

RESOLUTION NO. R-2000- 0009

RESOLUTION APPROVING ZONING PETITION PDD99-004
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF ADMIND ANSIN, TRUSTEE
BY KILDAY & ASSOCIATES, INC, AGENT
(LAKE WORTH ROAD & SR 7 MUPD)

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

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD99-004 was presented to the Board of County Commissioners at a public hearing conducted on January 6, 2000; and,

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition PDD99-004, the petition of Admind Ansin, Trustee by Kilday & Associates, Inc, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from Agricultural Residential (AR) to Multiple Use Planned Development (MUPD) with convenience store with gas sales, general repair and maintenance and fast food restaurant, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 6, 2000, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

The motion was seconded by Commissioner Masilotti and, upon being put to a vote, the vote was as follows:

Maude Ford Lee, Chair	-	Aye
Warren Newell, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Carol A. Roberts	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 2000.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

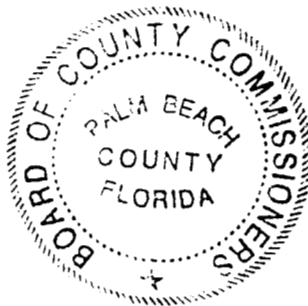


EXHIBIT A
LEGAL DESCRIPTION

TRACT 7, BLOCK 27, PALM BEACH FARMS Co. PLAT No. 3 AS RECORDED IN PLAT
BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA, LESS THE NORTH 55.44 FEET THEREOF.
CONTAINING 494857.1 SQUARE FEET OR 11.35 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

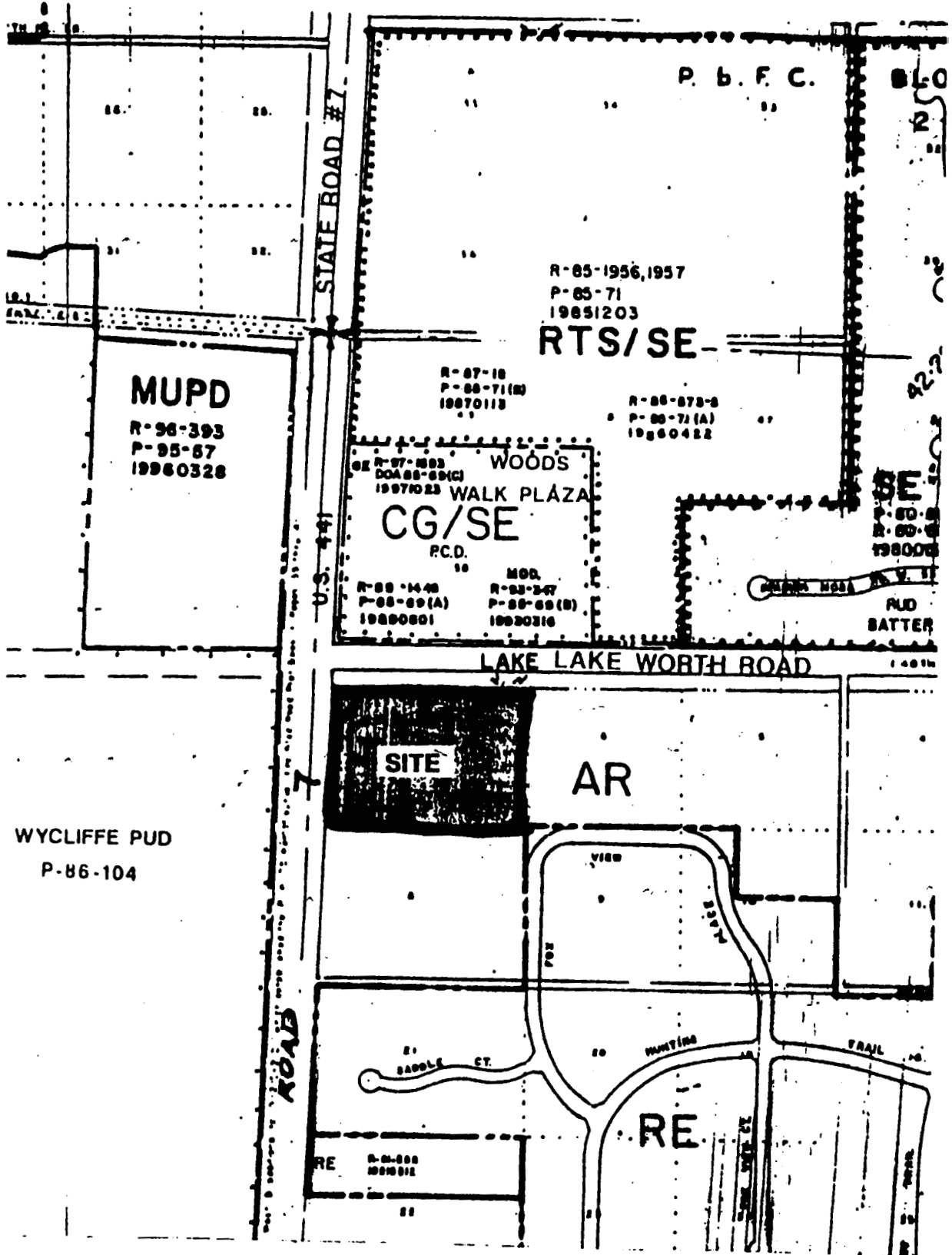


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated November 16, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)

B. CONVENIENCE STORE WITH GAS SALES

1. Convenience store with gas sales shall be limited to 6 pumps (maximum 12 fueling stations). (DRC: ZONING)
2. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of free air and water for customer convenience. (DRC/ONGOING: ZONING/CODE ENF)
3. The gas station canopy shall be limited as follows:
 - a. Maximum canopy height shall be twenty (20) feet if flat and twenty-five (25) feet in height if pitched with a maximum 5 on 12 pitch, including air conditioning and mechanical equipment and satellite dishes, measured from finished grade to the highest point;
 - b. Maximum canopy clearance shall be sixteen (16) feet, measured from finished grade to the underside of the canopy or attached outdoor lighting fixtures;
 - c. Canopy signage shall be a maximum twenty-four (24) inches in height and limited to only two (2) sides of the canopy; and,
 - d. Canopy lighting shall be flush mounted or recessed. (BLDG PERMIT: BLDG - Zoning)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The preserve area located on the southeast portion of the site shall be a minimum of 2.0 acres. (DRC: ERM)
2. The 2.0 acre preserve area may receive some stormwater in order to restore and maintain a more typical hydrology. However, the preserve area shall not be considered part of the stormwater system that complies with South Florida Water Management District storage requirements. (DRC: ERM)

D. HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewers system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)

2. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENFORCEMENT)
3. The owner, occupant or tenant of this facility shall participate in an oil recycling program which ensures proper re-use or disposal of any waste oil. (ONGOING: HEALTH/CODE ENF)

E. ENGINEERING

1. The property owner shall construct:
 - a. right turn deceleration/acceleration lane, west approach at each of the project's entrances on Lake Worth Road as approved by the Florida DOT
 - b. right turn lane south approach at the project's entrance onto SR 7
 - c. left turn lane east approach on Lake Worth Road at the project's east entrance

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition or the exchange with the Lake Worth Drainage District for any additional required right-of-way to accommodate the construction of the required turn lanes.

Permits required by the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit.

Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDG PERMIT/CO: MONITORING-Eng)

2. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF LAKE WORTH ROAD
 - a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide cutouts within the concrete median of Lake Worth Road right-of-way contiguous to the frontage. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way Concrete Median Cutout; Landscape and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the Florida Department of Transportation, the landscape material within the concrete cutouts shall be consistent with the landscaping there approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject to approval by the Florida Department of Transportation. (BLDG PERMIT: MONITORING - Eng.)

- b. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out area. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
- c. If the County does not assume maintenance responsibility, property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

3. LANDSCAPE WITHIN MEDIAN OF STATE ROAD 7 AND LAKE WORTH ROAD RIGHT OF WAY

- a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Lake Worth Road and SR 7 Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
- b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner; and

its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (CO: MONITORING-Eng)

- c. If the County does not assume maintenance responsibility, the property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)
4. In order to comply with the mandatory Traffic Performance Standards the proposed fast food restaurant shall not be open for business prior to 10:00 a.m. on Monday through Friday unless a Traffic Study which complies with the mandatory Traffic Performance Standards is approved which allow: for modified hours. (DRC/CODE ENFORCEMENT-Eng)
 5. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. No building permits shall be issued until the contract is let for the widening of SR 7 from Lake Worth Road to Boynton Beach Boulevard as a 6 lane median divided facility plus the appropriate paved tapers.
 - b. Building Permits for more than 1,100 net external daily trips which is equivalent to one of the following land use scenarios shall not be issued until the contract is let for the widening of Lantana Road as a 4 lane median divided facility from SR 7 to Grand Lacuna Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

These 1100 net external trips are equivalent to one of the following land use scenarios:

 - 8883 square feet of retail and 5000 square foot tire sales, installation, and oil change facility, or
 - 15,120 square feet of drugstore with drive-thru, or
 - 3,610 square feet drive in bank and 5000 square foot, tire sales, installation, and oil change facility, or
 - 12 fueling position gas station and 5000 square foot tire sales, installation, and oil change facility. (BLDG PERMIT: MONITORING-Eng)
 6. The property owners shall contribute this projects Traffic Impact Fees toward the possible 8 lane widening of SR 7 from Lake Worth Road to Southern Boulevard. This property owners contribution shall be the total Traffic Impact Fees for the entire site shall be paid prior to April 1, 2011. (DATE: MONITORING -Eng)

F. LANDSCAPING - STANDARD

1. Fifty percent (50%) of all canopy trees required to be planted on site adjacent to the right-of-way, shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: 3.5 measured 4.5 feet above grade;
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. Credit may be given for existing or relocated trees and native understory provided they meet current ULDC standards pursuant to Section 7.3.E. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES (ABUTTING LAKE WORTH ROAD AND SR7/US441)

1. Landscaping and buffering along the north and west property lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. A continuous two (2) foot high berm measured from top of curb,
 - c. One (1) canopy tree shall be planted every twenty (20) feet on center;
 - d. One (1) additional palm tree or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and,
 - e. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINE

1. Landscaping and buffering along the south and east property line shall be upgraded to include (except for the 2 acre preserve area):
 - a. A minimum fifteen (15) foot wide landscape buffer strip; and,
 - b. A six (6) foot high opaque concrete wall or panel wall system, except adjacent to the 2 acre preserve area. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.
2. A six (6) foot vinyl coated chain link fence shall be installed adjacent to the 2 acre preserve area. (CO: LANDSCAPE)
3. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. One (1) canopy tree planted every twenty (20) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement for a canopy tree in that location. A maximum twenty-five (25%) percent of the required canopy trees within the buffer may be replaced by the palm or pine tree clusters;

- b. One additional (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet between clusters; and
 - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE,
4. Along the interior side of the required wall, or fence, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)
 5. Credit may be given for existing or relocated trees and native understory provided they meet current ULDC standards pursuant to Section 7.3.E. (CO: LANDSCAPE - Zoning)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than one half (1/2) hour after the closing of each individual use, excluding security lighting or landscape or accent lights used to emphasize plant material. (ONGOING: CODE ENF)

J. MASS TRANSIT

1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)
2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stop: by dedicating additional right-of-way, if requested by the County Engineer

Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING - Eng)

K. MUPD

1. Total gross floor area shall be limited to a maximum of 39,113 square feet. Expansion, including requested uses, shall be limited to five percent (5%) or 1,000 square feet, whichever is less subject to Traffic Division approval. (DRC: ZONING)
2. Retail square footage shall consist of 15,120 square feet pharmacy/drug store type use, or equivalent use as approved by the Palm Beach County Engineering Department. (DRC: ZONING)
3. To ensure consistency with the site plan dated November 16, 1999 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRC: ZONING)
4. All air conditioning and mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (BLDG PERMIT: BLDG - Zoning)
5. Prior to final certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)
6. Prior to final certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

L. REQUESTED USES

1. The fast food restaurant shall be limited to a maximum 120 seats. (DRC: ZONING)
2. Square footage for the tire sales, installation and oil change facility shall be limited to 5,000 square feet with bay doors on only the north facade of the building. (DRC/BLDG PERMIT: BLDG-Zoning):
3. No outdoor storage or display of tires shall be permitted. (ONGOING: CODE ENF)
4. All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (November 16, 1999). (DRC: ZONING)

5. No pawn shops or adult entertainment facilities are permitted on site.

M. SIGNS

1. Point of purchase freestanding signs fronting Lake Worth Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - two (2);
 - d. Style - monument style only. (CO: BLDG)
2. Point of purchase freestanding signs fronting SR7/US441 shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - two (2);
 - d. Style - monument style only. (CO: BLDG)
3. All wall signs shall be limited to north and west building facades only. (CO: BLDG)

N. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; 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 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 a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)