

RESOLUTION NO. R-2003- 0949

RESOLUTION APPROVING ZONING PETITION Z1996-006A
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF PBC REALTY ASSOC.
BY THOMAS YONGE, AGENT
(WALGREENS MILITARY & WOOLBRIGHT)

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

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

WHEREAS, Zoning Petition Z1996-006A was presented to the Board of County Commissioners at a public hearing conducted on June 26, 2003; and

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

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition Z1996-006A, the petition of PBC Realty Assoc. by Thomas Yonge, agent, for an Official Zoning Map Amendment rezoning from the Agricultural Residential District to the Community Commercial District with a CONDITIONAL OVERLAY ZONE on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT 8, attached hereto and made a part hereof, was approved on June 26, 2003, subject to the conditions of the CONDITIONAL OVERLAY ZONE 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:

| | | |
|-------------------------------|---|--------|
| Karen T. Marcus, Chair | - | Aye |
| Tony Masilotti, Vice Chairman | - | Absent |
| Jeff Koons | - | Aye |
| Warren H. Newell | - | Aye |
| Mary McCarty | - | Aye |
| Burt Aaronson | - | Aye |
| Addie L. Greene | - | Aye |

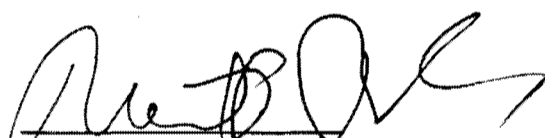
The Chair thereupon declared that the resolution was duly passed and adopted on June 26, 2003.


Filed with the Clerk of the Board of County Commissioners on 22 day of July, 2003.

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

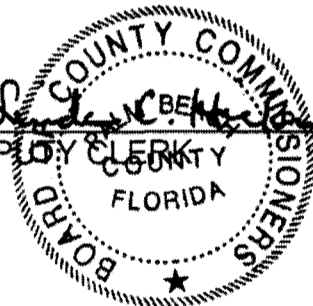


EXHIBIT A
LEGAL DESCRIPTION

WALGREENS ADDITION:

A PARCEL OF LAND LYING IN SECTION 35, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 35, THENCE SOUTH 88°53'15" WEST, ALONG THE NORTH ~~LINE~~ OF SAID SECTION 35, A DISTANCE OF 60.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL, **AS** RECORDED IN OFFICIAL RECORD BOOK 3743, PAGE 1679 OF THE PUBLIC RECORDS ~~OF~~ PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 00°40'15" EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 45.35 FEET TO THE ADDITIONAL RIGHT-OF-WAY ~~FOR~~ MILITARY TRAIL, **AS** RECORDED ~~IN~~ OFFICIAL RECORD BOOK 7269, PAGE 182 OF THE AFORESAID PUBLIC RECORDS; THENCE SOUTH 00°46'46" WEST, ALONG THE WEST RIGHT-OF-WAY LINE OF SAID ADDITIONAL RIGHT-OF-WAY, A DISTANCE OF 88.05 FEET; THENCE SOUTH 03°32'37" WEST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 129.54 FEET TO THE **POINT OF BEGINNING**; THENCE SOUTH 89°39'46" WEST, DEPARTING SAID RIGHT-OF-WAY LINE, A DISTANCE ~~OF~~ 361.25 FEET; THENCE SOUTH 00°40'15" EAST, A DISTANCE OF 87.42 FEET, THENCE NORTH 88°53'15" EAST, PARALLEL WITH THE NORTH LINE OF SAID SECTION 25, A DISTANCE OF 357.50 FEET TO AN INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF SAID ADDITIONAL RIGHT-OF-WAY FOR MILITARY TRAIL; THENCE NORTH 00°40'15" WEST, ALONG ~~SAID~~ WEST RIGHT-OF-WAY LINE, A DISTANCE OF 31.64 FEET; THENCE NORTH 03°32'37" EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE ~~OF~~ 51.06 FEET TO THE **POINT OF BEGINNING**.

EXHIBIT 8
VICINITY SKETCH

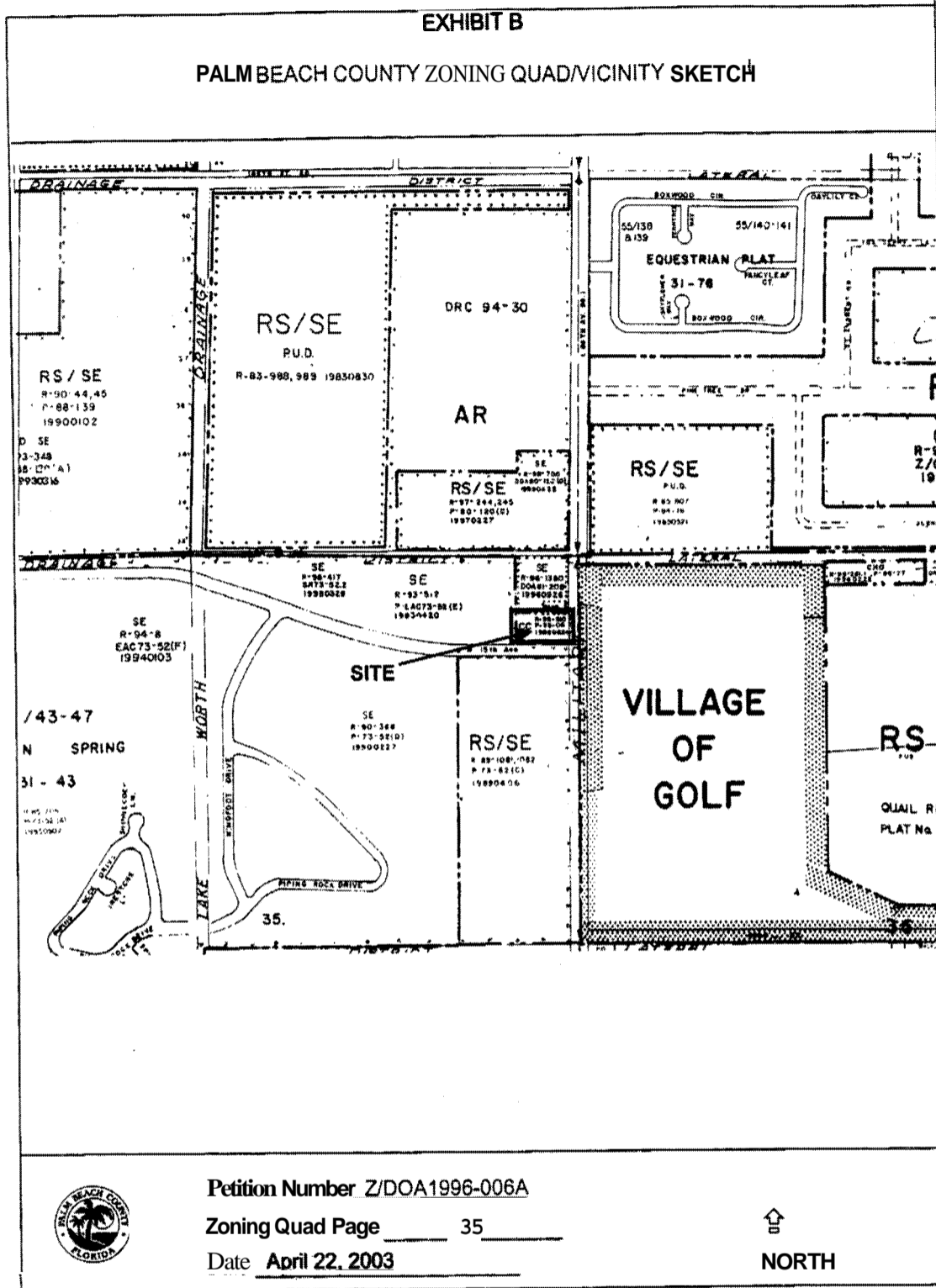


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. All previous voluntary commitments applicable to the subject property, as contained in Resolution R-96-810 (Petition 1996-006) have been consolidated as contained herein. The petitioner shall comply with all previous voluntary commitments 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 April 23, 2003. 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. LANDSCAPING – STANDARD

1. All replacement or newly planted trees to be installed in the subject property, by this approval, shall be native canopy trees and meet the following minimum standards at installation:
 - a. tree height: Fourteen (**14**) feet;
 - b. trunk diameter: 3.5 inches measured at **4.5** feet above grade;
 - c. canopy diameter: Seven (**7**) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDG requirements. (CO: LANDSCAPE - Zoning)
2. All replacement or newly planted palms required to be installed on the property, 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 ULDG requirements. (CO: LANDSCAPE - Zoning)
3. All replacement or newly planted shrub or hedge materials shall be installed 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 the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of the wall. (CO: LANDSCAPE - Zoning)

4. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
5. 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)
6. **All** canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)
7. Preservation areas may be excluded from perimeter landscape buffer planting and berm requirements, subject to the following:
 - a. Prior to final Development Review Committee (DRC) site plan approval, documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section of the Zoning Division for review and approval; and
 - b. Additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRC: ZONING / LANDSCAPE - Zoning)

C. LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINE (ABUTTING MILITARY TRAIL AND WOOLBRIGHT ROAD)

4. **Landscaping and buffering along the east and south property lines shall be upgraded to include the following landscape material in addition to the ULDC landscape requirements:**
 - a. **One (1) palm tree or pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet on center. A group of three or more palm and/or pine trees may supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)** (Previous Voluntary Commitment A. 1 of Resolution R-96-810, Petition 1996-006)
2. Prior to the sign-off of the building permit for the parking lot, the property owner shall replace all dead or missing shrubs/hedges, and shall add plant materials to meet the following requirements:
 - a. one (1) small shrub for each four (4) 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 two (2) linear feet of the property line, Shrub shall be a minimum height of twenty-four (**24**) inches at installation, and shall be maintained at a minimum height of forty-eight (**48**) inches at maturity. (BLDG PERMIT: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING AT&T SITE)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip, A fifty (50) percent reduction of the width may be permitted if there is an existing or approved landscape buffer to the north of the subject property;

- b. one (1) native canopy tree planted for each twenty (20) linear feet of the property line;
- c. 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;
- d. one (1) small 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,
- e. one (1) medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

- I. Prior to June 15, 1997 or prior to the issuance of the first **Building** Permit, whichever shall first occur, the **property** owner shall convey to Palm Beach County Land **Development** Division by road **right-of-way** warranty deed for:

- a) **Military** Trail seventy-six feet from centerline
- b) **Woolbright** Road 64 feet from centerline

All right of way **conveyances** shall be in accordance with Palm **Beach** County typical expanded **intersection requirement**, free of **all encumbrances** and **encroachments**. **Property** owner shall provide **Palm** Beach County with **sufficient documentation** acceptable to the Right of Way **Acquisition** Section to **ensure** that **the** property is free of all **encumbrances** and **encroachments**. **Right-of-way** conveyances shall also include "Corner **Clips**" where **appropriate** at **intersections** as **determined** by the County Engineer. (DATE / BLDG PERMIT: MONITORING / ENG) (Previous Voluntary Commitment **E.1** of Resolution R-96-810, Petition 1996-006) Note: Completed.

2. LANDSCAPE WITHIN MEDIAN

- 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** all the adjacent median of **Woolbright** Road **right-of-way**. 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. 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. Credit for the existing **landscaping** by others shall be considered at the **time** of the issuance of the **building** permits. (BLDG PERMIT: ENG)
- 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. (CO: BLDG - Eng)

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. (CO: MONITORING - Eng) (Previous Voluntary Commitment E.2 of Resolution R-96-810, Petition 1996-006) Note: A, B, and C are completed.

3. Prior to January 1, 2004, the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (DATE: MONITORING-Eng)
4. Prior to October 1, 2003, the property owner shall convey a temporary roadway construction easement along Woolbright Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance, (DATE: MONITORING-Eng)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance, (DRC:ENG-Eng)

F. ENVIRONMENT RESOURCES MANAGEMENT

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-ERM)

G. LANDSCAPING - INTERIOR

1. Landscaped divider medians shall be provided between all rows of abutting parking in the affected portion (north portion) of the parking lot. The minimum width of this median shall be ten (10) feet including the five (5) foot wide sidewalk. The median shall consist of the following:
 - a. One (1) native canopy tree or palm shall be planted for each thirty (30) linear feet of the divider median. Tree/palm spacing may be adjusted to accommodate location of existing trees; 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.
 - c. at every six (6) feet interval, a double row of decorative pavers shall be installed in the concrete sidewalk, (DRC: ZONING - Zoning)
2. Landscaping for terminal islands in the parking area shall consist of the following:
 - a. one (1) native canopy tree for each island. Tree may be replaced with a flowering tree or palm in area where existing pines are located; 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)
- 3. All pedestrian crossing within the affected area of the parking lot shall be a minimum of five (5) feet in width **and** installed with decorative pavers. (CO: LANDSCAPE - Zoning)
- 4. The existing concrete wall along the rear parking area of Walgreens shall be removed prior to the issuance of the first building permit, (BLDG, PERMIT-LANDSCAPE - Zoning)
- 5. Prior to final certification of the site plan, an Alternative Landscape Plan shall be submitted for landscaping along the north property line and/or any portion of the property where existing vegetation may affect the proposed landscaping. (DRC: LANDSCAPE - Zoning / Planning)
- 6. Prior to final DRC certification, the petitioner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRC: LANDSCAPE - Zoning / Planning)
- 7. Landscaping along the east side of the existing Southern Bell structure shall consist of the following:
 - a. a minimum of three (3) Specimen palms;
 - b. one (1) shrub for each two (2) linear feet of the entire length of the east side of the compound. **Shrub** shall be a minimum height of forty-eight (48) inches at installation, and shall be maintained at a minimum height of seventy-two (72) inches at maturity. (BLDG PERMIT: LANDSCAPE - Zoning)

H. PLANNING

- 1. Prior to final Development Review Committee (DRC) Certification, the site plan shall reflect that the northern 0.72 acre portion of the site be cross-hatched, which limits this portion of the site to drainage, landscaping, and at-grade parking only. Vehicular storage, and/or storage of any kind is prohibited (with the exception of drainage and water retention, which is permitted on site). There **shall** also be no commercial intensity and/or commercial square footage associated with the northern 0.72 acre portion of the site. (DRC: ONGOING/PLANNING/CODE ENFORCEMENT-Planning)
- 2. Prior to final site plan certification by the Development Review Committee (DRC), in order to comply with Recommendations 41 and 42 from the West Boynton Area Community Plan, the applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for the sidewalks along Military Trail and Woolbright Road and for all internal sidewalks shown in this project. All internal sidewalks shall generally conform with the internal sidewalks depicted on the certified site plan dated April 23, 2003. (DRC: PLANNING-Planning)

I. SIGNS

- 1. **Freestanding point of purchase signs at the northwest corner of Military Trail and Woolbright Road shall be limited as follows:**
 - a. **Maximum sign height, measured from finished grade to highest point - twenty (20) feet;**
 - b. **Maximum sign face area per side - 100 square feet;**

- c. **Maximum number of signs - one (1); and**
- d. **Style - pylon or monument. (CO: BLDG) (Previous Voluntary Commitment B.1 of Resolution R-96-810, Petition 1996-006)**

J. UNITY

- 1. Voluntary Commitment B.1 of Resolution R-96-810, Petition 1996-006 which currently states:

Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of control for the entire subject property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: CO ATT - Zoning)

Is hereby amended to read:

Prior to **final** site plan approval by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of control for the entire subject property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: CO ATT - Zoning)

K. COMPLIANCE

- 1. 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)

2. 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)
 - 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.

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)