



VILLAGE OF PALMETTO BAY NOTICE OF ZONING PUBLIC HEARING

The Village of Palmetto Bay shall conduct a zoning hearing on Monday, October 17, 2016, at 7:00 p.m. Discussion and public input will be welcomed concerning the following hearing items which may be of interest to your immediate neighborhood.

The following item is being considered pursuant to Divisions 30-30.5 and 30-50.17 of the Village's Land Development Code:

Applicant: **Brandsmart USA of South Dade, Inc.** **(VPB-16-011)**

Folio: 33-5028-025-0010

Location: 16025 and 16051 South Dixie Highway

Zoned: Business District - Special (B-2).

Request: Modification of an approved site plan eliminating the buffer along the south property line to allow an internal drive lane connection for the adjacent property to the south.

PLANS ARE ON FILE FOR THE ABOVE APPLICATION AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED AT THE PUBLIC HEARING.

The hearing shall be held at the Council Chambers located within Village Hall, 9705 East Hibiscus Street, Palmetto Bay, FL 33157. Any meeting may be opened and/or continued. Under such circumstances, additional legal notice would not be provided. Any person may contact Village Hall at (305) 259-1234 for additional information.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation (or hearing impaired) to participate in this proceeding or to review any documents relative thereto should contact the Village for assistance at (305) 259-1234 no later than four (4) days prior to the proceedings.

**VILLAGE OF PALMETTO BAY
NOTICE OF PUBLIC HEARING**

HEARING NUMBER: VPB-16-011

APPLICANT NAME: Brandsmart USA of South Dade, Inc.

FOLIO: 33-5028-025-0010

ZONED: B-2

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PLANS ARE ON FILE AND MAY BE EXAMINED IN THE DEPARTMENT OF PLANNING AND ZONING AT VILLAGE HALL. PLANS MAY BE MODIFIED BEFORE AND DURING THE PUBLIC HEARING.

A PUBLIC HEARING WILL BE HELD MONDAY, OCTOBER 17, 2016, AT 7:00 PM AT THE COUNCIL CHAMBERS LOCATED WITHIN VILLAGE HALL, 9705 EAST HIBISCUS STREET, PALMETTO BAY, FL 33157.

YOU ARE NOT REQUIRED TO RESPOND TO THIS NOTICE. However, objections or waivers of objection may be made in person at the hearing or filed in writing prior to the hearing date with the Department of Planning and Zoning. Any meeting may be opened and continued, and under such circumstances, additional legal notice would be provided. Any person may contact Village Hall at (305) 259-1234 for additional information. Please call the Village Clerk for ADA needs (or hearing impaired) no later than four (4) days prior to the proceedings.

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PUBLIC NOTICE



PURPOSE:



NOTICE TO THE PUBLIC
REGARDING THE
CONSTRUCTION OF
A NEW
ROADWAY
IN THE
AREA OF
THE
ROADWAY
IN THE
AREA OF
THE
ROADWAY

**BrandsMart
U.S.A.**

Marshalls

LA FITNESS



RESOLUTION

BRANDSMART USA OF SOUTH DADE COUNTY, INC.

VPB-16-011

1 RESOLUTION NO. _____
2

3 ZONING APPLICATION VPB-16-011
4

5 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
6 VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ZONING;
7 APPROVING BRANDSMART USA OF SOUTH DADE COUNTY, INC.'S
8 SITE PLAN MODIFICATION REQUEST FOR THE PROPERTY
9 LOCATED AT 16025 AND 16051 SOUTH DIXIE HIGHWAY BEARING
10 FOLIO NUMBER 33-5028-025-0010; AND PROVIDING AN EFFECTIVE
11 DATE.
12

13
14 WHEREAS, the Applicant, Brandsmart USA of Dade County Inc., made an application for
15 a site plan modification, which plan was previously approved pursuant to Zoning Resolution No Z-
16 6-69, and a site plan which was approved in 1999; and
17

18 WHEREAS, the Village Council of the Village of Palmetto Bay conducted a quasi-judicial
19 hearing on the application at Village Hall, 9705 East Hibiscus Street on October 17, 2016; and
20

21 WHEREAS, the Mayor and Village Council finds, based on substantial competent evidence
22 in the record, that the application for the site plan modification is consistent with the Village of
23 Palmetto Bay Comprehensive Plan and the applicable Land Development Regulations; and
24

25 WHEREAS, based on the foregoing finding, the Mayor and Village Council determined to
26 grant the application, as provided in this resolution.
27

28 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
29 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
30

31 Section 1. A public hearing on the present applications was held on October 17, 2016,
32 in accordance with the Village's "Quasi-judicial Hearing Procedures". Pursuant to the testimony and
33 evidence presented during the hearing, the Village Council makes the following findings of fact,
34 conclusions of law and final order.
35
36

1 Section 2. Findings of fact.

2
3 1. The requested site plan modification is consistent with the Village's Comprehensive
4 Plan, as further specified in the Analysis Section of the Village's Staff report.

5
6 2. The rules that govern the conditions upon which such uses are permitted to be
7 configured and operated are principally at Section 30-30.5 Site Plan Approval, Section 30-50.17, B-2
8 Business District, and Division 30-100, Environmental Regulations, of the Village's Land
9 Development Code. A review of the Code, as evidenced in the analysis of staff, which is
10 incorporated by reference into this resolution, and after hearing the applicant and applicant's
11 experts, the Village Council found the site plan modification request consistent with those standards.

12
13 3. The Village Council accepted the findings of Village Staff as it relates to compliance
14 with the following provisions of the Village's Code: Section 30-30.5, 30-50.17, and 30-100.

15
16 4. The Village adopts and incorporates by reference the Planning & Zoning
17 Department staff report, which expert report is considered competent substantial evidence.

18
19 5. The applicant has agreed to all proposed modifications and conditions in the section
20 entitled Order.

21
22 6. The Village Council had not substantive disclosures regarding ex-parte
23 communications and the applicant raised no objections as to the form or content of any disclosures
24 by the Council.

25
26 Section 3. Conclusions of law.

27
28 The site plan modification for the specific use was reviewed pursuant to Section 30-30.5(j)(1)
29 of the Village of Fairview Bay's Code of Ordinances, and was found to be conditionally consistent.

30
31 Section 4. Order.

32
33 The Village Council grants the site plan modification request as it would be in keeping with the
34 applicable Land Development Regulations with the Village's Comprehensive Plan. The Village
35 Council, pursuant to Section 30-30.5(j)(1) approves the plans entitled "Brandsmart USA Shopping
36 Center" as prepared by Stiles Architectural Group Inc., consisting of 2 sheets, dated stamped
37 received September 22, 2016, with the following conditions:

38
39 1. All previous conditions, approvals, and resolutions shall remain in effect unless
40 otherwise altered by the granting of this request and any conditions assigned therein. The Applicant
41 shall comply with the requirements of all other applicable departments/agencies as part of the
42 building permit submittal process.

1 2. The property is developed in substantial compliance with the plans entitled
2 "Brandsmart USA Shopping Center" as prepared by Stiles Architectural Group Inc., consisting of 2
3 sheets, dated stamped received September 22, 2016.
4

5 3. Shall comply with all comments, recommendations, and project requirements
6 provided by the Department of Public Works in their memo dated September 27, 2016.
7

8 **This is a final order.**

9
10 Section 5. Record.

11
12 The record shall consist of the notice of hearing, the applications, documents submitted by
13 the applicant and the applicants' representatives to the Village of Palmetto Bay Department of
14 Planning and Zoning in connection with the applications, the county recommendation and attached
15 cover sheet and documents, the testimony of sworn witnesses and documents presented at the
16 quasi-judicial hearing, and the tape and minutes of the hearing. The record shall be maintained by
17 the Village Clerk.
18

19 Section 6. This resolution shall take effect immediately upon approval.
20

21 PASSED and ADOPTED this ____ day of October, 2016.
22
23

24
25 Attest: _____
26 Missy Arocha
27 Village Clerk

Eugene Flinn
Mayor

28
29 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
30 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY ONLY:
31

32 _____
33 Dexter W. Lehtinen
34 Village Attorney

35
36 FINAL VOTE AT ADOPTION:

37
38 Council Member Karyn Cunningham _____

39
40 Council Member Tim Schaffer _____

41
42 Council Member Larissa Siegel Lara _____

43
44 Vice-Mayor John DuBois _____
45

1 Mayor Eugene Flinn _____

2

3

4 This Resolution was filed in the Office of the Village Clerk on this ____ day of _____, 2016.

5

6

7

8 _____

9 Missy Arocha

10 Village Clerk

APPLICATION

BRANDSMART USA OF SOUTH DADE COUNTY, INC.

VPB-16-011



ZONING HEARING (ZH) APPLICATION
Village of Palmetto Bay, Department of Planning and Zoning

LIST ALL FOLIO #S: 33-5028-025-0010 Date Received _____

1. NAME OF APPLICANT (Owner(s) of record of the property or lessee. If applicant is a lessee, an executed 'Owner's Sworn-to-Consent' and copy of a valid lease for 1 year or more is required. If the applicant is a corporation, trust, partnership, or like entity, a "Disclosure of Interest" is required).

Brandsmart USA of South Dade, Inc.

2. APPLICANT'S MAILING ADDRESS, TELEPHONE NUMBER:

Mailing Address: 3200 S.W. 42nd Street
City: Hollywood State: Florida Zip: 33312 Phone#: _____

3. OWNER'S NAME, MAILING ADDRESS, TELEPHONE NUMBER:

Owner's Name (Provide name of ALL owners): _____
City: _____ State: _____ Zip: _____ Phone#: _____

4. CONTACT PERSON'S INFORMATION:

Name: Richard A. Wood Company: Fowler White Burnett
City: Miami State: FL Zip: 33131 Cell Phone#: _____
Phone: 305-789-9251 Fax #: 305-728-7551 Email: RWood@fowler-white.com

5. LEGAL DESCRIPTION OF ALL PROPERTY COVERED BY THE APPLICATION

(Provide complete legal description, i.e., lot, block, subdivision name, plat book & page number, or metes and bounds. Include section, township, range. If the application contains multiple rezoning requests, a legal description for each requested zone must be provided. Attach separate sheets as needed and clearly label (identify) each legal description attached. In addition to paper version it is requested that lengthy metes and bounds descriptions be provided on diskette or compact disc in Microsoft Word or compatible software.)

Tract "A" of "The Treasury Subdivision - No. 5023" according to the plat thereof, as recorded in Plat Book 95, at Page 25 of the Public Records of Miami-Dade County, Florida

6. ADDRESS OR LOCATION OF PROPERTY (For location, use description such as NE corner of, etc.)

16025 and 16051 South Dixie Highway
Palmetto Bay, Florida

7. SIZE OF PROPERTY (in acres): 18.229 (divide total sq. ft. by 43,560 to obtain acreage)

8. DATE property acquired leased: April 1999 9. Lease term: N/A years
(month & year)

10. IS CONTIGUOUS PROPERTY OWNED BY THE SUBJECT PROPERTY OWNER(S)? NO YES
If yes, provide complete legal description of said contiguous property.
N/A

11. Is there an option to purchase or lease the subject property or property contiguous thereto?
 NO YES (If yes, identify potential purchaser or lessee and complete 'Disclosure of Interest' form)

12. PRESENT ZONING CLASSIFICATION: B-2

13. APPLICATION REQUESTS (Check all that apply and describe nature of the request in space provided)

- District Boundary (zone) Changes [Zone(s) requested]: _____
(Provide a separate legal description for each zone requested)
- Unusual Use: _____
- Use Variance: _____
- Non-Use Variance: _____
- Alternative Site Development: Option: _____
- Special Exception: _____
- Modification of previous resolution/plan: Resolution 4-2AB-229-91; Plan Revised 6-5-91
- Modification of Declaration of Covenant: _____

14. Has a public hearing been held on this property within the eighteen (18) months? NO YES
If yes, provide applicant's name, date, purpose and result of hearing, and resolution number:
N/A

15. Is this application a result of a violation notice? NO YES (If yes, give name to whom the violation notice was served; and describe the violation: N/A)

16. Describe structures on the property: Brandsmart Store; Marshalls Store; LA Fitness Gym, Burger King Restaurant, Enterprise Rent-A-Car; Shell Gas Station - 4 Building structures totalling 251,016 Sq. Ft of construction.

17. Is there any existing use on the property? NO YES (If yes, what use and when established?
Big Box Retail; Fast Food Restaurant; Gasoline Service Station; Rent-A-Car
Use: _____ Year: 1972

Planning Staff Use Only

| | | |
|-------------|--------------------------|------|
| Base Fee | Reviewed and Accepted By | Date |
| Receipt No. | Deemed Complete By | Date |

APPLICANT'S AFFIDAVIT

The Undersigned, first being duly sworn depose that all answers to the questions in this application, and all supplementary documents made a part of the application are honest and true to the best of (my)(our) knowledge and belief. (I)(We) understand this application must be complete and accurate before the application can be submitted and the hearing advertised.

OWNER OR TENANT AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am) (we are)
owner tenant of the property described and which is the subject matter of the proposed hearing.

Signature _____ Signature _____
Sworn to and subscribed to before me this ___ day of _____, 20__ Notary Public: _____
Commission Expires: _____

K Signature

CORPORATION AFFIDAVIT

(I)(WE), Larry Siraovite, being first duly sworn, depose and say that (I am) (we are)
the owner tenant of the property described herein and which is the subject matter of the proposed hearing.

Attest: _____

(Corporate Seal)
Richard A. Wood

Sworn to and subscribed to before me this 25 day of July, 2016.

Authorized Signature _____
Office Held _____
Notary Public: _____
Commission Expires: _____
RICHARD A. WOOD
Notary Public - State of Florida
Commission # FF 225838
My Comm. Expires Jun 2, 2019
Bonded through National Notary Assn.

PARTNERSHIP AFFIDAVIT

(I)(WE), _____, being first duly sworn, depose and say that (I am) (we are)
partners of the hereinafter named partnership, and as such, have been authorized to file this application for a public hearing; and that said partnership is the owner tenant of the property described herein which is the subject matter of the proposed hearing.

By _____ % By _____ %
By _____ % By _____ %

Sworn to and subscribed to before me this ___ day of _____, 20__ Notary Public: _____
Commission Expires: _____

ATTORNEY AFFIDAVIT

I, _____, being first duly sworn, depose and say that I am a State of Florida Attorney at Law, and I am Attorney for the Owner of the property described and which is the subject matter of the proposed hearing.

Signature _____

Sworn to and subscribed to before me this ___ day of _____, 20__ Notary Public: _____
Commission Expires: _____

RESPONSIBILITIES OF THE APPLICANT AFFIDAVIT

I AM AWARE THAT:

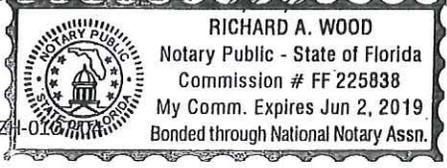
- 1. The Public Works Department, the Department of Environmental Resources Management (DERM), and other County agencies review and critique zoning hearing applications which may affect the scheduling and outcome of my hearing. These reviews may require additional hearings before DERM's Environmental Quality Control Board (EQCB), or other County boards, and/or the proffering of agreements to be recorded. I am also aware that I must comply promptly with any DERM or Public Works conditions and advise this office in writing if my application will be withdrawn.
2. Filing fees may not be the total cost of a hearing. Some requests require notices to be mailed to property owners up to a mile from the subject property and I am responsible for paying the additional radius mailing costs. In addition to mailing costs, I am responsible for additional fees related to application changes, plan revisions, deferrals, re-advertising, etc., that may be incurred. I understand that fees must be paid promptly. Applicants withdrawn within 60 days of the filing are eligible for a refund of 50% of the hearing fee but after that time hearings withdrawn or returned will be ineligible for a refund. Refunds must be requested in writing.
3. The Florida Building code requirements may affect my ability to obtain a building permit even if my zoning application is approved; and a building permit will probably be required. I am responsible for obtaining any required permits and inspections for all structures and additions proposed, or built without permits. And that a Certificate of Use (C.U.) must be obtained for the use of the property after it has been approved at Zoning Hearing. Failure to obtain the required permits and/or C.U., Certificates of Completion (C.C.) or Certificate of Occupancy (C.O.) will result in enforcement action against any occupant and owner. Submittal of the Zoning Hearing application may not forestall enforcement action against the property.
4. The 3rd District Court of Appeal has ruled that zoning application inconsistent with the Comprehensive Plan (CP) cannot be approved by a zoning board based upon considerations of fundamental fairness. Therefore, I acknowledge that if the hearing request is inconsistent with the CP and I decide to go forward then my hearing request can only be denied or deferred, but not approved.
5. Any covenant to be proffered must be submitted to the Village Attorney, on County form, at least 1 month prior to the hearing date. The covenant will be reviewed and the applicant will be notified if changes or corrections are necessary. Once the covenant is acceptable, the applicant is responsible to submit the executed covenant with a current 'Opinion of Title' within 1 week of the hearing. Village Attorney can advise as to the additional requirements applicable to foreign corporations. Documents submitted to the Village Attorney must carry a cover letter indicating subject matter, application number and hearing date. Village Attorney may be reached at (305) 854-5353.

[Signature] (Applicant's Signature)

KARY SIMON [Signature] (Print Name)

Sworn to and subscribed to before me this 25th day of July, 2016. Affiant is personally known to me or has produced as identification.

(Notary Public) [Signature] My commission expires: 6/2/19



OWNERSHIP AFFIDAVIT
FOR
CORPORATION

STATE OF Florida
COUNTY OF Broward

Public Hearing No. _____

Before me, the undersigned authority, personally appeared Lary Sinowitz
hereinafter the Affiant(s), who being first duly sworn by me, an oath,
deposes and says:

1. Affiant is the president, ^{Executive} vice-president or CEO of the Corporation, with the following address: 3200 S.W. 42nd Street, Hollywood Fl. 33312
2. The Corporation owns the property which is the subject of the proposed hearing.
3. The subject property is legally described as:
TRACT "A" OF THE TREASURY SUBDIVISION - No 5023 according to the Plat thereof as recorded in Plat Book 95 at page 25 of the Public Records of Miami-Dade County, Florida
4. Affiant is legally authorized to file this application for public hearing.
5. Affiant understands this affidavit is subject to the penalties of law for perjury and the possibility of voiding of any zoning granted at public hearing.

Witnesses:

Richard A. Wood
Signature

Richard A. Wood
Print Name

Signature

Print Name

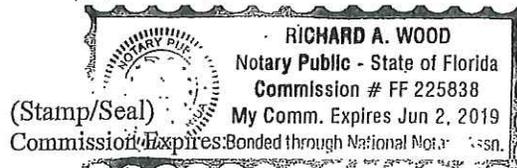
Lary Sinowitz
Affiant's Signature

Lary Sinowitz
Print Name

Sworn to and subscribed before me on the 25th day of July, 2016.

Affiant is personally known to me or has produced _____ as identification.

Richard A. Wood
Notary



DISCLOSURE OF INTEREST

If a CORPORATION owns or leases the subject property, list principal stockholders and percent of stock owned by each. [Note: Where principal officers or stockholders consist of other corporation(s), trust(s), partnership(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

CORPORATION NAME: BRANDSMACT U.S.A. OF SOUTH DADE, INC.

| <u>NAME AND ADDRESS</u> | <u>Percentage of Stock</u> |
|---------------------------------------|----------------------------|
| <u>Robert Pearlman</u> | <u>100%</u> |
| <u>Michael Pearlman</u> | |
| <u>3200 SW 42ND STREET</u> | |
| <u>HOLLYWOOD FLORIDA 33312</u> | |

If a TRUST or ESTATE owns or leases the subject property, list the trust beneficiaries and the percent of interest held by each. [Note: Where beneficiaries are other than natural persons, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

TRUST/ESTATE NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percentage of Stock</u> |
|-------------------------|----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If a PARTNERSHIP owns or leases the subject property, list the principals including general and limited partners. [Note: Where the partner(s) consist of another partnership(s), corporation(s), trust(s) or other similar entities, further disclosure shall be made to identify the natural persons having the ultimate ownership interest].

PARTNERSHIP OR LIMITED PARTNERSHIP NAME: _____

| <u>NAME AND ADDRESS</u> | <u>Percentage of Stock</u> |
|-------------------------|----------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

If there is a CONTRACT FOR PURCHASE, by a Corporation, Trust or Partnership list purchasers below, including principal officers, stockholders, beneficiaries or partners. [Note: Where principal officers, stockholders, beneficiaries or partners consist of other corporations, trusts, partnerships or other similar entities, further disclosure shall be made to identify natural persons having the ultimate ownership interests].



GUNSTER
FLORIDA'S LAW FIRM FOR BUSINESS

Writer's Direct Dial Number: (305) 376-6016
Writer's E-Mail Address: sferro@gunster.com

August 10, 2016

Mr. Darby Delsalle
Director
Planning and Zoning department
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157

Letter of Intent

Re: Application by Brandsmart USA of South Dade, Inc. for modification of prior approved site plan and resolutions on property located at 16025 and 16051 South Dixie Highway, Palmetto Bay, Florida.

Dear Director Delsalle:

Our office has been authorized by Brandsmart USA of South Dade, Inc., a Florida corporation ("Applicant"), to submit an application for public hearing relating to property owned by Applicant located at 16025 and 16051 South Dixie Highway, Palmetto Bay, Florida ("Property").

This Letter of Intent is a part of, and supplements, that certain application of even date filed by Applicant ("Application") requesting modification of a condition in two prior resolutions and modification of a 1999 site plan ("1999 Site Plan") for the Property approved under Miami-Dade County's Substantial Compliance approval process (attached hereto as Exhibit A).

Together with the Application Applicant has submitted a proposed site plan entitled "Site Modification to BRANDSMART USA SHOPPING CENTER, 16025-16051 South Dixie Hwy, and Village of Palmetto Bay, FL 33157", prepared by STILES Architectural Group, and dated 6/28/16, consisting of 2 pages ("Proposed Site Plan").

The 1999 Site Plan was based on public hearing approvals granted under Resolution No. Z-6-69 ("1969 Resolution") and Resolution No. 4-ZAB-229-91 ("1991 Resolution"), attached hereto as Exhibits B and C, respectively.

Mr. Darby Delsalle
August 10, 2016
Page 2

The 1969 Resolution also approved a site plan for a JCPenney department store ("JCPenney Site Plan"), with 3 conditions, on the Property. A copy of the JCPenney Site Plan is attached hereto as Exhibit D.

Specifically, Condition #3 of the 1969 Resolution reads as follows:

That the development be substantially in accordance with the plan submitted, except that a decorative wall be erected 10' in from the south property line and said 10' strip to be landscaped including trees, grass and a sprinkler system for proper maintenance and including a combination wall and hedge, intermittently at 10' intervals, set in 25' from the east property line up to the canal (60' from center line of S.W. 92 Avenue) said 25' strip to be landscaped including trees, grass, and a sprinkler system for proper maintenance."

The 1991 Resolution approved a Burger King Restaurant on a portion of the Property as reflected in the approved site plan ("Burger King Site Plan") attached hereto as Exhibit E. The 1991 Resolution also modified Condition #3 of the 1969 Resolution, substituting the above language with the following:

That the development be substantially in accordance with the plan entitled "Existing Planting Plan W/Proposed Burger King Site," as prepared by Bruce Howard & Associates, Inc., last revised 6-5-91 except that a decorative wall be erected 10' in from the south property line and said 10' strip to be landscaped including trees, grass and sprinkler system for proper maintenance, and including a combination wall and hedge, intermittently at 10' intervals, set in 25' from the east property line up to the canal (60' from center line of S.W. 92 Avenue) said 25' strip to be landscaped including trees, grass, and a sprinkler system for proper maintenance."

In addition, the 1991 Resolution approved a non-use variance to permit 12.4% of landscape open space, where 14% was required.

The JCPenney Site Plan and the Burger King Site Plan were amended in 1999 and replaced by the 1999 Site Plan. As referenced above, the 1999 Site Plan was approved under Miami-Dade County's Substantial Compliance approval process.

The Requests

Applicant respectfully requests modification of Condition #3 of the 1969 Resolution, as subsequently modified by the 1999 Resolution, to read as follows:

Mr. Darby Delsalle
August 10, 2016
Page 3

“That the development be substantially in accordance with the plan entitled Site Modification to BRANDSMART USA SHOPPING CENTER, 16025-16051 South Dixie Hwy, Village of Palmetto Bay, FL 33157, prepared by STILES Architectural Group, dated 6/28/16, consisting of 2 pages.”

Purpose of Requests

The purpose of the requests is to delete a buffer along the south boundary line of the Property that is no longer necessary due to a change of use of the property immediately south of the Property (“South Property”).

When the 1969 Resolution and the 1991 Resolution were approved the South Property was zoned residential and Condition #3 of the 1969 Resolution was intended as a buffer between the proposed commercial use being approved on the Property and future residential development on the South Property.

Subsequent to both the 1969 Resolution and the 1991 Resolution the South Property was zoned B-2 under the Village of Palmetto Bay zoning code. The South Property is owned by South Motor Company of Dade County (“South Motor”) and is currently improved with a 3 story parking garage serving BMW, Honda and Mini Cooper new and used car dealerships owned and operated by South Motor.

If the Application is approved Applicant intends to lease a small strip of the Property to South Motor to improve internal circulation.

The Property

Applicant owns and manages the Property, which include the following retail uses:

- Brandsmart USA retail store, 101,065 sq. ft.
- LA Fitness Gym, 55,368 sq. ft.
- Marshall’s retail store/Enterprise Rent-a-car agency, 51,368 sq. ft.
- Burger King Restaurant, 2,926 sq. ft.
- Gasoline service station, 315 sq. ft.

The combined square footage of the improvements on the Property total 211,028 sq. ft.

The Property contains 1,013 parking spaces and, as permitted by the 1991 Resolution, contains 12.5% landscaped open space.

Applicant has been operating from the Property for over 15 years and the commercial center constitutes one of the Village’s most valuable, important and dynamic businesses and commercial properties.

Mr. Darby Delsalle
August 10, 2016
Page 4

The Proposed Site Plan

The Proposed Site Plan does not add or change any of the existing structures on the Property.

The Proposed Site Plan reflects a "new access road", 6'-3" wide and 439'-11' long, running along a portion of the south line of the Property ("Access Road"). The proposed location of the Access Road will require removal of a portion of the buffer established by the 1969 Resolution and the 1991 Site Plan and a decrease of the 12.4% landscaped open space required by the 1991 Resolution. To compensate for the decrease in landscaped open space created by the Access Road Applicant intends to remove 13 parking spaces located on the east side of the Property ("Surplus Parking Spaces"). The current Village of Palmetto Bay zoning code requires 725 parking spaces to serve all existing commercial uses on the Property. After the deletion of the Surplus Parking Spaces the Property will have 1000 parking spaces.

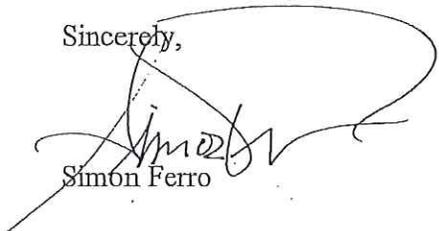
In keeping with the 1991 Resolution the Proposed Site Plan will retain 12.4% landscaped open space, which will be achieved by converting the Surplus Parking Spaces to landscaped open space.

Conclusion

Based on the above justifications Applicant respectfully requests approval of the Application.

Should you need additional information please contact me.

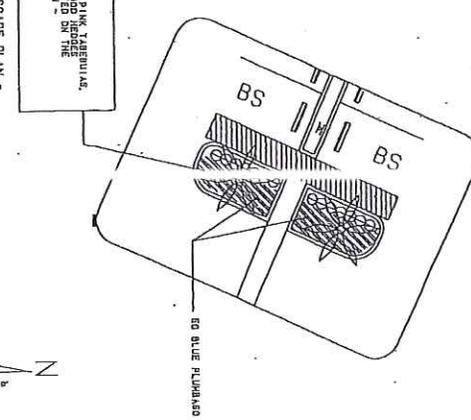
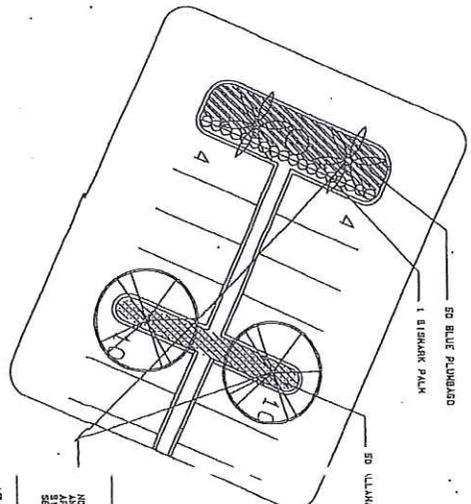
Sincerely,



Simon Ferro

SF/amv

MIA_ACTIVE 4493132.2



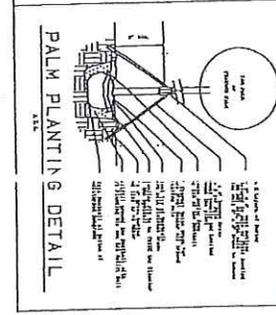
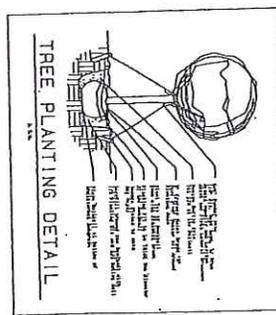
NOTE: ROYAL PALM, PINK TABERNAEMONT, AND SILVER CHERRY ARE TO BE USED IN THE SITE LANDSCAPE PLAN - SEE SHEET L-1

AS PER SITE LANDSCAPE PLAN - THERE ARE 18 ISLANDS OF 50 BLUE PLUMBAGO, 50 BLUE PLUMBAGO TOTAL THERE ARE 18 ISLANDS OF 50 ALLAMANDA, 18 TOTAL.

TYPICAL PLANTINGS FOR PARKING ISLANDS

1" = 10'

SEE SHEET L-1 FOR LOCATIONS



PLAN LIST

| NO. | COMMON NAME | SYMBOL | SPECIFICATION |
|-----|--------------------|--------|--------------------------------------|
| 01 | 50 BLUE PLUMBAGO | BP | 50 BLUE PLUMBAGO, 5' TALL, 1" DIA. |
| 02 | 1 BISMARK PALM | BPAL | 1 BISMARK PALM, 10' TALL, 1" DIA. |
| 03 | 20 ALLAMANDA CHASE | AC | 20 ALLAMANDA CHASE, 5' TALL, 1" DIA. |
| 04 | 50 BLUE PLUMBAGO | BP | 50 BLUE PLUMBAGO, 5' TALL, 1" DIA. |
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| 14 | 1 BISMARK PALM | BPAL | 1 BISMARK PALM, 10' TALL, 1" DIA. |
| 15 | 20 ALLAMANDA CHASE | AC | 20 ALLAMANDA CHASE, 5' TALL, 1" DIA. |
| 16 | 50 BLUE PLUMBAGO | BP | 50 BLUE PLUMBAGO, 5' TALL, 1" DIA. |
| 17 | 1 BISMARK PALM | BPAL | 1 BISMARK PALM, 10' TALL, 1" DIA. |
| 18 | 20 ALLAMANDA CHASE | AC | 20 ALLAMANDA CHASE, 5' TALL, 1" DIA. |

LANDSCAPE LEGEND, NOTES, DETAILS, ETC.

LANDSCAPE LEGEND - CHAPTER 104 - CONSTRUCTION SPECIFICATIONS

THESE SPECIFICATIONS SHALL BE USED FOR THE LANDSCAPE PLANTING AND MAINTENANCE OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

| NO. | SYMBOL | COMMON NAME | SPECIFICATION |
|-----|--------|--------------------|--------------------------------------|
| 01 | BP | 50 BLUE PLUMBAGO | 50 BLUE PLUMBAGO, 5' TALL, 1" DIA. |
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LANDSCAPE NOTES

1. ALL PLANT MATERIAL SHALL BE PROVIDED BY THE CONTRACTOR.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES.

4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES.

5. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING LANDSCAPE FEATURES.

6. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING TREES AND SHRUBS.

7. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING GRASS AND SOIL.

8. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING PAVEMENT AND CURBS.

9. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING LIGHTING AND SIGNAGE.

10. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING FENCES AND WALLS.

11. THE CONTRACTOR SHALL MAINTAIN ALL EXISTING UTILITIES AND STRUCTURES.

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BRANDSMART USA
PROPOSED SOUTH MIAMI FACILITY
WAREHOUSE AND SHOWROOM
MIAMI, FLORIDA.

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MIAMI, FLORIDA.

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