

RESOLUTION NO. R-2016- 0827

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2015-02146  
(CONTROL NO. 1977-00041)  
a Development Order Amendment  
APPLICATION OF Cherry Road Plaza LLC, AATC Realty LLC  
BY Jon E Schmidt & Associates, AGENT  
(Cherry Road Plaza MUPD)

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

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/DOA/R-2015-02146 was presented to the Board of County Commissioners at a public hearing conducted on June 23, 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 a 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/DOA/R-2015-02146, the Application of Cherry Road Plaza LLC, AATC Realty LLC, by Jon E Schmidt & Associates, Agent, for a Development Order Amendment to reconfigure the Site Plan, delete square footage and add two Requested Uses, 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 June 23, 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 June 23, 2016.

Filed with the Clerk of the Board of County Commissioners on June 30th, 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 (Overall MUPD Cherry Road Plaza)

The Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida less the right-of-way for State Road 809 (Military Trail) and less the West 130' of the South 150' of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida.

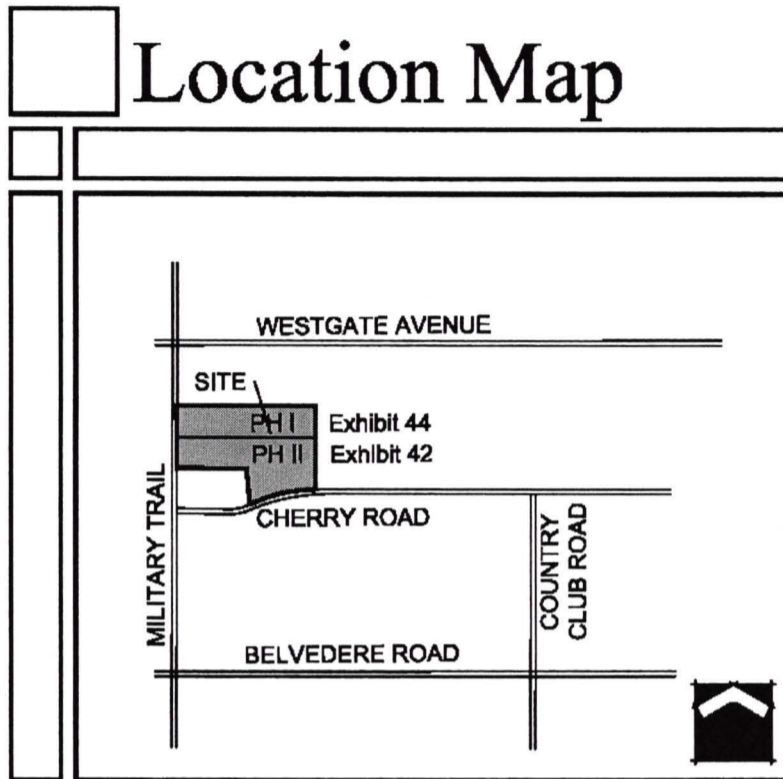
AND

A parcel of land in the Southwest Quarter of the Northwest Quarter of the Southeast Quarter of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows: Beginning at the NE corner of the SW Quarter of the NW Quarter of the SE Quarter of said Section 25, thence westerly along the North line of the SW Quarter of the NW Quarter of the SE Quarter a distance of 369.8 feet, more or less, to a point in a line parallel with and 303 feet easterly from the North-South Quarter Section line of said Section 25; thence southerly along said parallel line a distance of 125.66 feet, more or less, to the northerly right-of-way line of Cherry Road Extension, as shown on map by Palm Beach County Engineer; said point on the North right-of-way line of Cherry Road Extension being in the arc of a curve concave to the North and having a radius of 770 feet; thence easterly along the North right-of-way line of Cherry Road Extension and the arc of said curve a distance of 35.85 feet to a tangent to said curve; thence along said tangent, a distance of 117.62 feet to the P.C. of a curve concave to the South and having a radius of 830 feet; thence continue easterly along the northerly right-of-way line of Cherry Road Extension and the arc of said curve, a distance of 202.81 feet, to the tangent to said curve; thence easterly along the tangent, a distance of 20.15 feet, more or less, to the East line of the SW Quarter of the NW Quarter of the SE Quarter of said Section 25; thence northerly along said East line, a distance of 63.25 feet, more or less, to the POINT OF BEGINNING

Excepting therefrom a 7 foot additional right-of-way for State Road 809 as recorded on Official Record Book 3283, page 1114 through 1117 of the Public Records of Palm Beach County, Florida.

Containing 9.793 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-2002-492, Control No.1977-00041, which currently states:

All previous conditions of approval applicable to the 9.89 acre subject property (Phases 1 and 2), as contained in Resolutions R-77-476 (Petition 77-41) and R-89-584 (Petition 77-41 (A)) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 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-2002-0492 , (Control 1977-00041) 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 ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Development of the site is limited to the uses and site design for Phase 1 as approved by the Board of County Commissioners. The approved master plan for the overall site and site plan for Phase 1 are dated January 14, 2002. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

##### Is hereby amended to read:

Development of the site is limited to the uses and site design for Phase 1 as approved by the Board of County Commissioners. The approved master plan for the overall site and site plan for Phase 1 are dated April 14, 2016. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

3. Prior to site plan certification, the petitioner shall submit a revised legal description of the property, Phase I and Phase II, inclusive. (Previous ALL PETITIONS Condition 3 of Resolution R-2002-492, Control No.1977-00041)

##### ARCHITECTURAL REVIEW-PHASE I

1. At time of submittal for final DRC certification of the site plan, the architectural elevations for all the buildings in Phase 1 shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001. Development shall be consistent with the approved architectural elevations. (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2002-492, Control No.1977-00041)

##### ARCHITECTURAL REVIEW-PHASE 2

2. In order to avoid an incompatible appearance upon adjacent residential areas, the rear facade of the Planned Commercial Development shall be given architectural treatment consistent with the front of the center. (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2002-492, Control No.1977-00041)

##### BUILDING AND SITE DESIGN-PHASE 1



1. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes for Phase 1 shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (Previous BUILDING AND SITE DESIGN Condition 3 of Resolution R-2002-492, Control No.1977-00041)

2. Prior to final DRC certification of the site plan for Phase 1, the petitioner shall provide and meet parking calculation for the entire MUPD. (Previous BUILDING AND SITE DESIGN Condition 4 of Resolution R-2002-492, Control No.1977-00041)

3. Parking spaces for Phase 1 (adjacent to the north property line) which are located on the LWDD easement may count towards the required parking per the Parking, Piping and Paving Agreement between the property owned petitioner and the LWDD. Should this agreement terminate or become invalid, the petitioner shall comply to the development regulations for parking. (Previous BUILDING AND SITE DESIGN Condition 5 of Resolution R-2002-492, Control No.1977-00041)

4. Display areas located on both sides of the access driveway shall be setback approximately fifty (50) feet from the southern edge of the right-of-way (west property line) buffer. Applicable to Phase 1 only. (Previous BUILDING AND SITE DESIGN Condition 6 of Resolution R-2002-492, Control No.1977-00041)

#### **BUILDING AND SITE DESIGN-PHASE 2**

5. All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area. (Previous BUILDING AND SITE DESIGN Condition 7 of Resolution R-2002-492, Control No.1977-00041)

#### **ENGINEERING**

1. Within ninety (90) days of the Special Exception approval the Developer shall convey to Palm Beach County the additional right-of-way required to provide sixty (60) feet from the center-line for the ultimate right of way for Military Trail (S.R. 809). (DATE: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. Developer shall provide a left turn lane at the North approach on Military Trail into the Shopping Center entrance. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2002-492, Control No.1977-00041)

3. Previous ENGINEERING Condition 3 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Developer shall modify the existing left turn lane on Military Trail at Cherry Road to provide adequate storage length. (ONGOING: ENGINEERING - Engineering)

**Is hereby deleted.** [REASON: No longer applicable since the roadway configuration has changed.]

4. Previous ENGINEERING Condition 4 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Prior to the issuance of the Certificate of Occupancy for the 34,600 square foot auto retail center or any portion thereof, the Property Owner shall construct side by side left turn lanes on Cherry Road from Military Trail to the development's east entrance.

a. This construction shall be concurrent with the paving and drainage improvements for the 34,600 square foot auto retail center or any portion thereof. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. (BLDG/PMT/CO: MONITORING - Engineering)

b. Permits required by Palm Beach County for this construction shall be obtained prior to



the issuance of the building permit for 34,600 square foot auto retail center, or any portion thereof, for the site. (BLDG/PMT/CO: MONITORING - Engineering)

c. Construction shall be completed prior to the issuance of the Certificate of Occupancy for the 34,600 square foot auto retail center for the site. (BLDG/PMT/CO: MONITORING - Engineering)

**Is hereby deleted.** [REASON: No longer applicable with the current request.]

5. Condition E-5 deleted by Resolution R-2002-0492. (Previous ENGINEERING Condition 5 of Resolution R-2002-492, Control No.1977-00041)

6. Developer shall align Cherry Road entrance with the approved entrances for Pebb Enterprises Shopping Center on the south side of Cherry Road. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2002-492, Control No.1977-00041)

7. Developer shall redesign the site plan to accommodate the Cherry Road entrance relocation. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2002-492, Control No.1977-00041)

8. Developer shall provide necessary intersection improvements including signing for dual left turn at the east approach on Cherry Road at the intersection with Military Trail when warranted, as determined by the County Engineer. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 8 of Resolution R-2002-492, Control No.1977-00041)

9. Previous ENGINEERING Condition 9 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Cost for improvements in conditions numbers 3 & 4 shall be proportioned between this Developer and the developer of Pebb Enterprises Shopping Center based on traffic volumes. Developer shall pay the entire cost if Pebb Enterprises fails to proceed with their Shopping Center. (ONGOING: ENGINEERING - Engineering)

**Is hereby deleted.** [REASON: No longer applicable with the current request.]

10. Condition E-5 deleted by Resolution R-2002-0492. (Previous ENGINEERING Condition 10 of Resolution R-2002-492, Control No.1977-00041)

11. Condition E-11 deleted by Resolution R-2002-0492. (Previous ENGINEERING Condition 11 of Resolution R-2002-492, Control No.1977-00041)

12. Condition E-12 deleted by Resolution R-2002-0492. (Previous ENGINEERING Condition 12 of Resolution R-2002-492, Control No.1977-00041)

13. Condition E-13 deleted by Resolution R-2002-0492. (Previous ENGINEERING Condition 13 of Resolution R-2002-492, Control No.1977-00041)

14. Prior to October 1, 2002 the Developer of the Greater Yamaha of Palm Beach shall contribute the amount of \$7,245.00 to be used toward the construction of the side by side left turn lane on Cherry Road identified above. This money shall be provided to the County Engineer in the form of a Cash Bond. This cash bond shall then be made available to the Developer of the 34600 square foot auto center at the time of the construction of the required side by side left turn lane. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 14 of Resolution R-2002-492, Control No.1977-00041)

15. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:  
No Building Permits for the site may be issued after December 31, 2019. 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)

16. Prior to issuance of the first building permit, the Property Owner shall reconfigure the entire boundary of the MUPD, plus any residual parcels, into lots of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

17. Prior to DRO approval, the Property Owner shall provide an updated drainage statement that clearly describes the point of legal positive outfall for the MUPD. (DRO: MONITORING - Engineering)

18. Prior to DRO approval, the Property Owner shall revise the site plan to show a five (5) foot wide utility easement along Cherry Road within the Badcock property. (DRO: MONITORING - Engineering)

19. Prior to the issuance of a Building Permit, the Property Owner shall obtain an onsite Drainage Review from the Palm Beach County Engineering Department, Permit Section. The drainage system shall be designed so the fenced in area shall be upstream of the master drainage system. Other areas within the MUPD but outside of the fenced in area shall not drain through the fenced in area. (BLDGPM: MONITORING - Engineering)

## **HEALTH**

1. Previous HEALTH Condition 1 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.

### **Is hereby amended to read:**

Owners and operators of facilities that generate industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department and the agency responsible for sewage works is used. (ONGOING: HEALTH DEPARTMENT - Health Department)

2. Previous HEALTH Condition 2 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Since sewer service is available to the property, a potable water well shall not be approved for use on said property.

### **Is hereby amended to read:**

Since sewer service is available to the property, an onsite sewage treatment and disposal system shall not be approved for use on said property.

3. Since water service is available to the property, a potable water well shall not be approved for use on said property. (Previous HEALTH Condition 3 of Resolution R-2002-492, Control No.1977-00041)

4. Previous HEALTH Condition 4 of Resolution R-2002-492, Control No.1977-00041, which currently states:

Any toxic or hazardous waste, which may be generated at this site, shall be handled and disposed of in accordance with Rule 62-730 FAC. Applicable to Phase I only.



**Is hereby amended to read:**

Any toxic or hazardous waste, which may be generated at this site, for Phase I and Phase II, shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH DEPARTMENT - Health Department)

5. Previous HEALTH Condition 5 of Resolution R-2002-492, Control No.1977-00041, which currently states:

The owner, occupant or tenant of this facility shall participate in an oil-recycling program, which ensures proper re-use or disposal of any waste oil.Applicable to Phase 1 only.

**Is hereby amended to read:**

The owner, occupant or tenant of this facility shall participate in an oil-recycling program, which ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH DEPARTMENT - Health Department)

**LANDSCAPE - INTERIOR-PHASE 1**

1. Foundation planting or grade level planters shall be provided adjacent to the display area for the front facade of the principal structure, and to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1 ) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRO: ZONING - Zoning) (Previous LANDSCAPE - INTERIOR Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. Along both sides of the main access driveway, a planting strip of a minimum of 100 feet in length shall be provided and with the following planting treatment:

- a. a minimum of five (5) palms (Royal or Medjool); and,
- b. a minimum of five (5) flowering trees. (CO: ZONING - Zoning) (Previous LANDSCAPE - INTERIOR Condition 2 of Resolution R-2002-492, Control No.1977-00041)

**LANDSCAPE - PERIMETER ALONG THE NORTH 105 FEET OF THE EAST PROPERTY LINE (ABUTTING KINGS ACADEMY) PHASE 1**

3. A minimum of five (5) foot wide compatibility landscape buffer shall be provided along the remaining portion of the site. (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2002-492, Control No.1977-00041)

**LANDSCAPE - PERIMETER ALONG THE REMAINING PORTION OF THE EAST PROPERTY LINE (ABUTTING KINGS ACADEMY)**

4. Prior to final certification of the site plan, an Alternative Landscape Plan shall be submitted for landscaping along the remaining portion of the east property line and/or any portion of the site where existing vegetation may affect the proposed landscaping. (DRO: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2002-492, Control No.1977-00041)

**LANDSCAPE - PERIMETER ALONG THE REMAINING PORTION OF THE EAST PROPERTY LINE (ABUTTING KINGS ACADEMY) PHASE 1**

5. Prior to final DRC certification, the petitioner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2002-492, Control No.1977-00041)

**LANDSCAPE - PERIMETER ALONG THE WEST PROPERTY LINE (FRONTAGE MILITARY TRAIL) PHASE 1**

6. Landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement



encroachment shall be permitted;

- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) native canopy tree planted for each thirty (30) feet on center;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- e. one (1) small shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
- f. one (1) medium shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation.
- g. one (1) large shrub for each eight (8) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2002-492, Control No.1977-00041)

#### **LANDSCAPE - STANDARD-PHASE 1**

7. Trees to be planted in the right-of-way buffer shall be native canopy trees and shall meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: Seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length;
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (Previous LANDSCAPE - STANDARD Condition 1 of Resolution R-2002-492, Control No.1977-00041)

8. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 2 of Resolution R-2002-492, Control No.1977-00041)

9. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern, except for the five-(5) foot wide compatibility buffer. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 3 of Resolution R-2002-492, Control No.1977-00041)

10. All shrubs shall be planted in overlapping, continuous masses, consisting of a minimum of three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights:

- a. eighteen (18) to twenty-four (24) inches -small shrub;
- b. twenty-four (24) to thirty-six (36) inches - medium shrub; and
- c. forty-eight (48) inches - large shrub. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 4 of Resolution R-2002-492, Control No.1977-00041)

#### **LANDSCAPE - STANDARD-PHASE 2**

11. All sabal palms shall be preserved or relocated on site. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 1 of Resolution R-2002-492, Control No.1977-00041)

12. Additional trees planted to supplement existing and relocated trees shall be native species. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 2 of Resolution R-2002-492, Control No.1977-00041)



13. Petitioner shall install ten (10) foot to twelve (12) foot canopy trees within the perimeter landscape strip. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 3 of Resolution R-2002-492, Control No.1977-00041)

#### **LIGHTING-PHASE 1**

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (Previous LIGHTING Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. All outdoor, freestanding lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point. (Previous LIGHTING Condition 2 of Resolution R-2002-492, Control No.1977-00041)

3. All outdoor lighting shall be extinguished no later than 11 :00 p.m. excluding security lighting only. (Previous LIGHTING Condition 3 of Resolution R-2002-492, Control No.1977-00041)

4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (Previous LIGHTING Condition 4 of Resolution R-2002-492, Control No.1977-00041)

#### **PLANNED DEVELOPMENT-PHASE 1**

1. To ensure consistency with the site plan dated January 14, 2002 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage for Phase 1 or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered except to comply with a condition of approval. (ONGOING: ZONING - Zoning) (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2002-492, Control No.1977-00041)

#### **SIGNS-PHASE 1**

1. Freestanding point of purchase signs fronting on Military Trail shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side - 100 square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only;
- e. location - forty-five (45) feet north of the access drive. Distance shall be measured from the centerline of the access drive;
- f. signs shall be limited to identification of tenants only. (BLDG/PMT/DRO: ZONING - Zoning) (Previous SIGNS Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. Wall signs shall be limited to north, south and west facades of the building and individual lettering size shall be limited to thirty-six (36) inches high for the west facade, and thirty (30) inches for the north and south facades. Wall signs shall be limited to only identification of tenants only. (BLDG/PMT/DRO: ZONING - Zoning) (Previous SIGNS Condition 2 of Resolution R-2002-492, Control No.1977-00041)

#### **USE LIMITATIONS-PHASES 1 AND 2**

1. The furniture store located on the southern 5.90 acres shall not be changed to another use which requires more parking spaces, without an amendment to the Special Exception through the Board of County Commissioners. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. No stock loading or dumpster pickup will be permitted between the hours of 8:00 P.M. and 8:00 AM. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2002-492, Control No.1977-00041)

3. No storage or placement of any stock materials, refuse, equipment or accumulated debris shall be permitted in the rear of the Planned Commercial Development. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2002-492,



Control No.1977-00041)

4. No off-premises, or billboard-style, signs shall be permitted on the site. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 5 of Resolution R-2002-492, Control No.1977-00041)

#### **USE LIMITATION - PHASE 1**

1. Total gross floor area shall be limited to a maximum of 40,970 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. (Applicable to Phase 1 only) (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2002-492, Control No.1977-00041)

#### **VEHICLE SALES OR RENTAL-PHASE 1**

1. No advertising flags, foreign flags, pennants, banners, streamers, balloons, objects, gimmicks or similar signs designed to attract the attention of the general public shall be permitted outdoors on any building, vehicle or wall. (Previous VEHICLE SALES OR RENTAL Condition 1 of Resolution R-2002-492, Control No.1977-00041)

2. An automatic car wash facility, if provided, shall utilize a 100% water recycling system. (ONGOING: ZONING - Zoning) (Previous VEHICLE SALES OR RENTAL Condition 2 of Resolution R-2002-492, Control No.1977-00041)

3. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: ZONING - Zoning) (Previous VEHICLE SALES OR RENTAL Condition 3 of Resolution R-2002-492, Control No.1977-00041)

4. Outdoor storage of disassembled vehicles or parts shall not be permitted on site. (ONGOING: ZONING - Zoning) (Previous VEHICLE SALES OR RENTAL Condition 4 of Resolution R-2002-492, Control No.1977-00041)

5. There shall be no outdoor repair of vehicles on site. (ONGOING: ZONING - Zoning) (Previous VEHICLE SALES OR RENTAL Condition 5 of Resolution R-2002-492, Control No.1977-00041)

6. All parking spaces required for employee and customer parking shall be identified by appropriate signage and separated from display and inventory storage spaces. (ONGOING: ZONING - Zoning) (Previous VEHICLE SALES OR RENTAL Condition 6 of Resolution R-2002-492, Control No.1977-00041)

#### **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.