

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Bonnie Miskel, Esq., Ruden, McClosky, et al/ (954) 527-2476

SUBJECT: Ordinance relating to a portion of Parcel A of the Young World Plat Amendment to the Deed Restriction approved in accordance with Ordinance No. 89-1 for the property generally located at 3700 University Drive

AFFECTED DISTRICT: District 2

TITLE OF AGENDA ITEM:

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA AMENDING ORDINANCE 89-1 BY CHANGING EXHIBIT C ATTACHED THERETO TO PROVIDE FOR AN AMENDMENT TO THE USE RESTRICTION ASSOCIATED WITH THE ORIGINAL REZONING APPROVAL, PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The Petitioner is acquiring the automobile dealership located at 3700 University Drive from Morse Operations, Inc. and no longer intends to use the property for automobile sales and services. The owner originally filed an application to rezone Parcel A of the Young World Plat recorded in Plat Book 124, Page 43 of the Public Records of Broward County, Florida ("Property") from B-2 to B-3 zoning. The Town approved the rezoning request pursuant to Ordinance 89-1. Incorporated into the Ordinance was a requirement for a deed restriction to be filed of record restricting the property to automobile sales and service. Additionally, the restriction precludes access to or from Southwest 39th Street, the use of exterior paging horns, and required a six foot masonry wall be constructed along the eastern property line. The Declaration of Restrictions was recorded in Official Records Book 16137, at Page 267 of the Public Records of Broward County, Florida.

On July 3, 1991 the Town approved a modification to the Master Land Use Plan and Declaration of Restrictions to allow for future expansion of the automobile dealership use. The approval is contained in Ordinance No. 91-28 and the Amended Declaration is recorded in Official Records Book 18556, Page 691 of the Public Records of Broward County, Florida ("Amended Declaration"). On April 1, 1998 the Town adopted in accordance with Ordinance No. 98-15 a further amendment to the Master Plan and

approved an Amendment to the Amended Declaration which is recorded in Official Records Book 28180, Page 806 of the Public Records of Broward County, Florida (the "Amendment"). The Amendment provided for the release of the automobile use restriction contained in Paragraph 2 of the Amended Declaration to allow for use of a portion of the Property as a self-storage facility. With the exception of the self-storage facility, all remaining lands within the Property and all other restrictions continue to be applicable to the Property.

Nova Southeastern University is a contract purchaser of the portion of the Property currently being utilized as an automobile dealership ("Subject Property"). Upon closing on the Subject Property, Nova does not intend to utilize the Property for automobile sales and service. As such, they are respectfully requesting that the restriction as to use of the property for automobile sales and service be released. All other restrictions contained in the Amendment continue to remain in full force and effect.

The applicant is requesting that the Town Council find this Second Amendment to the Amendment to the Amended Declaration consistent with the proposed use of the Subject Property.

PREVIOUS ACTIONS: See above.

Attachments: Ordinances 89-1, 91-28, 98-15, Declaration of Restriction recorded in Official Records Book 16137, Page 267, Amended Declaration of Restrictions recorded in Official Records Book 18556, Page 691, Amendment to Amended Declaration of Restrictions recorded in Official Records Book 28180, Page 806, and the proposed Second Amendment to Amended Declaration of Restrictions.

ORDINANCE 2002-___

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING ORDINANCE 89-1 BY CHANGING EXHIBIT C ATTACHED THERETO TO PROVIDE FOR AN AMENDMENT TO THE USE RESTRICTION ASSOCIATED WITH THE ORIGINAL REZONING APPROVAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie on the 4th day of January, 1989, enacted Ordinance 89-1, which Ordinance adopted a Conceptual Master Plan associated with the Planned Business Center District zoning classification of the property described in Exhibit "A" attached hereto and made a part hereof ("Ordinance"); and

WHEREAS, a deed restriction was incorporated into the Ordinance as Exhibit "C" limiting use of the subject property to an automobile dealership (Restriction"); and

WHEREAS, the owner no longer intends to use the subject property for automobile sales and service and requests to amend the Restriction to allow use of the subject property consistent with the existing zoning classification; and

WHEREAS, the Town Council of the Town of Davie finds that the requested amendment is consistent with the intent and purpose of the Code of Ordinances; and

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law; and

WHEREAS, said notice was given and publication made as required by law on December 8, 2002, and a public hearing thereunder was held on December 18, 2002.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. Ordinance 89-1 is modified to delete Exhibit "C" as amended and insert in its place a Second Amendment to the Amended Declaration of Restrictions more particularly described in Exhibit "B" attached hereto and made a part hereof.

SECTION 2. Except as specifically modified herein, Ordinance 89-1 is herein and hereby ratified, reaffirmed and readopted.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS
____ DAY OF DECEMBER, 2002.

MAYOR/COUNCILMEMBER

PASSED ON SECOND READING THIS
____ DAY OF DECEMBER, 2002

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF
DECEMBER, 2002

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel "A", "Young World", according to the Plat thereof, as recorded in Plat Book 124, Page 43, of the Public Records of Broward County, Florida.

Exhibit "A"

Parcel 1 (Fee Estate):

Parcel "A", Young World Plat, according to the Plat thereof, as recorded in Plat Book 124, Page 43, of the Public Records of Broward County, Florida;

LESS AND EXCEPTING a portion of said Parcel "A", as conveyed in Warranty Deed recorded in Official Records Book 28907, Page 846, of the Public Records of Broward County, Florida, as more particularly described as follows:

BEGIN at the most Westerly corner of said Parcel "A"; said point lying on the East right-of-way line of additional thoroughfare dedication of University Drive, as shown on the said Plat of Young World Plat, said POINT OF BEGINNING being on a circular curve, concave Southeasterly and having a radial bearing of North 86 degrees 28' 07" West from the radius point of the following described curve; thence Northeasterly, along a circular curve to the right, having a radius of 5629.58 feet and a central angle of 00 degrees 01' 34" for an arc distance of 2.56 feet to a point of compound curvature; said last described circular curve being along the afore-described East right-of-way line of additional thoroughfare dedication of University Drive; thence Northeasterly, along a circular curve to the right, having a radius of 44.30 feet and a central angle of 57 degrees 11' 51" for an arc distance of 44.22 feet to a point of reverse curvature; thence Northeasterly, along a circular curve to the left, having a radius of 105.70 feet and a central angle of 55 degrees 29' 25" for an arc distance of 102.37 feet to a point of tangency; thence North 05 degrees 15' 53" East for 38.67 feet to a point of curvature; thence Northeasterly, Northerly, and Northwesterly, along a circular curve to the left, having a radius of 70.00 feet and a central angle of 44 degrees 20' 29" for an arc distance of 54.17 feet to a point of tangency; thence North 39 degrees 04' 36" West for 22.56 feet; thence North 88 degrees 06' 10" East for 476.35 feet; thence South 01 degrees 53' 54" East, along the most Easterly line of said Parcel "A" for 627.26 feet; thence South 88 degrees 47' 47" West, along the North right-of-way line of S.W. 39th Street, as shown on said Plat of Young World Plat, for 15.00 feet; thence North 01 degrees 53' 54" West, parallel with the most Easterly Boundary line of said Parcel "A" for 315.02 feet; thence South 88 degrees 47' 47" West for 114.32 feet; thence North 01 degrees 12' 13" West, at right angles to the last and next described courses, for 80.00 feet; thence South 88 degrees 47' 47" West for 405.85 feet to the POINT OF BEGINNING; said last described six courses being coincident with the boundary line of said Parcel "A"; all lying and being in Section 28, Township 50 South, Range 41 East, Town of Davie, Broward County, Florida.

EXHIBIT "B"

**SECOND AMENDMENT TO THE AMENDED
DECLARATION OF RESTRICTIONS**

Return to:

This Instrument Prepared by:

Bonnie Miskel, Esq.
Ruden, McClosky, Smith
Schuster & Russell, P.A.
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SECOND AMENDMENT TO THE AMENDED DECLARATION OF RESTRICTIONS

THIS SECOND AMENDMENT TO THE AMENDED DECLARATION OF RESTRICTIONS ("Amendment") is made as of this ____ day of December, 2002, by MORSE OPERATIONS, INC., a Florida corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that property more particularly described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, on May 8, 1998, Declarant recorded that certain Amendment to Amended Declaration of Restrictions recorded in Official Records Book 28180, Page 806 of the Public Records of Broward County which declaration released a portion of the property subject to the declaration from the restrictions contained in the Amended Declaration recorded on July 12, 1991, and recorded in Official Records Book 18556, at Page 691, of the Public Records of Broward County, Florida to allow a self storage use and continued to restrict the Property to an automobile sales and service use ("Amended Declaration"); and

WHEREAS, the Amended Declaration provides that it can be amended or removed by the Town of Davie by written document of equal formality and dignity with consent of the owner of the Property or its successors or assigns; and

WHEREAS, Declarant no longer intends to use the Property for an automobile use and desires to release the Property from the restrictions contained in the Amended Declaration; and

NOW, THEREFORE, Declarant hereby declares that the Amended Declaration is released as follows:

1. The Property is hereby released of the restrictions contained in the Amended Declaration.
2. All other restrictions contained in the Amended Declaration shall continue to apply to the Property including the following:
 - i. No direct access to or from SW 39th Street will be allowed.
 - ii. Exterior paging horns will not be allowed.

iii. A six foot masonry wall will be constructed between this project's developed areas and the adjacent property to the East.

3. The Second Amendment shall become effective only upon final approval of Ordinance No. 2002-____ beyond any applicable appeal period and recordation of this Second Amendment in the Public Records of Broward County, Florida.

IN WITNESS WHEREOF, this Second Amendment has been executed by Declarant the day and year first above set forth.

Signed, sealed and delivered
In the presence of:
corporation

DECLARANT:
Morse Operations, Inc., a Florida

Signature
Printed Name: _____

By: _____

Title: _____

Signature
Printed Name

Date: _____

Address: _____

(CORPORATE SEAL)

STATE OF FLORIDA)
) SS:
COUNTY OF _____)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by _____, the _____ of MORSE OPERATIONS, INC., a Florida corporation, freely and voluntarily under authority duly vested in him/her by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He/She is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2002.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

IN WITNESS WHEREOF, I have set my hand and seal this _____ day of _____, 2002.

Signed, sealed and delivered
in the presence of:

TOWN OF DAVIE:

Signature
Printed Name: _____

By: _____
Title: Mayor Harry Venis

Signature
Printed Name

STATE OF FLORIDA)
) SS:
COUNTY OF BROWARD)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Harry Venis, the Mayor of the Town of Davie, Florida, freely and voluntarily under authority duly vested in him by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. He is personally known to me or who has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 2002.

Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

89030790

ORDINANCE NO. 89-1

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA,
CHANGING THE CLASSIFICATION OF CERTAIN LANDS
WITHIN THE TOWN OF DAVIE FROM B-2 TO B-3;
AMENDING THE ZONING MAP OF SAID TOWN TO COMPLY
THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the classification of certain lands within said Town be changed from B-2 to B-3; and

WHEREAS, said notice was given and publication made as required by law on November 2, 1988, and a public hearing thereunder was held on November 29, 1988.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the property hereinafter described be and the same is hereby rezoned and changed from B-2 to B-3:

- a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.
- b. Development of the property which is the subject of this Ordinance shall proceed only in conformity with the terms and conditions of the officially approved master land use plan of the development which is attached hereto and made a part hereof as , Exhibit "B".

c. The applicant has agreed to record deed restrictions in the form which is attached hereto and made a part hereof as Exhibit "C", which said undertaking shall be binding upon the applicant and its successors in title.

SECTION 2. That the zoning map heretofore adopted by the Town Council be and the same is hereby amended to show the property hereinabove described as B-3.

SECTION 3. That the Town Clerk be and is hereby authorized and directed to make the change in said map to comply with this Ordinance.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

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SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage and approval by the Mayor.

PASSED ON FIRST READING THIS 11th DAY OF December, 1988.
 PASSED ON SECOND READING THIS 4th DAY OF January, 1989.

J. J. Carrato
 Mayor/Councilman

Attest:
Thomas M. Daniel
 Town Clerk

APPROVED THIS 4th DAY OF January, 1989.



BK 613700264



"Exhibit A"

Legal Description:

Parcel 'A', "Young World" according to the plat thereof as recorded in Plat Book 124, page 43 of the public records of Broward County, Florida. Town of Davie, Broward County, Florida.

BRW6137760265

ORDINANCE NO. 91-28

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CC-B3 TO CC-B3; AMENDING THE MASTER LAND USE PLAN AND DECLARATION OF RESTRICTIONS OF SAID PROPERTY TO COMPLY THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, that the Master Land Use Plan and Declaration of Restrictions applying to said lands within said Town be amended; and

WHEREAS, said notice was given and publication made as required by law on May 15, 1991, and a public hearing thereunder was held on June 5, 1991.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1. That the property hereinafter described be and the same is hereby rezoned and changed from CC-B3 to CC-B3, and that the Master Land Use Plan and Declaration of Restrictions is amended:

a. The subject property is described in Exhibit "A", which is attached hereto and made a part hereof.

b. Development of the property which is the subject of this Ordinance shall proceed only in conformity with the terms and conditions of the officially approved Master Land Use Plan of the development which is attached hereto and made a part hereof as Exhibit "B".

c. The applicant has agreed to record deed restrictions in the form which is attached hereto and made a part hereof as Exhibit "C", which said undertaking shall be binding upon the applicant and its successors in title.

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 19th DAY OF July, 1991.

PASSED ON SECOND READING THIS 3rd DAY OF July, 1991.


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

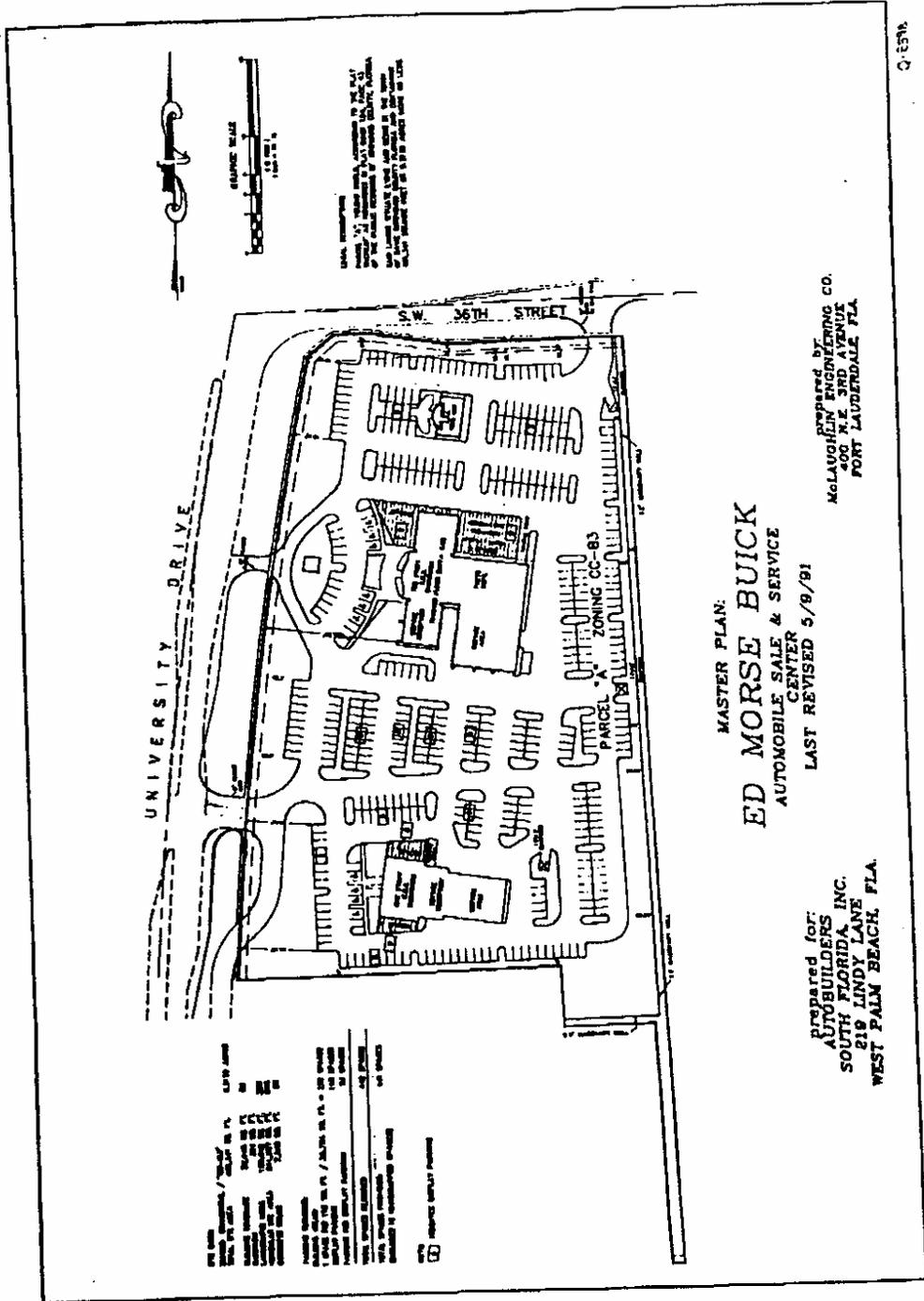
APPROVED THIS 3rd DAY OF JULY, 1991.

"Exhibit A"

Legal Description:

Parcel 'A', "Young World" according to the plat thereof as recorded in Plat Book 124, page 43 of the public records of Broward County, Florida. Town of Davie, Broward County, Florida.

EXHIBIT "B"



ORDINANCE 98-15

small

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING APPLICATION ZB 10-3-97 AMENDING ORDINANCE 89-1 BY CHANGING SECTION 1. b. TO PROVIDE FOR A REVISION TO THE APPROVED CONCEPTUAL MASTER PLAN ASSOCIATED WITH THE REZONING APPROVAL; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie on the 4th day of January, 1989, enacted Ordinance 89-1, which Ordinance adopted a Conceptual Master Plan associated with the Planned Business Center District zoning classification of the property described in Exhibit "A" attached hereto and made a part hereof; and,

WHEREAS, the developer requests a modification of the Conceptual Master Plan associated with the rezoning approval; and,

WHEREAS, the Town Council of the Town of Davie finds that the requested modification is consistent with the intent and purpose of the Code of Ordinances; and,

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law; and,

WHEREAS, said notice was given and publication made as required by law on November 5, 1997, and a public hearing thereunder was held on February 18, 1998.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. Section 1. b. of Ordinance 89-1 is modified to delete Exhibit "B" and insert Schedule 1 attached hereto and made a part hereof.

SECTION 2. Except as specifically modified herein, Ordinance 89-1 is herein and hereby ratified, reaffirmed and readopted.

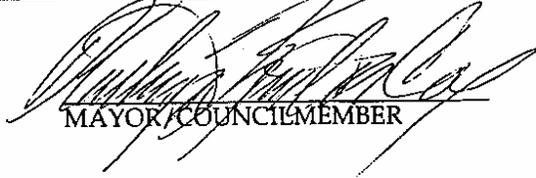
SECTION 3. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not effect the validity of the remaining portion of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 4th DAY OF March, 1998.

PASSED ON SECOND READING THIS 1st DAY OF APRIL, 1998.


MAYOR/COUNCILMEMBER

ATTEST:


TOWN CLERK

APPROVED THIS 1st DAY OF APRIL, 1998.

RECEIVED

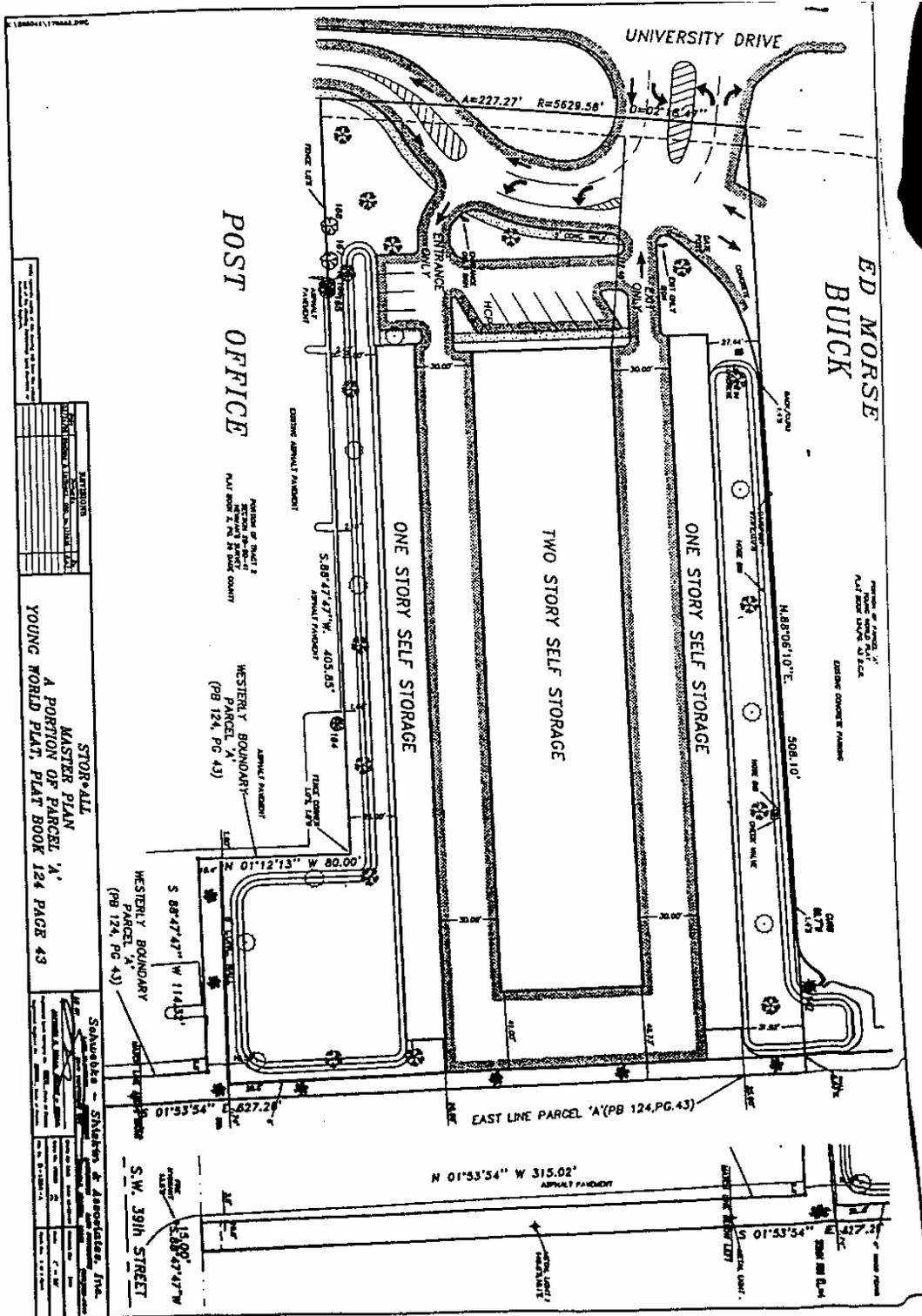
OCT 22 1997

TOWN OF DAVIE
PLANNING & ZONING DEPARTMENT

LEGAL DESCRIPTION:

A PORTION OF PARCEL 'A', YOUNG WORLD PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 124, PAGE 43 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID PARCEL 'A', SAID POINT LYING ON THE EAST RIGHT-OF-WAY LINE OF UNIVERSITY DRIVE, THENCE N. 88°47'47" E. ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL 'A', FOR A DISTANCE OF 72.50 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE N. 88°47'47" E., ALONG SAID SOUTHERLY BOUNDARY, FOR A DISTANCE OF 333.36 FEET; THENCE RUN S. 01°12'13" W. FOR A DISTANCE OF 80.00 FEET; THENCE RUN N. 88°47'47" E. FOR A DISTANCE OF 114.32 FEET; THENCE RUN S. 01°53'54" E. FOR A DISTANCE OF 315.02 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST 39th STREET; THENCE RUN N. 88°47'47" E., ALONG SAID NORTH RIGHT-OF-WAY LINE FOR A DISTANCE OF 15.00 FEET, SAID POINT BEING ON THE EAST BOUNDARY LINE OF SAID PARCEL 'A'; THENCE RUN N. 01°53'54" W., ALONG SAID EAST BOUNDARY LINE, FOR A DISTANCE OF 627.26 FEET; THENCE RUN S. 88°06'10" W. FOR A DISTANCE OF 409.53 FEET TO A POINT OF CURVATURE; THENCE WESTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 50.00 FEET THROUGH A CENTRAL ANGLE OF 89°18'19", FOR AN ARC DISTANCE OF 77.93 FEET TO A POINT OF TANGENCY; THENCE RUN S. 01°12'09" EAST FOR A DISTANCE OF 177.26 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 2.76 ACRES, MORE OR LESS.



NO.	DESCRIPTION	DATE
1	PREPARED BY ARCHITECT	11/15/88
2	REVISIONS	
3	APPROVED BY ARCHITECT	11/15/88
4	APPROVED BY ENGINEER	11/15/88
5	APPROVED BY SURVEYOR	11/15/88

STOR-ALL
MASTER PLAN
A PORTION OF PARCEL 'A'
YOUNG WORLD PLAT, PLAT BOOK 124 PAGE 43

NO.	DESCRIPTION	DATE
1	PREPARED BY ARCHITECT	11/15/88
2	REVISIONS	
3	APPROVED BY ARCHITECT	11/15/88
4	APPROVED BY ENGINEER	11/15/88
5	APPROVED BY SURVEYOR	11/15/88

DECLARATION OF RESTRICTIONS

EXHIBIT "C"

KNOW ALL MEN BY THESE PRESENTS that the undersigned John H. Payne, (trustee), being the owners of that certain real property located in the Town of Davie, Broward County, Florida, and described on exhibit "A" attached hereto and made a part hereof, voluntarily make the following Declaration of Restrictions covering the above-described real property, specifying that this Declaration of Restrictions shall constitute a covenant running with the land and that this dedication shall be binding upon the undersigned and upon all persons deriving or taking title through the undersigned. These restrictions, during their lifetime, shall be for the benefit of the Town of Davie, Florida.

1. The above described property shall be used for the following use:

Automobile Sales and Service Facilities

- a). No direct access to or from SW 39th Street will be allowed.
- b). Exterior paging horns will not be allowed.
- c). A six foot masonry wall will be constructed between this project's developed areas and the adjacent property to the East.

2. These restrictions shall not be construed to grant a use not allowable under the applicable zoning category of the subject property.

3. Development of the described property shall be in conformance with the approved master land use plan attached hereto and made a part hereof as exhibit "B", or any amendment thereto approved by the Town of Davie.

4. These covenants are to run with the land and all shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity with the

BK III 6:1137 PG 0267

approval of the undersigned or their successors in title or assigns. Any amendment to this Declaration of Restrictions or terminations thereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in title or assigns from applying to the Town of Davie, Florida, for modification of this Declaration of Restrictions or termination hereof.

5. Invalidation of any one portion of this Declaration of Restrictions or any portion of this document by judgement or court order in no way shall affect any other provisions, wick shall remain in full force and effect.

6. This Declaration of Restrictions is executed for the purpose of protecting the health, safety and welfare of the (residents of the subject property and) citizens of the Town of Davie.

IN WITNESS WHEREOF, I have set my hand and seal this 4 day of Jan, 1988
Signed, sealed and delivered
W.A. Forman
Witness
E.B. Turner
Witness
John H. Payne
John H. Payne, Trustee
University Associates, LTD.

BK 11 5:11:37 PG 0268

STATE OF FLORIDA :

: SS

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 4 day of Jan, 1988, By John H. Payne as Trustee

W.A. Forman
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAR. 13, 1992
BONDED THRU GENERAL INS. UND.



"Exhibit A"

Legal Description:

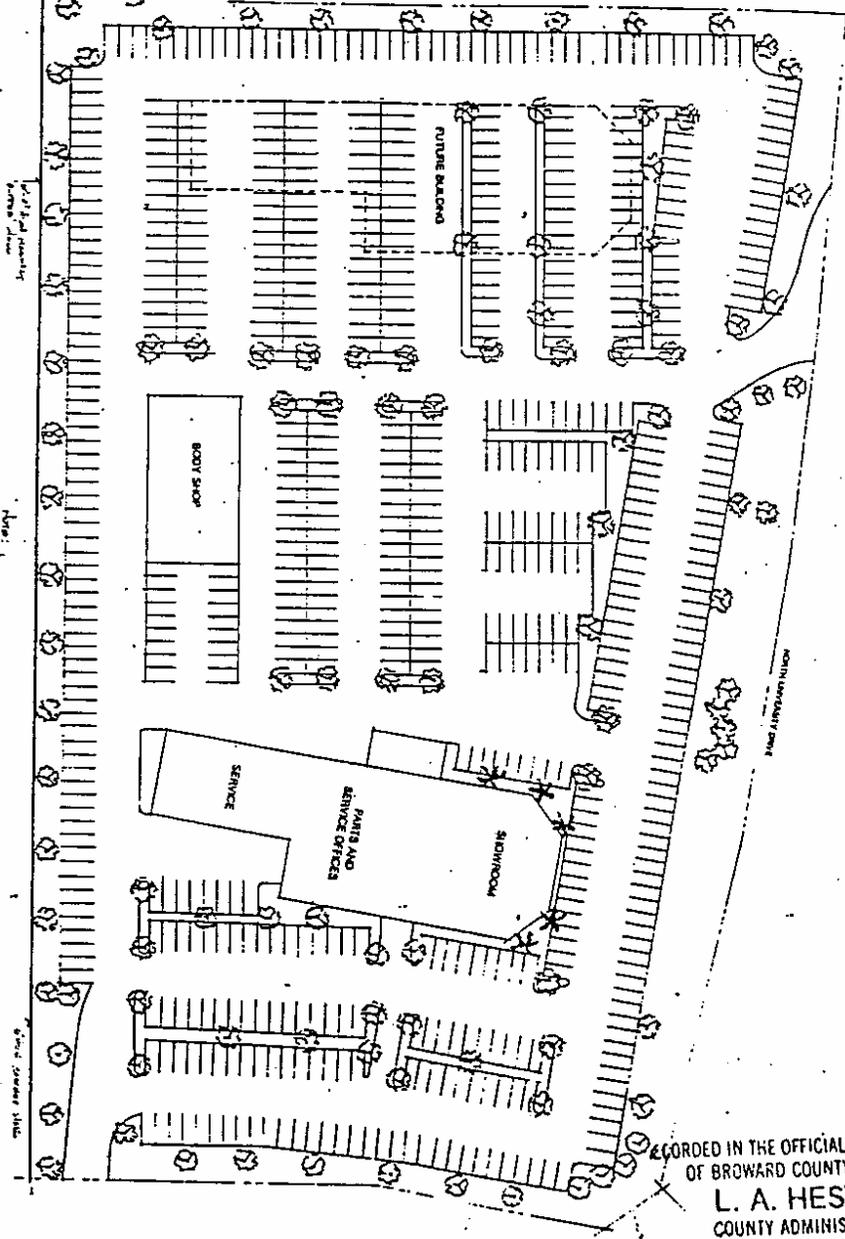
Parcel 'A', "Young World" according to the plat thereof as recorded in Plat Book 124, page 43 of the public records of Broward County, Florida. Town of Davie, Broward County, Florida.

BK 116137 Pg 0269

On the final site plan, landscape islands to be dimensioned so as to meet the 10' open space requirement in the B-3 zoning district.

MEMO: Legibility of writing, typing or printing unsatisfactory in this document when microfilmed.

SITE PLAN



"This conceptual plan has been prepared in conjunction with the application for B-3 zoning and reflects the development proposal of the property owner. This plan does not constitute a site plan, nor does it insure compliance with all land development regulations applicable to the property. Development of the property shall be in substantial conformance with this plan however, additional site plan review, at a minimum, shall be required prior to site development."

Notes: 1. See map to verify all dimensions and lot numbers.

RECORDED IN THE OFFICIAL RECORDS BOOK OF BROWARD COUNTY, FLORIDA
L. A. HESTER
 COUNTY ADMINISTRATOR



NEIL BUICK
 3600 S. UNIVERSITY DR.
 DAVIE, FLORIDA



91-28

91271855

AMENDED DECLARATION OF RESTRICTIONS

This INDENTURE, made this 3rd day of July, 1991, by and between Horse Operations, Inc., A Florida Corporation hereinafter the "Owner" and the TOWN OF DAVIE, a municipal corporation situated in Broward County, Florida, to amend the declaration of Restrictions created by John H. Payne, (trustee), hereinafter "Former Declarant".

WHEREAS, "Owner" owns certain real property in the Town of Davie, said real property being more particularly described in exhibit "A"; and

WHEREAS, "Former Declarant" petitioned the Town of Davie to rezone property described in Exhibit "A" to a B-3 classification; and

WHEREAS, "Former Declarant", as a requirement for the approval of the rezoning petition executed a Declaration of Restrictions, O.R. Book 16137 Page 267, which place restrictions on the development of the real property described in Exhibit "A"; and

WHEREAS, the Town of Davie approved said rezoning petition on January 4, 1989 pursuant to Ordinance 89-1; and

WHEREAS, "Owner" and the Town of Davie desire to terminate the said Declaration of Restrictions and adopt new development restrictions for the property described in Exhibit "A".

➔ FEE ITEM RETURN TO FRONT RECORDING

91 JUL 12 AM 10:32

BR18556PC0691

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NOW THEREFORE, "Owner" and the Town of Davie agree as follows:

1. That the Declaration of Restrictions executed by "Former Declarant" on January 4, 1989 pursuant to Ordinance 89-1 are hereby terminated and of no further force and effect.

2. That the following restrictions shall constitute covenants running with the land described in Exhibit "A" and shall be binding on the undersigned and upon all persons deriving or taking title through "Owner". These restrictions shall inure to the benefit of the Town of Davie.

(a) The above described property shall be used for the following use:

Automobile Sales and Service Facilities with the following restrictions:

1) No direct access to or from SW 39th Street will be allowed.

2) Exterior paging horns will not be allowed.

3) A six foot masonry wall will be constructed between this project's developed areas and the adjacent property to the East.

(b) These restrictions shall not be construed to grant a use not allowable under the applicable zoning category of the subject property.

(c) Development of the described property shall be in conformance with the approved master land use plan attached hereto and made a part hereof as Exhibit "B", or any amendment thereto approved by the Town of Davie.

BT16556PG0692

(d) These covenants are to run with the land and shall be binding upon all parties and persons deriving or taking title through the undersigned from the date these covenants are recorded in the Public Records of Broward County, Florida. This Amended Declaration of Restrictions may be amended or removed only by the Town of Davie, Florida, by a written document of equal formality and dignity and with the joinder of the undersigned or their successors in title or assigns. Any amendment to this Amended Declaration of Restrictions or termination thereof shall be recorded in the Public Records of Broward County, Florida. Nothing herein shall prevent the declarants or their successors in the title or assigns from applying to the Town of Davie, Florida, for modification of this Amended Declaration of Restrictions or termination hereof.

BK18556PG0693

IN WITNESS WHEREOF, I have set my hand and seal this 7th day of June 1991.

Signed, sealed and delivered.

Horse Operations, Inc.

[Signature]
Witness

BY [Signature]
TITLE: [Signature]

[Signature]
Witness

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 7th day of June, 1991, by Mr. Ed Morse

President of Horse Operations, Inc.

[Signature]
Notary Public
NOTARY PUBLIC STATE OF FLORIDA
BY 221200000 EXP. OCT. 26, 1991
SHARON TERRY GIBBELL, J.S. W.D.

IN WITNESS WHEREOF, I have set my hand and seal this 3rd day
of July 1991.

Signed, sealed and delivered.

Town of Davie

[Signature]
Witness

BY: [Signature]
TITLE: MAYOR

[Signature]
Witness

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me
this 3rd day of July, 1991, by Joan
Kovac of the Town of Davie.

[Signature]
Notary Public

My Commission expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. JUNE 6, 1994
BONDED THRU GENERAL INS. UND.

BR18556FC0694

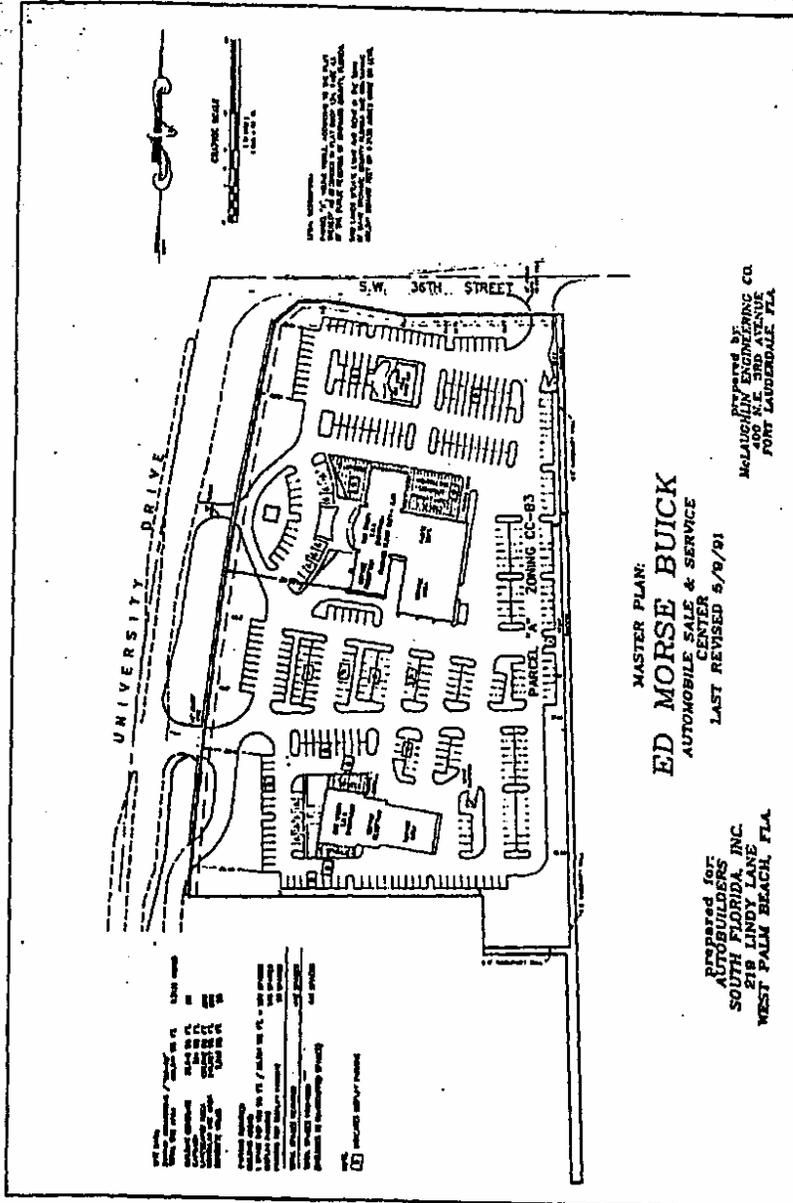
"Exhibit A"

Legal Description:

Parcel 'A', "Young World" according to the plat thereof as recorded in Plat Book 124, page 43 of the public records of Broward County, Florida. Town of Davie, Broward County, Florida.

BM18556P60695

EXHIBIT "B"



RECORDED IN THE OFFICIAL-RECORDS ROOM
OF BROWARD COUNTY FLORIDA

CELIENE BRUCE
COUNTY ADMINISTRATOR

BK 18556 Pg 0696

98-15

Return to:
Town of Davie
Town Clerk's Ofc
6591 SW 45 Street
Davie, FL 33314

This Instrument Prepared by:

Bonnie Miskel, Esq.
Ruden, McClosky, Smith
Schuster & Russell, P.A.
200 East Broward Boulevard
Fort Lauderdale, Florida 33301

98-270167 T#005
05-08-98 12:02PM

SPACE ABOVE THIS LINE FOR PROCESSING DATA

AMENDMENT TO AMENDED DECLARATION OF RESTRICTIONS

THIS AMENDMENT TO AMENDED DECLARATION OF RESTRICTIONS ("Amendment") is made as of this 7th day of March, 1998, by MORSE OPERATIONS, INC., a Florida corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of that property more particularly described in Exhibit "A" attached hereto and incorporated herein ("Property"); and

WHEREAS, Declarant desires to use the portion of the Property more particularly described in Exhibit "B" exclusively as a self storage facility and ancillary uses ("Self Storage Property"); and

WHEREAS, on June 7, 1991, Declarant recorded that certain Amended Declaration of Restrictions in Official Records Book 18556, at Page 691, of the Public Records of Broward County, Florida ("Amended Declaration"), which Declaration terminated that certain Declaration of Restrictions dated January 24, 1989, recorded in Official Records Book 16137, at Page 267, of the Public Records of Broward County, Florida; and

WHEREAS, the Amended Declaration provides that it can be amended or removed by the Town of Davie by written document of equal formality and dignity with consent of the owner of the Property or its successors or assigns; and

WHEREAS, Declarant desires to amend the Amended Declaration to release the Self-storage Property from the restrictions contained in the Amended Declaration and to restrict such property to a self storage facility as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that the Amended Declaration is hereby amended to provide as follows:

- 1. Paragraph 2 of the Amended Declaration is hereby amended as follows:

The Self-storage Property is hereby released of the restrictions contained in Paragraph 2 of the Amended Declaration and is restricted to use as a self storage facility and ancillary uses thereto. With the exception of the Self-storage Property, all remaining lands within the Property shall continue to be subject to the restrictions contained in Paragraph 2 of the Amended Declaration.

- 2. A new master land use plan for the Property is attached hereto and made a part hereof as Exhibit "C" and replaces the approved master land use plan attached to the Amended Declaration as Exhibit "B".

DEFERRED ITEM
Return Document To
Business Operations

BR 2810PE0806

5

FTL107429.0

"Exhibit A"

Legal Description:

Parcel 'A', "Young World" according to the plat thereof as recorded in Plat Book 124, page 43 of the public records of Broward County, Florida. Town of Davie, Broward County, Florida.

BK 28180 PG 08 08

Exhibit "B"

LEGAL DESCRIPTION:

A PORTION OF PARCEL 'A', YOUNG WORLD PLAT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 124, PAGE 43 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID PARCEL 'A', SAID POINT LYING ON THE EAST RIGHT-OF-WAY LINE OF UNIVERSITY DRIVE, THENCE N. 88°47'47" E. ALONG THE SOUTHERLY BOUNDARY OF SAID PARCEL 'A', FOR A DISTANCE OF 72.50 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE N. 88°47'47" E., ALONG SAID SOUTHERLY BOUNDARY, FOR A DISTANCE OF 333.36 FEET; THENCE RUN S. 01°12'13" W. FOR A DISTANCE OF 80.00 FEET; THENCE RUN N. 88°47'47" E. FOR A DISTANCE OF 114.32 FEET; THENCE RUN S. 01°33'54" E. FOR A DISTANCE OF 315.02 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SOUTHWEST 39th STREET; THENCE RUN N. 88°47'47" E., ALONG SAID NORTH RIGHT-OF-WAY LINE FOR A DISTANCE OF 15.00 FEET, SAID POINT BEING ON THE EAST BOUNDARY LINE OF SAID PARCEL 'A'; THENCE RUN N. 01°33'54" W., ALONG SAID EAST BOUNDARY LINE, FOR A DISTANCE OF 627.26 FEET; THENCE RUN S. 88°06'10" W. FOR A DISTANCE OF 409.53 FEET TO A POINT OF CURVATURE; THENCE WESTERLY AND SOUTHERLY ALONG THE ARC OF SAID CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 89°18'19", FOR AN ARC DISTANCE OF 77.93 FEET TO A POINT OF TANGENCY; THENCE RUN S. 01°12'09" EAST FOR A DISTANCE OF 177.26 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 2.76 ACRES, MORE OR LESS.

8K28180PG0809

NOTES:

