

RESOLUTION NO. R-2016-0413

RESOLUTION APPROVING ZONING APPLICATION ZV/ABN/DOA-2015-01225
(CONTROL NO. 1978-00273)
Development Order Amendment
APPLICATION OF Pine Trail Square LLC
BY Dunay, Miskel, Backman and Blattner, LLP, AGENT
(Pine Trail Shopping Center)

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 pursuant to 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 ZV/ABN/DOA-2015-01225 was presented to the Board of County Commissioners at a public hearing conducted on March 24, 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 ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, THE Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the 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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the 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 ZV/ABN/DOA-2015-01225, the Application of Pine Trail Square LLC, by Dunay, Miskel, Backman and Blattner, LLP, Agent, for Development Order Amendment to reconfigure the site plan; add an access point (Elmhurst Road) and delete access points (Military Trail and Okeechobee Boulevard); add and delete square footage; and, modify Conditions of Approval (Engineering), on a parcel of land generally described as shown on the legal description 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 March 24, 2016, subject to the Conditions of Approval described

in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Taylor 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 Mary Lou Berger, Mayor	-	Aye
Commissioner Hal R. Valeche, Vice Mayor	-	Aye
Commissioner Paulette Burdick	-	Nay
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 March 24, 2016.

Filed with the Clerk of the Board of County Commissioners on April 14th, 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

LEGAL DESCRIPTION:

PARCEL 1 (FEE SIMPLE) A Parcel of land lying in the Northeast one-quarter of the Northwest one-quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, and being more particularly described as follows:

Commencing at a found Palm Beach County Concrete Monument marking the North one-quarter corner of said Section 25; thence run South 00 degrees 43 minutes 36 seconds West, along the East line of the Northwest one-quarter of said Section 25 and the centerline of Military Trail (a 120 foot road Right of Way), a distance of 70.01 feet; thence South 89 degrees 52 minutes 06 seconds West, a distance of 253.04 feet to the Point of Beginning.

Thence South 00 degrees 43 minutes 36 seconds West, a distance of 155.02 feet to the South line of the North 40 feet of Lot 1 of Eastview Estates, according to the Plat thereof as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida; thence North 89 degrees 52 minutes 06 seconds East, along said South line of the North 40 feet of Lot 1, 193.02 feet to the Westerly Right of Way line of Military Trail; thence South 00 degrees 43 minutes 36 seconds West along said Right of Way line, a distance of 160.00 feet to a point on the North line of Lot 3 of said Eastview Estates Plat; thence South 89 degrees 52 minutes 7 seconds West along said North line of Lot 3, a distance of 284.03 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 200 feet; thence North 89 degrees 52 minutes 06 seconds East, a distance of 125.01 feet; thence South 00 degrees 41 minutes 33 seconds West along a line 118 feet Easterly of, as measured at right angles to the West line of Lots 5 and 6, a distance of 150.00 feet to the South line of the North one-half of Lot 6 of said Eastview Estates; thence South 89 degrees 52 minutes 06 seconds West, along said North line, a distance of 7.00 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 150.00 feet to the South line of Lot 7, of said Eastview Estates; thence North 89 degrees 52 minutes 07 seconds East, along said South line of Lot 7, a distance of 7.00 feet; thence South 00 degrees 41 minutes 33 seconds West, a distance of 100.00 feet to the North line of Lot 9 of said Eastview Estates; thence South 89 degrees 52 minutes 06 seconds West, along said North line, a distance of 118.01 feet to the West line of said Plat of Eastview Estates; thence South 00 degrees 41 minutes 36 seconds West, along said West line, a distance of 315.99 feet to a point on the Northerly ultimate Right of Way line of Elmhurst road; said ultimate Right of Way line lying 40.00 feet Northerly of the South line of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 89 degrees 51 minutes 55 seconds West, along said ultimate Right of Way line of Elmhurst Road, a distance of 672.93 feet to a point on the East line of the West one-half of the West one-half of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East, along said line, a distance of 89.48 feet to a point on the South line of the North 129.48 feet of the South 258.96 feet of the West one-half of the Southwest one-quarter of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 89 degrees 51 minutes 55 seconds West, along said South line, a distance of 336.52 feet to a point on the West line of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees, 35 minutes 21 seconds East, along said West line, a distance of 279.68 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 196.70 feet; thence South 00 degrees 00 minutes 05 seconds West, a distance of 120.00 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 130.00 feet; thence North 00 degrees 00 minutes 05 seconds East, a distance of 120.00 feet; thence South 89 degrees 59 minutes 55 seconds East, a distance of 10.00 feet to a point on the East line of the West one-half of the West one-half of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East along said line, a distance of 727.89 feet to a point on the South line of the North 200.00 feet of the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 89 degrees 52 minutes 06 seconds East, along said South line, a distance of 132.01 feet to a point on the East line of the West 132.00 feet of the

East one-half of the Northwest one-quarter the Northeast one-quarter of the Northwest one-quarter of said Section 25; thence North 00 degrees 37 minutes 25 seconds East, along said line, a distance of 130.01 feet to a point on the South Right of Way line of Lake Worth Drainage District Canal L-1; according to the lands recorded in O.R. Book 1732, Page 612, of the Public Records of Palm Beach County, Florida; thence North 89 degrees 52 minutes 06 seconds East along said Right of Way line, a distance of 626.63 feet to the Point of Beginning.

LESS AND EXCEPT Parcels 125 and 126 under Case No. CL96-4237-AO Condemnation Proceedings by Palm Beach County, for Elmhurst Road, as evidenced by Lis Pendens recorded in O.R. Book 10584, Page 1337, and Final Judgment recorded in O.R. Book 12073, Page 52.

Containing 1,176,071 square feet.

PARCEL 2: (LEASEHOLD/TAPLIN-ORB 2723, PAGE 72):

Lots 3 and 4, Eastview Estates, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court, in and for Palm Beach County, Florida, recorded in Plat Book 18, Page 18; said lands situate, lying and being in Palm Beach County, Florida; less the East 10 feet for road Right of Way purposes.

Containing 53,385 square feet.

PARCEL 3: (LEASEHOLD/TAPLIN-ORB 3348, PAGE 1831):

A Parcel of land in the Northwest one-quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, said Parcel of land being bounded as follows:

Bounded on the North by the Westerly prolongation of the North line of Lot 3, Eastview Estates, according to the Plat thereof, as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida.

Bounded on the West by a line 7.0 feet Westerly of, as measured at right angles to the West lines of Lots 3 and 4 of said Plat of Eastview Estates.

Bounded on the South by the Westerly prolongation of the South line of Lot 4 of said Plat of Eastview Estates,

Bounded on the East by the West lines of Lots 3 and 4 of said Plat of Eastview Estates.

Containing 1,400 square feet.

PARCEL 4 (FEE SIMPLE):

The South one-half (S 1/2) of Lot 6 and all of Lot 7, Eastview Estates, according to the Plat thereof, as recorded in Plat Book 18, Page 18, of the Public Records of Palm Beach County, Florida. Excepting the West 111 feet and the East 10 feet thereof.

Containing 23,359 square feet.

PARCEL 5: (LEASEHOLD/SWANGER-ORB 3596, PAGE 1008):

Lot 8, less the West 118 feet and less the East 10 feet thereof, Eastview Estates, a Subdivision of Palm Beach County, Florida, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for said County, in Plat Book 18, Page 18.

Containing 14,865 square feet.

PARCEL 6: (FEE SIMPLE)

Lots 9, 10 and 11, Eastview Estates, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 18,n Page 18, less the East 10 feet thereof.

LESS AND EXCEPT Parcels 125 and 126 under Case No. CL96-4237-AO Condemnation Proceedings by Palm Beach County, for Elmhurst Road, as evidenced by Lis Pendens recorded in O.R. Book 10584, Page 1337, and Final Judgment recorded in O.R. Book 12073, Page 52.

Containing 83,704 square feet.

PARCEL 7: (EASEMENT/LWDD-ORB 3206, PAGE 592):

Easements for drainage, ingress and egress purposes as set forth in the Grant of Easement dated December 12, 1979, and recorded on January 3, 1980, in O.R. Book 3206, Page 592, of the Public Records of Palm Beach County, Florida.

PARCEL 8: (EASEMENT) Easements contained in Declaration of Easement and Covenants dated February 1, 1980 and recorded on February 4, 1980 in O.R. Book 3224, Page 1406, together with the Release and Cancellation in part of the Declaration of Easements and Covenants, as recorded in O.R. Book 3627, Page 869 of the Public Records of Palm Beach County, Florida.

PARCEL 9: (FEE SIMPLE)

A parcel of land lying in the Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4) of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida; Said Parcel being more particularly described as follows:

Commencing at the Southeast corner of said Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4); thence South 89° 24'28" West, along the South line of said Northeast Quarter (Northeast 1/4) of the Northwest Quarter (Northwest 1/4), a distance of 1009.33 feet; thence departing from said line, North 00°06'00" West, a distance of 409.95 feet; thence South 89°16'29" West, a distance of 10.00 feet to the Point of Beginning; thence continuing South 8°9'16'28" West, a distance of 130.00 feet; thence South 00°43'32" East, a distance of 120.00 feet; thence North 89°16'28" East, a distance of 130.00 feet; thence North 00°43'32" West, a distance of 120.00 feet to the Point of Beginning.

Containing 15,599 square feet.

PARCEL 10: (FEE SIMPLE)

The South 175 feet of the North 225 feet of the West 200 feet of the East 253 feet of the Northwest 1/4 of Section 25, Township 43 South, Range 42 East, Palm County, Florida, Less Right-of-Way and more fully described as follows:

Commence at the Northeast corner of the Northeast one-quarter (NE 1/4) of said Section 25; thence run South 00°43'36" West along the East line of Northwest one-quarter (NW 1/2) of said Section 25 for a distance of 225.02 feet to a point; thence run North 89°52'06" West along the South line of the North 225.00 feet of the Northwest one-quarter (NW 1/4) of said Section 25 for a distance of 60.01 feet to the Point of Beginning; thence continue North 89°52'06" West for a distance of 193.02 feet to a point; thence run North 00°43'36" East along the West line of the East 253.00 feet of the Northwest one-quarter (NW 1/4) of said Section 25 for a distance of 163.02 to a point on the South right-of-way line of Okeechobee Boulevard; thence North 89°52'06" East along said Right-of-Way line for a distance of 157.02 feet; thence South 44°42'43" East for a distance of 49.12 feet to a point

on the West Right-of-Way line of Military Trail; thence run South 00°16'44" West along said Right-of-Way line for a distance of 128.02 feet to the Point of Beginning. Containing 30,751 square feet.

All of said lands situate, lying and being in the City of West Palm Beach, Palm Beach County, Florida and containing 1,222,421 square feet or 28.0629 acres more or less.

EXHIBIT B

VICINITY SKETCH

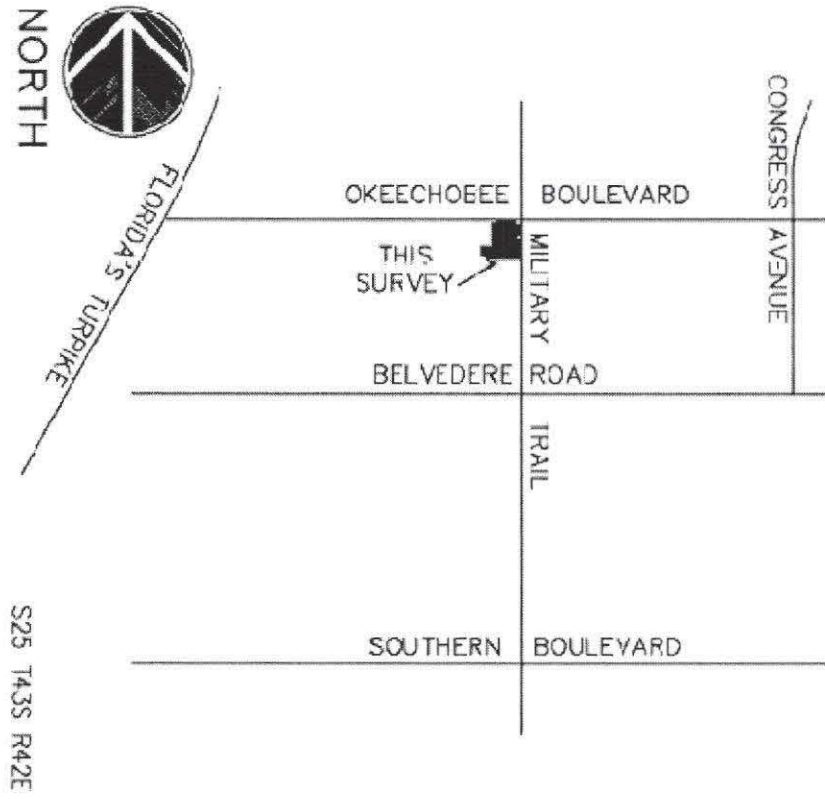


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-1758, Control No.1978-00273, which currently states:

All previous Conditions of Approval applicable to the subject property as contained in Resolution 2006-0913 (DOA 2005-1727) Control No. 1978-00273 have been consolidated as contained herein. The Property Owner/applicant shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property as contained in Resolution R-2006-0913 and Resolution R-2013-1758 (Control No. 1978-00273) have been consolidated as contained herein. The Property Owner/applicant shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-1758, Control No.1978-00273, which currently states:

The Approved Preliminary Site Plan is dated August 15, 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 Plan is dated December 28, 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)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2013-1758, Control No.1978-00273, which currently states:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type II Restaurant shall be submitted for 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 June 19, 2013. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

Is hereby amended to read:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type II Restaurant (Building 3) shall be submitted for 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 June 19, 2013. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

2. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the General Retail use (Building 1) shall be submitted for 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 23, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (ONGOING: ZONING - Zoning)

3. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type II Restaurant (Building 2), shall be submitted for 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 23, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (ONGOING: ZONING - Zoning)

4. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type I Restaurant (Building 8) shall be submitted for 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 23, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2013-1758, Control No.1978-00273, which currently states:

Prior to issuance of a Building Permit for enclosed building square footage, the Property Owner shall legally create the lot in accordance with Article 11 of the Unified Land Development Code.

Is hereby amended to read:

Prior to October 31, 2017, the Property Owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG/PMT/DATE/ONGOING: MONITORING - Engineering)

2. The Property Owner shall provide a wheelchair ramp in the curb when constructing the curb and sidewalk at the south-east corner of Military Trail and Okeechobee Boulevard. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-1758, Control No.1978-00273)

3. The Property Owner shall place Restrictive Covenant on the property to insure auto facility will post signs and stripe the sidewalk on their entrance by September 1, or prior to building permit of sales office, whichever is first. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2013-1758, Control No.1978-00273)

4. The Property Owner shall construct sidewalks and curb gutters along Military Trail and Okeechobee Boulevard. (ONGOING/VEG/PMT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-1758, Control

No.1978-00273)

5. The Property Owner shall convey the twenty-five (25) foot safe corner to the County at the intersection of Military Trail and Okeechobee Boulevard. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2013-1758, Control No.1978-00273)

6. Property Owner shall construct sidewalk along Military Trail. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2013-1758, Control No.1978-00273)

7. Within ninety (90) days off Special Exception approval, Property Owner shall convey to Palm Beach County forty (40) feet from existing centerline for Elmhurst Road right-of-way. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2013-1758, Control No.1978-00273)

8. Within ninety (90) days off Special Exception approval, Property Owner shall convey to Palm Beach County an additional seven (7) feet of right-of-way, and further reserve a maximum of another nine (9) feet for the ultimate right-of-way for Military Trail, as approved by the County Engineer. The petitioner has agreed to waive compensation for the reserved right-of-way area and any improvements thereon. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2013-1758, Control No.1978-00273)

9. Property Owner shall construct Elmhurst Road from Military Trail westerly to the west property line to County Standards. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2013-1758, Control No.1978-00273)

10. Property Owner shall construct an additional travel lane for both eastbound and westbound traffic on Okeechobee Boulevard from Military Trail to west property line. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2013-1758, Control No.1978-00273)

11. Property Owner shall extend right turn lane, east approach, at the intersection of Okeechobee Boulevard and Military Trail easterly to the intersection with Zip Code Place. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 11 of Resolution R-2013-1758, Control No.1978-00273)

12. Property Owner shall reconstruct and lengthen left turn lane, south approach, at the intersection of Military Trail and Elmhurst Road. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-2013-1758, Control No.1978-00273)

13. Property Owner shall construct left turn lane, east approach, at intersection of Okeechobee Boulevard and west driveway entrance. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 13 of Resolution R-2013-1758, Control No.1978-00273)

14. Unless prevented by factors beyond the control of the Property Owner, the construction of Elmhurst Road, as noted in Engineering Conditions 6 and 9, shall proceed simultaneously with the construction of the proposed shopping center and shall be completed prior to the issuance of any Certificate of Occupancy. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 14 of Resolution R-2013-1758, Control No.1978-00273)

15. Prior to issuance of a building permit, the Property Owner shall convey a temporary roadway construction easement along Elmhurst Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDGPM: MONITORING -

Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 15 of Resolution R-2013-1758, Control No.1978-00273)

16. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. Building Permits for the proposed 4,222 square foot bank shall not be issued after January 1, 2008. 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. (BLDGPMT/DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 16 of Resolution R-2013-1758, Control No.1978-00273)

17. Previous ENGINEERING Condition 17 of Resolution R-2013-1758, Control No.1978-00273, 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. Building Permits for the proposed 7,516 square foot Type II Restaurant shall not be issued after December 31, 2014. 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 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. (BLDGPMT/DATE: MONITORING - Engineering)

18. Landscape Within the Median of Okeechobee Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting rights of way of both Okeechobee Boulevard and Military Trail. 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 the 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: MONITORING - Engineering)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

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

d. At the 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 - Engineering) [Note: COMPLETED]

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 beatification 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 both Okeechobee Boulevard and Military Trail. 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. (BLDGPMT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 18 of Resolution R-2013-1758, Control No.1978-00273)

19. Prior to recordation of the plat, the Property Owner shall obtain a release for the right of way reservation for Military Trail. (PLAT: MONITORING - Engineering)

20. Prior to December 31, 2016, the Property Owner shall obtain a removal agreement for the sign in the southeast corner of the property in FDOT right of way. (DATE: MONITORING - Engineering)

21. Prior to December 31, 2016, the Property Owner shall obtain a removal agreement for the wall along the south project limits where the wall encroaches into the County's right of way. (DATE: MONITORING - Engineering)

22. The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for Elmhurst Road, additional right of way along the south property, as approved by the County Engineer and as shown on the Site Plan.

All right of way deed(s) and associated documents shall be provided and approved when requested by the County Engineer. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. 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, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-rata. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (ONGOING: ENGINEERING - Engineering)

23. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Okeechobee Boulevard and Military Trail, additional right of way along the north and east property lines, as approved by the County Engineer and as shown on the Site Plan on an alignment approved by the FDOT or County Engineer.

All right of way deed(s) and associated documents shall be provided and approved when requested by the County Engineer. Right of way conveyance shall be along the project's

entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (ONGOING: ENGINEERING - Engineering)

LANDSCAPE - GENERAL-STANDARD

1. Prior to issuance of the Certificate of Occupancy for the fitness center, (Building 9) all dead, missing or damaged plant materials in the entire shopping center shall be replaced. Landscape shall be installed pursuant to planting plans prepared by Winston Lee & Associates, Inc. dated April 16, 2002. (CO: ZONING - Zoning) [Note: COMPLETED] (Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2006-913, Control No. 1978-00273)

2. All cabbage palms of desirable size and condition shall be relocated and used as landscape material for this project. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 3 of Resolution R-2006-913, Control No. 1978-00273)

3. All oak trees and specimen trees located in areas where parking spaces can be eliminated shall be preserved in place. Those trees of too large a size to be moved and which are located in proposed driveways and building sites, however, may be removed upon approval of the Urban Forester. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 4 of Resolution R-2006-913, Control No. 1978-00273)

4. Pine trees located within proposed median strips five (5) feet or wider, exclusive off required parking overhang areas, shall be preserved in place. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 5 of Resolution R-2006-913, Control No. 1978-00273)

5. Previous ZONING - LANDSCAPING Condition 7 of Resolution R-2006-913, Control No. 1978-00273, which currently states:

All palms required to be planted on the property by this approval (Petition 1978-273B) shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements.

Is hereby amended to read:

All palms required to be planted on the subject site shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;

- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated trees provided they meet Unified Land Development Code (ULDC) requirements. (ONGOING: ZONING - Zoning)

6. Previous ZONING - LANDSCAPING Condition 8 of Resolution R-2006-913, Control No.1978-00273, which currently states:

All shrub or hedge materials required to be planted on the subject site shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches groundcover and small shrub;
- b. twenty-four (24) to thirty-six (36) inches medium shrub; and
- c. forty-eight (48) to seventy-two (72) inches large shrub. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Code Requirement]

7. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 9 of Resolution R-2006-913, Control No.1978-00273)

8. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 10 of Resolution R-2006-913, Control No.1978-00273)

9. Fifty (50) percent of canopy trees to be planted in the perimeter landscape buffers shall meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Credit may be given for existing or relocated trees provided they meet Unified Land Development Code (ULDC) requirements. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 6 of Resolution R-2006-913, Control No.1978-00273)

LANDSCAPE - INTERIOR

10. Landscaping along the interior driveway (western access point off Elmhurst Road) shall be upgraded to provide the following:

- a. within the existing landscape medians (approximately the south 130 linear feet of the median), one (1) flowering tree or canopy tree for each twenty (20) linear feet of the median;
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2006-913, Control No.1978-00273)

LANDSCAPE - INTERIOR

11. Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2006-913, Control No.1978-00273, which currently states:

A divider median shall be provided between each adjacent drive-thru lane as follows:

- a. a minimum width of three (3) feet excluding curb. This median shall extend a minimum distance of five (5) feet beyond the east and west boundaries of the overhead canopy;
- b. the east and west extensions of this median beyond the overhead canopy shall be planted with a palm having a minimum grey wood height of ten (10) feet and appropriate ground cover; and,
- c. the remaining portions of this median lying beneath the overhead canopy shall be surfaced with brick, precast paving block, or other decorative paving surface.

Is hereby amended to read:

A divider median (for the Financial Institution Building 4 shall be provided between each adjacent drive-thru lane as follows:

- a. a minimum width of three (3) feet excluding curb. This median shall extend a minimum distance of five (5) feet beyond the east and west boundaries of the overhead canopy;
- b. the east and west extensions of this median beyond the overhead canopy shall be planted with a palm having a minimum grey wood height of ten (10) feet and appropriate ground cover; and,
- c. the remaining portions of this median lying beneath the overhead canopy shall be surfaced with brick, precast paving block, or other decorative paving surface.

(ONGOING: ZONING - Zoning)

LANDSCAPE - INTERIOR-BUILDING 1

12. In addition to the Code requirements, landscaping for the terminal island located at the intersection of Okeechobee Boulevard and Military Trail shall include:

- a. a minimum of two hundred thirty (230) ground cover plants; and
- b. a minimum of five (5) large shrubs. Large shrubs shall be used for accent plantings.

(BLDGPMPT: ZONING - Zoning)

13. In addition to the Code requirements, landscaping for the terminal islands located east and west of the east access point of Okeechobee Boulevard shall include the following planting for each island:

- a. a minimum of fifty-five (55) ground cover plants. (BLDGPMPT: ZONING - Zoning)

LANDSCAPE - INTERIOR-BUILDING 2

14. In addition to the Code requirements, landscaping for the terminal island located at the northeast corner of parking lot of the Building 2 shall include:

- a. a minimum of one hundred forty-five (145) ground cover plants; and
- b. a minimum of three (3) large shrubs. Large shrubs shall be used for accent planting.

(BLDGPMPT: ZONING - Zoning)

15. In addition to Code requirements, Landscaping for the terminal island located at the southeast corner of the parking lot for Building 2 shall include:

- a. a minimum of seventy-six (76) ground cover plants. (BLDGPMPT: ZONING - Zoning)

LANDSCAPE - INTERIOR-BUILDING 8

16. In addition to the Code requirements, Landscaping for the terminal island located at the intersection of Military Trail and Elmhurst Road (south parking area) shall include:

- a. a minimum of ninety (90) ground cover plants; and
- b. a minimum of three (3) large shrubs. Large shrubs shall be used for accent planting.

(BLDGPMPT: ZONING - Zoning)

LANDSCAPE - PERIMETER

17. Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2006-913, Control No.1978-00273, which currently states:

Petitioner shall construct the six (6) foot high privacy wall shown on plans submitted (Exhibit #7) along the project's entire west property line prior to the issuance of any building permit.(s).

Is hereby amended to read:

The Applicant shall provide a six (6) foot high privacy wall along the project's entire west property line prior to the issuance of any building permits. (BLDGPMPT/ONGOING: BUILDING DIVISION - Zoning)

LANDSCAPE - PERIMETER-ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF ELMHURST ROAD) AFFECTED AREA ONLY

18. Landscaping and buffering along the south property line (affected portion only) shall be upgraded to include:

- a. a minimum of seven (7) foot wide landscape buffer strip pursuant to the Board of Adjustment approval (BA2003-00223);
- b. one (1) native canopy tree for each thirty (30) linear feet of the property line;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. one (1) small shrub for each two (2) linear feet of the property line, and shall be planted on both sides of the existing wall. Shrub shall be a minimum height of eighteen (18) inches at installation. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2006-913, Control No.1978-00273)

LANDSCAPE - PERIMETER-LANDSCAPING IN THE RIGHT-OF-WAY

19. Landscaping for the planting areas in the right-of-way shall include:

- a. a total of one hundred twenty-five (125) ground cover plants for the intersection of Military Trail and Okeechobee Boulevard;
- b. a total of two hundred and forty (240) ground cover plants for the intersection of Military Trail and Elmhurst Road;
- c. a total of two hundred and sixty (260) ground cover plants for the area east of the ingress point of Elmhurst Road; and
- d. A total of five hundred forty (540) ground cover plants for the area along Military Trail east of Building 8.
- e. prior to issuance of building permits, the Property Owner shall obtain a written agreement from applicable Authority indicating shrub planting may occur in the right-of-way of Military Trail and Elmhurst. The Property Owner shall be exempt from this condition without additional public hearing approval if the Property Owner is not able to obtain consent from the applicable Authority of the right-of-ways. (BLDG/PMT/DRO: ZONING - Zoning)

PALM TRAN

1. Prior to Final Approval by the Development Review Officer (DRO), the existing bus shelter, along Military Trail shall be reviewed to determine if modifications can be made to address the Americans with Disabilities Act (ADA) requirements and any safety issues. (ONGOING: PALM-TRAN - Palm-Tran)

PLANNING

1. Prior to final Development Review Officer (DRO) site plan approval, the site plan shall be revised to include notations indicating the existing or proposed/future location of sidewalks along Military Trail, Okeechobee Boulevard, and Elmhurst Road. In addition, the site plan shall include a pedestrian access connection from the fast food parcel in the southwest corner of the site to the existing or proposed/future sidewalk along Elmhurst Road. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2006-913, Control No.1978-00273)

SIGNS

1. Prior to final DRO certification of the site plan, the four (4) freestanding multi-tenant (non-conforming) signs located on Okeechobee Boulevard and Military Trail shall be identified on the site plan as Signs A through D. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SIGNS Condition 1 of Resolution R-2006-913, Control No.1978-00273)

2. Non-conforming signs A through D shall be allowed to be altered as indicated on the drawings prepared by SignCraft Schematics dated April 5, 2002. The existing bases and structural supports of the non-conforming signs shall be utilized. (ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2006-913, Control No.1978-00273)

3. Previous SIGNS Condition 3 of Resolution R-2006-913, Control No. 1978-00273, which currently states:

Non-conforming signs A through D shall be limited to the advertising of a maximum number of twelve (12) tenants per sign. (BLDG. PERMIT BLDG-Zoning) (Previous Condition G.3 of Resolution R-2004-148, Control No. 1978-273) (BLDGPMT: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Can not regulate content of signs.]

4. Previous SIGNS Condition 4 of Resolution R-2006-913, Control No. 1978-00273, which currently states:

Prior to final DRC certification of the site plan, the existing overall dimensions, sign face area, and heights of the four (4) freestanding non-conforming signs A through D shall be submitted in accordance with Condition F.2. (DRC: ZONING Zoning) (Previous Condition G.4 of Resolution R-2004-148, Control No. 1978-273)

Is hereby amended to read:

Prior to final DRC certification of the site plan, the existing overall dimensions, sign face area, and heights of the four (4) freestanding non-conforming signs A through D shall be provided on the Master Sign Program (DRO: ZONING - Zoning)

5. Replacement, relocation or renovation of all other signs shall be in accordance with the ULDC. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 5 of Resolution R-2006-913, Control No. 1978-00273)

UTILITIES

1. The Property Owner shall dedicate the non-exclusive utility easements necessary to provide water utilities services for a proposed building prior to the release of the water meter for the building being serviced. (BLDGPMT/CO: PBC WATER UTILITIES - PBC Water Utilities)

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: ZONING - 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: ZONING - Zoning)

DISCLOSURE

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