

RESOLUTION NO. R-2001-0963

RESOLUTION APPROVING ZONING PETITION DOA1 975072(G)
DEVELOPMENT ORDER AMENDMENT
PETITION OF LARISE INC.
BY ROBERT A. BENTZ, AGENT
(FACTORY STORES OF PALM BEACH)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1975-072(G) was presented to the Board of County Commissioners at a public hearing conducted on June 25, 2001; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm

Beach County Unified Land Development Code.

- 9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
- 10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 DOA1975072(G), the petition of Larise Inc., by Robert A. Bentz, agent, for a Development Order Amendment (DOA) to add indoor entertainment on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 25, 2001, 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 McCarty and, upon being put to a vote, the vote was as follows:

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Aye
Karen T. Marcus		Absent
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Aye

The Chair thereupon declared that the resolution was duly passed and adopted on June 25, 2001.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

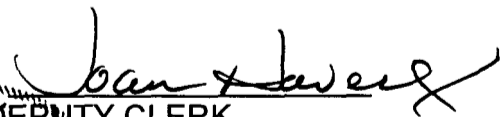
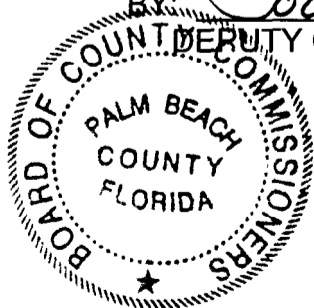
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DEPUTY CLERK


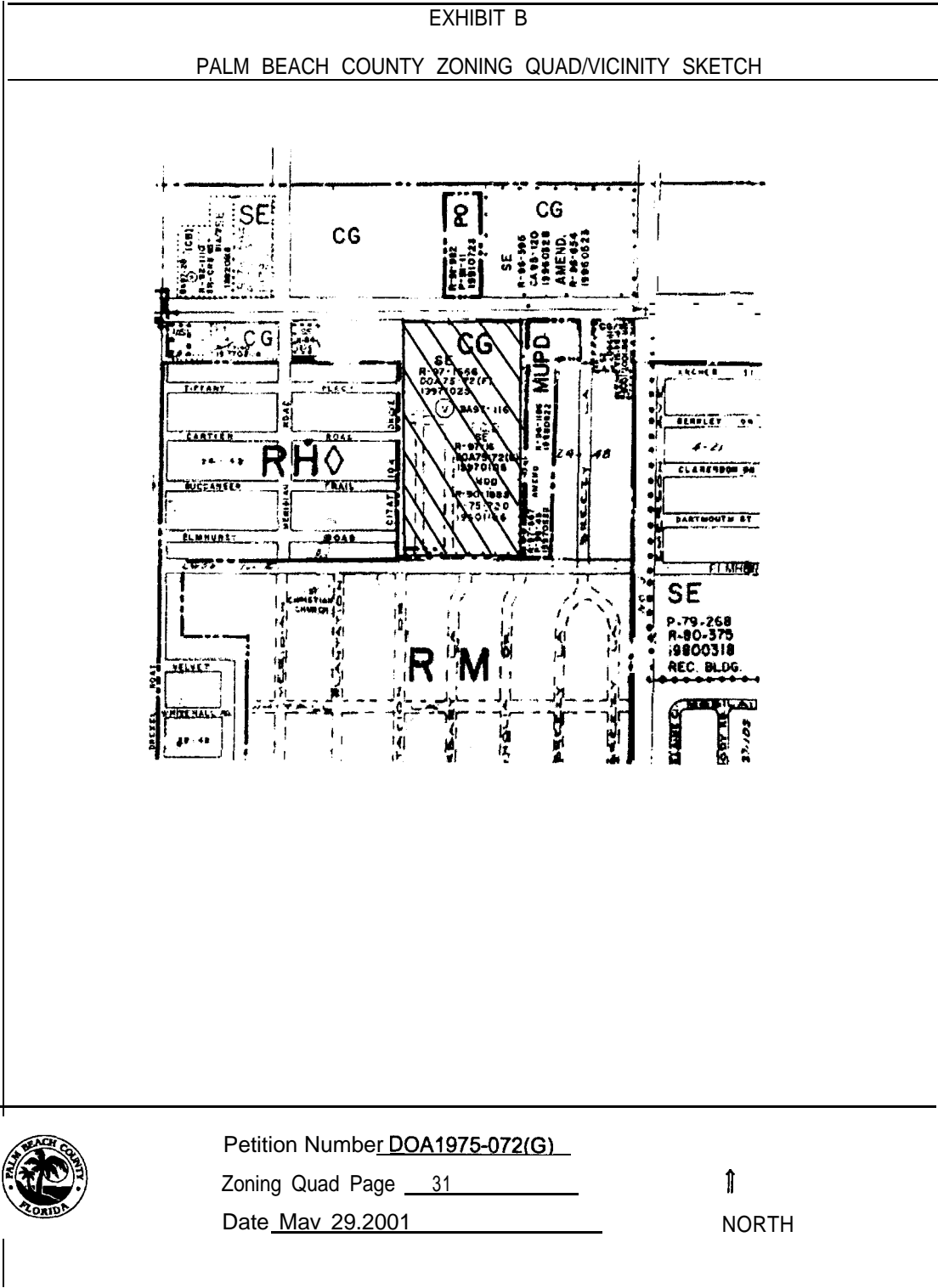
EXHIBIT A
LEGAL DESCRIPTION

The West ½ of the Northeast ¼ of the Northwest ¼ of Section 26, Township 43 South, Range 42 East, PALM BEACH COUNTY, FLORIDA, together with an easement for underground utilities over and across that certain property set forth in an easement agreement recorded in Official Records Book 5695, Page 1191, Public Records of Palm Beach County, Florida and together with an easement for underground utilities over the property set forth in that certain easement agreement recorded in Official Records Book 5695, Page 1195, of the Public Records of Palm Beach County, Florida, less right-of-way of the North 39 feet for Okeechobee Boulevard (S.R. 704) and the South 35 feet to the Lake Worth Drainage District and less and except that property set forth in that certain right-of-way warranty deed from Marvin M. Rosenberg, trustee in favor of Palm Beach County as recorded in Official Records Book 5385, Page 800 , Public Records of Palm Beach County, Florida.

Containing: 18.22 acres, more or less.

Subject to easements and rights-of-way as shown hereon.

EXHIBIT B
VICINITY SKETCH



Petition Number DOA1975-072(G)

Zoning Quad Page 31

Date May 29, 2001



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. Condition A.1 of Resolution R-97-I 566, Petition DOA75-072(F), which currently states:

The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority meeting.

Is hereby deleted. [REASON: Code requirement.]

2. Condition A.2 of Resolution R-97-I 566, Petition DOA75-072(F) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-16, (Petition 75-75(E)) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-1566, (Petition DOA75-072(F)), have been consolidated herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified.

3. Condition A.3 of Resolution R-97-I 566, Petition DOA75-072(F) which currently states:

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 June 18, 1997. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated May 14, 2001. 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. (DRC - ZONING)

B. BUILDING AND SITE DESIGN

1. Condition B. 1 of Resolution R-97-I 566, Petition DOA75-072(F) which currently states:

Developer shall provide seventy-five (75) percent opaque screening around the sewer plant site when built.

Is hereby deleted. [REASON: Property is connected to sewer service and an onsite sewage treatment and disposal system (OSTDS) is not permitted by the Palm Beach County Public Health Unit.]

2. **All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area.** (Previously Condition B.2 of Resolution R-97-1566, Petition DOA75-072(F))
3. **All facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible industrial appearance impact upon nearby residential development.** (Previously Condition B.3 of Resolution R-97-I 566, Petition DOA75-072(F))
4. **No stock loading or dumpster pickup will be permitted between the hours of 8:00 p.m. and 8 a.m.** (ONGOING: CODE ENF) (Previously Condition B.4 of Resolution R-97-I 566, Petition DOA75-072(F))
5. **No storage or placement of any materials, refuse, equipment, trucks, trailers, U-Hauls, or accumulated debris shall be permitted in the rear of the shopping center.** (ONGOING: CODE ENF) (Previously Condition B.5 of Resolution R-97-I 566, Petition DOA75-072(F))
6. **Security lighting shall be directed away from nearby residences.** (Previously Condition B.6 of Resolution R-97-I 566, Petition DOA75-072(F))
7. Condition B.7 of Resolution R-97-I 566, Petition DOA75-072(F) which currently states:

Should the site immediately east of this site, currently zoned RM, be developed with residential uses, the developer shall place a six (6) foot wall along the eastern property line, supplemented with trees planted 30' on center.

Is hereby deleted. [REASON: site to the east has been developed as a self-service storage facility (Petition 96-045).]

C. LANDSCAPING ALONG EAST PROPERTY LINE (AREA AFFECTED BY PHASE II)

1. **Landscaping and buffering along the east property line shall be upgraded to include:**
 - a. **A Type B landscape buffer extending seventy-two (72) feet from the rear (southeast) corner of the subject property and adjacent to the dry retention area.** (DRC/CO: LANDSCAPE - Zoning) (Previously Condition F. 1 of Resolution R-97-I 566, Petition DOA75-072(F))

D. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. **Landscaping and buffering along the south property line and adjacent to the dry retention area shall be upgraded to include:**

- a. **A minimum ten (10) foot wide Type C landscape buffer strip; and**
- b. **A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (DRC/CO: LANDSCAPE - Zoning) (Previously Condition G.1 of Resolution R-97-I 566, Petition DOA75-072(F))**

E. ENGINEERING

1. **Developer shall construct the following improvements at Citation Drive and Okeechobee Boulevard in proportion to his share of the approach volume on Citation Drive:**
 - a. **Expand the left turn lane on the east approach to facilitate the existing, plus development's traffic (NOTE: Complete)**
 - b. **Right turn lane, west approach (NOTE: Complete)**
 - c. **Left and right turn lanes south approach (NOTE: Complete)**
 - d. **Signalization, if and when warranted. (ONGOING: ENG) (Previously Condition E. 1 of Resolution R-97-I 566, Petition DOA75-072(F))**
2. Condition E.2 of Resolution R-97-16, Petition 75-72(E) was deleted by Resolution R-97-I 566, Petition DOA75-072(F).
3. Condition 12 of Resolution R-86-0092, Petition 75-072(A) was deleted by Resolution R-97-I 6, Petition 75-072(E).
4. **The property owner shall convey for the ultimate right of way of:**
 - a) **Okeechobee Boulevard, 70 feet from centerline; and,**
 - b) **Citation Drive, 40 feet from centerline.**
 - c) **The additional right-of-way required for the construction of a right turn lane, west approach on Okeechobee Boulevard at the project's entrance road with the ultimate 8 lane section. This right-of-way shall be a minimum of 150 feet long by 12 feet wide plus the appropriate tapers. All within 90 days of adoption of the Resolution by the Board of County Commissioner; and conveyances must be accepted by Palm Beach County prior to issuance of first Building Permit. (NOTE: Date base indicates compliance with Conditions 4a, 4b, and 4c.) (Previously Condition E.4 of Resolution R-97-I 566, Petition DOA75-072(F))**
5. **The property owner shall construct:**
 - a) **left turn lane, east approach and a right turn lane, west approach on Okeechobee Boulevard at the project's east entrance. (NOTE: condition has now been completed. The right turn lane is no longer existing with the DOT widening of this road.)b) lengthen the existing left turn lane, east approach on Okeechobee Boulevard at Citation Drive at the project's west entrance per the County Engineer's approval (proposed length to be a minimum of 200 feet). (NOTE: Complete)**

- c) **right turn lane, west approach on Okeechobee Boulevard at Citation Drive.** (NOTE: Condition has now been completed. The right turn lane is no longer existing with the DOT widening of this road.)
 - d) **reconstruct Citation Drive as a 4 lane section from Okeechobee Boulevard south to a point 200 feet south plus the appropriate tapers, all concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer.** (NOTE: Complete)
 - e) **reconstruct Citation Drive as a 2 lane section from the southern terminus south to the south property line.** (NOTE: Complete) (Previously Condition E.5 of Resolution R-97-I 566, Petition DOA75-072(F))
6. **The property owner shall provide Palm Beach County a road drainage easement within the project's internal lake system for legal positive outfall to accommodate the runoff of Citation Drive along the property frontage. The drainage system within the project shall have sufficient retention/detention capacity to accommodate the ultimate Thoroughfare Plan Section road drainage runoff and be subject to all governmental agency requirements.** (Previously Condition E.6 of Resolution R-97-I 566, Petition DOA75-072(F))
 7. **The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$241,298.00 (9,007 trips X \$26.79 per trip).** (NOTE: Complete) (Previously Condition E.7 of Resolution R-97-I 566, Petition DOA75-072(F))
 8. **Based on the Traffic Performance Standards (Category "A"), the Developer shall contribute an additional \$120,649.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of (\$361,947.00) to be paid prior to October 1, 1986.** (NOTE: Complete)

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$120,649.00 shall be credited toward the increased Fair Share Fee. (Previously Condition E.8 of Resolution R-97-I 566, Petition DOA75-072(F))
 9. Condition 18 of Resolution R-86-92, Petition 75-72(A) was deleted by Resolution R-97-0016, Petition 75-072(E).
 10. **The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Citation Drive and a permit from the Florida Department of Transportation for access onto Okeechobee Boulevard.** (NOTE: Entrances are now existing.) (Previously Condition E. 10 of Resolution R-97-1566, Petition DOA75-072(F))
 11. Condition 20 of Resolution R-86-0092, Petition 75-072(A) was deleted by Condition 2 of Resolution R-90-1 888, Petition 75-072(D).
 12. Condition E. 12 of Resolution R-97-I 566, Petition DOA75-072(F), which currently states:

The property owner shall install signalization if warranted as determined by the County Engineer at Okeechobee Boulevard and Citation Drive. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

Is hereby amended to read:

The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Okeechobee Boulevard and Citation Drive. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (ONGOING: MONITORING-Eng)

13. **LANDSCAPE WITHIN MEDIAN**

- a. **Prior to issuance of any building permits or interior modifications, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median of Okeechobee Boulevard. When permitted by Palm Beach County Department of Engineering and Public Works, 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 and 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. (NOTE: Complete) (Previously Condition E. 13.a. of Resolution R-97-I 566, Petition DOA75-072(F))**
- b. **All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All 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 on or before the issuance of a Certificate of Occupancy. (NOTE: Complete) (Previously Condition E.13.b. of Resolution R-97-1566, Petition DOA75-072(F))**
- c. **Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (NOTE: Complete) (Previously Condition E. 13.c. of Resolution R-97-I 566, Petition DOA75-072(F))**

14. **Prior to issuance of a certificate of occupancy for the structure in the southeast corner of the parcel, the new drainage easement serving the site shall be recorded by the Property Owner. (CO: MONITORING-Eng)**
(Previously Condition E.14 of Resolution R-97-I 566, Petition DOA75-072(F))

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to the Department of Environmental Resources Management prior to DRC site plan certification.
(DRC: ERM)

G. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to include the existing or proposed future location of sidewalks along Okeechobee Boulevard since this site is within two (2) miles of a school. (DRC: PLANNING)

H. SIGNS

1. Condition C.I of Resolution R-97-I 566, Petition DOA75-72(F) which currently states:

New freestanding point of purchase sign for eastern outparcel fronting on Okeechobee Boulevard shall be limited as follows:

- a. **Maximum sign height, measured from finished grade to highest point - ten (10) feet;**
- b. **Maximum sign face area per side - 100 square feet;**
- c. **Maximum number of signs - one (1);**
- d. **Style - monument style only; and,**
- e. **Constructed simultaneous with issuance of building permit for eastern outparcel structure.**

Is hereby deleted. [REASON: Prior request (DOA 75-072(F)) deleted eastern outparcel.]

2. No additional new signs shall be permitted on Okeechobee Boulevard and Citation Drive. Replacement or relocation of the two (2) existing freestanding point of purchase signs on Okeechobee Boulevard 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 for the overall site - two (2) at Okeechobee Boulevard only; and
 - d. Style - monument style only.

I. USE LIMITATIONS (AFFECTED AREA- INDOOR ENTERTAINMENT USE ONLY)

1. Indoor entertainment shall be limited to a skateboard park, accessory uses for concessions, and retail sales as shown on the floor plan for Ramp 48 Skateboard Park prepared by Arthur L. Bromley, P.E. dated May 30, 2001.
(ONGOING: CODE ENF/ZONING)
2. The skateboard facility hours of operation shall be limited to: 1:00 p.m. - 9:00 p.m. Sunday thru Thursday, and 9:00 a.m. to 12:00 a.m. Friday and Saturday. (ONGOING: CODE ENF)

3. The petitioner shall provide a uniformed security guard for the skateboard facility during operating hours and thirty (30) minutes after closing, to ensure that no loitering is permitted. (ONGOING: CODE ENF)

J. 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. Condition H.I of Resolution R-97-I 566, Petition DOA75-72(F) which currently states:

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; 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.

Is hereby amended to read:

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 the Code Enforcement Division 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)