

RESOLUTION NO. R-2016- 0008

RESOLUTION APPROVING ZONING APPLICATION DOA-2015-01723  
(CONTROL NO. 1990-00024)  
a Development Order Amendment  
APPLICATION OF Rreef America Reit II Corp J  
BY Dunay, Miskel, Backman and Blattner, LLP, AGENT  
(Benihana at Festival Shoppes of Boca Raton)

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;

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) (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA-2015-01723 was presented to the Board of County Commissioners at a public hearing conducted on January 7, 2016;

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;

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

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 Development Order Amendment ; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County ULDC 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-2015-01723, the application of Rreef America Reit II Corp J, by Dunay, Miskel, Backman and Blattner, LLP, Agent, for a Development Order Amendment to reconfigure the Site Plan and add square footage, 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 January 7, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	- Aye
Commissioner Hal R. Valeche, Vice Mayor	- Aye
Commissioner Paulette Burdick	- Aye
Commissioner Shelley Vana	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 7, 2016.

Filed with the Clerk of the Board of County Commissioners on January 21, 2016.

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

TRACTS B, C, D, E, F, AND WATER MANAGEMENT TRACT NO. 2, OF FESTIVAL SHOPPES OF BOCA RATON, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 69, PAGES 172 THROUGH 174, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH ALL OF TRACT A-1, OF FESTIVAL SHOPPES OF BOCA RATON REPLAT ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 120, PAGE 9 THROUGH 12 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAINING A TOTAL OF 36.962 ACRES.

EXHIBIT B  
VICINITY SKETCH



## CONDITIONS OF APPROVAL

Exhibit C

### Development Order Amendment

#### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-1065, Control No.1990-00024, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1991-0378 (Control 1990-0024; and R-1995-430 (Control 1990-0024), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

#### Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-1065 (Control 1990-0024), 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-1065, Control No.1990-00024, which currently states:

The approved Preliminary Site Plan is dated January 10, 2013. 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 as established in the Unified Land Development Code must be approved by the Board of County Commissioners or the Zoning Commission.

#### Is hereby amended to read:

The approved Preliminary Site Plans is dated October 21, 2015. 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 as established in the Unified Land Development Code must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

3. The Site Plan shall be amended to indicate compliance with all minimum property development regulations and Land Development requirements of Palm beach County (Zoning) (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous ALL PETITIONS Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. Prior to Final Approval by the Development Review Officer (DRO), an overall site plan shall be submitted. (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations shall be submitted for final review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated October 15, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning)

2. The maximum height, from grade to roof line, for all structures shall not exceed thirty-five

(35) feet. (ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 4 of Resolution R-2013-1065, Control No.1990-00024)

3. All mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure. (ONGOING: BUILDING DIVISION - Zoning) (Previous SITE DESIGN Condition 5 of Resolution R-2013-1065, Control No.1990-00024)

4. The rear portion of all structures shall be stucco. The Petitioner shall provide graphical illustrations which indicate areas of such architectural treatment prior to site plan certification. (ONGOING: BUILDING DIVISION - Zoning) (Previous SITE DESIGN Condition 6 of Resolution R-2013-1065, Control No.1990-00024)

## **ENGINEERING**

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. (ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site. (ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. Prior to August 1, 1991 or prior to the issuance of the first Building Permit, whichever shall first occur, the Property Owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Glades Road, 80 feet from centerline plus right turn lane right of ways (minimum of 150 feet in length, 12 feet in width, with taper lengths of 180 feet) all free of encumbrances and encroachments. Locations of all right turn lane right of ways on Glades Road and on State Road 7 shall be where warranted as determined by the County Engineer. Property owner 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (BLDGPMT/DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. The Property Owner shall fund the construction of the following geometrics:

a. At the Palmetto Park Road and State Road 7 intersection:

1. east approach: 2 left turn lanes, 3 thru lanes, 1 right turn lane;
2. west approach: 2 left turn lanes, 3 thru lanes, 1 right turn lane;
3. north approach: 2 left turn lanes, 3 thru lanes, 1 right turn lane;
4. south approach: 1 left turn lane, 2 thru lanes. (CO: MONITORING - Engineering) [Note: COMPLETED]

b. At the Glades Road and State Road 7 intersection:

1. east approach: 1 combined left turn/thru lane, 1 thru lane, 1 right turn lane;\*\*
2. west approach: 2 left turn lanes, 2 thru lanes, 1 right turn lane;
3. north approach: 2 left turn lanes, 3 thru lanes, 1 right turn lane;\*\*
4. south approach: 2 left turn lanes, 2 thru lanes, 1 right turn lane.

\*In order to accept the construction of the dual left turn lanes from the north approach the departure lanes on the east approach shall be widened to an appropriate width as determined by the County Engineer and Florida Department of Transportation.

\*\*The third thru lane shall transition back to two thru lanes at an appropriate taper and distance north of the intersection, as determined by the County Engineer. The right turn lane shall be constructed with an appropriate width, length and taper as determined by the County Engineer. (CO: MONITORING - Engineering) [Note: COMPLETED]

c. At each of the project's 2 western entrances (labelled #1 and #2 on Figure 4 of the project Traffic Impact Analysis) and Glades Road:

1. west approach: 2 thru lanes, 1 right turn lane, including appropriate taper if required,
2. south approach: 1 right turn lane. (CO: MONITORING - Engineering) [Note: COMPLETED]

d. At the project's main entrance and Glades Road:

1. west approach: 2 thru lanes, 1 right turn lane;
2. east approach: 1 left turn lane, 2 thru lanes, 1 right turn lane;
3. south approach: 1 left turn lane, 1 right turn lane. (CO: MONITORING - Engineering) [Note: COMPLETED]

e. Construct at the project's entrance on Glades Road (labeled #4 on Figure 4 of the project Traffic Impact Analysis):

1. west approach: 2 thru lanes;
2. south approach: 1 right turn lane. (CO: MONITORING - Engineering) [Note: COMPLETED]

f. At the project's south entrance on State Road 7:

1. south approach: 2 thru lanes, 1 right turn lane;
2. north approach: 3 thru lanes, 1 left turn lane;
3. east approach: 1 left turn lane, 1 right turn lane. (CO: MONITORING - Engineering) [Note: COMPLETED]

g. At the project's north entrance on State Road 7:

1. south approach: 2 thru lanes, 1 right turn lane
2. east approach: 1 right turn lane.

All concurrent with onsite paving and drainage improvements. Construction shall be substantially completed (open to traffic) prior to the issuance of the first Certificate of Occupancy. The Property Owner shall provide completed plans immediately for the construction of all the geometric construction required under this condition (E4) permittable by the Florida Department of Transportation, including all permits. These plans shall be immediately permittable by Florida Department of Transportation and shall be provided to Palm Beach County prior to June 1, 1991. If this deadline is not met, Palm Beach County may stop all inspections and permitting of the project. Acceptable surety shall be posted for all improvements listed in condition number E4 and E8 prior to June 1, 1991 or prior to the issuance of a Building Permit which ever shall first occur. Funding shall be limited to either an acceptable Letter of Credit (as currently defined and approved by O.F.M.B.) or cash. These funds shall also include inspection fees and contingencies. As soon as practical after receiving these plans and funds, Palm Beach County shall construct these improvements. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-1065, Control No.1990-00024)

5. The Property Owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$508,255.00 (9,241 trips X \$55.00 per trip). Note: No impact fee credit shall be given for any roadway improvements identified in condition number E4 which are not compatible with the Florida Department of Transportation Ultimate Section. The County Engineer shall make the sole determination as to what is compatible with ultimate construction. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous

ENGINEERING Condition 5 of Resolution R-2013-1065, Control No.1990-00024)

6. The Property Owner shall convey to the Lake Worth Drainage District the west 45 feet of Tracts 112 and 113, Block 77 Palm Beach Farms Company Plat No. 3 for the required right-of-way for Equalizing Canal No. 3, by Quit Claim Deed or an Easement Deed in the form provided by said District prior to August 1, 1991. (DATE: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2013-1065, Control No.1990-00024)

7. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:

a. No Building Permits shall be issued until Yamato Road from State Road 7 to Jog Road is under construction. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. This entire Center including all out parcels shall be built out with certificates of occupancy issued for not less than 80% as defined in Ordinance 90-7 prior to March 15, 1992. On or about March 15, 1992, developer shall provide proof of the percentage of occupancy of the entire center. No Building permits or certificate of occupancy shall be issued after March 15, 1992 until the following roadway improvements are completed, if it has not been shown that 80% of the Center is occupied:

1. At the intersection of State Road 7 & Glades Road:

a. east approach: a thru lane in addition to the geometrics specified in E4(b). (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2013-1065, Control No.1990-00024)

8. The Developer shall install signalization if warranted as determined by the County Engineer at the project's entrance(s) and State Road 7 as well as the project's entrances and Glades Road. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this Property Owner shall be relieved from this condition. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2013-1065, Control No.1990-00024)

9. Any traffic signal modifications required by the construction in E4 and E7 (B) shall be funded by the developer. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2013-1065, Control No.1990-00024)

10. The Property Owner shall convey an access easement at the northeast corner of the site to the Property Owner of the adjacent property to the east for future pedestrian / vehicular access. This easement shall be recorded subject to approval by the County Engineer and the County Attorney's Office prior to Plat recordation. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2013-1065, Control No.1990-00024)

11. Prior to Site Plan approval by the Site Plan Review Committee the Property Owner shall revise the site plan to reflect a maximum of four (4) entrances onto Glades Road and a maximum of two (2) entrances onto State Road 7. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 11 of Resolution R-2013-1065, Control No.1990-00024)

12. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-2013-1065, Control No.1990-00024)

13. Prior to issuance of the first building permit, the Petitioner shall show proof of a completion bond for the construction of the entire center, within the time frame as outlined in the conditions of approval. The proof shall be submitted to the Zoning Division and shall



be subject to confirmation by the County Attorney's office. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 13 of Resolution R-2013-1065, Control No.1990-00024)

14. The Property Owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for zoning petition number 90-24(B) to be paid at the time of issuance of the Building Permit presently is \$3,795.00 (138 additional trips X \$27.50 per trip). (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 14 of Resolution R-2013-1065, Control No.1990-00024)

15. Prior to issuance of the a building permit for the proposed retail space, the Property Owner shall legally create the parcel in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 15 of Resolution R-2013-1065, Control No.1990-00024)

16. Prior to the issuance of a building permit to convert water management area to development area, the Property Owner shall apply for, and receive approval of, an Onsite Drainage Review from the Permit Section of Land Development Division. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 16 of Resolution R-2013-1065, Control No.1990-00024)

17. If permitted by the Florida State Department of Transportation or the County Engineer, the Property Owner shall landscape the median of all abutting rights-of-way. This landscaping shall consist of one twelve (12) feet tall native canopy tree planted an average of thirty (30) feet on center, ground cover which meets minimum Zoning Code requirements, and automatic irrigation. All material shall be selected, maintained and installed according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the Property Owner. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 17 of Resolution R-2013-1065, Control No.1990-00024)

18. The Property Owner shall be responsible for permitting, funding all costs for and installing a traffic signal on State Road 7, approximately 1,000 feet south of Glades Road.  
a. Prior to April 1, 2014, the Property Owner shall submit all required permitting applications to FDOT for construction approval of the signal. (DATE: MONITORING - Engineering) [Note: COMPLETED]  
b. Prior to April 1, 2015, the Property Owner shall commence construction of the traffic signal. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 18 of Resolution R-2013-1065, Control No.1990-00024)

19. 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, 2020. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

20. Prior to the issuance of a building permit, the Property Owner shall abandon or release, and relocate as necessary, all easements in conflict with proposed structures. (BLDGPM: MONITORING - Engineering)

## **ENVIRONMENTAL**

1. Secondary containment for stored regulated substances fuels, oils, solvents, or other hazardous chemicals) is required. The Department of Environmental Resources Management staff shall provide guidance on appropriate protective measures. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources

Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. Plans for underground storage tanks shall be approved by the Department of Environmental Resources Management prior to installation. The Petitioner shall perform all necessary preventative measures to reduce the chance of groundwater contamination. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. All finished excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater than six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the lake surface area shall be planted with native aquatic vegetation on a minimum of three foot centers. A littoral shelf planting plan and maintenance plan shall be submitted to the Department of Environmental Resources Management (ERM) concurrent with Site Plan Review application and approved by ERM prior to site plan certification. [NOTE: COMPLETED] (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

## **HEALTH**

1. Owners and operators of facilities generating industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such wastes in 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 used. (ONGOING: CODE ENF-Health) (ONGOING: CODE ENF - Health Department) (Previous HEALTH Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. The owner, occupant, or tenant of all facilities shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous HEALTH Condition 4 of Resolution R-2013-1065, Control No.1990-00024)

## **LANDSCAPE - GENERAL**

1. Concurrent with the submittal for Building Permits, the Property Owner shall submit a 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. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. The Property Owner shall perpetually maintain the landscaping on both banks of the canal which abuts the west property line of the site. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. All trees on site shall be allowed to reach and be maintained at a minimum mature height of fifteen (15) feet. Maintenance shall conform to Arbor Society recommended practices. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. All landscaped areas shall be fully irrigated. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2013-1065, Control No.1990-00024)

5. Landscape tabular data on the site plan shall be revised to reflect conformance to minimum Landscape Code requirements and all landscape conditions prior to site plan certification. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE

- GENERAL Condition 5 of Resolution R-2013-1065, Control No.1990-00024)

#### **LANDSCAPE - INTERIOR**

6. One landscape island shall be provided for every ten (10) cars. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 6 of Resolution R-2013-1065, Control No.1990-00024)

7. Landscaped terminal islands shall be provided for all rows of parking. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 7 of Resolution R-2013-1065, Control No.1990-00024)

8. Fifty percent (50) of all trees within the parking area shall be twelve (12) feet in height or greater. The remaining fifty percent (50) shall be flowering trees ten (10) feet in height or greater. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 8 of Resolution R-2013-1065, Control No.1990-00024)

#### **LANDSCAPE - PERIMETER-NORTH PROPERTY LINE**

9. Landscaping within the required landscape buffer Glades Road shall be upgraded to include:

- a. Fifty percent (50%) - fourteen (14) feet tall.
- b. The minimum height of these trees shall be as follows:
  1. Fifty percent (50%) - fourteen (14) feet tall.
  2. Twenty-five percent (25%) - twelve (12) feet tall.
  3. Twenty-five percent (25%) - ten (10) feet tall.
- c. One (1) Washingtonian palm tree, a minimum of ten (10) feet in overall height, shall be planted for each thirty (30) linear feet.
- d. A continuous opaque hedge a minimum of (36) inches in height at installation, to be maintained at a minimum height of forty-two inches within one year, or a minimum forty-two inch high hedge/berm combination. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 9 of Resolution R-2013-1065, Control No.1990-00024)

#### **LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE**

10. Landscaping within the required ten (10) foot wide landscape buffer strip along the south property line shall include a six (6) foot high wall, hedge, fence, berm, or combination, and ten (10) foot tall trees spaced no more than thirty (30) feet on center. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 10 of Resolution R-2013-1065, Control No.1990-00024)

#### **LANDSCAPE - PERIMETER-EAST PROPERTY LINE**

11. A twenty-five (25) foot wide landscape buffer shall be provided along the entire eastern property. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 11 of Resolution R-2013-1065, Control No.1990-00024)

12. Landscaping along the eastern property line shall be placed on the exterior side of a required wall and shall be installed prior to issuance of the certificate of occupancy for any building on site. Landscaping and buffering within this perimeter strip shall consist of:

- a. A six (6) foot tall concrete block and steel wall or equivalent. This wall shall receive stucco and paint finish on both sides in a color compatible with the shopping center.
- b. A two (2) foot wide landscape strip shall be provided between the curb of the paved vehicular use area and the required six (6) foot wall. This landscape strip shall be supplemented with a thirty-six (36) inch high continuous opaque hedge. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 12 of Resolution R-2013-1065, Control No.1990-00024)

13. Native canopy trees shall be planted an average of (20) feet on center:

- a. Fifty percent (50%) of these trees shall be fourteen (14) feet tall;
- b. Twenty-five percent (25%) of these trees shall be twelve (12) feet tall;
- c. Twenty-five percent (25%) of these trees shall be ten (10) feet tall. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 13 of Resolution R-2013-1065, Control No.1990-00024)

14. One (1) native palm tree shall be planted for each thirty (30) linear feet. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 14 of Resolution R-2013-1065, Control No.1990-00024)

15. A double row of shrubs:

a. Planted an average of thirty-six (36) on center (833 plants).

b. Fifty percent (50) shall be native.

c. Fifty percent (50) of these shrubs shall be thirty-six (36) inches in height and fifty percent (50) of these shrubs shall be twenty-four (24) inches in height, at installation.

d. Shrubs shall be maintained at a height of sixty (60) inches within two (2) years of installation. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 15 of Resolution R-2013-1065, Control No.1990-00024)

#### **LANDSCAPE - PERIMETER-WEST PROPERTY LINE**

16. Landscaping within the required landscape buffer State Road 7 (US 441) shall be upgraded to include:

a. Native canopy trees planted twenty (20) feet on center.

b. The minimum height of these trees shall be as follows:

1. Fifty percent (50) - fourteen (14) feet tall.

2. Fifty percent (50) - twelve (12) feet tall.

c. A continuous opaque hedge a minimum of thirty-six (36) inches in height at installation, to be maintained at a minimum height of thirty-six (36) inches.

d. One landscaped island shall be provided for ten (10) parking stalls abutting this line. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 16 of Resolution R-2013-1065, Control No.1990-00024)

#### **LIGHTING**

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, and directed away from adjacent properties and streets. Lighting fixtures in the eastern portion of the site shall not exceed twelve (12) feet in height. Lighting in the western portion of the center shall not exceed forty (40) feet in height. (ONGOING: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous LIGHTING Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. All outdoor lighting behind the shopping center and/or within one-hundred feet of the east property line shall be extinguished no later than 11:00 p.m. All other outdoor lighting shall be extinguished no later than 2:00 a.m. Security lighting only is excluded from requirement. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

#### **PARKING**

1. All uses shall utilize shared parking and circulation arrangements acceptable to the Planning, Zoning and Building Department. Shared parking and cross agreements shall be recorded with the Zoning Division prior to site plan certification. (ONGOING: COUNTY ATTORNEY - Zoning) [Note: COMPLETED] (Previous PARKING Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

#### **SIGNS**

1. No off-premise signs shall be permitted on site. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. Pole signs are not permitted on the site. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. No flashing or electronic message boards sign types shall be permitted on site. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. Monument signs shall not exceed fifteen (15) feet in height nor a total of 1,200 square feet in area. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 4 of

Resolution R-2013-1065, Control No.1990-00024)

5. Two (2) point of purchase signs shall be permitted on Glades Road. Two (2) point-of-purchase signs shall be permitted on State Road 7 (US 441). (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 5 of Resolution R-2013-1065, Control No.1990-00024)

6. Prior to site plan certification, the Petitioner shall submit a Master Sign Program which specifies sign location, sign dimensions, unified color, unified graphics, and conformance to all sign conditions for all point of purchase and monument signs on site. (ONGOING: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous SIGNS Condition 6 of Resolution R-2013-1065, Control No.1990-00024)

7. All other signs shall comply with the Palm Beach Sign Code Ordinance 72-23, and shall indicate principle use only. Specifically, no snipe signs, banners, balloons or other prohibited type of advertisement be permitted on site. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 7 of Resolution R-2013-1065, Control No.1990-00024)

8. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more than the conditions of approval, the regulations of the amended Sign Code shall supersede the conditions of approval. (ONGOING: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous SIGNS Condition 8 of Resolution R-2013-1065, Control No.1990-00024)

#### **SITE DESIGN**

1. The minimum setback for structures adjacent to residential areas shall be fifty (50) feet. (ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. Receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall not be located within seventy (70) feet of the east property line. (ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. All areas or receptacles (i.e. dumpsters) for the storage and disposal of trash, garbage or vegetation shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscuring opaque gate. Enclosures shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals. This provision shall not apply to litter containers provided for the convenience of pedestrians. (ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. All out-parcels shall be no less than 3/4 acre in size. (ONGOING: BUILDING DIVISION - Zoning) (Previous SITE DESIGN Condition 7 of Resolution R-2013-1065, Control No.1990-00024)

5. Prior to site plan certification, the Property Owner shall amend the site plan and the Concurrency Reservation for the project (Case #90-08-02-001C) to reflect the deletion of the car wash facility. [Note: COMPLETED] (Previous SITE DESIGN Condition 8 of Resolution R-2013-1065, Control No.1990-00024)

6. A concrete panel wall shall screen the loading area to the east of Building 12. The wall shall be:

- a. a minimum eight (8) feet high;
  - b. a minimum fifty-five (55) foot long in the green space to the east of the loading spaces; and
  - c. a minimum thirty (30) foot long in the green space to the south of the loading spaces.
- (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 9 of Resolution R-2013-1065, Control No.1990-00024)

## **SOLID WASTE AUTHORITY**

1. As part of any site plan application for any portion of the project, the developer shall submit a solid waste stream reduction/recycling plan approvable by the Solid Waste Authority of Palm Beach County. (ONGOING: CODE ENF - Solid Waste Authority) [Note: COMPLETED] (Previous SOLID WASTE AUTHORITY Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

## **USE LIMITATIONS**

1. The entire property shall be master planned as a single Planned Commercial Development (PCD) and shall be subject to a Unity of Control. A Unity of Control for the site shall be approved by the County Attorney prior to site plan certification. (DRO: COUNTY ATTORNEY - County Attorney) [Note: COMPLETED] (Previous USE LIMITATIONS Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. No cocktail lounge shall be permitted in the east wing of the shopping center. This condition does not prohibit restaurants with beverage service representing less than 50% of net proceeds. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

3. Hours of operation for local retail shops (with the exception of restaurant uses) and financial institutions shall be from 6:00 a.m. to 11:00 p.m. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2013-1065, Control No.1990-00024)

4. Prior to Final approval by the Development Review Officer (DRO) a construction access plan shall be approved for the proposed Type II Restaurant (Benihana). There shall be no construction ingress or egress from the second driveway east of State Road 7 on Glades Road. (DRO: ZONING - Zoning)

## **UTILITIES**

1. The design of the car wash facility shall use a water recycling system. (ONGOING: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous UTILITIES Condition 1 of Resolution R-2013-1065, Control No.1990-00024)

2. When irrigation quality water is available within five-hundred (500) feet of the property, the Petitioner shall connect to the system. The cost for connection shall be borne by the Property Owner. (ONGOING: PBC WATER UTILITIES - PBC Water Utilities) [Note: COMPLETED] (Previous UTILITIES Condition 2 of Resolution R-2013-1065, Control No.1990-00024)

## **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; 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; the 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 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 of Approval; 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)

**DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.