

RESOLUTION NO. R-2002- 0836

RESOLUTION APPROVING ZONING PETITION DOAI978-273(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF PINE TRAIL SQUARE CENTER LLC
BY WINSTON LEE, AGENT
(PINE TRAIL SHOPPING CENTER)

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 DOA1978-273(A) was presented to the Board of County Commissioners at a public hearing conducted on May 23, 2002; 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, all previous conditions of approval applicable to the subject property, as contained in Resolutions R-76-494 (Petition 76-48), R-89-608 (Petition 76-48(B)), R-91-1222 (Petition SR 76-48(B)), R-93-1024 (Petition 76-48C), R-76-1029 (Petition 76-155), R-78-977 (Petition 78-124), R-79-87 (Petition 78-273), R-79-605 (Petition 79-90), R-1764, R-1765 (Petition 79-265) have been consolidated as contained herein.

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 DOA1978-273(A), the petition of Pine Trail Square Center LLC, by Winston Lee, agent, for a Development Order Amendment to allow a fitness center in excess of 15,000 square feet 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 8, attached hereto and made a part hereof, was approved on May 23, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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	-	Absent
Karen T. Marcus	-	Aye
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 May 23, 2002.

Filed with the Clerk of the Board of County Commissioners on 23 day of May, 200-2

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

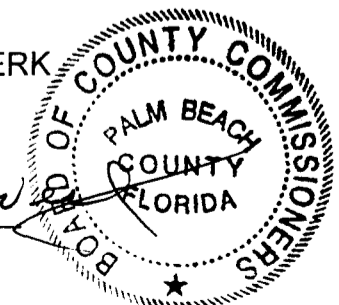


EXHIBIT A

LEGAL DESCRIPTION

A parcel of Land lying in the Northeast One-Quarter of the Northwest One-Quarter of Section 25, Township 43 South, Range 42 East, PALM BEACH County, Florida, and being more particularly described as follows:

COMMENCING at a found PALM BEACH County Concrete Monument marking the North One-Quarter corner of said Section 25; thence run South $00^{\circ}43'36''$ West (the centerline of Military Trail is assumed to bear South $00^{\circ}43'36''$ West and all other bearings are relative to said bearing. Along the East line of the Northwest One-Quarter of said Section 25 and the centerline of Military Trail, a distance of 97.90 feet; thence North $89^{\circ}16'24''$ West, a distance of 60.00 feet to the Westerly right-of-way line of said Military Trail; thence South $00^{\circ}43'36''$ West, along said Westerly right-of-way line, a distance of 488.02 feet, thence South $89^{\circ}52'06''$ West, departing from said Westerly right-of-way line, a distance of 158.90 feet; thence South $00^{\circ}41'33''$ West, a distance of 150.00 feet; thence North $89^{\circ}52'06''$ East, a distance of 158.81 feet to said Westerly right-of-way line of Military Trail; thence South $00^{\circ}43'36''$ West, along said Westerly right-of-way line, a distance of 537.57 feet to the beginning of a curve, with a radius of 28.00 feet; thence Southerly and Westerly along the arc of said curve having a central angle of $89^{\circ}24'29''$, a distance of 43.69 feet; thence (the following three bearings and distances are along the Northerly right-of-way line of Elmhurst Road) North $89^{\circ}51'55''$ West, along the tangent to the preceding curve, a distance of 263.08 feet; thence South $88^{\circ}51'43''$ West, a distance of 90.04 feet; thence North $89^{\circ}51'55''$ West, a distance of 568.61 feet to the East line of the West One-Half of the West One-Half of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $00^{\circ}37'25''$ East, along said line, a distance of 89.48 feet to the South line of the North 129.48 feet of the South 258.96 feet of the West One-Half of the Southwest One-Quarter of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $89^{\circ}51'55''$ West, along said South line, a distance of 336.52 feet to the West line of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $00^{\circ}35'21''$ East, along said West line, a distance of 279.68 feet; thence South $89^{\circ}59'55''$ East, a distance of 336.70 feet to the East line of the West One-Half of the West One-Half of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $00^{\circ}37'25''$ East, along said line, a distance of 727.89 feet to the South line of the North 200.00 feet of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $89^{\circ}52'06''$ East, along said South line, a distance of 132.01 feet to the East line of the West 132.00 feet of the East One-Half of the Northwest One-Quarter of the Northeast One-Quarter of the Northwest One-Quarter of said Section 25; thence North $00^{\circ}37'25''$ East, along said line, a distance of 130.01 feet to the South right-of-way line of Lake Worth Drainage District Canal L-1; according the lands recorded in Official Record Book 1732, Page 612, of the Public Records of PALM BEACH County, Florida; thence North $89^{\circ}52'06''$ East, along said right-of-way line, a distance of 626.63 feet to the West line of the East 253.00 feet of the Northwest One-Quarter of said Section 25; thence (the following three bearings and distances are along the Southerly right-of-way line of Okeechobee Boulevard) North $00^{\circ}43'36''$ East, a distance of 8.00 feet; thence North $89^{\circ}52'06''$ East, a distance of 158.02 feet; thence South $44^{\circ}42'09''$ East, a distance of 49.12 feet to the POINT OF BEGINNING.

Containing 28.06496 acres or 1,222,510 Square Feet, more or less.

EXHIBIT B
VICINITY SKETCH

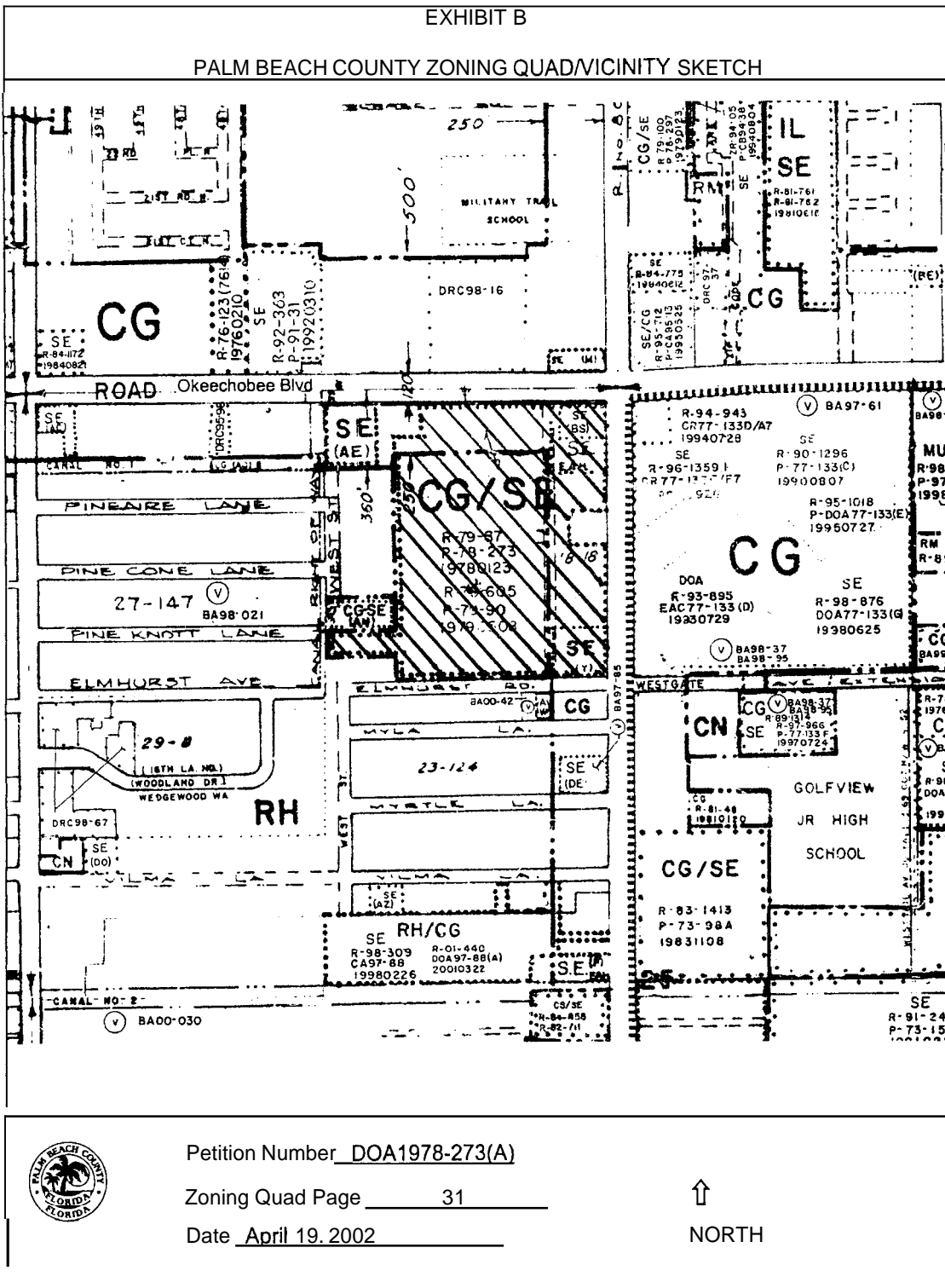


EXHIBIT C

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. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-76-494 (Petition 76-48), R-89-608 (Petition 76-48(B)), R-91-1222 (Petition SR 76-48(B)), R-93-1024(Petition 76-48C)), R-76-1029 (Petition 76-155), R-78-977(Petition 78-124), R-79-87 (Petition 78-273), R-79-605 (Petition 79-90), R-1764, R-1765 (Petition 79-265) 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. (ONGOING: MONITORING-Zoning)
2. 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 March 18, 2002. 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. LANDSCAPE STANDARD

1. Prior to issuance of the Certificate of Occupancy for the fitness center, all dead, missing or damaged plant materials in the entire shopping center shall be replaced. Landscape shall be installed pursuant to planting plans prepared by Winston Lee & Associates, Inc. dated April 16, 2002. (CO: LANDSCAPE- Zoning)
2. Petitioner shall construct the six (6) foot high privacy wall shown on plans submitted (Exhibit #7) along the project's entire west property line prior to the issuance of any building permit.(s). (Previous Condition 15 of Resolution R-79-87, Petition 78-273)
3. All cabbage palms of desirable size and condition shall be relocated and used as landscape material for this project. (Previous Condition 16 of Resolution R-79-87, Petition 78-273)
4. All oak trees and specimen trees located in areas where parking spaces can be eliminated shall be preserved in place. Those trees of too large a size to be moved and which are located in proposed driveways and building sites, however, may be removed upon approval of the Urban Forester. (Previous Condition 17 of Resolution R-79-87, Petition 78-273)
5. Pine trees located within proposed median strips five (5) feet or wider, exclusive of required parking overhang areas, shall be preserved in place. (Previous Condition 18 of Resolution R-79-87, Petition 78-273)

C. LAKE WORTH DRAINAGE DISTRICT

Condition 13 of Resolution R-79-87, Petition 78-273 which currently states:

1. Petitioner shall provide the right-of-way of seventy (70) feet for Lateral Canal No. 1 or an approved culvert system with a lesser width right-of-way. Developer may furnish the necessary right-of-way either by Easement Deed or Quit Claim Deed, as recommended by the Lake Worth Drainage District.

Is hereby deleted. Reason: [the canal has been relocated.]

D. PLANNING

1. Prior to final Development Review Certification, the site plan shall be revised to include notations indicating the existing or proposed/future location of sidewalks along Military Trail and Elmhurst Road. (DRC: PLANNING-Planning)

E. ENGINEERING

1. Condition 1 of Resolution R-76-494, Petition 76-48 which currently states:

The Developer shall complete construction prior to September 1, 1976, with the construction of turnouts and sidewalks as first priority.

Is hereby deleted. Reason: [Entrance is now existing].

2. Condition 2 of Resolution R-76-494, petition 76-48) which currently states:

Developer shall stripe the sidewalk across the turnout, as pedestrian crosswalks with warning signs for outgoing traffic. (ONGOING: ENG-Eng)

Is hereby deleted. Reason: Palm Beach County School Board has changed the designation of the adjacent school from an elementary to an adult education facility. Pedestrian activity no longer warrants these signs.

3. The Developer shall pave or astroturf the Triangular Waiting Station at the corner. Hedge and landscaping to be behind the property line of the twenty-five (25) foot diagonal safe corner at the intersecting right-of-way lines. (Previous Condition 3 of Resolution R-76-494, Petition 76-48) (ONGOING: ENG-Eng)

4. The Developer shall provide a wheelchair ramp in the curb when constructing the curb and sidewalk at the south-east corner of Military Trail and Okeechobee Boulevard. (Previous Condition 4 of Resolution R-76-494, Petition 76-48) COMPLETED

5. The Developer shall place "Restrictive Covenant" on the property to insure auto facility will post signs and strip sidewalk on their entrance by September 1, or prior to building permit of sales office, which ever is first. (Previous Condition 5 of Resolution R-76-494, Petition 76-48) COMPLETED

6. The Developer shall construct sidewalks and curb gutters along Military Trail and Okeechobee Boulevard. (Previous Condition 6 of Resolution R-76-494, Petition 76-48) COMPLETED

7. The Developer shall convey the twenty-five (25) foot "safe corner" to the County at the intersection of Military Trail and Okeechobee Boulevard. (Previous Condition 7 of Resolution R-76-494, Petition 76-48) COMPLETED

8. Condition 1 of Resolution R-76-1029, Petition 76-155) which currently states:

Developer shall stripe the sidewalk across the turnout, as pedestrian crosswalks with warning signs for outgoing traffic.

Is hereby deleted. Reason: Palm Beach County School Board has changed the designation of the adjacent school from an elementary to an adult education facility. Pedestrian activity no longer warrants these signs.

9. Developer shall construct sidewalk along Military Trail. (Previous Condition 1 of Resolution R-79-605, Petition 79-90) COMPLETED
10. Within ninety (90) days off Special Exception approval, petitioner shall convey to Palm Beach County forty (40) feet from existing centerline for Elmhurst Road right-of-way. (Previous Condition 1 of Resolution R-79-87, Petition 78-273) COMPLETED
11. Within ninety (90) days off Special Exception approval, petitioner shall convey to Palm Beach County an additional seven (7) feet of right-of-way, and further reserve a maximum of another nine (9) feet for the ultimate right-off-way for Military Trail; as approved by the County Engineer. The petitioner has agreed to waive compensation for the reserved right-of-way area and any improvements thereon. (Previous Condition 2 of Resolution R-79-87, Petition 78-273) COMPLETED
12. Petitioner shall construct Elmhurst Road from Military Trail westerly to the west property line to County Standards. (Previous Condition 3 of Resolution R-79-87, Petition 78-273) COMPLETED
13. Petitioner shall construct an additional travel lane for both eastbound and westbound traffic on Okeechobee Boulevard from Military Trail to west property line. (Previous Condition 4 of Resolution R-79-87, Petition 78-273) COMPLETED
14. Petitioner shall extend right turn lane, east approach, at the intersection of Okeechobee Boulevard and Military Trail easterly to the intersection with Zip Code Place. (Previous Condition 5 of Resolution R-79-87, Petition 78-273) COMPLETED
15. Petitioner shall reconstruct and lengthen left turn lane, south approach, at the intersection of Military Trail and Elmhurst Road. (Previous Condition 6 of Resolution R-79-87, Petition 78-273) COMPLETED
16. Petitioner shall construct left turn lane, east approach, at intersection of Okeechobee Boulevard and west driveway entrance. (Previous Condition 7 of Resolution R-79-87, Petition 78-273) COMPLETED
17. Petitioner shall design the intersection of Okeechobee Boulevard and east entrance road to be a right in/right out entrance with no median opening being allowed at this intersection. (Previous Condition 8 of Resolution R-79-87, Petition 78-273) Maybe deleted. REASON:[Median opening are under the jurisdiction of FLA, DOT].
18. Petitioner shall design the driveway intersections along Military trail to be right in/right out entrances with no median openings being allowed at these locations. (Previous Condition 9 of Resolution R-79-87, Petition 78-273) Maybe deleted. REASON: [Median openings are under the jurisdiction of FLA, DOT].
19. Condition 10 of Resolution R-79-87, Petition 78-273 which currently states:

 Petitioner shall modify the traffic signals at the intersection of Military Trail and Elmhurst Road to accommodate the construction of Elmhurst Road.

 Is hereby deleted: Reason: Elmhurst construction has been completed.
20. Petitioner shall contribute One Hundred Sixty-Five Thousand Seven Hundred Fifty Dollars (\$165,750.00) toward the cost of meeting this project's direct and identifiable traffic impact. This commitment shall be used for the acquisition of right-of-way and the construction of Elmhurst Road from the project's west property line westerly to

Haverhill Road and the construction of a left turn lane, north approach, at the intersection of Haverhill Road and Elmhurst Road. Any portion of this commitment of \$165,750.00 not expended on the Elmhurst Road improvements shall be used toward the cost of relocating the utilities along the south side of Okeechobee Boulevard, east of Military Trail, as they relate to the fulfilling of recommended condition #5. (Previous Condition 11 of Resolution R-79-87, Petition 78-273) Shall be deleted. REASON:[Impact fees are code requirements].

21. Unless prevented by factors beyond the control of the developer, the construction of Elmhurst Road, as noted the proposed condition #3 and #11, shall proceed simultaneously with the construction of the proposed shopping center and shall be completed prior to the issuance of any Certificate of Occupancy. (Previous Condition 12 of Resolution R-79-87, Petition 78-273) COMPLETED
22. No truck traffic involved in the construction of this project shall utilize Elmhurst Road for ingress and egress. (Previous Condition 14 of Resolution R-79-87, Petition 78-273) Shall be deleted. REASON:[construction has been completed.]
23. Petitioner shall provide either a seventy (70) foot right-of-way for the L.W.D.D. Lateral Canal No. 1 or an approved culvert system with a lesser width right-of-way. Petitioner shall provide the necessary right-of-way either by easement Agreement or Quit Claim Deed. (Previous Condition 1 of Resolution R-79-605, Petition 79-90) {McDonald}
24. Petitioner shall contribute Fifty Dollars (\$50.00) toward the cost of meeting this project's direct and identifiable traffic impact, to be paid at the time of issuance of a building permit(s). The fee schedule for this project has been calculated in accordance with Ordinance 79-7. This condition shall fulfill the developer's requirement according to the "Fair Share Contribution for Road Improvements Ordinance" 79-7 adopted by the Board of County Commissioners. (Previous Condition R-1756, Petition 79-265){Water Tower} Shall be deleted. REASON: [Impact fees are code requirement].

F. SIGNS

1. Prior to final DRC certification of the site plan, the four (4) freestanding multi-tenant (non-conforming) signs located on Okeechobee Boulevard and Military Trail shall be identified on the site plan as Signs A through D. (DRC: ZONING – Zoning)
2. Non-conforming signs A through D shall be allowed to be altered as indicated on the drawings prepared by SignCraft Schematics dated April 5, 2002. The existing bases and structural supports of the non-conforming signs shall be utilized. (BLDG PERMIT: BLDG-Zoning)
3. Non-conforming signs A through D shall be limited to the advertising of a maximum number of twelve (12) tenants per sign. (BLDG. PERMIT – BLDG-Zoning)
4. Prior to final DRC certification of the site plan, the existing overall dimensions, sign face area, and heights of the four (4) freestanding non-conforming signs A through D shall be submitted in accordance with Condition F.2. (DRC:ZONING – Zoning)
5. Replacement, relocation or renovation of all other signs shall be in accordance with the ULDC. (BLDG PERMIT: BLDG – Zoning)

G. 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 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 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)