

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



**ZONING COMMISSION VARIANCE
STAFF REPORT
September 6, 2012**

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2012- 01574	3.E.1.C.2.h.2 Planned Development Parking Non- Residential	1,220 parking spaces	1,105 parking spaces	Reduction of 115 parking spaces
SITUS ADDRESS:	9852 Southern Blvd West Palm Beach 33411 160 S State Road 7 West Palm Beach 33414 9950 Southern Blvd West Palm Beach 33411 220 S State Road 7 West Palm Beach 33414 192 S State Road 7 West Palm Beach 33414 100 S State Road 7 West Palm Beach 33414 206 S State Road 7 West Palm Beach 33414 174 S State Road 7 West Palm Beach 33414 206 S State Road 7 West Palm Beach 33411			
AGENT NAME & ADDRESS:	Bill Pfeffer Creech Engineers Inc. 418 E Virginia St Tallahassee FL 32301			
OWNER NAME & ADDRESS:	George T. Elmore and W.G. Lassiter and Aneice R. Lassiter 505 S Flagler Dr # 1010 West Palm Beach FL 33401 Miller Investment of Miami LLC 1260 NW 72nd Ave Miami FL 33126 Discount Auto Parks Inc. Po Box 2710 Roanoke VA 24001 Home Depot USA Inc 2455 Paces Ferry Rd NW Atlanta GA 30339 SE Petro Two LLC 7014 A C Skinner Pkwy Jacksonville FL 32256 McDonald's Corp 6778 Lantana Rd Lake Worth FL 33467			

PCN:	00-42-43-27-05-008-0211 00-42-43-27-05-008-0212 00-42-43-27-05-008-0213 00-42-43-27-05-008-0221 00-42-43-27-05-008-0223 00-42-43-27-05-008-0224 00-42-43-27-05-008-0214 00-42-43-27-05-008-0222 00-42-43-27-05-008-0225 00-42-43-27-05-010-0061		
BCC DISTRICT:	06		
PROJECT MANAGER:	Donna Adelsperger, Site Planner I		
LEGAL AD:	ZV-2012-01574 Title: Resolution approving a Type II Variance application of Miller Investment of Miami LLC by Creech Engineers Inc., agent Request: to allow a reduction in the required number of parking spaces. General Location: Southeast corner of SR7/441 and Southern Boulevard. (WESTERN PLAZA) (1977-00048)		
ZONING DISTRICT:	Multiple Use Planned Development (MUPD)		
LAND USE:	Commercial Low/Industrial (CL/IND)	S/T/R: 27-43-42	
CONTROL #:	1977-00048		
LOT AREA:	32.86 acres +/-		
LOT DIMENSIONS:	1660.21 feet x 720 feet		
CONFORMITY OF LOT:	Conforming	CONFORMITY OF ELEMENT:	1220 spaces
TYPE OF ELEMENT:	Parking	ELEMENT SIZE:	1105 spaces for a reduction of 115 spaces
BUILDING PERMIT #:	N/A	NOTICE OF VIOLATION:	N/A
CONSTRUCTION STATUS:	Shopping center is built; Subsequent application requesting more square footage		
APPLICANT REQUEST:	to allow a reduction in the required number of parking spaces		

STAFF SUMMARY

Type II Zoning Variance Request

Proposed is a Type II Variance for the Western Plaza MUPD. The Western Plaza MUPD was most recently approved on March 21, 2001 for a rezoning to the Multiple Use Planned Development (MUPD) Zoning District, a Development Order Amendment to modify the Site plan and a Requested Use to allow a Type I Restaurant. The applicant is requesting a reduction in the number of parking spaces from 1,220 spaces to 1,105 spaces (a reduction of 115 parking spaces). Access to the site will remain from three points on SR 7 and one on Southern Boulevard.

The purpose of this request is to allow the applicant the ability to submit a subsequent application for a Development Order Amendment (DOA) to reconfigure the site plan and add approximately 13,194 square feet of building area which requires additional parking. However the site is limited in the number of spaces they can provide due to its built condition. For the applicant to add this additional square footage a reduction in parking is necessary. Denial of the variance would prohibit the allowance of additional square footage.

General Location, Previous Approvals and Existing Conditions

The 32.86-acre site is located on the southeast corner of SR 7/US 441 and Southern Boulevard. Access to the development is via three access points on SR 7 and one on Southern Boulevard.

On May 17, 1977, the Board of County Commissioners (BCC) approved a rezoning to the General Commercial Zoning District with a Special Exception to allow a Planned Commercial Development including a large scale community shopping center, auto service station, carwash facility, 2 financial institutions, interim on-site sewage treatment plant and interim on-site water treatment plant via Resolution R-77-483.

On April 28, 1988, the BCC approved a rezoning from the Agricultural Residential (AR) Zoning District in part, and CG in part to entirely CG via Resolution R-89-441. Additionally, the BCC approved a Special Exception to amend and expand the center to add land area; to add building square footage; reconfigure the site plan; modify conditions of approval and to delete the on-site sewage treatment and water treatment plants via Resolution R-1989-441.

On October 28, 1993, the BCC approved a Development Order Amendment (DOA) to allow the increase of building area via Resolution R-93-1362. On April 28, 1994, the BCC approved a DOA to amend conditions regarding landscape buffers, via Resolution R-94-505. On January 9, 2003, the BCC approved a DOA to reconfigure the site plan and modify square footage via Resolution R-2003-0098.

On March 31, 2011, the BCC approved the rezoning of 32.86-acres of land from the Commercial General (CG) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District via Resolution R-2011-428; approved a DOA to reconfigure the site plan and add square footage via Resolution R-2011-429; and approved a Requested Use to allow a Type I Restaurant via Resolution R-2011-430. It is important to note that during the approval of this application the reduction in the number of parking spaces was extensively discussed with the property owner, agent, county staff and the District Commissioner.

See Table 1 below which provides a breakdown of the existing/proposed square footages, uses, and parking requirements.

Use	Square Footage	Article 3 required spaces
Bldg A – Retail El Dorado Furniture Store	102,174 SF	409
Bldg B - Retail	16,838 SF	67
Bldg C - Retail	9,052 SF	36
Bldg D - Retail Advanced Auto	9,697 SF	39
Bldg E - Home Improvement Home Depot/ Garden Center	143,186 SF	572
Bldg F – Shell Gas Station/Car Wash/ Convenience Store	2,312 SF	9
Bldg x – Retail	8,907 SF	37
Bldg x – Financial	4,287 SF	17
Total spaces for above	296,453 SF	1186
Bldg G – Type 1 Restaurant McDonald’s (97 seats)	4,298 SF	17
Bldg H – Type I Restaurant Chick-fil-A (112 seats)	4,287 SF	17
Total spaces for above	8,585 SF or 209 seats	34
Grand total for all above	305,038 SF	1220 (request 1,105 or reduction of 115)

o Compatibility with Surrounding Land Uses

NORTH:

FLU Designation: Village of Royal Palm Beach
 Zoning District: Village of Royal Palm Beach
 Supporting: Commercial/Retail (Control No N/A)

SOUTH:

FLU Designation: Low Residential (LR-1)
 Zoning District: Residential Estate/Special Exception (RE/SE)
 Supporting: Residential (Control No 77-047, West F. Woods PUD)

EAST:

FLU Designation: Low Residential (LR-1)

Zoning District: Residential Estate/Special Exception (RE/SE)

Supporting: Residential (Control No 77-047, West F. Woods PUD)

WEST:

FLU Designation: Village of Royal Palm Beach

Zoning District: Village of Royal Palm Beach

Supporting: Retail (Control No N/A)

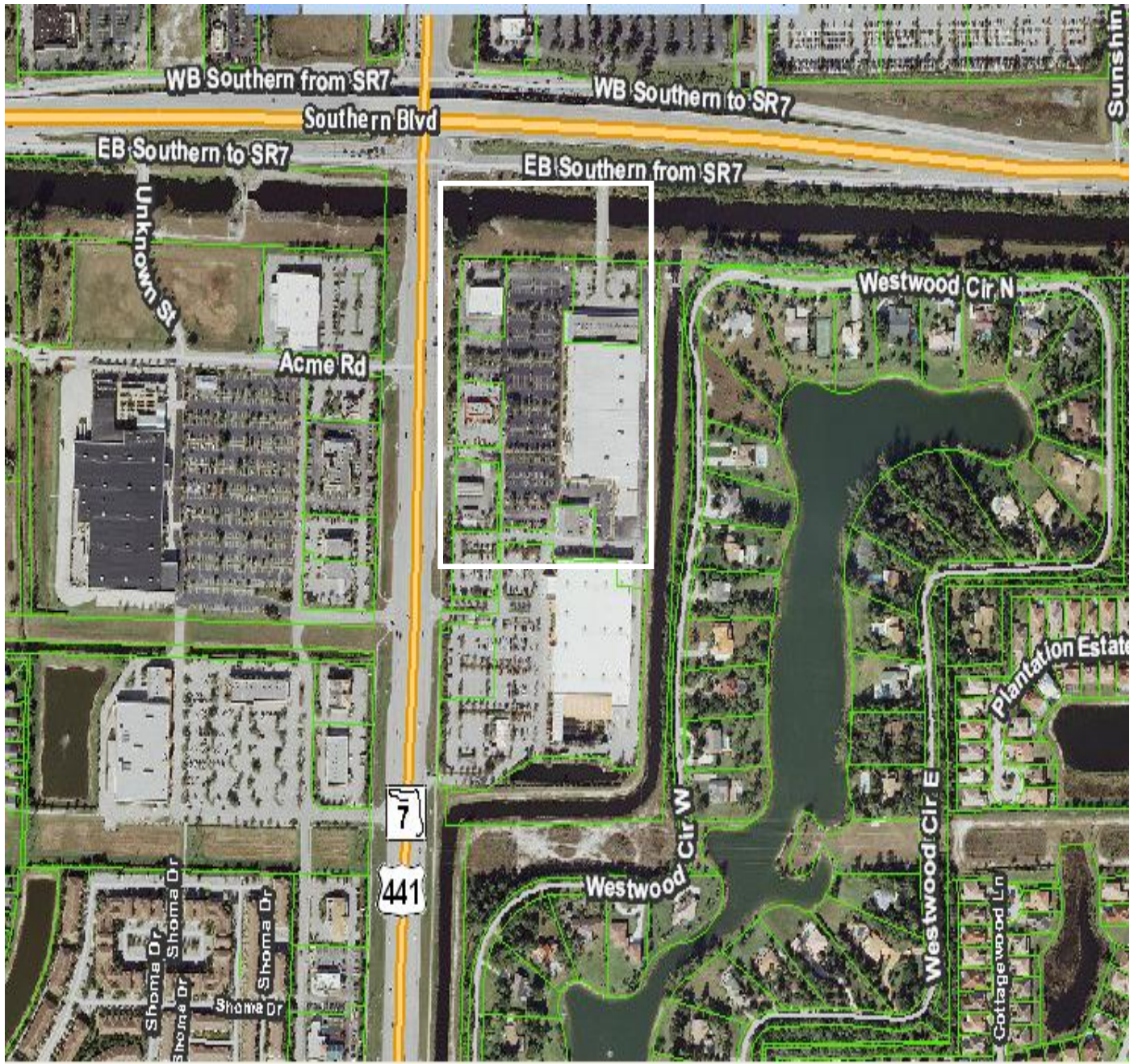


Figure 2 Aerial

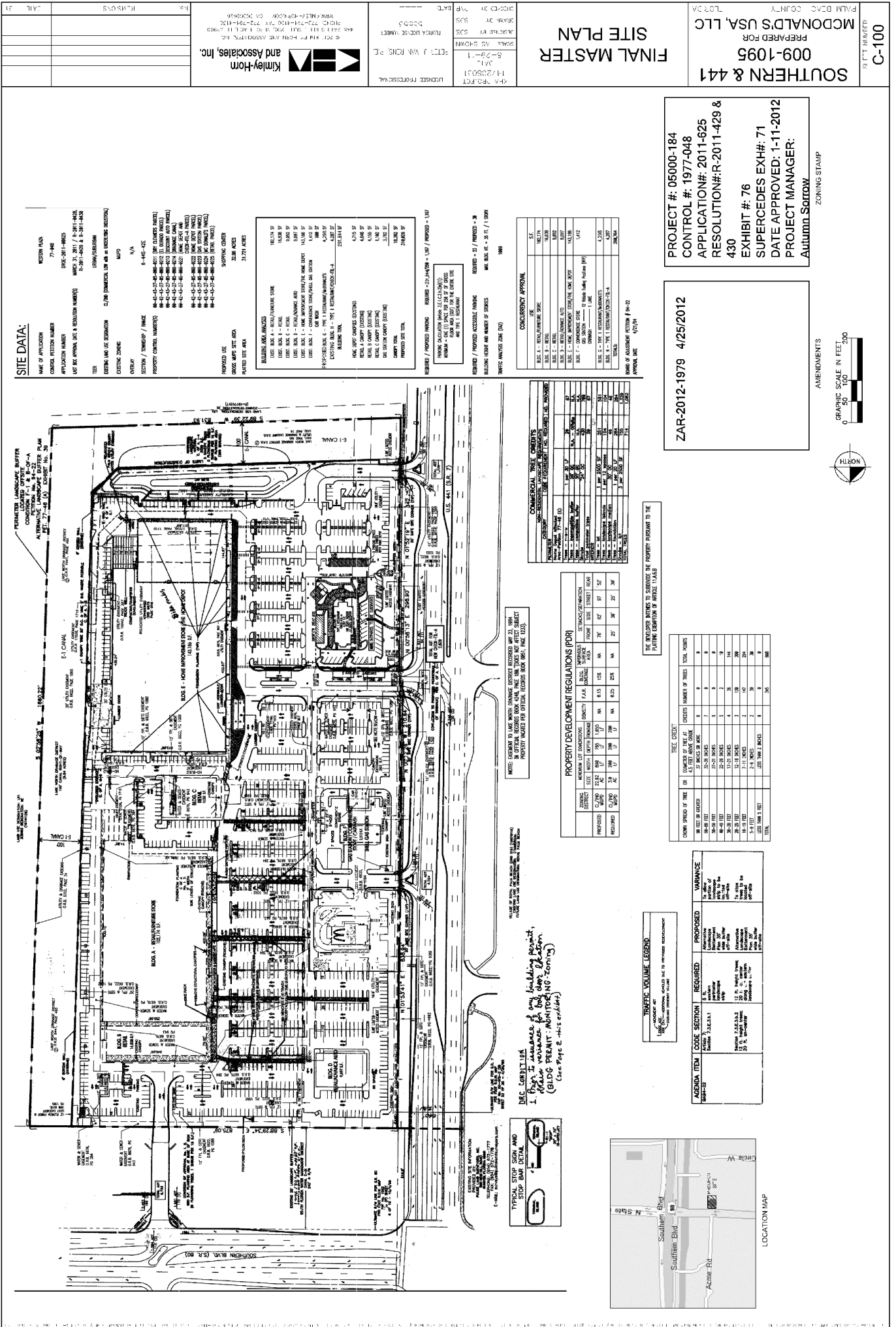


Figure 3 Approved Final Site Plan dated January 11, 2012

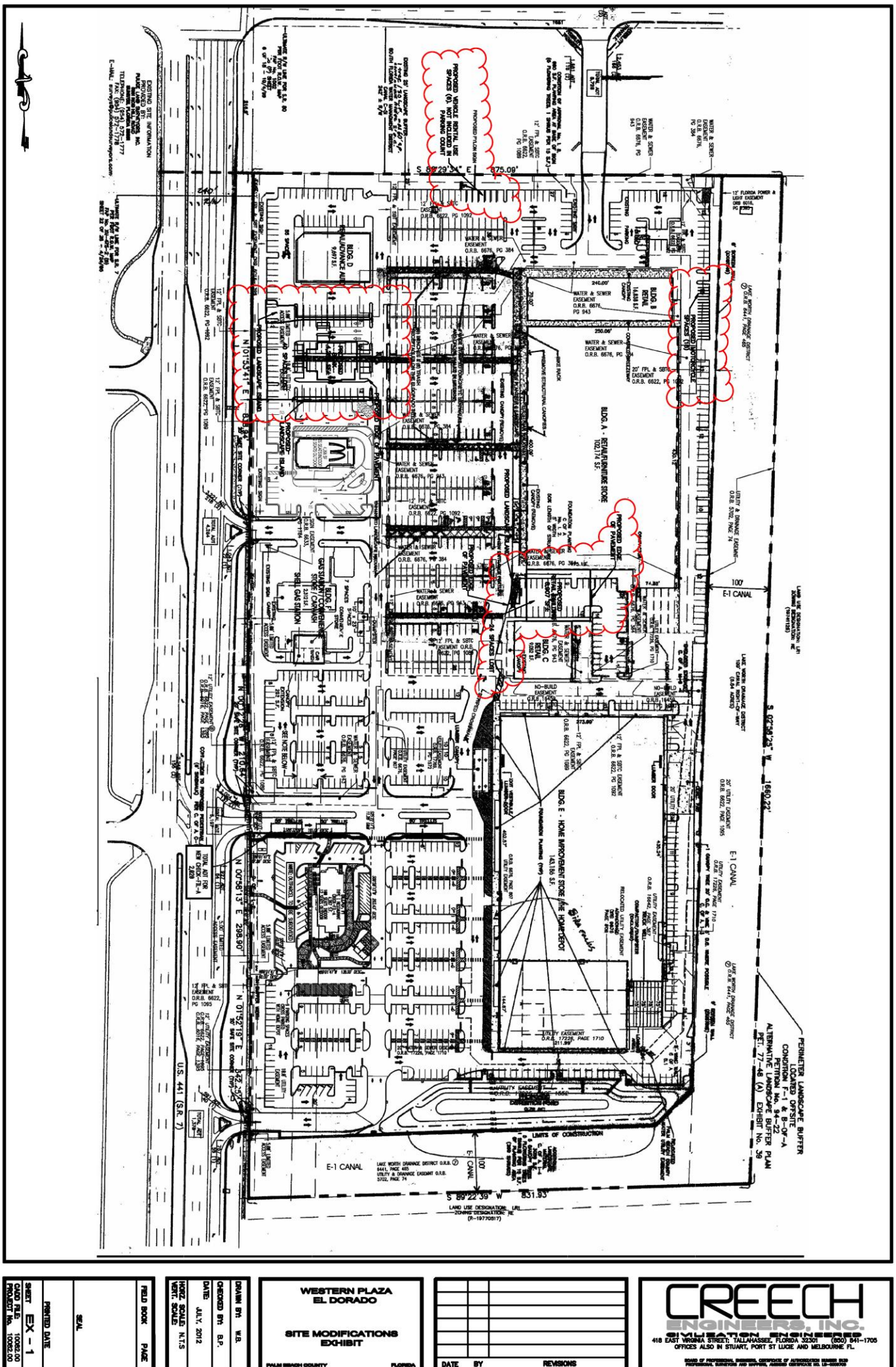


Figure 4 Preliminary Site Plan dated July 23, 2012

Summary of Article 3.E.1.C.2.h.2)a(1)

Pursuant to Article 3.E.1.C.), Planned Development Districts (PDD) – Performance Standards – Parking – Non-Residential, a PDD may utilize a minimum and maximum number of parking spaces ranging from 4 spaces per 1,000 square feet to 6 spaces per 1,000 square feet.. This provision would then require a minimum of 1,220 spaces or a maximum of 1,830 spaces to support the additional proposed 13,194 square feet. One of the design objectives of a PDD is to encourage minimization of parking through shared parking and mix of uses. The site is currently approved utilizing Article 3.E.1.C with the minimum parking standard of 1 space per 250 square feet of gross floor area.

Based on Western Plaza's current approval for 291,844 square feet of building area a total of 1,167 parking spaces are required and have been provided. The proposed subsequent DOA application to add 13,194 square feet of retail and financial institution uses, will bring the site to a total of **305,038** square feet of building area, which will generate a need for a total of **1,220 parking spaces**. The applicant is proposing a total of **1,105 parking spaces**, or a reduction of **115 parking spaces**.

Findings of Fact

The applicant's justification and responses to the seven criteria claims that a "Furniture Store" does not require the same amount of parking as "Retail Sales General". The applicant states, that based on Institute of Transportation Engineers Parking Generation" (ITE) Manual, the demand for a furniture store is 2.1 space per 1,000 square feet of building area. The applicant further states that the peak demand for parking is on Saturday afternoons.

The ULDC does not differentiate between a Furniture Store use and Retail Sales General use; rather a furniture store use is included within the Retail Sales General use category. The applicant uses the term "Furniture Store" where as the ULDC defines "Retail Sales, General" as an establishment providing general retail sales or rental of goods, but excluding those uses specifically classified as another use type. Uses include typical retail stores such as clothing stores, bookstores, business machine sales, food and grocery stores (excluding convenience stores), window tinting, marine supply sales (excluding boat sales), and pharmacies. Uses shall also include the sale of bulky goods such as household goods, lawn mowers, mopeds, motorcycles and golf carts. Although furniture stores require large amounts of square footage to display furniture as well as inventory such square footage is not indicative of increased customers, traffic trips, parking generators, etc. However, if the furniture store were to vacate the space then any Retail Sales General store use would be allowed by right to occupy the space which would typically generate more customers, traffic, and parking demands and as the ratio of floor space to goods and service for sale would increase then that of furniture stores.

Allowance of this variance will grant a special privilege not allowed to other developments within this same Zoning District. The applicant can meet the requirements of this section of the code based on the current approved plan for the center. The additional square footage/uses to an already approved center is a direct result of the applicant. The applicant has other design options available to them such as: 1) using the current vacant space, 2) demolishing existing vacant space equal to that which they propose to build, 3) or by adding a parking structure. Literal Interpretation of the ULDC would not deprive the applicant use of the site as the site is already developed and operating. The ULDC recognizes a "Furniture Store" as Retail Sales General and requires a minimum number of spaces for this use which is being providing today. Granting of this variance will not be consistent with the purposes, goals, objectives and policies of the plan and the code as it will undermine the intent of Article 3.E.1.C.2.h.2 - Planned Development Parking Non-Residential.

The applicant did submit a shared parking study which has been reviewed and approved, by the Engineering Department, subject to Building A being conditioned to remain as a furniture store. Zoning does not support a Condition of Approval limiting Building A to a furniture store.

Should the Zoning Commission chose to approve this request, staff acknowledges that the applicant proposes to utilize Article 6.A.1.D.5 – Motorcycle Parking, to further assist in limiting the number of spaces being requested by this variance. The ULDC allows for non-residential uses to reduce in size and designated three parking spaces for every 50 spaces as motorcycle spaces. The applicant proposes to replace 9 standard spaces with 18 motorcycle spaces and to be located to the rear of the Buildings A and B.

However, staff is not in support of the location of the proposed motorcycle parking, as this is an area not easily accessible to the general public and is more customarily associated with employee parking. In the event that this request is approved, then **staff recommends a Condition of Approval** be placed on the project that requires the applicant to relocate 18 motorcycle spaces from behind Buildings A and B, and then distribute them throughout the center.

STAFF RECOMMENDATIONS

Staff recommends **denial** of the request, based upon the following application of the standards enumerated in Article 2, Section 2.B.3.E of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance. Should the Zoning Commission approve the request, Staff has included Conditions of Approval in Exhibit C for their consideration.

ANALYSIS OF ARTICLE 2, SECTION 2.B.3.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

NO. There are no special conditions and circumstances that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same zoning district. Based on the existing approval, the site meets the ULDC requirements for parking. It is the applicants desire to add square footage and uses to an already approved site that has created the need for this variance. The applicant has other design options available to them such as: 1) using the current vacant space, 2) demolishing existing vacant space equal to that which they propose to build, 3) or by adding a parking structure.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

NO. Special circumstances and condtions are a result of the action of the applicant. It is the applicants desire to add square footage and uses to an already approved site, which meets the required parking, that has created the need for this variance. The applicant has other design options available to them such as: 1) using the current vacant space, 2) demolishing existing vacant space equal to that which they propose to build, 3) or by adding a parking structure..

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

NO. Granting of the variance will confer upon the applicant special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district. Other MUPDs that contain a furniture store have used the Code required parking calculation. The ULDC does not distinguish furniture stores separately from general retail sales as by definition retails sales includes furniture stores. Parking is based on general uses within an MUPD to ensure that the site provides adequate parking. Should the site be limited to a funiture store, based on this request, and that tenant left the center, the center would not be providing the required parking for the new tenant should it be anything other than a furniture store. Prior Comprehensive Plan Amendments and Zoning Applications that were limited to Furniture Stores by Condition of Approval (Control 2000-007 Glades Square), subsequently had to be amended when the space was no longer occupied by a "Furniture Store" to allow other permitted uses. Granting of this variance will confer

special privilege denied to other parcels within the same zoning district as it will undermine the intent of Article 3.E.1.C.2.h.2 - Planned Development Parking Non-Residential.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

NO. Literal interpretation and enforcement of the terms and provisions of this code would not deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship. The center is currently developed, operating and meeting parking based on the approved/built square footage. It is the applicants desire to add square footage and uses to an already approved site that has created the need for this variance.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

NO. The granting of variance is not the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. The center is already developed and parking provided in accordance with the ULDC. It is the applicants desire to add square footage and uses to an already approved site that has created the need for this variance.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

NO. The granting of the variance will not be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. The site has already been developed consistent with the comprehensive paln and the ULDC. It is the applicants desire to add square footage and uses to an already approved site that has created the need for this variance. Granting of this variance will not be consistent with the purposes, goals, objectives and policies of the plan and the code as it will undermine the intent of Article 3.E.1.C.2.h.2 - Planned Development Parking Non-Residential.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

NO. The granting of the variance will be injurious to the area involved or otherwise detrimental to the public welfare. The elimination of parking spaces and the proposed redesign of the site plan changes current on-site circulation and provides for back out parking into main drive aisles which are not safe for those patrons utilizing the site and they will become disoriented when maneuvering around the proposed financial institution which does not allow for continuous circulation along the SR 7/US 441 frontage. It is the applicants desire to add square footage and uses to an already approved site that has created the need for this variance.

EXHIBIT C
CONDITIONS OF APPROVAL

Staff recommends the following 6 Conditions of Approval should the Zoning Commission approve the request to reduce the number of parking spaces.

VARIANCE

1. The Development Order for this particular variance shall remain valid for the life of the Development Order for Control 1977-048. (DATE: MONITORING - Zoning)

2. This approval is granted based on the Preliminary Site Plan dated July 23, 2012. (ONGOING: ZONING - Zoning)

3. At the time of submittal for Final approval by the Development Review Officer (DRO), the property owner shall relocate 18 motorcycle spaces from the rear of Buildings A and B to the front of the center and distribute them throughout the center. (DRO: ZONING – Zoning)

4. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Final Site Plan to the Building Division. (BLDG PERMIT: ZONING - Zoning)

5. In granting this approval, the Zoning Commission relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

6. 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 (CO); 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; 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 (ULDC) 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; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Pedro A. Capo, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Managing Member *[position - e.g., president, partner, trustee]* of Miller Investment of Miami, LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]* that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 1260 NW 72nd Avenue, Miami, FL 33126
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

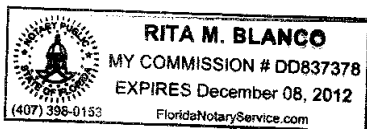
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.



Pedro A. Capo, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 1st day of August, 2012, by Pedro A. Capo, who is personally known to me or [] who has produced _____ as identification and who did take an oath.



Rita M. Blanco
Notary Public

Rita M. Blanco
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 12-08-2012

EXHIBIT "A"**PROPERTY****Legal Description**

A parcel of land lying in Section 6, Township 44 South, Range 42 East, Palm Beach County, Florida. Said Parcel lying within the Plat of "Palm Beach Farms Company, Plat Number 3", in portions of Tracts 21 and 22 of Block 8 of said Plat recorded in Plat Book 2, Pages 45 through 54 of the Public Records of said County and a portion of the 50.00 feet Road right-of-way between Blocks 8 and 10 of said Plat, and a portion of the 60.00 feet in width canal reservation and the 25.00 feet in width road right-of-way lying adjacent to the West line of Tracts 21 and 22, all between Blocks 8 and 9 of said Plat. Said Parcel of land being more particularly described as follows:

For the purpose of this description the West line of the Plat of "Westwoods", a P.U.D., from Lot 40 to Lot 49 inclusive, bears South 02 degrees 58' 25" West as shown in said Plat recorded in Plat Book 34, Pages 131 through 134, of the Public Records of said County, and all bearings recited herein are relative thereto.

Commencing at the Northwest corner of said Plat of "Westwoods", P.U.D., being also the intersection of the West line of said Plat with the South right-of-way line of South Florida Water Management District Canal C-51 (West Palm Beach Canal); thence North 88 degrees 29' 34" West along said South right-of-way line, 100.03 feet to the Point of Beginning; thence continue North 88 degrees 29' 34" West along said South right-of-way line of C-51 Canal, 65.06 feet; thence South 01 degrees 27' 51" West 249.08 feet; thence North 88 degrees 32' 09" West 279.00 feet; thence North 01 degrees 27' 51" East 95.00 feet; thence South 88 degrees 32' 09" East 33.00 feet; thence North 01 degrees 27' 51" East 154.26 feet, more or less, to said South right-of-way line of C-51 Canal; thence North 88 degrees 29' 34" West along said South right-of-way line of C-51 Canal 252.00 feet; thence South 01 degrees 27' 51" West 233.45 feet; thence North 88 degrees 32' 09" West 213.76 feet, more or less, to the West line of said Section 6; thence South 01 degrees 53' 41" West along said West line of Section 6 for 139.00 feet; thence South 88 degrees 32' 09" East 214.80 feet; thence South 01 degrees 27' 51" West 430.00 feet; thence South 88 degrees 32' 09" East 197.00 feet; thence North 01 degrees 27' 51" East 68.00 feet; thence South 88 degrees 32' 09" East 151.00 feet; thence South 01 degrees 27' 51" West 155.00 feet; thence South 88 degrees 32' 09" East 191.64 feet, more or less, to the West line of that certain 100.00 feet in width perpetual exclusive easement for Lake Worth Drainage District recorded in Official Records Books 5702, at Pages 74 and 75 of the Public Records of said County for E-1 Canal; thence North 02 degrees 58' 25" East along the West line of said Easement 889.34 feet to the Point of Beginning.

The above describe Parcel known as Western Plaza M.U.P.D.
Official Records Book 18088, Page 1951
Parcel Control Number: 00-42-43-27-05-008-0212.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
Luis E Capò	4200 NW 167 Street Miami Gardens, 33050
Carlos E Capò	4200 NW 167 Street Miami Gardens, 33054
Pedro A Capò	4200 NW 167 Street Miami Gardens, 33054
Jesus R. Capò	4200 NW 167 Street Miami Gardens, 33054
Roberto Capò	4200 NW 167 Street Miami Gardens, 33054
Anna A. Capò	1260 NW 72 Ave, Miami, 33126



418 East Virginia Street
Tallahassee, FL 32301
Ph: (850) 841-1705, Fax: (850) 841-1706

Parking Variance Justification Statement

The Applicant, who is also part Owner of the Western Plaza, has recently received increased interest from potential tenants for retail space and an Outparcel along the frontage of US 441. In order to accommodate this increased demand, the Applicant is seeking the approval of a parking variance in the amount of 115 parking spaces to accommodate additional retail space. There are site limitations that prohibit the Applicant from providing the necessary parking elsewhere, given that the Western Plaza is bordered to the east and south by the LWDD E1 Canal, and border by two road right-of-ways to the north and west (Southern Blvd. and US 441). There is no available property contiguous to the site available for purchase that would allow for adequate space to provide the additional parking needed to meet Article 3.E.1.C.2.h.2)a. of the Unified Land Development Code (ULDC).

The site is currently composed of 291,844 square feet of building area and 1,167 parking spaces, meeting the minimum parking requirement of 1 space per 250 square feet of building area, per Article 3.E.1.C.2.h.2)a. The proposed addition of 13,194 square feet of building area requires an additional 53 parking spaces. The proposed building additions also require the removal of 65 parking spaces. Six existing parking spaces will be converted into Vehicle Rental Use. Nine standard parking spaces will be converted into eighteen motorcycle spaces, resulting in a net parking deficiency of 115 spaces.

It should be noted that according to the "Institute of Transportation Engineers Parking Generation" (ITE) Manual, the parking needed to meet the demand for a furniture store is 2.1 spaces per 1,000 square feet of building area. Please see the attached Section 890 of the ITE Manual for your reference. Based on this data, the 102,174 square feet El Dorado Furniture Showroom only needs 215 parking spaces to meet demand, whereas the County code requires 409 spaces. Based on the data presented in Section 890 of the ITE Manual, the El Dorado Furniture Showroom is currently over parked by 194 spaces. The information below outlines the ITE generated parking demand for a Furniture Superstore and other similar retail uses that would typically occupy a retail bay of similar size.

ITE Land Use 890 – Furniture Superstore

- 2.1 spaces per 1,000 sf of GFA
- Peak Period Parking on a Saturday from 12:00-1:00 p.m., 2:00-3:00 p.m., and 4:00-6:00 p.m.: 0.94 spaces per 1,000 sf of GFA

Additional ITE Land Uses

- Land Use 863 - Electronics Superstore: 2.3 spaces per 1,000 sf of GFA
- Land Use 864 - Toy/Children's Superstore: 1.94 vehicles per 1,000 sf of GFA
- Land Use 867 - Office Supply Superstore: 1.2 spaces per 1,000 sf of GFA
- Land Use 868 - Book Superstore: 1.1 spaces per 1,000 sf of GFA

Port St Lucie • Melbourne • Stuart • Tallahassee

Type II Variance Seven Standards

1. *“Special Condition and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcel of land, structures or buildings in the same zoning district.”*

Response: There are geographical limitations that prohibit the Applicant from providing the necessary parking elsewhere. Western Plaza is bordered to the east and south by the LWDD Canal, and border by two road right-of-ways to the north and west (Southern Blvd. and US 441). There is no available property contiguous to the site available for purchase that would allow for adequate space to provide the additional parking needed to meet County Code.

2. *“Special Circumstances and conditions do not result from the actions of the applicant.”*

Response: As Western Plaza has grown over the years, other tenants and outparcels have grown with it, thus encompassing all access parking. Changing market demands have recently increased potential tenant interest on the El Dorado Furniture Parcel, which the Applicant would like to accommodate via building expansion and the creation of an additional Outparcel. It should be noted that the interpretation of Article 3.E.1.C.2.h.2)a does not take into account the needs of “Furniture Store” use, which are drastically less than the required 1 space per 250 square feet of building area, as previously mentioned. The Applicant would like to utilize the access parking associated with the El Dorado Furniture Showroom to accommodate this increased demand.

3. *“Granting the variance shall not confer upon the Applicant special privilege(s) denied by the comprehensive plan and the code to other parcels of land, building, or structure, in the same district.”*

Response: The intent of this variance request is to provide adequate parking for the use of future tenants by utilizing the access parking currently being provided for the El Dorado Showroom. This request will be of great benefit to the public welfare, providing valuable retail space and job creation in lieu of this otherwise unused space. As the site is currently laid out, there are 194 parking spaces that are not needed to meet the demands of a Furniture Store, per the ITE Parking Generation Manual.

4. *“Literal interpretation and enforcement of the terms and provisions of this code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship.”*

Response: The intent of Article 3.E.1.C.2.h.2)a. is to provide the public with adequate parking for non-residential uses. What Article 3.E.1.C.2.h.2)a. does not take into account is that the parking demand for different uses varies. The ITE Manual does just that. According to the data collected and presented in Section 890 of the ITE Manual, the parking demand for a furniture store with 102,174 square feet of building area is 215 parking spaces. The proposed site plan provides 294 parking spaces for the El Dorado Furniture Showroom and 1 space for every 250 square feet of building area for all other uses, thus meeting the intent of the code.

CREECH
ENGINEERS INC.

5. *“Granting the variance is the minimum required to make reasonable use of the parcel of land, building or structure.”*

Response: Every attempt was made to maximize both parking count and the demand currently being requested by potential tenants for additional retail space. Geographical site limitations prohibit the expansion of the parking area to provide additional parking spaces. The intent of this variance request is to utilize what the ITE Manual considers surplus parking for the El Dorado Showroom to provide additional retail space. The byproduct of this will benefit the public welfare by providing job creation and fully utilizing valuable space that was previous not needed in the surplus parking. It should be noted that the proposed parking count will exceed the ITE Manual's demand for a furniture store by 79 parking spaces.

6. *“Granting of the variance will be consistent with the comprehensive plan and the ULDC.”*

Response: The intent of this variance request is to benefit the public welfare by utilizing what the ITE Manual considers surplus parking spaces for the El Dorado Showroom to provide additional retail space, thus promoting a better quality urban environment. The intent of the ULDC is being met, as we are providing more than enough spaces to meet the parking demand for the El Dorado Furniture Showroom, per Section 890 of the ITE Manual, as well as maintaining a 1 parking space for every 250 square feet of building area for all other uses.

7. *“Granting of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.”*

Response: As part Owner of Western Plaza, it is in the Applicants best interest to promote the wellbeing all uses doing business in Western Plaza. El Dorado Furniture is consistently held to a parking standard that is over and above their need. During peak hours on any given weekend, it is rare to find more than 50 parking spaces being utilized by El Dorado employees and customers. The business model of the furniture industry is simply not built on high volume visits. However, municipalities are consistently classifying them in the same category as other high volume Big Box retailers in terms of parking requirements. Granting this variance will not be injurious to the area nor a detriment to the public welfare, rather benefit to community and its surrounding business.

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Land Use: 890 Furniture Store

Land Use Description

A furniture store is a full-service retail facility that specializes in the sale of furniture. Furniture stores are generally large and may include storage areas. Although some home accessories may be sold, furniture stores primarily focus on the sale of pre-assembled furniture. A majority of items sold at these facilities must be ordered for delivery.

Database Description

The database consisted of all suburban sites with the exception of one urban site. Parking demand at the urban site was similar to the suburban sites and therefore the data were combined and analyzed together.

- Average parking supply ratios: 2.1 spaces per 1,000 sq. ft. GFA (six study sites) and 3.5 spaces per employee (six study sites).
- Average employee density: 0.6 employees per 1,000 sq. ft. GFA (six study sites).

Weekday parking demand data were submitted for two study sites. For both sites, data were available for only a single hour (between 8:00 and 9:00 p.m.). The larger site was 26,500 sq. ft. GFA and had a parking demand ratio of 0.91 vehicles per 1,000 sq. ft. GFA. The smaller site was 15,000 sq. ft. GFA and had a parking demand ratio of 1.53 vehicles per 1,000 sq. ft. GFA.

Sunday parking demand data were available for one study site. Its size was 46,900 sq. ft. GFA. Its peak parking demand ratios were 1.43 vehicles per 1,000 sq. ft. GFA and 2.23 vehicles per employee between 1:00 and 2:00 p.m. (based on a continuous count between 10:00 a.m. and 3:00 p.m.).

The following table presents the time-of-day distributions of parking demand at the study sites.

Based on Vehicles per 1,000 sq. ft. GFA	Saturday		Sunday	
	Percent of Peak Period	Number of Data Points*	Percent of Peak Period	Number of Data Points*
12:00-4:00 a.m.	–	0	–	0
5:00 a.m.	–	0	–	0
6:00 a.m.	–	0	–	0
7:00 a.m.	–	0	–	0
8:00 a.m.	–	0	–	0
9:00 a.m.	–	0	–	0
10:00 a.m.	–	0	30	1
11:00 a.m.	54	1	51	1
12:00 p.m.	100	2	87	1
1:00 p.m.	82	5	100	1
2:00 p.m.	89	5	97	1
3:00 p.m.	80	5	–	0
4:00 p.m.	100	4	–	0
5:00 p.m.	87	1	–	0
6:00 p.m.	–	0	–	0
7:00 p.m.	–	0	–	0
8:00 p.m.	–	0	–	0
9:00 p.m.	–	0	–	0
10:00 p.m.	–	0	–	0
11:00 p.m.	–	0	–	0

* Subset of database

Land Use: 890 Furniture Store

Additional Data

Monthly parking variation cannot be derived from the available data. However, the following furniture store sales information (averaged for the period 1999 through 2003 from the U.S. Census) is provided as a reference to peak month activity. The furniture stores that compose the U.S. Census data set may not have the same land use characteristics as sites contained in the ITE *Parking Generation* database for this land use.

Month	Percent of Average Month Furniture Store Sales (%)
January	94
February	93
March	102
April	94
May	100
June	98
July	99
August	103
September	98
October	100
November	109
December	111

SOURCE: Unadjusted and Adjusted Estimates of Monthly Retail and Food Services Sales by Kinds of Business: 1999-2003. Monthly Retail Service Branch. U.S. Census, August 2004, NAICS Code 44611. (www.census.gov/mrts/www/mrts.html)

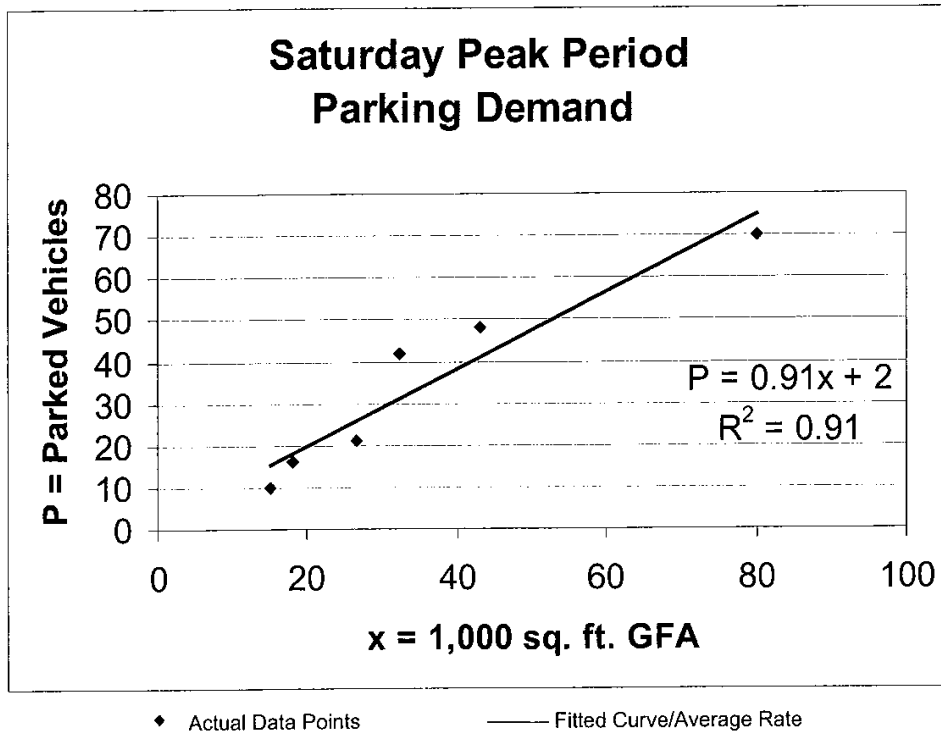
Study Sites/Years

Chicago, IL (1961); Gresham, OR (1994); Hillsboro, OR (1994); Portland, OR (1994); Milwaukie, OR (1995); Portland, OR (1995)

Land Use: 890 Furniture Store

Average Peak Period Parking Demand vs: 1,000 sq. ft. GFA On a: Saturday

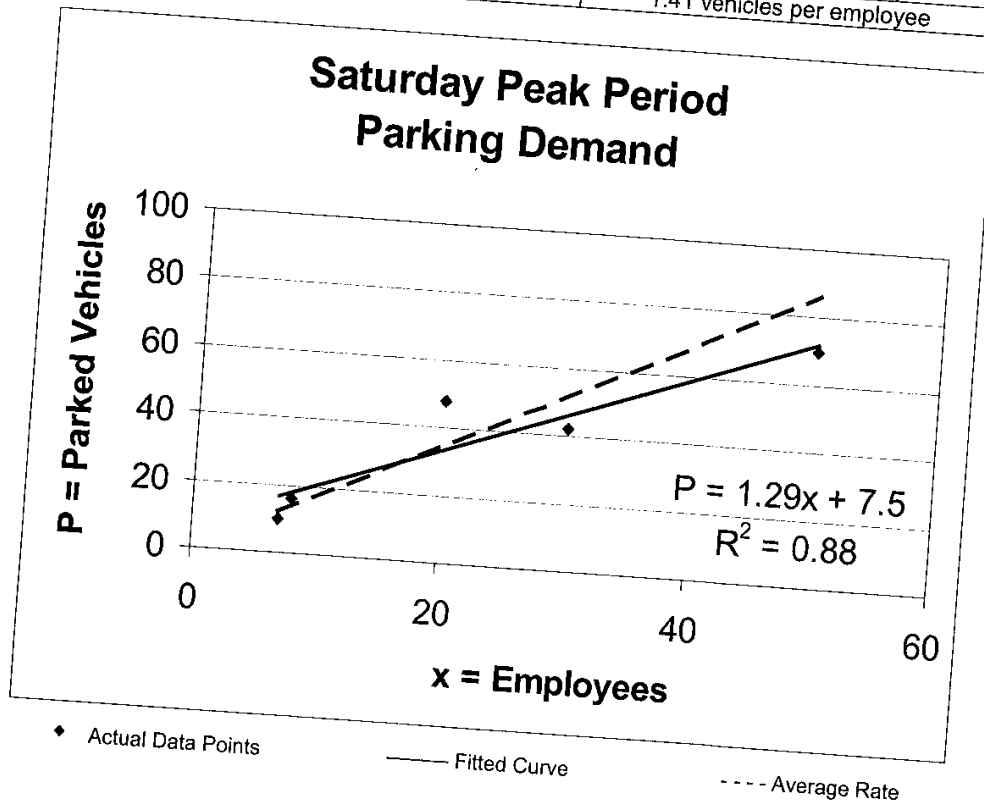
Statistic	Peak Period Demand
Peak Period	12:00–1:00 p.m.; 2:00–3:00 p.m.; 4:00–6:00 p.m.
Number of Study Sites	6
Average Size of Study Sites	35,800 sq. ft. GFA
Average Peak Period Parking Demand	0.94 vehicles per 1,000 sq. ft. GFA
Standard Deviation	0.23
Coefficient of Variation	25%
Range	0.67–1.30 vehicles per 1,000 sq. ft. GFA
85th Percentile	1.16 vehicles per 1,000 sq. ft. GFA
33rd Percentile	0.85 vehicles per 1,000 sq. ft. GFA



Land Use: 890 Furniture Store

Average Peak Period Parking Demand vs: Employees On a: Saturday

Statistic	Peak Period Demand
Peak Period	12:00-1:00 p.m.; 2:00-3:00 p.m.; 4:00-6:00 p.m.
Number of Study Sites	5
Average Size of Study Sites	23 employees
Average Peak Period Parking Demand	1.73 vehicles per employee
Standard Deviation	0.46
Coefficient of Variation	26%
Range	1.40-2.40 vehicles per employee
85th Percentile	2.16 vehicles per employee
33rd Percentile	1.41 vehicles per employee



Land Use: 863 Electronics Superstore

Land Use Description

Electronics superstores are free-standing facilities that specialize in the sale of electronic merchandise. These facilities generally offer a variety of customer services and centralized cashiers. Electronics superstores typically maintain long store hours 7 days a week. Examples of items sold in these stores include televisions; audio and video players and recorders; software; telephones; computers; and general electronic accessories. Major home appliances may also be sold at these facilities. Electronics superstores are sometimes found as separate parcels within a retail complex and with their own dedicated parking.

Database Description

The database consisted of two study sites, one was in a suburban location and the other was in an urban location.

- Size: 46,000 sq. ft. GFA (urban site); 30,000 sq. ft. GFA (suburban site).
- Parking supply ratio: 2.3 spaces per 1,000 sq. ft. GFA (urban site).
- Urban peak parking demand ratio: 1.91 vehicles per 1,000 sq. ft. GFA, based on a single hourly count between 1:00 and 2:00 p.m.
- Suburban peak parking demand ratio: 3.03 vehicles per 1,000 sq. ft. GFA between 2:00 and 3:00 p.m. (based on continuous counts between 11:00 a.m. and 7:00 p.m.).

The following table presents the time-of-day distribution of parking demand at the suburban study site.

Based on Vehicles per 1,000 sq. ft. GFA	Weekday		
	Hour Beginning	Percent of Peak Period	Number of Data Points
12:00-4:00 a.m.	-	-	0
5:00 a.m.	-	-	0
6:00 a.m.	-	-	0
7:00 a.m.	-	-	0
8:00 a.m.	-	-	0
9:00 a.m.	-	-	0
10:00 a.m.	-	-	0
11:00 a.m.	86	-	1
12:00 p.m.	90	-	1
1:00 p.m.	96	-	1
2:00 p.m.	100	-	1
3:00 p.m.	91	-	1
4:00 p.m.	88	-	1
5:00 p.m.	90	-	1
6:00 p.m.	98	-	1
7:00 p.m.	-	-	0
8:00 p.m.	-	-	0
9:00 p.m.	-	-	0
10:00 p.m.	-	-	0
11:00 p.m.	-	-	0

Land Use: 863 Electronics Superstore

Additional Data

Monthly parking variation cannot be derived from the available data. However, the following electronics and appliance store sales information (averaged for the period 1999 through 2003 from the U.S. Census) is provided as a reference to peak month activity. The electronics and appliance stores that compose the U.S. Census data set may not have the same land use characteristics as sites contained in the ITE *Parking Generation* database for this land use.

Month	Percent of Average Month Dealer Sales (%)
January	94
February	89
March	94
April	85
May	91
June	93
July	94
August	100
September	93
October	93
November	111
December	163

SOURCE: *Unadjusted and Adjusted Estimates of Monthly Retail and Food Services Sales by Kinds of Business: 1999-2003 for NAICS Code 443. Monthly Retail Service Branch. U.S. Census, August 2004.*
(www.census.gov/mrts/www/mrts.html)

Study Sites/Years

Seattle, WA (1999); Springfield, PA (2003)

Land Use: 864 Toy/Children's Superstore

Land Use Description

Toy/children's superstores are free-standing facilities that specialize in the sale of child-oriented merchandise. These facilities generally offer a variety of customer services and centralized cashiers. Toy/children's superstores typically maintain long store hours 7 days a week. Examples of items sold in these stores include board and video games, toys, bicycles/tricycles, wagons, outdoor play equipment and school supplies. Some may also carry children's clothing. Toy/children's superstores are sometimes found as separate parcels within a retail complex with their own dedicated parking.

Database Description

The database consisted of one suburban study site.

- Size: 17,000 square feet GFA.
- Average weekday peak parking demand ratio: 1.94 vehicles per 1,000 sq. ft. GFA.

Parking demand was counted in September.

The following table presents the time-of-day distribution of parking demand at the study site.

Based on Vehicles per 1,000 sq. ft. GFA	Weekday	
	Percent of Peak Period	Number of Data Points
Hour Beginning		
12:00-4:00 a.m.	-	0
5:00 a.m.	-	0
6:00 a.m.	-	0
7:00 a.m.	-	0
8:00 a.m.	-	0
9:00 a.m.	-	0
10:00 a.m.	-	0
11:00 a.m.	70	1
12:00 p.m.	76	1
1:00 p.m.	79	1
2:00 p.m.	97	1
3:00 p.m.	85	1
4:00 p.m.	79	1
5:00 p.m.	88	1
6:00 p.m.	100	1
7:00 p.m.	-	0
8:00 p.m.	-	0
9:00 p.m.	-	0
10:00 p.m.	-	0
11:00 p.m.	-	0

Study Site/Year

Springfield, PA (2003)

Land Use: 867 Office Supply Superstore

Land Use Description

Office supply superstores are free-standing facilities that specialize in the sale of office equipment and supplies, including computers, paper, furniture and desk accessories. These facilities may offer a variety of business services, including administrative, communications, custom printing and Internet services. The stores generally have centralized cashiering and maintain long store hours 7 days a week. Office supply superstores are sometimes found as separate parcels within a retail complex with their own dedicated off-street parking.

Database Description

The database consisted of one urban study site.

- Size: 64,000 sq. ft. GFA.
- Parking supply ratio: 1.2 spaces per 1,000 sq. ft. GFA.
- Weekday peak parking demand ratio: 0.61 vehicles per 1,000 sq. ft. GFA, based on a single hourly count between 12:00 and 1:00 p.m. in September.

Study Site/Year

Seattle, WA (1999)

Land Use: 868 Book Superstore

Land Use Description

Book superstores are free-standing facilities that specialize in the sale of books. Some stores may also include audio/video sales. Some book superstores have small cafés as ancillary facilities. The stores generally have centralized cashiering and maintain long store hours 7 days a week. Book superstores are sometimes found as separate parcels within a retail complex with their own dedicated off-street parking.

Database Description

The database consisted of one urban study site.

- Size: 92,000 sq. ft. GFA.
- Parking supply ratio: 1.1 spaces per 1,000 sq. ft. GFA.
- Weekday peak parking demand ratio: 0.89 vehicles per 1,000 sq. ft. GFA, based on a single hourly count between 4:00 and 5:00 p.m. in October.

Additional Data

Monthly parking variation cannot be derived from the available data. However, the following bookstore sales information (averaged for the period 1999 through 2003 from the U.S. Census) is provided as a reference to peak month activity. The bookstores that compose the U.S. Census data set may not have the same land use characteristics as sites contained in the ITE *Parking Generation* database for this land use.

Bookstore Sales Variation Data

Month	Percent of Average Month Book Store Sales (%)
January	137
February	82
March	79
April	75
May	85
June	86
July	83
August	138
September	112
October	81
November	86
December	157

SOURCE: *Unadjusted and Adjusted Estimates of Monthly Retail and Food Services Sales by Kinds of Business: 1999-2003*. Monthly Retail Service Branch. U.S. Census, August 2004. NAICS Code 451211 (www.census.gov/mrts/www/mrts.html)

Study Site/Year

Seattle, WA (1999)