

RESOLUTION NO. R-2002- 1255

RESOLUTION APPROVING ZONING PETITION DOA1998-078C  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF HERBERT F. KAHLERT AND KARL A. KAHLERT  
BY KILDAY AND ASSOCIATES, AGENT  
(SHOPPES OF MADISON)

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 DOA1998-078C was presented to the Board of County Commissioners at a public hearing conducted on July 25, 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, 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 DOA1998-078C, the petition of Herbert F. Kahlert and Karl A. Kahlert, by Kilday and Associates, agent, for a Development Order Amendment to reconfigure master plan; add square footage and to allow a convenience store with gas sales, a car wash and a fast food restaurant 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 July 25, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

The motion was seconded by Commissioner Greene 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              | - | Nay    |
| Mary McCarty                 | - | Nay    |
| Burt Aaronson                | - | Aye    |
| Tony Masilotti               | - | Absent |
| Addie L. Greene              | - | Aye    |

The Chair thereupon declared that the resolution was duly passed and adopted on July 25, 2002.

Filed with the Clerk of the Board of County Commissioners on 21 day of August, 2002.

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

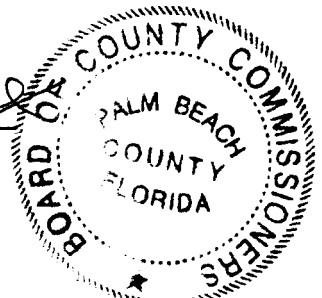
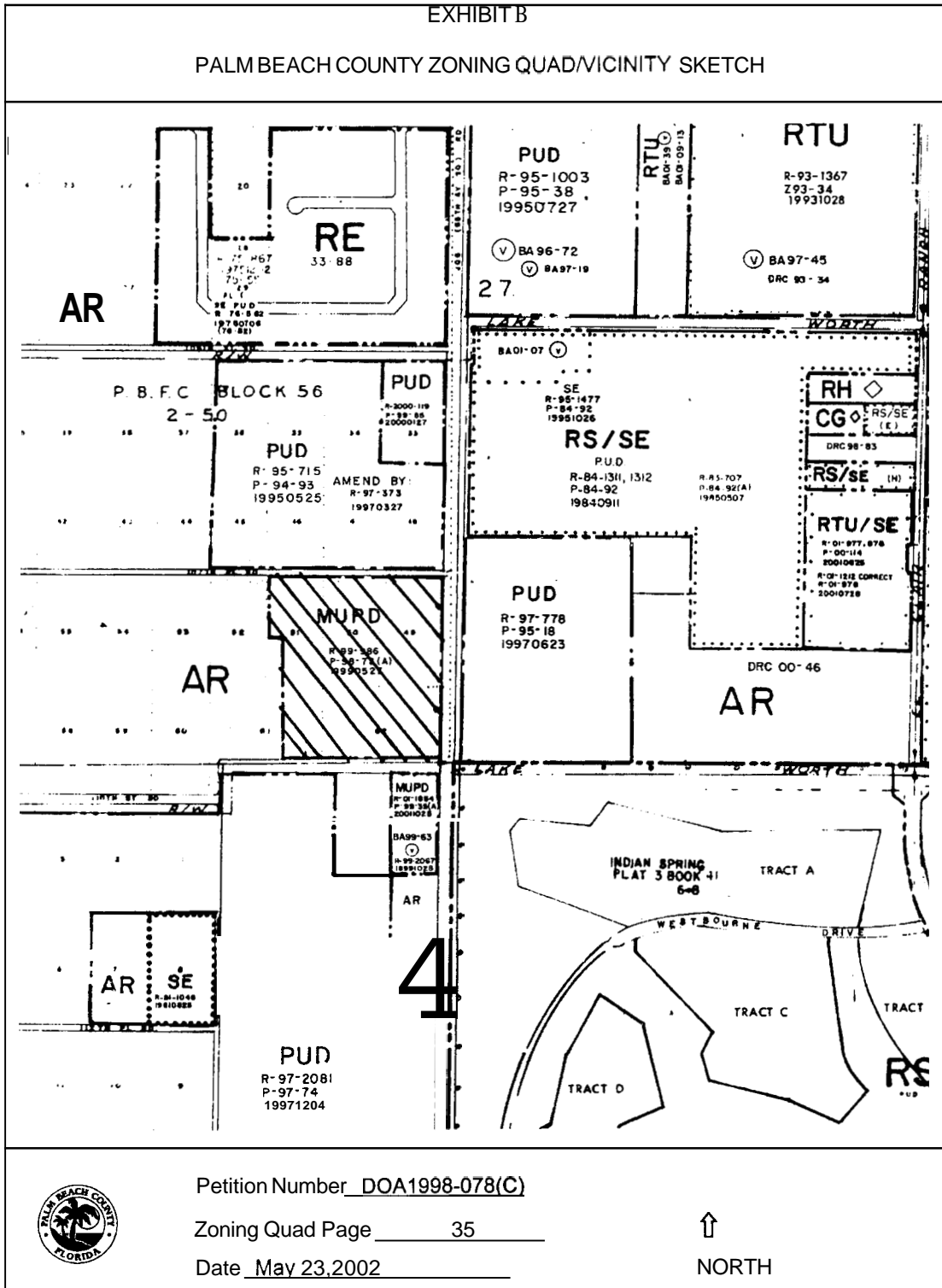


EXHIBIT A  
LEGAL DESCRIPTION

TRACTS 49 THROUGH 51, 61 AND 62, INCLUSIVE, LESS THE WEST 10 FEET OF THE NORTH 375 FEET OF TRACT 51 AND LESS THE WEST 92 FEET OF THE SOUTH 284 FEET OF TRACT 51 AND LESS THE WEST 440 FEET OF TRACT 61, AND LESS THE RIGHT OF WAY FOR JOG ROAD, SAID LANDS LYING ENTIRELY WITHIN BLOCK 56, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, PALM BEACH COUNTY RECORDS.

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 Resolution R-99-0986 (Petition 98-078A), has 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. Condition A. 1 of Resolution R-99-0986, Petition 1998-078(A) 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 preliminary development plan is dated April 9, 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-Zoning)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved preliminary development/site plan is dated June 20, 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-Zoning)

3. The petitioner shall have three (3) years from the adoption of the resolution approving Petition 1998-078C to commence development on the site. (DATE: MONITORING-Zoning)
4. Prior to final Development Review Committee (DRC) certification of the preliminary development/site plan, the petitioner is required to delete the convenience store with gas sales from the MUPD. (DRC: ZONING – Zoning)

#### B. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment, including but not limited to color, building materials, fenestration and roof lines, shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG – Zoning) (Previous Condition B. 1 of Resolution 99-0986, Petition 1998-078(A)) (Phase 1/pharmacy only)
2. Prior to 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 - CoAtt) (Previous Condition B.2 of Resolution R-99-0986, Petition 1998-078(A))

3. At time of submittal for final Development Review Committee (DRC) certification of the site plan, the architectural elevations for the main shopping center shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations and the site plan shall be designed to be consistent with Sec. 6.6.E (Architecture Guidelines) and 6.6.C (Compatibility Standards) of the ULDC. Developments shall be consistent with the approved architectural elevations and DRC certified site plan. (DRC: ARCH. REVIEW - Zoning)
4. Site plan shall be revised to be consistent with proposed elevations prepared by Oliver Glidden and Partners Architects and Planners, Inc. dated June 20, 2002. (DRC: ARCH. REVIEW - Zoning)
5. Elevations for all out parcel buildings shall be submitted prior to building permit for architectural review and approval. The architecture of all out parcel buildings must be consistent with Sec. 6.6.E and 6.6.C of the ULDC, and unified in characters, materials and colors with the approved elevations for the principal structure. (ARCH. REVIEW/BLDG PERMIT: ZONING – Zoning)
6. Design of gutters and downspouts shall be architecturally integrated into the architectural design of the building. Painting of the gutters and downspout shall not constitute architectural integration. (ARCH. REVIEW/ BLDG PERMIT: ZONING – Zoning)
7. All mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure. (ARCH. REVIEW/BLDG PERMIT: ZONING – Zoning)

C. BUILDING AND SITE DESIGN

1. Condition C. 1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

**Total gross floor area shall be limited to 22,680 square feet. Expansion shall be limited to Phase 1 with an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less subject to approval by the Traffic and Zoning Division.** (DRC: ZONING-Zoning)

Is hereby amended to read:

Total gross floor area shall be limited to 175,000 square feet. Expansion shall be limited to with an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less subject to approval by the Traffic and Zoning Division. (DRC: ZONING-Zoning)

2. Condition C.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

**The maximum height for all principal structures, measured from finished grade to highest point, shall be one story and not exceed thirty (30) feet.** (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

The maximum height for the principal structures (except for Buildings H, J, K and L) shall be one story and shall not exceed thirty (30) feet. The maximum height for Buildings H, J, K and L shall not exceed forty-five (45) feet. Ornamental towers shall not exceed sixty-five (65) feet. All heights shall be measured from finished grade to the highest point. (BLDG PERMIT: BLDG – Zoning)

3. Condition D.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be located a minimum of one hundred (100) feet from any property line. (DRC/ONGOING: ZONING/CODE ENF)

Is hereby amended to read:

All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be located a minimum of seventy (70) feet from the north property line, and a minimum of seventy-five (75) feet from the south, east and west property lines. (DRC/ONGOING: ZONING/CODE ENF)

4. Prior to final DRC certification of the Preliminary development kite plan, the petitioner shall revise the site plan to show a covered loading dock for the “Grocery store” Building J. A full pitched roof, a minimum of thirty (30) feet in width and fifty (50) feet in length, shall be provided over the loading dock. Design, color, pitch and material of the roof shall be consistent with the principal structure. (DRC: ZONING - Zoning)

#### D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC: ERM-Erm) (Previous Condition F.1 of Resolution R-99-0986, Petition 1998-078(A))

#### E. ENGINEERING

1. The Property owner shall construct Woolbright Road from Jog Road, west to the projects entrance as a non-plan collector road.
  - a. 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 of any additional required right-of-way. Construction shall be subject to the County Engineering approval and shall be to non plan collector street standards minimum of two 12 foot travel lanes.
  - b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
  - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E.1 of Resolution R-99-0986, Petition 1998-078(A))

2. Prior to DRC approval of the site plan/master plan the property owner shall obtain conceptual approval from the LWDD for the three proposed canal crossings of the LWDD L-26 Canal. (DRC APPROVAL: Eng) (Previous Condition E.2 of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

3. Condition E.3 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after February **28,2000**. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section **5.8** of the Unified Land Development Code. (DATE: MONITORING-Eng)(Previous Condition E.3.A of Resolution R-99-0986, Petition 1998-078 (A))

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

- a. Building Permits for more than 15,120 square feet of general retail shall not be issued until the contract is awarded for the 4 lane widening of Woolbright Road from Jog Road to Military Trail plus the appropriate paved tapers.
- b. Building Permits for more than 168,100 square feet of general retail, 29 single family dwelling units, or the equivalent of 5960 net daily external trips per day, shall not be issued until the contract is awarded for the 4 lane widening of Boynton Beach Boulevard from Lyons Road to the Florida Turnpike plus the appropriate paved tapers.
- c. Building Permits for more than 168,100 square feet of general retail, 29 single family dwelling units and 3500 square feet of fast food restaurant, or the equivalent of 6562 net daily external trips per day, shall not be issued until the contract is awarded for the 6 lane widening of Jog Road from Lake Ida Road to West Atlantic Avenue plus the appropriate paved tapers.
- d. No Building Permits for the site may be issued after December 31, 2004. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. The concurrency for this site is a portion of a larger concurrency approved for the adjacent residential site. The square footage for the shopping center permitted under this Condition of Approval may be adjusted by the County Engineer based upon an approved phasing plan. (BLDG PERMIT: MONITORING – Eng)

4. The developer shall plat the subject property in accordance with provisions of Article **8** of the Unified Land Development Code. This plat shall be recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING-Eng) (Previous Condition E.4 of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]



5. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS

- 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 along the entire frontage of the MUPD for the Jog Road right-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. 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.

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.) (Previous Condition E.5.A of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

- b. All required median landscaping, including an irrigation system shall be installed at the property owners expense. 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 on or before the issuance of a Certificate of Occupancy. (CO: MONITORING- Eng) (Previous Condition E.5.B of Resolution R-99-0986, Petition 1998-078(A))

- c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.5.C of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

6. The property owner shall provide a temporary access connection to the existing dirt road along the south property line. This access easement shall continue to provide legal access to the property owner to the west subject to approval of the County Engineer. (ONGOING: MONITORING- Eng) (Previous Condition E.6 of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

7. Prior to final site plan approval, Phase I development shall include a landscaped pathway/sidewalk system along the Phase I line that borders Woolbright Road in order to provide shade/canopy for the pedestrian walkway. (DRC: LANDSCAPE- Eng-Planning) (Previous

Condition E.7 of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

8. Prior to final site plan approval, Phase II development shall include a landscaped pathway/sidewalk system along Jog Road and Woolbright Road in order to provide shade/canopy for the pedestrian walkway of both phases I and II. (DRC: LANDSCAPE- Eng-Planning) (Previous Condition E.8 of Resolution R-99-0986, Petition 1998-078(A))
9. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF JOG 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 for landscape cutouts within the concrete median of Jog Road Rights-of-way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way concrete median cutout; Landscape and paver block Installation including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the County Engineer, the landscape material within the concrete cutouts shall be consistent with the landscaping theme 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 County Engineer. (BLDG PERMIT: MONITORING- Eng.) (Previous Condition E.9.A of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]
  - b. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material shall be funded at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assignees or duly established Property Owner's Association 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. (Eng) (Previous Condition E.9.B of Resolution R-99-0986, Petition 1998-078(A))
  - c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDG PERMIT: MONITORING- Eng.) (Previous Condition E.9.C of Resolution R-99-0986, Petition 1998-078(A)) [NOTE: complete]

F. LANDSCAPING – STANDARDS (ALL PHASES)

1. **Fifty (50%)** percent of all canopy trees required to be planted on site by this approval, shall meet the following minimum standards at installation:
  - a. Tree height: fourteen (14) feet;
  - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;

- c. Canopy diameter: seven (7) feet. Diameters 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 in length; and,
  - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition G.1 of Resolution R-99-0986, Petition 1998-078(A))
2. All palms required to be planted on site by this approval, shall meet the following minimum standards at installation:
    - a. Palm heights: twelve (12) feet clear trunk;
    - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
    - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition G.2 of Resolution R-99-0986, Petition 1998-078(A))
  3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning) (Previous Condition G.3 of Resolution R-99-0986, Petition 1998-078(A))
  4. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
    - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
    - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
    - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
    - d. this condition does not apply to buffer where a single row of hedge/shrub material is required, and to the landscaping for Phase 1/pharmacy. (CO: LANDSCAPE - Zoning)
  5. All trees and palms shall be planted in a meandering and naturalistic pattern, except for the landscaping of Phase 1/pharmacy (CO: LANDSCAPE - Zoning)
  6. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE – Zoning)

**G. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES OF PHASE 1**

1. Condition H.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:  
  
Landscaping and buffering along the north and west property lines of Phase I shall be upgraded to include:
  - a. A minimum twenty (20) foot wide landscape buffer strip;
  - b. Continuous three (3) foot high berm measured from top of curb with a three (3) foot hedge on the plateau of the berm;
  - c. One (1) canopy tree planted every twenty (20) linear feet of property line;

- d. 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)

Is hereby deleted. Reason:[ no longer applicable, since site plan changes].

2. Condition H.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

The landscape treatment may be removed with issuance of first building permit for Phase 2. (BLDG PERMIT: LANDSCAPE)

Is hereby deleted. Reason:[no longer applicable, since site plan changes].

H. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES, EXCLUDING PHASE 1 (ABUTTING RESIDENTIAL)

1. Condition I.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Prior to the issuance of the first Certificate of Occupancy (CO) of Phase 2 landscaping and buffering along the north and west property lines shall be upgraded to include:

- a. A minimum twenty **(20)** foot wide landscape buffer strip;
- b. Continuous three (3) foot high berm measured from top of curb with a three (3) foot hedge, fence or wall on the plateau of the berm;
- c. One (1) canopy tree planted every twenty **(20)** linear feet of property line;
- d. Equivalent of one (1) palm or pine tree for each twenty **(20)** linear feet of property line, with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more **palms/pines** may not supersede the requirement for a canopy tree in that location;
- e. If a three (3) foot masonry screen wall is used, canopy trees and **pin**es/palms shall be located on alternating sides of the three (3) foot wall; with a,
- f. Atwenty-four **(24)** inch high shrub or hedge material, spaced no more than twenty four **(24)** inches on center at installation, to be located on both sides of the screen. (CO: LANDSCAPE)

Is hereby amended to read:

Prior to the issuance of the first Certificate of Occupancy (CO) of Phase 2 landscaping and buffering along the north and west property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction shall be permitted;
- b. a continuous two and one-half (2.5) foot high berm measured from top of curb;
- c. a six (6) foot high opaque concrete panel wall on the plateau of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
- d. one (1) canopy tree for each twenty (20) feet of property line, and alternating on both sides of the wall;

- e. one (1) palm or pine tree for each thirty (30) linear feet of the property line, and alternating on both sides of the wall. (CO: LANDSCAPE-Zoning)
2. The following landscaping requirements shall be installed on both sides of the required wall:
- a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and
  - b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE-Zoning)
- I. LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINES OF PHASE 1 (JOG AND WOOLBRIGHT ROAD FRONTAGES)
1. Landscaping and buffering along the east and south property lines shall be upgraded to include:
- a. A minimum twenty (**20**) foot wide landscape buffer strip with a maximum five (5) feet overlap into a utility easement;
  - b. A minimum two to three foot high undulating berm with an average height of two and one-half (**2.5**) feet measured from top of curb;
  - c. Equivalent of one (1) canopy tree planted every twenty (**20**) feet of linear property line;
  - d. Equivalent of one (1) palm or pine tree for each twenty (20) linear feet of frontage with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palms/pines in a cluster may not 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)
- J. LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINES, EXCLUDING PHASE 1 (JOG AND WOOLBRIGHT ROAD FRONTAGES)
1. Landscaping and buffering along the south and east property line (except for Phase 1, frontage of the pharmacy) shall be upgraded to include:
- a. a minimum twenty (20) foot wide landscape buffer strip;
  - b. a minimum two (**2**) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
  - c. one (1) native canopy tree for each thirty (30) feet of the property line;
  - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
  - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
  - f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
  - g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE-Zoning)

K. LANDSCAPING - INTERIOR

1. Condition K.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress or egress to the site. The minimum width of this median shall be six (6) feet. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (DRC: ZONING)

Is hereby deleted. Reason: [replaced by new condition].

2. Condition K.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Foundation planters shall be provided along all facades of the MUPD buildings excluding loading and drive through areas to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet;
- b. The length of the required landscaped areas shall be no less than fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE)

Is hereby amended to read:

Foundation planters shall be provided along all facades of the Phase 1 building excluding loading and drive through areas to consist of the following:

- a. The minimum width of the required landscape areas shall be five (5) feet;
- b. The length of the required landscaped areas shall be no less than fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE)

3. Foundation planters shall be provided along all facades of the MUPD buildings (except Phase 1) excluding loading and drive through areas to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE- Zoning)

4. A minimum of two (2) sets of trellis/shaded structure shall be provided for a minimum of three (3) landscape divider medians in the main parking lot. Each structure shall have a minimum of eight (8) feet in width and eighty (80) feet in length. Vines shall be planted adjacent to each structure. (CO: LANDSCAPE - Zoning)
5. Landscaping for terminal islands in the parking area shall consist of the following:
  - a. one (1) canopy trees for each ten (10) linear feet of the island; and,
  - b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)
6. Landscaping for divider median in any parking area, where there is no shade structure requirement per Condition K.3 shall consist of the following:
  - a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median;
  - b. one (1) palm for each thirty-five (35) linear feet of the median; and,
  - c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)

L. LANDSCAPING – ACCESS POINTS

1. Special planting treatment shall be provided on both sides of the western access point of Woolbright Road and the north access point of Jog Road. Landscape treatment shall consist of the following:
  - a. a minimum of five (5) specimen palms (Medjool, Canary Island Date, Royal, or Coconut);
  - b. a minimum of five (5) flowering trees; and shrub or hedge materials;
  - c. plant materials under this condition may satisfy landscape requirements for two (2) palms in the western buffer; and
  - d. an architectural design feature consists of a trellis/shade structure with vines at the end of the driveway, adjacent to Retail Building G. (CO: LANDSCAPE-Zoning)
2. Landscape treatment for both sides of the central access point located on Woolbright Road and Jog Road shall consist of:
  - a. a minimum of three (3) specimen palms (Medjool, Canary Island Date, Royal, or Coconut);
  - b. a minimum of five (5) flowering trees; and shrub or hedge materials;
  - c. plant materials under this condition may satisfy landscape requirements for two (2) palms in the western buffer. (CO: LANDSCAPE-Zoning)

M. LIGHTING

1. Condition L. 1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

**All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets.** (CO/ ONGOING: BLDG / CODE ENF - Zoning)

Is hereby amended to read:

All outdoor pole lighting used to illuminate the subject property shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. Identification signs shall be illuminated with low intensity lighting directed away from adjacent properties and streets. Decorative uplighting for building facades and towers is to be shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)

2. All freestanding outdoor lighting fixtures shall not exceed twenty-five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning) (Previous Condition L.2 of Resolution R-99-0986, Petition 1998-078(A))
3. Condition L.3 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

All outdoor lighting fixtures shall be set back a minimum of fifty (50) feet from any residential property line. (CO: BLDG - Zoning)

Is hereby amended to read:

All outdoor lighting fixtures shall be setback a minimum of fifty (50) feet from the north property line and a minimum of twenty-five (25) feet from the west property line. (CO: BLDG - Zoning)

4. All outdoor lighting shall be extinguished no later than thirty (30) minutes after the hours of operation, excluding security lighting only. (ONGOING: CODE ENF) (Previous Condition L.4 of Resolution R-99-0986, Petition 1998-078(A))
5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF) (Previous Condition L.5 of Resolution R-99-0986, Petition 1998-078(A))
6. Condition L.6 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Lighting shall be provided to mark all access ways or driveways. (CO/ONGOING: BLDG/CODE ENF - Zoning)

Is hereby deleted. REASON:[ not applicable].

7. The neon sign for the Pharmacy (Walgreens) shall be distinguished no later than thirty (30) minutes after the hours of operation. (ONGOING: CODE ENF-Zoning)

#### N. MASS TRANSIT

1. Condition M.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

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)



integrated with pedestrian linkages on or adjacent to the subject property, when required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING / PLANNING)

Is hereby deleted. Reason: [replaced by new condition].

2. Condition M.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Masstransit access, shelters and/or bus stops, when required shall be integrated with pedestrian linkages, and 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 stops 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-PLANNING - Eng)

Is hereby deleted. Reason: [replaced by new condition].

O. MUPD

1. Prior to 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) (Previous Condition N.1 of Resolution R-99-0986, Petition 1998-078(A))

2. Condition N.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

To ensure consistency with the site plan dated April 9, 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)

~~Is~~ hereby amended to read:

To ensure consistency with the site plan dated June 20, 2002 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, unless to satisfy Condition A.4. (DRC: ZONING)

P. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the Planning Division shall ensure that this site plan conforms with the plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the site plan dated March **26, 1999** (Rec.# 42 and 47). In addition, the indication of a **pedestrian/vehicular** cross access to the west shall remain on the site plan. (DRC: PLANNING) (Previous Condition 0.1 of Resolution R-99-0986, Petition 1998-078(A))

2. Condition 0.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Prior to final master plan certification by the Development Review Committee (DRC), in order to comply with Recommendations **42** and **47** from the West Boynton Area Community Plan, the applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation through the commercial development. The shade trees, excluding palm trees, shall be a minimum of twelve (**12**) feet in height with a minimum spread of five (5) feet and a minimum clear trunk of five (5) feet. (DRC: PLANNING)

Is hereby amended to read:

Prior to final master plan certification by the Development Review Committee (DRC), in order to comply with Recommendations 42 and 47 from the West Boynton Area Community Plan, the applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation through the commercial development. (DRC: PLANNING- Planning)

3. Prior to final site plan approval, Phase 1 development shall include cross section details of a landscaped **pathway/sidewalk** system along the Phase I line that borders Woolbright Road in order to provide shade/canopy for the pedestrian walkway. (DRC: LANDSCAPE-Eng-Planning)
4. Prior to final site plan approval, Phase **2** development shall include cross section details of a landscaped **pathway/sidewalk** system along Jog Road and Woolbright Road in order to provide shade/canopy for the pedestrian walkway of both phases 1 and 2. (DRC: LANDSCAPE-Eng-Planning)
5. Prior to final certification of the preliminary development plan or site plan for Phase 2 by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate on the site plan a location where a mass transit stop and mass transit shelter can be located in the future. (DRC: ZONING - Planning)
6. Concurrent with the issuance of building permits in excess of 15,120 square feet, the petitioner shall construct a vehicular and pedestrian cross access point to include shade trees to the edge of the western property line at the location shown on the final certified site plan that reads "generalized future pedestrian and vehicular cross access per Cond. P.I." (BLDG PERMIT: MONITORING - Planning)

Q. SIGNS

1. Condition P.1 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Freestanding point of purchase signs fronting on Jog 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); and
- d. Style – monument style only. (CO: BLDG)

Is hereby amended to read:

Freestanding point of purchase signs fronting on Jog Road for Phase 1 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); and
- d. Style – monument style only. (CO: BLDG-Zoning)

2. Freestanding point of purchase signs fronting on Jog Road, excluding Phase 1, shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point – twelve (12) feet;
- b. Maximum sign face area per side – one hundred (100) square feet;
- c. Maximum number of signs – one (1); and
- d. Style – monument style only.
- e. Location – within fifty (50) feet of the northern access of Jog Road, (CO: BLDG-Zoning)

3. Condition P.2 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

Freestanding point of purchase signs fronting on Woolbright 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); and
- d. Style – monument style only. (CO: BLDG)

Is hereby amended to read:

Freestanding point of purchase signs fronting on Woolbright for Phase 1 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); and
- d. Style – monument style only. (CO: BLDG-Zoning)

4. Freestanding point of purchase signs fronting on Woolbright Road excluding Phase 1 shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point – twelve (12) feet;

- b. Maximum sign face area per side – one hundred (100) square feet;
  - c. Maximum number of signs – one (1); and
  - d. Style – monument style only; and
  - e. Location – between the western and central access points of Woolbright Road.
5. Condition P.3 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

**Wall signage for the proposed buildings and canopies shall be limited to the east and south facades facing Jog and Woolbright Road. (BLDG PERMIT: BLDG – Zoning)**

Is hereby amended to read:

Wall signs shall be limited to any two facades of each building, and to the following:

- a. individual lettering size shall be limited to twenty-four (24) inches high, except for Buildings H, J, K and L which may increase to thirty-six (36) inches high. Lettering size limitation is not applicable to Phase 1; and
  - b. wall signs shall be limited to only identification of tenants only;
  - c. this condition is applicable to the entire MUPD. (CO: BLDG-Zoning)
6. Freestanding project identification signs fronting on Jog Road and Woolbright Road (excluding Phase 1) shall be limited as follows:
- a. Maximum sign height, measured from finished grade to highest point – six (6) feet;
  - b. Maximum sign face area per side – sixty (60) square feet;
  - c. Maximum number of signs – one (1) for each road frontage; and
  - d. Style – monument style only.
  - e. Location – within fifty (50) feet of the northern access point of Jog Road, and the western access point of Woolbright Road; and,
  - f. No identification of tenants shall be permitted. (CO: BLDG-Zoning)

R. USE LIMITATIONS (FOR ALL PHASES)

1. Condition N.3 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

**Hours of business operation (open to the public) shall be limited from 7:00 a.m. to 11:00 p.m. daily with the exception of a general restaurant use which may open at 6:00 a.m. This condition shall not apply to a drive thru lane designated for the sale of pharmaceutical items only. (ONGOING: ZONING/CODE ENF)**

Is hereby amended to read:

Hours of business operation, including deliveries and loading activities for all retail uses shall be limited to 7:00 a.m. to 11:00 p.m. daily. Hours of business operation for the general/fast food restaurant(s) may be open at 6:00 a.m. This condition shall not apply to a drive thru lane designated for the sale of pharmaceutical items only. (ONGOING: ZONING/CODE ENF-Zoning)

2. Condition N.4 of Resolution R-99-0986, Petition 1998-078(A) which currently states:

No outdoor commercial use shall commence business activities (including delivery and stocking operations) prior to 7:00 a.m. nor continue outdoor activities later than 10:00 p.m. daily. (ONGOING: CODE ENF- Zoning)

Is hereby amended to read:

No outdoor commercial use shall commence business activities, (including delivery and stocking operations) prior to 6:00 a.m. nor continue outdoor activities later than 10:00 p.m. daily. (ONGOING: CODE ENF- Zoning)

3. Overnight storage, overnight deliveries or parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF) (Previous Condition N.5 of Resolution R-99-0986, Petition 1998-078 (A))
4. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
5. Outdoor retail business activities shall not be allowed on site unless allowed by Special Permit, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
6. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate interior shopping cart storage. (DRC: ZONING-Zoning)

#### S. 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) (Previous Condition Q.1 of Resolution R-99-0986, Petition 1998-078(A))
2. Condition Q.2 of Resolution R-99-0986, Petition 1998-078(A) 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; 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)

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 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. (ONGOING: MONITORING-Zoning)