

RESOLUTION NO. R-2011- 0794

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2010-03025
(CONTROL NO. 1995-00022)
a Development Order Amendment
APPLICATION OF Arrigo Enterprises Inc
BY Greenberg Traurig, PA, AGENT
(Arrigo Dodge MUPD)

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 DOA/R-2010-03025 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2011; 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 DOA/R-2010-03025, the petition of Arrigo Enterprises Inc, by Greenberg Traurig, PA, agent, for a Development Order Amendment to reconfigure the site plan, add square footage, add requested uses, and to delete an access point on Jog Road and add an access point on Okeechobee Boulevard 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 May 26, 2011, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

| | | |
|---------------------------------------|---|--------|
| Commissioner Karen T. Marcus, Chair | - | Absent |
| Commissioner Shelley Vana, Vice Chair | - | Aye |
| Commissioner Paulette Burdick | - | Aye |
| Commissioner Steven L. Abrams | - | Aye |
| Commissioner Burt Aaronson | - | Absent |
| Commissioner Jess R. Santamaria | - | Aye |
| Commissioner Priscilla A. Taylor | - | Aye |

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 26, 2011.

Filed with the Clerk of the Board of County Commissioners on May 31, 2011.

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
Arrigo Enterprises, Inc.

All of the Plat of AUTONATION OF PALM BEACH, according to the plat thereof, recorded in Plat Book 83, Page 92, Public Records of Palm Beach County, Florida, LESS AND EXCEPT THEREFROM that portion of said plat conveyed to the State of Florida Department of Transportation by that certain Special Warranty Deed dated September 26, 2002, recorded November 18, 2002, in Official Records Book 14405, page 1617, of the Public Records of Palm Beach County, Florida.

TOGETHER WITH the reservation of the right of ingress and egress contained in that certain deed recorded in Official Records Book 2279, Page 1407, Public Records of Palm Beach County, Florida.

AND

"Parcel 1"

The East one-half of the West one-half of Tract 1, Block 4, THE PALM BEACH FARMS CO. PLAT NO. 3, according to the plat thereof, recorded in Plat Book 2, page 45, of the Public Records of Palm Beach County, Florida.

AND

"Parcel 2"

The East one-half of Tract 27, less the North 38 feet thereof, Block 1, THE PALM BEACH FARMS CO. PLAT NO. 9, according to the plat thereof, recorded in Plat Book 5, page 58, of the Public Records of Palm Beach County, Florida.

AND

That certain 30-foot-wide road right-of-way lying North of Parcel 1 hereof bounded on the West by the southerly extension of the West boundary line of said Parcel 2, bounded on the East by the northerly extension of the East boundary line of Parcel 1, and bounded on the North by the South boundary line of Parcel 2 hereof; said road right-of-way as shown on the plat of THE PALM BEACH FARMS CO. PLAT NO. 9, according to the plat thereof, recorded in Plat Book 5, page 58, of the Public Records of Palm Beach County, Florida; together with the North 15 feet of the said 30-foot-wide road right-of-way lying South of and abutting the East 68.67 feet of said Parcel 2, bounded on the West by the northerly extension of the East boundary line of said Parcel 1, and bounded on the East by the West boundary line of the plat of AUTONATION OF PALM BEACH, according to the plat thereof recorded in Plat Book 83, page 92, of the Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

Vicinity Sketch
Arrigo Dodge MUPD DOA

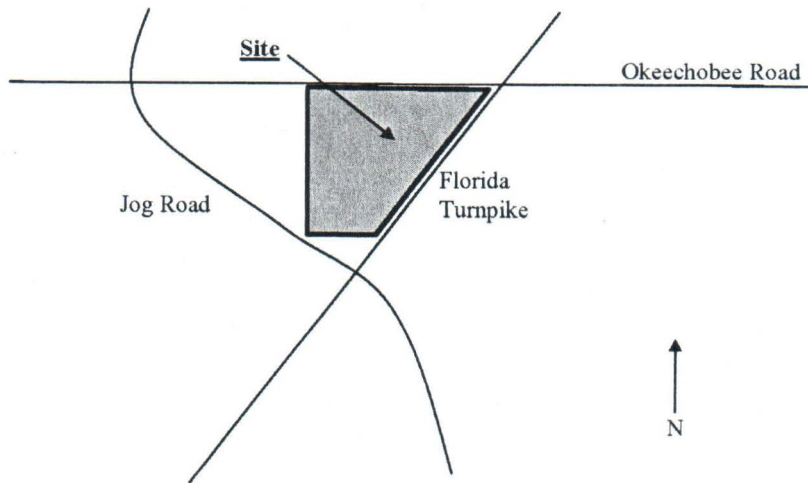


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petition Condition 1 of Resolution R-2007-1615, Control No.1995-022 which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-05-0382 and R-05-063 (Control No. 1995-022(B) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E 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 Resolutions R-2007-1614 and R-2007-1615 (Control No. 1995-022(B) have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2.All Petition Condition 2 of Resolution R-2007-1615, Control No.1995-022 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 July 16, 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated March 14, 2011. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the Development Review Officer (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

3.Should the applicant not utilize the approval of the Requested Uses, the property owner or applicant shall abandon the approval pursuant to the regulations of Article 2 of the ULDC, as amended, and the Final Site Plan shall be modified accordingly. (ONGOING: ZONING-Zoning)

ARCHITECTURAL REVIEW

1.Architecture Review Condition 1 of Resolution R-2007-1615, Control No.1995-022 which currently states:

At times of submittal for final DRC certification of the site plan, the architectural elevations for all the buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001. Development shall be consistent with the approved architectural elevations. (DRO: ZONING/BLDG PERMIT - Zoning)

Is hereby amended to read:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Building C shall be submitted simultaneously with the site plan for final

architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

2.All roof or ground mounted air conditioning, mechanical equipment, electrical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (DRO: ARCH REVIEW - Zoning)Previous Building and Site Design Condition 1. of Resolution R-2007-1615, Control No.1995-022.

3.Building and Site Design Condition 1. of Resolution R-2007-1615, Control No.1995-022 which currently states:

All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be screened from view on all sides in a manner consistent with the color, character and architectural style of the principal structure and shall be confined to areas designated on the site plan. (CO: BUILDING-Zoning) (Previous Condition C.5 of Resolution R-2005-0382, Control No. 1995-022)

Is hereby deleted. [REASON: Code Requirement pursuant to Article 5.B.1.A.8.]

4.Prior to the issuance of the first Certificate of Occupancy for this petition, all existing and any proposed freestanding lighting fixtures (excluding concrete poles), and railings along the vehicular driveway shall be painted bronze. Previous Condition M.5. of Resolution R-2005-0382, Control No. 1995-022) (CO: LANDSCAPE/BLDG - Zoning)

5.All future development shall be consistent with Article 5.C of the ULDC, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (BUILDING PERMIT: ARCH REVIEW - Zoning)

ENGINEERING

1.The property owner shall modify the existing left turn lane east approach on Okeechobee Boulevard at the projects entrance road to either lengthen or reconstruct as a dual left turn lane with signalization as required by either the Florida Department of Transportation or by the County Engineer. If dual left turn lanes are constructed then 2 receiving lanes on the driveway shall be constructed.

a. This construction shall be concurrent with the paving and drainage improvements for Phase II of the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations.

b. Permits required by Florida DOT for this construction shall be obtained prior to the issuance of the first Building Permit Phase II of the site. (BLDG PERMIT: MONITORING-Eng)

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy in Phase II. (CO: MONITORING-Eng) (Previous Engineering Condition E.1 of Resolution R-2007-1615, Control No.1995-022) [Note: COMPLETED]

2.LANDSCAPE WITHIN MEDIAN OF STATE ROADS

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 the adjacent median of Okeechobee Boulevard. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, 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. The property owner shall also be responsible to supplement any

existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. 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: MONITORING - Eng)

b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All existing 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 prior to the issuance of a certificate of occupancy. (CO: MONITORING - Eng)

c. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition E.2. of Resolution R-2007-1615, Control No.1995-022) [Note: COMPLETED]

3.Prior to site plan approval by the Development Review Committee the developer shall:

a. Receive approval from the Land Development Division for a revised drainage study demonstrating that the project will be in accordance with South Florida Water Managements Districts C-51 Drainage Basin requirements.

b. Obtain conceptual approval from the Florida Department of Transportation for the proposed geometrics and location of the proposed access drive onto Okeechobee Boulevard. Any modifications to the 2.99 acre outparcel shall be accommodated for on the revised Site Plan. (DRO: ENGINEERING - Eng) (Previous Engineering Condition E.3 of Resolution R-2007-1615, Control No.1995-022) [Note: COMPLETED]

4.The property owner shall fund a pro rata share of the cost of signalization if warranted by the County Engineer and the Florida Department of Transportation at the intersection of Okeechobee Boulevard and the projects entrance road. Signalization shall also include any required warning flashers on Okeechobee Boulevard in advance of the Florida Turnpike Overpass. Should signalization not be required after five years after the final Certificate of Occupancy then this property owner shall be relieved from this obligation. (ONGOING: ENGINEERING - Eng) (Previous Engineering Condition E.4 of Resolution R-2007-1615, Control No.1995-022) [Note: COMPLETED]

5.Prior to the issuance of the next building permit, the contract shall be let for Okeechobee Boulevard (Benoist Farms Road to the Turnpike) to an eight-lane cross section, or a CRALLS designation is adopted for Okeechobee Boulevard (Benoist Farms Road to the Florida Turnpike), whichever shall first occur. (BLDG PERMIT: MONITORING Eng) (Previous Engineering Condition E.5 of Resolution R-2007-1615, Control No.1995-022) [Note: COMPLETED]

6.Previous Engineering Condition E.6 of Resolution R-2007-1615, Control No. 1995-022, which currently states:

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 January 1, 2009. 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)

Is hereby amended to read:

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 additional new car dealership square footage may be issued after December 31, 2013. 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)

b.No Building Permits for the site may be issued after December 31, 2015. 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)

7. Previous Engineering Condition E.7 of Resolution R-2007-1615, Control No.1995-022, which currently states:

Prior to issuance of a Building Permit, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

Is hereby amended to read:

Prior to issuance of a Building Permit on the unplatted portions of the site, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

8. Previous Engineering Condition E.8.d of Resolution R-2007-1615, Control No.1995-022, which currently states:

Landscape Within the Median of Jog Road

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Jog Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING- ENG- Eng)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING-ENGINEERING- Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This

payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Jog Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING-Eng)

Is hereby deleted. [Reason: There is no median to be landscaped within the Jog Road frontage for this project.]

9. Previous Engineering Condition E.9. of Resolution R-2007-1615, Control No. 1995-022, which currently states:

The property owner shall pay an additional Fair Share Fee in accordance with the Okeechobee Boulevard CRALLS mitigation Analysis. The additional fair share fee for this project has been determined to be 0.715 times the applicable road impact fee, to be paid at the time of issuance of the next Building Permit. (ONGOING: ACCOUNTING-Impact Fee Coordinator)

Is hereby deleted. [Reason: Revised traffic study no longer requires this mitigation.]

10. Prior to Final Site Plan approval by the Development Review Committee, the property owner shall complete purchase of the existing Palm Beach County Property required for the construction of the access onto Jog Road. (DRO: ENGINEERING - Eng) (Previous Engineering Condition E.10 of Resolution R-2007-1615, Control No. 1995-022) [Note: COMPLETED]

11. The Property Owner shall construct:

- i) a second south approach left turn lane on the eastern project entrance road at Okeechobee Blvd, to provide for 2 left turn lanes and a shared through/right lane at this intersection; and
- ii) a right turn lane west approach on Okeechobee Boulevard at the western project entrance.

Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from FDOT for the construction in part i above shall be obtained prior to the issuance of the first building permit for construction of phase 2. (BLDG PERMIT: MONITORING-Eng)

b. Construction of the improvements in part i above shall be completed prior to the issuance of the first Certificate of Occupancy within phase 2. (CO: MONITORING-Eng)

c. Permits required from FDOT for the construction in part ii above shall be obtained prior to the issuance of the first building permit for construction of phase 3. (BLDG PERMIT: MONITORING-Eng)

d. Construction of the improvements in part ii above shall be completed prior to the issuance of the first Certificate of Occupancy within phase 3. (CO: MONITORING-Eng)

12. Prior to final site plan approval by the DRO, the property owner shall have the existing 30-foot road right of way on the western portion of the site, north of Building E, abandoned in accordance with the Abandonment Ordinance or shall remove the right of way from the project limits. (DRO: ENGINEERING - Eng)

13. Prior to final site plan approval by the DRO, the property owner shall modify, abandon and, if necessary, relocate the existing blanket utility easement in conflict with existing and proposed building locations or provide releases for proposed work within the easement area as approved by the County Engineer and Building Division. (DRO: ENGINEERING - Eng)

14. In order to comply with the Okeechobee Blvd. CRALLS point system established by the

mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. Prior to issuance of a building permit for construction within phase 2 of the project, the Property Owner shall make a pre-payment to the Impact Fee Coordinator of an additional mitigation fee in the amount of 76% of the road impact fees associated with construction of phases 1 and 2

(currently \$99,400, or as may be adjusted by amendments to Article 13 prior to time of payment). (BLDG PERMIT: MONITORING-Eng)

b. Prior to final approval of the Site Plan by the DRO, the property owner shall identify a secure bicycle parking facility within the phase 2 development area with a minimum of 30 bicycle spaces within 75 feet of the entrance to buildings that cyclists will most likely use. Where there is more than one building on a site, or where a building has more than one main entrance, the parking must be distributed to serve all buildings or main entrances. All bicycle parking facilities shall be covered and may be fully enclosed. (DRO:ENGINEERING-Eng)

c. The Property Owner shall obtain all necessary permits to construct:

i) a second west approach left turn lane on Okeechobee Blvd. at Vista Parkway, to provide for dual left turn lanes, four (4) through lanes and an exclusive right turn lane on this approach, and

ii) a third west approach left turn lane on Okeechobee Blvd. at Jog Road, to provide for triple left turn lanes, four (4) through lanes and an exclusive right turn lane on this approach.

All permits for this construction shall be obtained prior to the issuance of the first building permit within phase 2. (BLDG PERMIT: MONITORING-Eng)

d. The Property Owner shall construct:

i) a second west approach left turn lane on Okeechobee Blvd. at Vista Parkway, to provide for dual left turn lanes, four (4) through lanes and an exclusive right turn lane on this approach, and

ii) a third west approach left turn lane on Okeechobee Blvd. at Jog Road, to provide for triple left turn lanes, four (4) through lanes and an exclusive right turn lane on this approach.

Construction shall be completed prior to the issuance of the first Certificate of Occupancy within phase 2. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. All costs incurred to construct these improvements shall be creditable against road impact fees due for the project. (CO: MONITORING-Eng)

15. In order to comply with the Okeechobee Blvd. CRALLS point system established by the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. Prior to issuance of a building permit for construction within phase 3 of the project, the Property Owner shall make a pre-payment to the Impact Fee Coordinator of an additional mitigation fee in the amount of 90% of the road impact fees associated with construction of phase 3 (currently \$427,400, or as may be adjusted by amendments to Article 13 prior to time of payment). (BLDG PERMIT: MONITORING-Eng)

b. Prior to final approval of the Site Plan by the DRO, the property owner shall identify a secure bicycle parking facility within the phase 3 development area with a minimum of 75 additional bicycle spaces within 75 feet of the entrance to buildings that cyclists will most likely use. Where there is more than one building on a site, or where a building has more than one main entrance, the parking must be distributed to serve all buildings or main entrances. All bicycle parking facilities shall be covered and may be fully enclosed. (DRO:ENGINEERING-Eng)

c. The Property Owner shall obtain all necessary permits to construct a third north approach left turn lane on Vista Parkway at Okeechobee Blvd., to provide for two (2) exclusive left turn lanes, one (1) shared left/through lane and an exclusive right turn lane on this approach. All permits for this construction shall be obtained prior to the issuance of the first building permit within phase 3. (BLDG PERMIT: MONITORING-Eng)

d. The Property Owner shall construct a third north approach left turn lane on Vista Parkway at Okeechobee Blvd., to provide for two (2) exclusive left turn lanes, one (1) shared left/through lane and an exclusive right turn lane on this approach. Construction shall be completed prior to the issuance of the first Certificate of Occupancy within phase 3. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. All costs incurred to construct these improvements shall be creditable against road impact fees due for the project. (CO: MONITORING-Eng)

e. Prior to issuance of a Certificate of Occupancy for development within phase 3, the Property Owner shall record mutual cross-access easements with the property to the west and construct vehicular connectivity within these easements. (CO: MONITORING-Eng)

ENVIRONMENTAL

1. Prior to Final Site Plan approval by the Development Review Officer, the property owner shall demonstrate that all vehicle parking and storage complies with the requirements of Article 14.B. "Wellfield Protection." (DRO:ERM-ERM) (Previous ERM Condition 1 of Resolution R-2007-1615, Control No. 1995-022)

HEALTH

1. Prior to the issuance of a building permit, the property owner shall meet with, review with, and submit to the Palm Beach County Health Department, a comprehensive Hazardous material plan. (BLDG PERMIT: MONITORING-Health)(Previous Health condition 1 of Resolution R-2007-1615; Control No. 1995-022) [NOTE: COMPLETED]

2. The property owners and operators of facilities generating industrial, hazardous, or toxic waste shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF-Health) (Previous condition Health 2. of Resolution R-2007-1615; Control 1995-022)

LANDSCAPE - GENERAL

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be modified to indicate preservation and relocation of native trees as indicated in the Tree Preservation Plan.

- a. Documentation shall be submitted to the Landscape Section for review and approval; and,
- b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR

2. Landscape Condition 5 of Resolution R-2007-1615, Control No. 1995-022 which currently states:

Prior to final plan approval by the Development Review Officer (DRO), the plan shall be revised to show a landscaped divider median with a minimum width of twenty (20) feet between all rows of display parking and employee parking abutting the interior 800 linear foot bullpen parking area. The remainder of the bullpen parking area shall have a ten (10) foot landscape buffer strip from the Jog Road access heading north and interior to the site. (DRO: ZONING - Zoning)

Is hereby deleted: [REASON: Bull pen is replaced by other structures. Condition no longer

applicable]

3. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to indicate two (2) focal points for Phase I (Buildings, A, B, and C) not associated with a tenant or use. The focal points shall be in the form of a plaza, fountain, arcade, or any other site element or similar pedestrian oriented public area that is acceptable to the Zoning Division. The design and location of this element shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning)

LANDSCAPE - PERIMETER

4. LANDSCAPE - PERIMETER

Landscape Condition 1 of Resolution R-2007-1615, Control No. 1995-022 which currently states:

LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING OKEECHOBEE BOULEVARD)

Landscaping and buffering along the north property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum one to three foot high undulating berm with an average height of two (2) feet measured from the top of curb;
- c. one (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
- d. one (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and,
- e. twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches planted on the toe of the berm, (facing the right of way). (CO: LANDSCAPE-Zoning) (Previous Landscape Condition 1 of Resolution R-2007-1615, Control No. 1995-022)

Is hereby amended to read:

In addition to Code requirements, landscaping and buffering along the north property line shall be upgraded to include:

- a. a minimum one to three foot high undulating berm with an average height of two (2) feet measured from the top of curb;
- b. one (1) canopy tree for each twenty (20) linear feet of frontage; and,
- c. one (1) palm for each thirty (30) linear feet of property. A group of three (3) palms shall not be substituted for a perimeter canopy tree. (BLDG PERMIT: LANDSCAPE-Zoning)

5. LANDSCAPING ALONG THE WEST 600 FEET OF THE NORTH PROPERTY LINE (ABUTTING OKEECHOBEE BOULEVARD)

In addition to Code requirements, landscaping along the west 600 feet of the north property line shall meet the landscape conditions above for the north property line. (BLDG PERMIT: LANDSCAPE-Zoning)

6. Landscape Condition 8 of Resolution R-2007-1615, (Control No. 1995-022) which currently states:

LANDSCAPING ALONG THE WEST PROPERTY LINE AND SOUTH 286 FEET OF THE SOUTH PROPERTY LINE (ABUTTING RETENTION AREA)

Landscaping and buffering along the west and 286 feet of the south property line shall be upgraded to include:

- a. A minimum twenty (20) foot wide landscape buffer strip;

- b. One (1) canopy tree planted every thirty (30) feet on center;
- c. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
- d. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE-Zoning)

Is hereby amended to read:

LANDSCAPING ALONG THE 350 FEET OF THE WEST PROPERTY LINE, ADJACENT TO PARCEL H.

Landscaping and buffering along the 350 feet of the west property line adjacent to Parcel H shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip;
- b. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and,
- c. Existing native trees as identified in the tree preservation plan shall be relocated or incorporated into landscape buffer. (BLDG PERMIT: LANDSCAPE-Zoning)

PLANNED DEVELOPMENT

1. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, rooflines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING/CO ATTY - Zoning) (Previous MUPD Condition 1 of Resolution R-2007-1615, Control No.1995-022)

2. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING/CO ATTY - Zoning) (Previous MUPD Condition 2 of Resolution R-2007-1615, Control No.1995-022)

SIGNS

1. Sign Condition 1 of Resolution R-2007-1615, Control No.1995-022) which currently reads:

Freestanding point of purchase sign fronting on Okeechobee Boulevard, shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - twenty-five (25) feet;
- b. Maximum sign face area per side - 150 square feet;
- c. Maximum number of signs - one (1); and
- d. Style - monument style only; and,
- e. If the sign is replaced, the new sign must meet current Code requirements. (CO: BLDG - Zoning)

Is hereby amended to read:

Ground Mounted Freestanding signs fronting on Okeechobee Boulevard, shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - twenty-five (25) feet;
- b. Maximum sign face area per side - 150 square feet;
- c. Maximum number of signs - one (1);
- d. Style - monument style only; and,
- e. If the sign is replaced, the new sign must meet Sign Condition 2 below. (CO: BLDG - Zoning)

2. Ground Mounted 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 - 150 square feet;
- c. Maximum number of signs one (1) or may increase to two (2) signs if the 25 foot high ground mounted freestanding sign is replaced; and,
- e. Style - monument style only. (CO: BLDG - Zoning)

3. Sign Condition 2 of Resolution R-2007-1615, Control No. 1995-022) which currently states:

Freestanding signs on Okeechobee Boulevard and Jog Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - six (6) feet;
- b. Maximum sign face area per side - sixty (60) square feet;
- c. Maximum number of signs per frontage one (1); and,
- d. Style - monument style only. (CO: BLDG - Zoning)

Is hereby deleted. [REASON: Replaced by Sign Condition 2 and ULDC Article 7.G.2.B. requirements for Outparcel Identification signs]

4. Previous Sign Condition 3 of Resolution R-2007-1615, Control No. 1995-022 which currently states:

4. Freestanding point of purchase signs fronting on the Florida Turnpike shall be limited as follows:

a. Freestanding point of purchase sign:

- 1) Maximum sign height, measured from finished grade to highest point - twenty (20) feet;
- 2) Maximum sign face area per side - 150 square feet;
- 3) Maximum number of signs - one (1); and
- 4) Style - monument style only. (CO: BLDG - Zoning)

Is hereby amended to read:

Ground Mounted Freestanding sign fronting on the Florida Turnpike shall be limited as follows:

a. Ground Mounted Freestanding sign:

- 1) Maximum sign height, measured from finished grade to highest point - twenty (20) feet;
- 2) Maximum sign face area per side - 150 square feet;
- 3) Maximum number of signs - one (1); and

4) Style - monument style only. (CO: BLDG - Zoning)

5. Previous Sign Condition 4 of Resolution R-2007-1615, Control No. 1995-022 which currently states:

5. All billboards adjacent to the Florida Turnpike shall be removed prior to final Certificate of Occupancy and shall not be relocated. (CO: BLDG - Zoning) (Previous Sign Condition 4 of Resolution R-2007-1615, Control No. 1995-022)

Is hereby deleted. [REASON: Not in compliance with ULDC Art. 8.H.2.F. Billboard Stipulated Settlement Agreement]

6. Sign Condition 5 of Resolution R-2007-1615, Control No. 1995-022) which currently states:

The existing three (3) paneled directional sign shall be either reduced to form a two (2) panel sign or be increased to form a four (4) panel sign. Should the petitioner/property owner choose to increase the panels, the fourth panel shall be limited to tenant identification only. (CO: BLDG Zoning)

Is hereby deleted. [REASON: No longer applicable]

USE LIMITATIONS

1. Building and Site Design Condition 1. of Resolution R-2007-1615, Control No. 1995-022 which currently states:

Total gross floor area shall be limited to a maximum of 111,674 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRO. (BLDG. PERMIT: BLDG - Zoning)

Is hereby deleted: [REASON: Condition replaced by All Petition Condition 2]

2. Use Limitation Condition 1 of Resolution R-2007-1615, Control No. 1995-022) which currently states: Vehicles shall not be parked or on display with hoods or trunks open. (ONGOING: CODE ENF - Zoning) Is hereby deleted. [REASON: Code Requirement pursuant to Article 4.B.1.A. Note 135 Vehicle Sales and Rental]

3. Vehicles shall not be elevated off the ground in any way. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.2. of Resolution R-2005-0382, Control No. 1995-022) (Previous Use Limitation Condition 1 of Resolution R-2007-1615, Control No. 1995-022)

4. Vehicles shall be parked only in the areas designated on the certified site plan for customer, employee, service, display and inventory/storage spaces and shall maintain minimum backup distance and maneuverability. (ONGOING: CODE ENF - Zoning) (Previous Use Limitation 4 of Resolution R-2007-1615, Control No. 1995-022)

5. No advertising flags, foreign flags, pennants, banners, streamers, balloons, objects, gimmicks or similar signs designed to attract the attention of the general public shall be permitted outdoors on any building, vehicle or wall. Except that special event signage shall be permitted with a special permit pursuant to signage regulations in Section 7.14 of the ULDC. (ONGOING: CODE ENF - Zoning) (Previous Use Limitation Condition 5 of Resolution R-2007-1615, Control No. 1995-022)

6. Outdoor storage of disassembled vehicles or parts shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous Use Limitation Condition 8 of Resolution R-2007-1615, Control No. 1995-022)

7. An automatic car wash facility, if provided, shall utilize a 100% water recycling system. (CO: BLDG - Health) (Previous Use Limitation Condition 6 of Resolution R-2007-1615, Control No. 1995-022)

8. Use Limitation Condition 9 of Resolution R-2007-1615, Control No. 1995-022) which currently states: There shall be no outdoor repair of vehicles on site. (ONGOING: CODE ENF - Zoning) Is hereby deleted. [REASON: Code Requirement pursuant to Article 4.B.1.A. Note 135 Vehicle Sales and Rental]

9. Vehicles shall not be tested off-site on the Vista Center property. (ONGOING: CODE ENF - Zoning)
(Previous Use Limitation Condition 11 of Resolution R-2007-1615, Control No. 1995-022)

10. When this facility is not open, the parking area shall be locked and gated. (ONGOING: CODE ENF - Zoning)
(Previous Use Limitation Condition 10 of Resolution R-2007-1615, Control No. 1995-022)

11. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading, dispatch and delivery areas. (ONGOING: CODE ENF - Zoning)
(Previous Use Limitation Condition 12 of Resolution R-2007-1615, Control No. 1995-022)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING/ /PBCWU- Bldg) (Previous Utilities Condition 1 of Resolution R-2007-1615, Control No. 1995-022)

2. Prior to final site plan approval by the Development Review Officer (DRO), the PBCWUD shall review and approve the proposed access and maintenance for the existing lift station and other County owned utility facilities. (DRO: DRO - PBCWUD) (Previous Utilities Condition 2 of Resolution R-2007-1615, Control No. 1995-022)

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)