAID SOUTH LINE, NORTH 88°28'19" WEST A DISTANCE OF 14.99 FEET, THENCE, DEPARTING SAID SOUTH LINE, SOUTH 01°31'41" WEST, A DISTANCE OF 115.00 FEET TO A POINT ON THE SOUTH LINE OF BLOCK 7, THENCE, ALONG SAID SOUTH LINE, NORTH 88°28'19" WEST A DISTANCE OF 175.00 FEET TO A POINT; THENCE, DEPARTING SAID SOUTH LINE, NORTH 01°31'41" EAST A DISTANCE OF 115.00 FEET TO A POINT ON THE WESTERLY EXTENSION OF THE SOUTH LINE OF THE ABOVEMENTIONED TRACT "B", ACCORDING TO SHARON'S REPLAT OF PORTIONS OF WEST GATE ESTATES; THENCE ALONG SAID WESTERLY EXTENSION, NORTH 88°28'19" WEST A DISTANCE OF 56.11 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 25, AND THE EAST LINE OF SAID MERCEDES BENZ OF PALM BEACH, M.U.P.D., PLAT BOOK 105, PAGES 90-91; THENCE, ALONG SAID EAST LINES, SOUTH 01°58'21" WEST, A DISTANCE OF 925.12 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF WESTGATE AVENUE, AS SHOWN ON ROAD PLAT BOOK 2, PAGE 205 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THE FOLLOWING SEVEN (7) COURSES BEING ALONG THE PLATTED LIMITS OF TRACT A, MERCEDES BENZ OF PALM BEACH, M.U.P.D., AS RECORDED IN PLAT BOOK 195, PAGES 90 AND 91 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; (1) THENCE, ALONG SAID NORTH RIGHT-OF-WAY LINE, NORTH 88°28'20" WEST A DISTANCE OF 201.41 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1186.28 FEET; (2) THENCE, CONTINUING ALONG SAID NORTH RIGHT-OF-WAY, WESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°19'03", A DISTANCE OF 234.32 FEET TO A POINT OF NON-TANGENCY; (3) THENCE, DEPARTING SAID NORTH RIGHT-OF-WAY, NORTH 48°55'04" WEST A DISTANCE OF 38.79 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INDIAN ROAD, PER OFFICIAL RECORDS BOOK 19000, PAGE 1936; (4) THENCE, ALONG SAID EAST RIGHT-OF-WAY LINE, NORTH 01°57'15" EAST A DISTANCE OF 942.57 FEET TO A POINT; (5) THENCE, DEPARTING SAID EAST RIGHT-OF-WAY LINE, SOUTH 88°57'24" EAST, A DISTANCE OF 127.23 FEET TO A POINT; (6) THENCE NORTH 01°57'48" EAST, A DISTANCE OF 240.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF OKEECHOBEE (ROAD) BOULEVARD PER FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE ROAD 704, SECTION 93280-2507, SHEET 7 OF 11; (7) THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 88°57'24" EAST, A DISTANCE OF 337.29 FEET; THENCE NORTH 01°58'21" EAST, A DISTANCE OF 4.50 FEET TO THE POINT OF BEGINNING.

CONTAINING 607,991 SQUARE FEET, OR 13.96 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

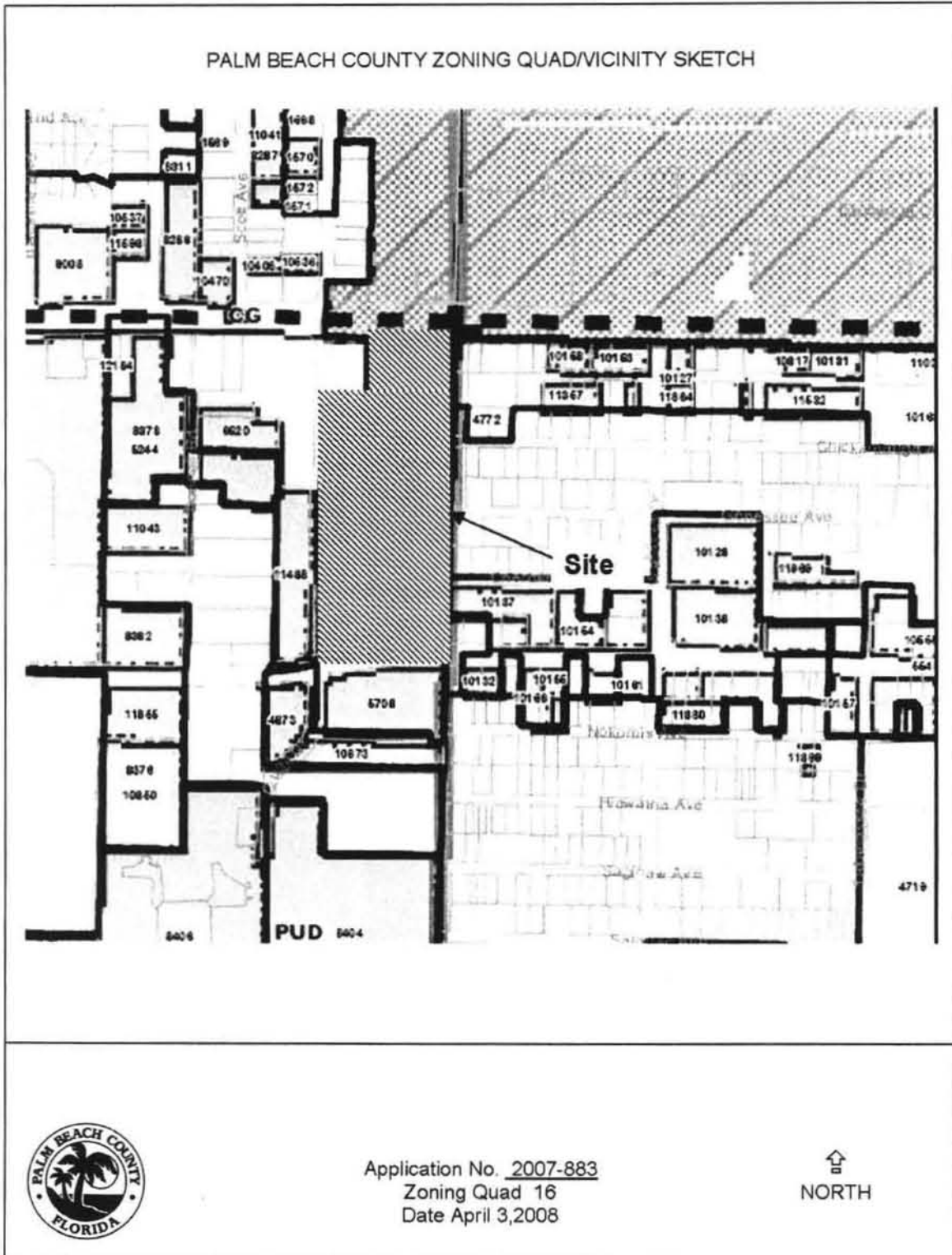


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. 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, 2008. 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)
2. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-xxx (Resolution number pending) and R-2004-0149, (Control No. 1983-161), 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 (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning) (Previous Condition A.2. of Resolution 2004-0149 Control No. 1983-161)
3. Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (ONGOING: MONITORING-Zoning) (Previous Condition A.3 R-200x-xxx Control No. 1983-161) (Resolution number pending)

ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval of the site plan, a black line elevation compliant with the Zoning Technical Manual and indicating a color and finish schedule keyed to each surface, a roof plan for the proposed Maserati dealership building, the floor plan for the proposed Maserati dealership building shall be submitted simultaneously with the site plan. The elevations and the site plan shall be designed to be consistent with Article 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations and the approved DRO site plan. (DRO: ZONING Architecture Review)
2. Similar architectural composition and treatment shall be provided on all sides of building "B" (Maserati dealership). (DRO: ZONING - Architecture Review)
3. All building mounted electrical, air conditioning, and fixed mechanical equipment, such as satellite dishes, shall be screened from view on all sides by an opaque barrier constructed of compatible materials, color and character on building "B" building and building "C". (DRO: ZONING - Architecture Review)
4. Prior to final DRO approval the building elevations shall provide an articulation of the parapet roof treatment along all sides of building "B":
 - a. The minimum combined length of the articulation of the parapet shall be no less than 30 percent;
 - b. The maximum spacing between any articulation of the parapet shall be no greater than 100 feet;
 - c. No parapet length used as part of wall signage shall be counted as an articulation; and
 - d. All parapets shall be comprised of a decorative molding. (DRO: ZONING Architecture Review)
5. Prior to final DRO approval the building elevations shall provide recesses and/or projections along each side of building "B":

- a. The total length of the recesses and/or projections shall be a minimum of 20 percent of the total length of each facade; and
 - b. Recesses and/or projections shall be distributed along each facade with a maximum distance of 100 feet between each recession and/or projection. (DRO: ZONING - Architecture Review)
5. Prior to final DRO approval the building elevations shall minimize blank walls along each sides of building "B":
 - a. Blank walls shall not exceed 10 feet in height and 20 feet in length; and
 - b. Storefront or display windows shall be provided along 20% of the front facade. (DRO: ZONING - Architecture Review)
6. Prior to final DRO approval the building elevations shall indicate one of the following on all sides of building "B":
 - a. Provide a primary and secondary exterior treatment of at least two different materials textures or finishes.
 - i. Minimum treatment to be 20 percent. Note location and treatment on the elevations;
 - b. Provide fenestration details to each facade.
 - i. Minimum treatment to be 60 percent of the length of the front, side and rear facades. (DRO: ZONING - Architecture Review)
7. Building "B" shall have a minimum of one clearly defined, easily identifiable primary public entrance feature. The entry feature shall provide:
 - a. Canopies, porte-cochere, or porticos;
 - b. Wall recess or projection with a minimum of 12 inches in depth; and
 - c. Special pavers, bricks, decorative concrete, or other similar pavement treatment. (DRO: ZONING - Architecture Review)
8. All buildings shall have exterior paint colors and/or materials that are compatible with the surrounding area and complement the project. (DRO: ZONING - Architecture Review)
9. Revise the site plan to include the locations of a pedestrian amenity. Provide details for the pedestrian amenity on the regulating plan. The pedestrian amenity shall come in the form of either:
 - a. A clock tower with pedestrian plaza;
 - b. A water feature or fountain with pedestrian plaza;
 - c. An outdoor patio, courtyard or plaza containing tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e. restaurant);
 - d. Outdoor furniture; or
 - e. Other pedestrian amenity acceptable to the Architecture Review section. (DRO: ZONING - Architecture Review)
10. Revise the site plan to include a continuous internal pedestrian walkway system that connects the various uses to other uses on the site. The walkways shall:
 - a. Provide one (1) native canopy tree for every twenty-five (25) linear feet of walkway with a maximum spacing of 50 feet between trees;
 - b. Provide one (1) bench every two-hundred (200) feet between the public sidewalk and building; and
 - c. Walkways that traverse vehicular use areas shall be accented with special pavers, bricks, or decorative concrete, stamped concrete or similar decorative pavement treatment. (DRO: ZONING - Architecture Review)

11. The site plan shall be revised to provide one five-bike bicycle rack per each two-hundred (200) parking spaces (DRO: ZONING - Architecture Review)
12. Bay doors shall be located and oriented away from residential property lines or setback a minimum of 50 feet and screened from view. Please revise your elevations or provide details for the screening of these doors. (DRO: ZONING - Architecture Review)
13. The exterior elevations of all buildings shall integrate the gutters and downspouts into the architectural design of the building. Painting the gutters shall not constitute integration. (DRO: ZONING Architecture Review)
14. The following elements shall be prohibited:
 - a. Neon lights and colors;
 - b. High intensity, metallic or fluorescent colors; and
 - c. Mirror or solar glass with a reflectivity or opacity greater than 60 percent. (DRO: ZONING - Architecture Review)

ENGINEERING

1. Previous Condition E1, 4, 5, and 9 of Resolution R- R-2004-0149 , Petition PDD1983-161D were deleted
2. Within 90 days of approval the property owner shall convey:
 - a) for the ultimate right-of-way for Okeechobee Boulevard, 70 feet from centerline approximately an additional 10 feet; conveyance must be accepted by Palm Beach County prior to issuance of the first building permit.
 - b) for the ultimate right-of-way for Indian Road, 40 feet from centerline approximately an additional 10 feet; conveyance must be accepted by Palm Beach county prior to issuance of the first building permit.
 - c) a drainage easement along the East property line to Palm Beach County as required by the county Engineer in accordance with the proposed Westgate Areawide Drainage Improvements Program for purposes of providing a piped legal positive outfall to serve the adjacent properties. The petitioner shall also be responsible for all costs incurred with the piping of this easement. Palm Beach County shall permit the petitioner the use of this easement for required parking purposes and the required ten (10) foot wide landscape strip. (ONGOING:ENGINEERING-Eng) (Previous Condition E.2 of Resolution R-2004-0149, Petition No. 1983-161(D)). NOTE: Completed.
3. The developer shall construct concurrent with on site paving and drainage improvements pursuant to a paving and drainage permit issued from the Office of the County Engineer:
 - a) an extension of the existing left turn lane, East approach, on Okeechobee Boulevard, at the project's existing west entrance road, per the County Engineer's approval.
 - b) right turn lane, West approach, on Okeechobee Boulevard at the project's existing West entrance road.
 - c) On Indian Road, at the project's entrance road, a left turn lane, north approach and a right turn lane, South approach. (ONGOING:ENGINEERING-Eng) (Previous Condition E.3 of Resolution R-2004-0149, Petition No. 1983-161(D)). NOTE: completed.
4. The developer shall take reasonable precautions during the development of this property to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties. (ENGINEERING) (Previous Condition E.6 of Resolution R-2004-0149, Petition No. 1983-161(D)).

5. The developer shall take necessary measures during the development of this property to prevent pollutant runoff to neighboring properties. (ENGINEERING) (Previous Condition E.7 of Resolution R-2004-0149, Petition No. 1983-161(D)).
6. Prior to certification, site plan shall be amended to reflect the following:
 - a) The proposed drainage easement along the East property line and a ten (10) foot wide landscape strip along the East property line which abuts RM Zoned property and along the South property line. (ONGOING:ENGINEERING-Eng) (Previous Condition E.8.a of Resolution R-2004-0149, Petition No. 1983-161(D)). Note: Complete
 - b) Relocation of the proposed dumpster enclosure to the Western portion of the site. (ONGOING:ENGINEERING-Eng) (Previous Condition E.8.b of Resolution R-2004-0149, Petition No. 1983-161(D)) Note: [Completed].
7. If permitted by the Florida Department of Transportation (FDOT) and the County Engineer, the petitioner shall landscape the median of Okeechobee Boulevard consistent with FDOT Index Standard #546. Trees, if permitted, may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected and installed according to xeriscape principles. This landscaping shall be maintained by the developer for a period of eighteen (18) months from the time of planting and shall be installed prior to August 1, 1995. (MONITORING-Engineering) (Previous Condition E.10 of Resolution R-2004-0149, Petition No. 1983-161(D)). Note: Completed
8. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Indian 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 E.12 of Resolution R-2004-0149, Petition No. 1983-161(D)). NOTE: completed.
9. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed for a 25 foot corner clip at the intersection of Westgate Avenue and Indian Road. Right of way conveyance shall free of all encumbrances and encroachments. The Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees. Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG. PERMIT: MONITORING-Eng) (Previous Condition E.13 of Resolution R-2004-0149, Petition No. 1983-161(D)). Note: [Completed]
10. Condition E.14 of Resolution R-2004-0149, Petition No. 1983-161(D)) which currently states:
In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 29, 2007. 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby amended to read:

A) No Building Permits for the site may be issued after April 25, 2011. 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)

11. The Property owner shall replace Palm Beach County's existing Indian Road Drainage system along the exiting Car Dealership's south property line in accordance with the approval of the County Engineer.

A. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. Construction shall include the relocation of the existing drainage easement to eliminate the 2-90 degree bends within the site. The relocated drainage easement shall be shown on the final site plan.

B. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)

C. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E.15 of Resolution R-2004-0149, Petition No. 1983-161(D)).

Note: Complete

12. The Property owner shall close the existing drive to the site on Okeechobee Boulevard 530 feet east of Indian Road in accordance with the Florida Department of Transportation requirements. Driveway closure shall be concurrent with the paving and drainage improvements for the Smart Car Dealership. Any and all costs associated with the construction shall be paid by the property owner. A) Permits required from Palm Beach County for this driveway closure shall be obtained prior to the issuance of the Building Permit for the Smart Car Dealership. (BLDG PERMIT: Monitoring-Eng) B) Any construction associated with this driveway closure shall be completed prior to the issuance of the first Certificate of Occupancy for the Smart Car Dealership. (CO: MONITORING-Eng)

13. Prior to issuance of a Building Permit the Property owner shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)(Previous Condition E.11 of Resolution R-2004-0149, Petition No. 1983-161(D)). .

ZONING - LANDSCAPING-STANDARD

1. Fifty (50) percent of canopy trees to be planted in the perimeter landscape buffers shall be native, and meet the following minimum standards at installation (This condition is not applicable to areas adjacent to an FPL easement):

- a.) Tree height: Fourteen (14) feet;
- b.) Trunk diameter: three and one-half (3.5) Inches measured at four and one-half (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 three and one-half (3.5) feet in length; and
- d.) Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition H.2 of Resolution R-2004-149, Control No. 1983-161) [NOTE: completed]

ZONING - LANDSCAPING

2. All palms required to be planted on the property 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) (Previous Condition H.3 of Resolution R-2004-149, Petition 1983-161) [NOTE: completed]
3. All shrub or hedge materials shall be planted in continuous masses and in a mending and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
- a. legmen (18) (0 twenty-four (24) manses -groundcover and small shrub:
 - b. twenty-four (24) to thirty-six (36) Inches - medium shrub:
 - c. forty-eight (48) to seventy-two (72) inches -large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both Sides of the wall. (CO: LANDSCAPE Zoning) (Previous Condition H.4 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning) (Previous Condition H.5 of Resolution R-2004-149, Control No.1983-161) [NOTE: completed]
5. 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 here in. (CO: LANDSCAPE - Zoning) [NOTE: Completed]
6. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the Plant the Right Tree in the Right Place of guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE Zoning) (Previous Condition H.7 of Resolution R-2004-149, Control No.1983-161) [NOTE: completed]
7. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE Zoning) (Previous Condition H.8 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
8. Prior to Certificate of Occupancy, the property owner/petitioner shall replace all dead, missing plant materials on the parent tract (land area approved under 1983 161 through 1983161 C). (CO:LANDSCAPE-Zoning)
9. In addition to the existing Royal Palms, landscaping and buffering along the north property line shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. one (1) small shrub for each two (2) linear feet of the property line Shrub shall be a minimum height of eighteen (18)inches at installation;

- c. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at Installation; and,
 - d. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning) (Previous Condition I.1. of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
10. Landscaping and buffering along the south property line shall be upgraded to include:
- a. a minimum fifteen (15) foot Wide landscape buffer strip. No Width reduction or easement encroachment shall be permitted;
 - b. one (1) native canopy tree for each thirty (30) linear feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at Installation; and
 - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) Inches at Installation. (CO: LANDSCAPE- Zoning) (Previous Condition J.1 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
11. Landscaping and buffering along the west property line shall be upgraded to include:
- a. a minimum fifteen (15) foot wide landscape buffer strip along the south 560 linear feet of the west property line. No width reduction or easement encroachment shall be permitted;
 - b. one (1) native canopy tree for each thirty (30) linear feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at Installation; and
 - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) Inches at installation. (CO: LANDSCAPE - Zoning) (Previous Condition K.1 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
12. Landscaping and buffering along the south 520 linear feet of the east property line shall be upgraded to include:
- a. a minimum of fifteen (15) foot wide landscape buffer strip. No width reduction shall be permitted. A maximum of five (5) foot easement encroachment may be permitted;
 - b. an eight (8) foot high opaque concrete block or concrete panel wall to be located at the north end of the retention area, and shall extend a minimum of 270 linear feet northwards. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - c. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. In area where a wall is located, shrubs shall be planted on the both sides of the wall;
 - f. one (1) medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) Inches at installation. And

- g. one (1) climbing vine supported by decorative trellis shall be installed at ten (10) feet on center at the exterior side of the required wall. (CO: LANDSCAPE - Zoning) (Previous Condition L.1 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
13. Landscaping and buffering along the north 670 feet of the east property line shall be upgraded to Include:
 - a. a minimum of ten (10) foot wide landscape buffer strip;
 - b. a minimum eight (8) foot high opaque concrete or concrete panel wall, excluding the northernmost 200 linear feet. The exterior side of the wall shall be given a finished architectural treatment which IS compatible and harmonious with abutting development;
 - c. plant materials shall be Installed pursuant to the 2003 ULDC requirements. (DRC/CO:ZONING.-Zoning) (Previous Condition M.1 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
 14. Landscaping for terminal islands in the parking area shall consist of the following:
 - a. A minimum of one (1) canopy tree for each Island. Additional tree may be required in each island, subject to review and approval by the Landscape Section at final DRC approval,
 - b. continuous hedge between all trees within the Islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO:LANDSCAPE - Zoning) (Previous Condition N.4 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
 15. Landscaping for divider median in the parking area (between the existing body shop, vehicle sales and the proposed body shop) shall consist of the following:
 - a. the existing wall shall be renovated or painted to a color consistent with the principal structure;
 - b. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median-Trees to be planted alternating on both sides of the wall;
 - c. one (1) palm for each thirty-five (35) linear feet of the median. Palms may be planted in clusters and shall be planted alternating on both sides of the wall;
 - d. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) Inches; and
 - e. one (1) climbing vine supported by decorative trellis shall be installed at ten (10) feet on center on both sides of the required wall. (DRC/CO: ZONING/LANDSCAPE - Zoning) (Previous Condition N.5 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
 16. Prior to final site plan approval by the Development Review Committee (DRC), an Alternative Landscape Plan (ALP) for the north side of the 1.38-acre dry detention area to the landscape Section for review and approval. Bay door orientation towards the south of the automotive paint and body shop building shall be permitted subject to the approval of the ALP. (DRC/CO:LANDSCAPE - Zoning) (Previous Condition N.6 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]
 17. A concrete block wall or concrete panel wall with a minimum height of eight (8) feet shall be installed along the northern edge of the retention area. This wall shall connect to the wall as required pursuant to Condition N.8, Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. Planting shall include the following:
 - a. one (1) canopy tree planted for each twenty (20) linear feet of the wall, and shall be planted on the exterior side of the wall;
 - b. one (1) palm or pine tree for each thirty (30) linear feet of the wall with a maximum spacing of sixty (60) feet between clusters. and shall be

- planted on the exterior side of the wall:
- c. one (1) small shrub for each two (2) linear feet of the wall. Shrub shall be a minimum height of twenty-four (24) inches at installation, and shall be planted on both sides of the wall:
 - d. one (1) medium shrub for each two (2) linear feet of the wall. Shrub shall be a minimum height of thirty-six (36) inches at installation, and shall be planted on both sides of the wall; and
 - e. one (1) climbing vine supported by decorative trellis shall be installed at ten (10) feet on center, and to be located on both sides of the walls. (CO: LANDSCAPE - Zoning) (Previous Condition N.8 of Resolution R-2004-149, Control No.1983-161) [NOTE: Completed]

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) (Previous Condition O.1 of Resolution R-2004-149, Control No.1983-161).
2. All outdoor, free standing lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning) (Previous Condition O.2 of Resolution R-2004-149, Control No.1983-161).
3. All outdoor, freestanding lighting fixtures shall be setback fifty (50) feet from the east property line. (CO: BLDG - Zoning) (Previous Condition O.3 of Resolution R-2004-149, Control No.1983-161)
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) (Previous Condition O.5 of Resolution R-2004-149, Control No.1983-161)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT: ENG-PalmTran)

PARKING

1. Customer parking shall be marked with an above grade sign and shall be physically separated from the vehicle sales, storage and display areas. (BLDG. PERMIT: BLDG-Zoning) (Previous Condition P.2 of Resolution R-2004-149, Control No.1983-161)
2. The equipment yard shall be screened by a twelve (12) foot high wing wall consistent with the color and character of the principle structure. The open end shall have an obscure, opaque gate. (ARCH REVIEW/BLDG PERMIT: ZONING/BLDG-Zoning) (Previous Condition P.3 of Resolution R-2004-149, Control No.1983-161).

3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (ONGOING:CODE ENF-Zoning) (Previous Condition P.4 of Resolution R-2004-149, Control No.1983-161).

SIGNS

1. Freestanding signs fronting on Okeechobee Boulevard shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point fifteen (15) feet;
 - b. maximum sign face area per side ninety (90) square feet;
 - c. maximum number of signs three (3);
 - d. style - monument style only;
 - e. any replacement or modification to the non-conforming 25 foot high freestanding sign shall comply with the limitations listed above (BLDG PERMIT: BLDG - Zoning)
2. Signs fronting on Indian Road shall be limited as follows:
 - a. Maximum sign height - ten (10) feet.
 - b. Maximum total sign area, per face - 35 square feet per face.
 - c. Maximum number of signs one (1). (CO:BLDG-Zoning) (Previous Condition R.2 of Resolution R-2004-149, Control No.1983-161).
3. Prior to final site plan approval of the Development Review Committee (DRC), the petitioner shall submit a Master Sign Program containing sign location and sign dimensions, all proposed details shall be in conformance to all sign related conditions of approval. (DRC:ZONING-Zoning) (Previous Condition R.3. of Resolution R-2004-149, Control No.1983-161).
4. No signs shall encroach into the minimum required perimeter landscape buffers. (DRC:ZONING-Zoning) (Previous Condition R.4 of Resolution R-2004-149, Control No.1983-161). Is hereby deleted [Replaced by New Sign Condition 1].
5. All on site signs shall comply with the Palm Beach County Sign Code and shall indicate principal uses only. No snipe signs, balloons, banners or other prohibited types of advertisement or signs shall be permitted onsite. (ONGOING:CODE ENF-Zoning) (Previous Condition R.5 of Resolution R-2004-149, Control No.1983-161).
6. No advertising flags, foreign flags, pennants, banners, streamers, balloons, flashing signs, electronic message boards, signs upon any vehicles, prices or vehicle stock numbers or other information shall be displayed on vehicles for sale except as required to be posted on such vehicles by law and the year of the automobile. (ONGOING:CODE ENF- Zoning) (Previous Condition R.7 of Resolution R-2004-149, Control No.1983-161).
7. No objects, gimmicks or advertising designed to attract the public's attention off-site shall be displayed outdoors, or upon any building, vehicle or wall, except as may be permitted by the Sign Code. (ONGOING:CODE ENF-Zoning) (Previous Condition R.8 of Resolution R-2004-149, Control No.1983-161).
8. No vehicle shall be parked with its hood or trunk open, nor elevated off the ground in any way. Vehicles shall only be parked or displayed in the approved areas designated on the certified site plan. (ONGOING:CODE ENF-Zoning) (Previous Condition R.9 of Resolution R-2004-149, Control No.1983-161).
9. Wall signs shall be limited to south and west facades of the new auto paint and body building. Individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to only identification of tenants only. (CO: BLDG - Zoning) (Previous Condition R.10 of Resolution R-2004-149, Control No.1983-161).

10. Prior to final DRO approval the applicant shall submit a revised Master Sign Program Plan for the site. The plan shall include all new and existing signs and meet the all Technical Manual and ULDC Requirements. (DRO-MONITORING-Zoning) (Previous Condition Signs 9 of Resolution R-200x-xxx, Control No.1983-161).

UNITY OF CONTROL

1. No outdoor speaker or public address systems which are audible off-site shall be permitted. (ONGOING:CODE ENFORCEMENT-Zoning) (Previous Condition S.13 of Resolution R-2004-149, Control No.1983-161).

USE LIMITATIONS

1. When this facility is not open, the principal inventory parking areas shall be locked and gated. (ONGOING; CODE ENF-Zoning) (Previous Condition S.3 of Resolution R-2004-149, Control No.1983-161).
2. All display, inventory, parking, spaces, loading area and specialized vehicular use area, shall be limited to the locations as shown on the site plan dated December 23, 2003. (ONGOING:CODE ENF-Zoning) (Previous Condition S.5 of Resolution R-2004-149, Control No.1983-161).
3. No vehicles, other than for customer/employee parking and those which are intended for sale and are in running condition, shall be stored or displayed outdoors on-site. (ONGOING:CODE ENF-Zoning) (Previous Condition S.6 of Resolution R-2004-149, Control No.1983-161).
4. There shall be no outdoor repair of vehicles. (ONGOING:CODE ENF-Zoning) (Previous Condition S.8 of Resolution R-2004-149, Control No.1983-161).
5. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: CODE ENF-Zoning) (Previous Condition S.9 of Resolution R-2004-149, Control No.1983-161).
6. Vehicles shall not be tested off-site on residential streets. (ONGOING: CODE ENF - Zoning) (Previous Condition S.10 of Resolution R-2004-149, Control No.1983-161).
7. Any automatic car wash facility on the site shall utilize a 100% water recycling system. (ONGOING:CODE ENF-HEALTH) (Previous Condition S.11 of Resolution R-2004-149, Control No.1983-161).
8. 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., except deliveries to the Dedicated Delivery Area" indicated on the master site plan. (ONGOING:CODE ENFORCEMENT-Zoning) (Previous Condition S.14 of Resolution R-2004-149, Control No.1983-161).
9. 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., except deliveries to the Dedicated Delivery Area" indicated on the master site plan. (ONGOING:CODE ENFORCEMENT-Zoning) (Previous Condition S.14 of Resolution R-2004-149, Control No.1983-161).
10. No storage or placement of any, refuse, equipment or debris shall be permitted in the rear of the facility. (ONGOING:CODE ENFORCEMENT-Zoning) (Previous Condition S.15 of Resolution R-2004-149, Control No.1983-161).

COMPLIANCE

1. In granting this approval, the Zoning Commission 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 Zoning Commission 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; 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)