

RESOLUTION NO. R-2010- 0678

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA-2009-02681
 (CONTROL NO. 1984-00159)
 a Development Order Amendment
 APPLICATION OF Christopher Doyle
 BY Gary M. Brandenburg and Associates, AGENT
 (Hatties Landing)

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

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

WHEREAS, Zoning Application ZV/DOA-2009-02681 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2010; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a Development Order Amendment.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA-2009-02681, the petition of Christopher Doyle, by Gary M. Brandenburg and Associates, agent, for a Development Order Amendment to reconfigure site plan in the MUPD Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 22, 2010, 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 Vana and, upon being put to a vote, the vote was as follows:

Commissioner Burt Aaronson, Chair	- Aye
Commissioner Karen T. Marcus, Vice Chair	- Aye
Commissioner Jeff Koons	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Jess R. Santamaria	- Aye
Commissioner Priscilla A. Taylor	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 22, 2010.

Filed with the Clerk of the Board of County Commissioners on April 28, 2010.


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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

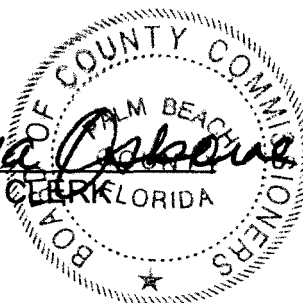


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

A parcel of land in Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

The North one-quarter (N 1/4) of the Northeast one-quarter (NE 1/4) of the Southeast one-quarter (SE 1/4) East of the Florida Inland Navigation Canal (less the South 150 feet and less the Easterly 192.75 feet) and less the right-of-way conveyed to the State of Florida in Official Records Book 1324, Page 147; and Official Records Book 2934, Page 1821; Official Records Book 4683, Page 1854; and Official Records Book 17471, Page 1093, as corrected in Official Records Book 18373, Page 1962.

PARCEL 2

A parcel of land in the North one-quarter (N 1/4) of the Northeast one-quarter (NE 1/4) of the Southeast one-quarter (SE 1/4) East of the Florida Inland Navigation District Canal in Section 5, Township 42 South, Range 43 East, less the South 150 feet thereof, said property lying 187.13 feet on Ellison-Wilson Road and being more particularly described as that part of the Easterly 192.75 feet of said parcel lying West of Ellison-Wilson Road and South of P.G.A. Boulevard, less the right-of-way conveyed to the State of Florida in Official Records Book 1324, Page 147; and Official Records Book 2934, Page 1821; Official Records Book 4683, Page 1854; and Official Records Book 17471, Page 1093, as corrected in Official Records Book 18373, Page 1962.

PARCEL 3

Begin at the 1/4 section corner on the East line of Section 5, Township 42 South, Range 43 East, thence S 0°56'14" E, along the East line of Section 5, 187.13 feet, thence N 83°24'27" W, a distance of 380.04 feet for a POINT OF BEGINNING, thence continue N 88°24'27" W, a distance of 120.25 feet to the East right-of-way line of the Intracoastal Waterway, thence S 2°13'54" E along said right-of-way line 90.11 feet, thence S 88°24'27" E, a distance of 118.21 feet, thence N 0°56'14" W, a distance of 90.00 feet to the POINT AND PLACE OF BEGINNING.

PARCEL 4

Begin at the Northeast corner of the Southeast quarter of Section 5, Township 42 South, Range 43 East, thence run South 0°56'14" East along the East line of the Southeast quarter of said Section 5, a distance of 187.13 feet to a point; thence North 88°24'27" West, a distance of 320.04 feet for a POINT OF BEGINNING, thence continue North 88°24'27" West, a distance of 60 feet to a point; thence South 0°56'14" East, a distance of 90 feet to a point; thence South 88°24'27" East, a distance of 60 feet to a point; thence North 0°56'14" West, a distance of 90 feet to the POINT AND PLACE OF BEGINNING, lying and being in the North 100 feet of the South 150 feet of the North quarter of the Northeast quarter of the Southeast quarter of Section 5, Township 42 South, Range 43 East, East of Intracoastal Waterway, Palm Beach County, Florida.

Together with a right-of-way and easement for ingress and egress over the South 10 feet of the North 100 feet of the South 150 feet of the North quarter of the Northeast quarter of the Southeast quarter lying East of the Intracoastal Waterway in Section 5, Township 42 South, Range 43 East.

PARCEL 5

Begin at the Northeast corner of the Southeast quarter of Section 5, Township 42 South, Range 43 East, thence run South 0°56'14" East, along the East line of the Southeast quarter of said Section 5, a distance of 187.13 feet to a point; thence North 88°24'27" West a distance of 260.04 feet for a POINT OF BEGINNING; thence continue North 88°24'27" West a distance of 60 feet to a point; thence South 0°56'14" East, a distance of 90 feet to a point; thence South 88°24'27" East, a distance of 60 feet to a point; thence North 0°56'14" West, a distance of 90 feet to the POINT AND PLACE OF BEGINNING.

Lying and being in the North 100 feet of the South 150 feet of the North quarter of the Northeast quarter of the Southeast quarter of Section 5, Township 42 South, Range 43 East, East of

Intracoastal Waterway, Palm Beach County, Florida.

PARCEL 6

Lots 3 and 4 of an unrecorded map, dated March 5, 1955, of the North one hundred (100) feet of the South one hundred fifty (150) feet of the North 1/4 of the N.E. 1/4 of the S.E. 1/4 of Sec. 5, Twp 42 S., Range 43 E., lying between the Easterly right of way of Intracoastal Waterway and the East line of said Sec. 5, (Ellison Wilson Road), Palm Beach County, Florida, more particularly described as follows:

Begin at the N.E. corner of the S.E. 1/4 of Sec. 5 Twp. 42 S., Range 43 E.; thence S. 0°56'14" along the East line of said Sec. 5, a distance of 187.13 feet to a point; thence N. 88°24'27" W. a distance of 140.04 feet to a POINT OF BEGINNING; thence continue N. 88°24'27" W. a distance of 120.00 feet to a point; thence S. 0°56'14" E. a distance of 85 feet to a point; thence S. 88°24'27" E. a distance of 120.00 feet to a point; thence N. 0°56'14" W. a distance of 85 feet to a POINT AND PLACE OF BEGINNING.

PARCEL 7

Beginning at the Northeast corner of the Southeast quarter of Section 5, Township 42 South, Range 43 East, thence South 0°56'14" East along the East line of Section 5, a distance of 187.13 feet; thence North 88°24'27" West a distance of 40.04 feet to the POINT OF BEGINNING; thence continue North 88°24'27" West a distance of 100.00 feet; thence South 0°56'14" West a distance of 85.00 feet; thence South 88°24'27" East, a distance of 100.00 feet; thence North 0°56'14" West a distance of 85.00 feet to the POINT OF BEGINNING.

PARCEL 8

The South 50 feet of the North one quarter of the Northeast one-quarter of the Southeast one-quarter lying East of the Intracoastal Waterway in Section 5, Township 42 South, Range 43 East; excepting the East 313 feet thereof; together with an easement for ingress and egress over the North 15 feet of the South 60 feet of said North one-quarter of the Northeast one-quarter of the Southeast one-quarter, lying East of the Intracoastal Waterway in Section 5, Township 42 South, Range 43 East, running from Ellison-Wilson Road to Intracoastal Waterway.

PARCEL 9

The West 80 feet of the East 313 feet of the South 50 feet of the North quarter of the Northeast quarter of the Southeast quarter of Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida.

Together with an easement over the South 15 feet of the North 292.13 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, East of the right of way of the Intracoastal Waterway, for ingress, egress and public utilities.

PARCEL 10

The West 100 feet of the East 233 feet of the South 50 feet of the North quarter of the Northeast quarter of the Southeast quarter, and the West 100 feet of the East 233 feet of the North 85 feet of the South half of the North half of the Northeast quarter of the Southeast quarter all in Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida.

Together with an easement over the North 20 feet of the South 65 feet of the North quarter of the Northeast quarter of the Southeast quarter of Section 5, Township 42 South, Range 43 East, Between the Intracoastal Waterway and Ellison Wilson Road.

Together With:

The West 100 feet of the East 133 feet of the South 50 feet of the North Quarter of the Northeast quarter of the Southeast quarter and the West 100 feet of the East 133 feet of the North 85 feet of the South half of the North half of the Northeast quarter of the Southeast quarter all in Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida, less the right-of-way conveyed to Palm Beach County in Official Records Book 17471, Page 1096, as corrected in Official Records Book 18373, Page 1965.

And further less and excepting the following described parcel:

The West 200 feet of the East 233 feet of the South 65 feet of the North 85 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida.

Together with easements for road and public utilities over the following parcels:

The South 15 feet of the East 200 feet of the North 100 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 5.

The North 20 feet of the South 65 feet of that part of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, lying between the Intracoastal Waterway and Ellison Wilson Road.

The West 10 feet of the East 143 feet of the South 45 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5; and

The West 10 feet of the East 143 feet of the North 20 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 5.

PARCEL 11

The North 100 feet of the South half of the North half of the Northeast quarter of the Southeast quarter, lying East of the Intracoastal Waterway, in Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida, less the East 200 feet thereof, together with an easement for road purposes over the South 15 feet of the said East 200 feet.

PARCEL 12

The West 100 feet of the East 233 feet of the South 65 feet of the North 85 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida.

Together with an easement for ingress, egress and public utilities over the South 15 feet of the East 200 feet of the North 100 feet of the South 1/2 of the North 1/2 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, as described in O.R. Book 682, Page 290, public records of Palm Beach County, Florida.

PARCEL 13

The East 100 feet of the following described property:

The West 200 feet of the East 233 feet of the South 65 feet of the North 85 feet of the South half of the North half of the Northeast quarter of the Southeast quarter of Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida, less the right-of-way conveyed to Palm Beach County in Official Records Book 17471, Page 1096, as corrected in Official Records Book 18373, Page 1965.

Together with easement for road and public utilities over the following:

The South 15 feet of the 200 feet of the North 100 feet of the South half of the North half of the Northeast quarter of the Southeast quarter of said Section 5.

PARCEL 14

PARCEL A

The North 10 feet of the South 60 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, lying East of the Intracoastal Waterway, less and excepting the East 260 feet thereof.

PARCEL B

The North 10 feet of the South 60 feet of the South 150 feet of the East 260 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, lying between the East right-of-way line of the Intracoastal Waterway and the West right-of-way line of Ellison Wilson Road, Palm Beach County, Florida, less the right-of-way conveyed to Palm Beach County in Official Records Book 17471, Page 1093, as corrected in Official Records Book 18373, Page 1965.

PARCEL C

The North 5 feet of the South 65 feet of the South 150 feet of the East 260 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, lying between the East right-of-way line of the Intracoastal Waterway and the West right-of-way line of Ellison Wilson Road, Palm Beach County, Florida, less the right-of-way conveyed to Palm Beach County in Official Records Book 17471, Page 1093, as corrected in Official Records Book 18373, Page 1965.

PARCEL 15

The South 15 feet of the West 200 feet of the East 233 feet of the North 100 feet of the South half of the North half of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, Palm Beach County, Florida, less the right-of-way conveyed to Palm Beach County in Official Records Book 17471, Page 1093, as corrected in Official Records Book 18373, Page 1965.

PARCEL 16

PARCEL A

A strip of land, being a portion of the Florida Inland Navigation District Canal (Intracoastal Waterway) as recorded in Plat Book 17, Page 29, Public Records of Palm Beach County, Florida, said strip being more particularly described as follows.

That portion of said Intracoastal Waterway lying within the North 10 feet of the South 60 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, bounded as follows:

On the West, by the Easterly Mean High Water line of said Intracoastal Waterway, and

On the East, by the East right of way line of said Intracoastal Waterway.

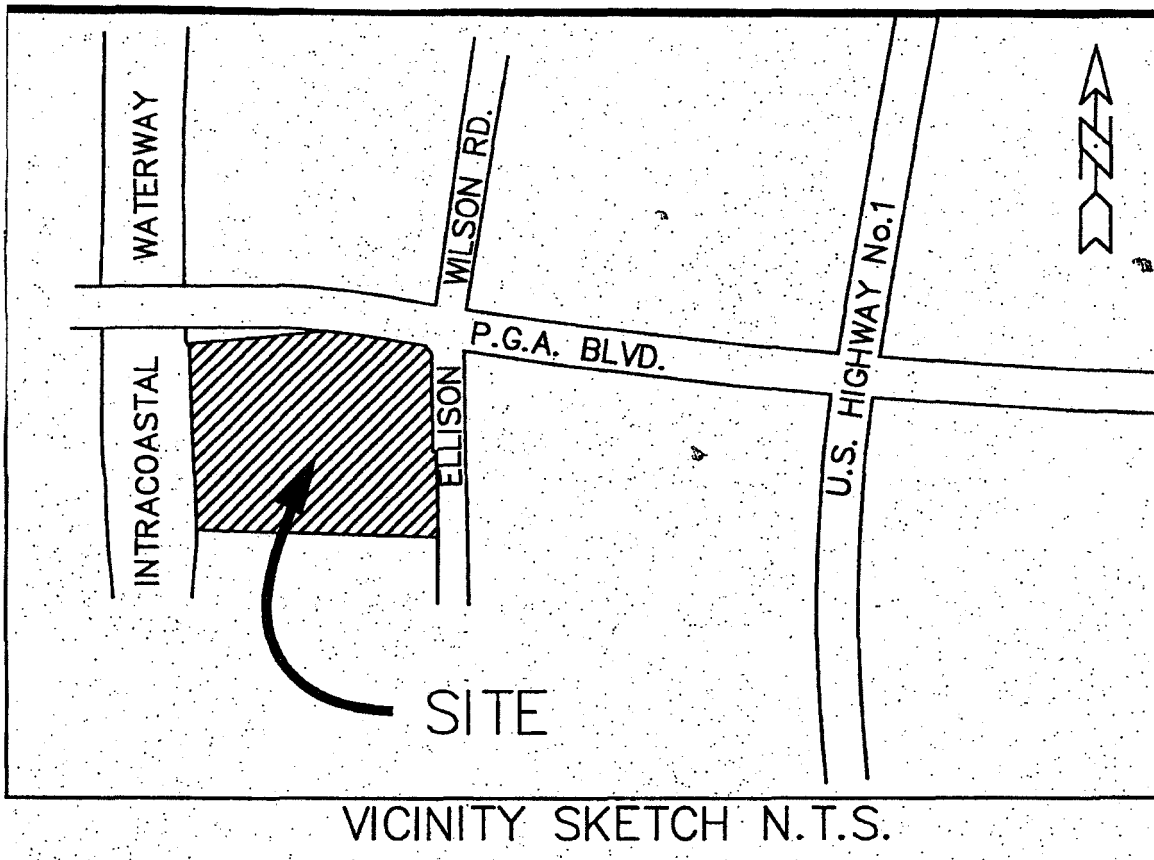
PARCEL B

A strip of land, being a portion of the Florida Inland Navigation District Canal (Intracoastal Waterway) as recorded in Plat Book 17, Page 29, Public Records of Palm Beach County, Florida, said strip being more particularly described as follows:

That portion of said Intracoastal Waterway lying within the North 90 feet of the South 150 feet of the North 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 43 East, bounded as follows:

On the West, by the Easterly Mean High Water line of said Intracoastal Waterway, and on the East, by the East right of way line of said Intracoastal Waterway.

EXHIBIT B
VICINITY SKETCH



VICINITY SKETCH N.T.S.

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2002-0506 (Control 1984-159 (B)), are hereby revoked. 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 or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The approved Preliminary Site Plan is dated January 18, 2010. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. 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 December 31, 2012. 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)

2. The property owner shall pay a Road Impact Fee in the amount required by Article 13 as it presently exists or as it may from time to time be amended. This fee is to be paid prior to issuance of any building permit or prior to October 22, 2010, whichever shall occur first. The Road Impact Fee for this project presently is \$53,841.20 (335 trips X \$160.72 per trip) (BLDG PERMIT/DATE: MONITORING-Eng)

3. Prior to February 25, 2011, the property owner shall provide a 10 foot temporary roadway construction easement to Palm Beach County along PGA Boulevard and Ellison Wilson Road. The property owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (DATE: MONITORING-Eng).

LANDSCAPE - GENERAL

1. Prior to final plan approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR

2. Prior to final plan approval by the Development Review Officer (DRO), the site plan shall be revised to show a fifteen (15) foot buffer with no utility easement encroachment, commencing from the south side of the Building F to the south access point. Should the office Building F be demolished then the landscaping shall comply with the Code buffer requirements. (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER

3. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL) In addition to code requirements and the proposed landscaping and buffer

width along the south property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip (with the exception of the existing storage building subject of a concurrent variance;
- b. one (1) additional Palm tree each twenty (20) linear feet with a maximum spacing of sixty (60) feet between clusters;
- c. a six (6) foot high fence;
- d. three (3) tiers of shrubs on the exterior side of the fence ; and,
- e. should the Water Taxi Building E be removed, the buffer shall be installed in accordance with ULDC requirements and conditions of approval (BLDG PERMIT: LANDSCAPE - Zoning)

PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to reflect that non-residential uses on the 2.22 acre southern portion of the site are limited to office, restaurant uses and a maximum of 6,500 square feet of ancillary retail space. (DRO: PLANNING-Planning)

2. Prior to final site plan approval by the Development Review Committee, the site plan shall be revised to indicate the existing or proposed/future location of sidewalks along Ellison Wilson Road. (DRO: PLANNING-Planning)

SIGNS

1. Freestanding signs fronting on Ellison Wilson Road shall be limited as follows:
- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. maximum sign face area per side - eighty (80) square feet;
 - c. maximum number of signs - one (1); and
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

SITE DESIGN-EXISTING STRUCTURES

1. Prior to final site plan approval by the Development Review Officer (DRO) all existing structures and on-site improvements on the expanded area shall receive a building permit approval. (DRO: Zoning- Building)

SITE DESIGN-100 FEET NORTH OF THE SOUTH PROPERTY LINE

2. No new structures shall be approved one-hundred (100) feet north of the south property line other than a bus shelter or bench and proposed signage adjacent to Ellison Wilson Road. Required parking, lighting and access is permitted in this area. ONGOING-ZONING/ BLDG

SITE DESIGN-RESTAURANT AND OUTDOOR SEATING

3. The full service restaurant shall remain open and available to serve food at all times that the outdoor seating and covered lounge areas are open. (ONGOING:CODE ENF-ZONING)

SITE DESIGN-OUTDOOR SEATING

4. The outdoor seating and covered lounge areas shall not operate independently from the restaurant. (ONGOING:CODE ENF-ZONING)

SITE DESIGN

5. Prior to final site plan approval by the Development Review Officer (DRO) the applicant shall provide an approved building permit for parking constructed along the north property line. (DRO: Zoning- Building Permit)

SITE DESIGN-PARKING N. PROPERTY LINE

6. Previously approved and constructed parking adjacent to the north property line as indicated on an approved building permit may remain until such time the County requires construction of the right turn lane or otherwise provided in the removal agreement dated May 24th 2004. At the time of the right turn lane construction or subject to the removal agreement on-site improvements shall be constructed consistent with the site plan dated November 23, 2009. (Building Permit: Traffic-Zoning)

USE LIMITATIONS-STORAGE BUILDING E

1.Storage Building E may be used for storage for the water taxi only. Any modifications to this building shall only be in conformance with the Code. (ONGOING: ZONING - Building)

USE LIMITATIONS-DRUM CIRCLE

2.A Drum Circle shall not be permitted to gather or perform at this location. (ONGOING:CODE ENF-ZONING)

USE LIMITATIONS-LIVE ENTERTAINMENT

3.No outside live music shall be permitted after 11:00 PM. (ONGOING:CODE ENF-ZONING)

COMPLIANCE

1.In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2.Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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 Unified Land Development Code (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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)