

RESOLUTION NO. R-2003-2077

RESOLUTION APPROVING ZONING PETITION DOA1981-163E
DEVELOPMENT ORDER AMENDMENT
PETITION OF 485 PROPERITES, LLC AND WRC PROPERTIES, INC.
BY GUNSTER YOAKLEY, ATTORNEYS AT LAW, AGENT
(BOCA 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 DOA1981-163E was presented to the Board of County Commissioners at a public hearing conducted on December 16, 2003; 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 has considered the findings in the staff report and 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 DOA1981-163E, the petition of 485 Properites, LLC and WRC Properties, Inc., by Gunster Yoakley et al, agent, for a Development Order Amendment to modify/delete conditions of approval and reconfigure site plan 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 December 16, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	- Aye
Tony Masilotti, Vice Chairman	- Aye
Jeff Koons	- Absent
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 December 16, 2003.

Filed with the Clerk of the Board of County Commissioners on 21 day of January, 2004.

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

Commencing at the Northeast Corner of the Northeast One-Quarter (NE 1/4) of Section 23, Township 47 South, Range 42 East; thence South 00 35'30" East, along the East Line of said Northeast One-Quarter, a distance of 75.00 feet to a point; thence South 89 30'16" West, a distance of 247.50 feet, along a line 75.00 feet South of, as measured at right angles to, the North Line of said Northeast One-Quarter (NE 1/4) to a point; thence South 00 35'30" East, along said line, a distance of 52.19 feet to the Point of Beginning of this description, said point being further described as being on the arc of a circular curve to the left, whose radius point bears South 89 25'21" West, from the last described point; thence Northerly, Westerly, then Southerly, along the arc of said curve, having a radius of 20.00 feet, an arc distance of 49.32 feet to the Point of Reverse Curvature of a circular curve to the right; thence Southerly and Westerly, along the arc of said curve, having a radius of 1712.02 feet, an arc distance of 165.21 feet to a point; thence South 58 12'36" West, a distance of 45.85 feet; thence North 44 43'29" West, a distance of 2.95 feet; thence South 58 07'37" West, a distance of 4.97 feet to the intersection with the arc of a circular curve to the left, whose radius point bears North 44 41'01" West from the last described point; thence Southerly and Westerly, along the arc of said curve, having a radius of 1697.02, an arc distance of 272.32 feet to the Point of Tangency; thence South 54 30'37" West, a distance of 1038.00 feet; thence South 35 29'23" East, a distance of 440.00 feet; thence South 04 50'46" East, a distance of 72.74 feet; thence South 40 36'05" West, a distance of 92.20 feet; thence South 16 41'57" East, a distance of 104.40 feet; thence South 48 48'51" East, a distance of 106.30 feet; thence North 83 59'28" East, a distance of 203.38 feet to a point on the arc of a circular curve to the left, whose radius point bears North 28 13'45" East from the last described point; thence Easterly, Southerly then Northerly, along the arc of said curve, having a radius of 400.00 feet, an arc distance of 584.36 feet to a point; thence North 89 24'30" East, a distance of 224.64 feet to a point on a line 247.50 feet West of and parallel with, said East Line of the Northeast One-Quarter (NE 1/4) of Section 23; thence North 00 35'30" West, along said line, a distance of 1436.65 feet to the Point of Beginning of this description.

Containing an area of 28.527 acres, more or less.

EXHIBIT B
VICINITY SKETCH

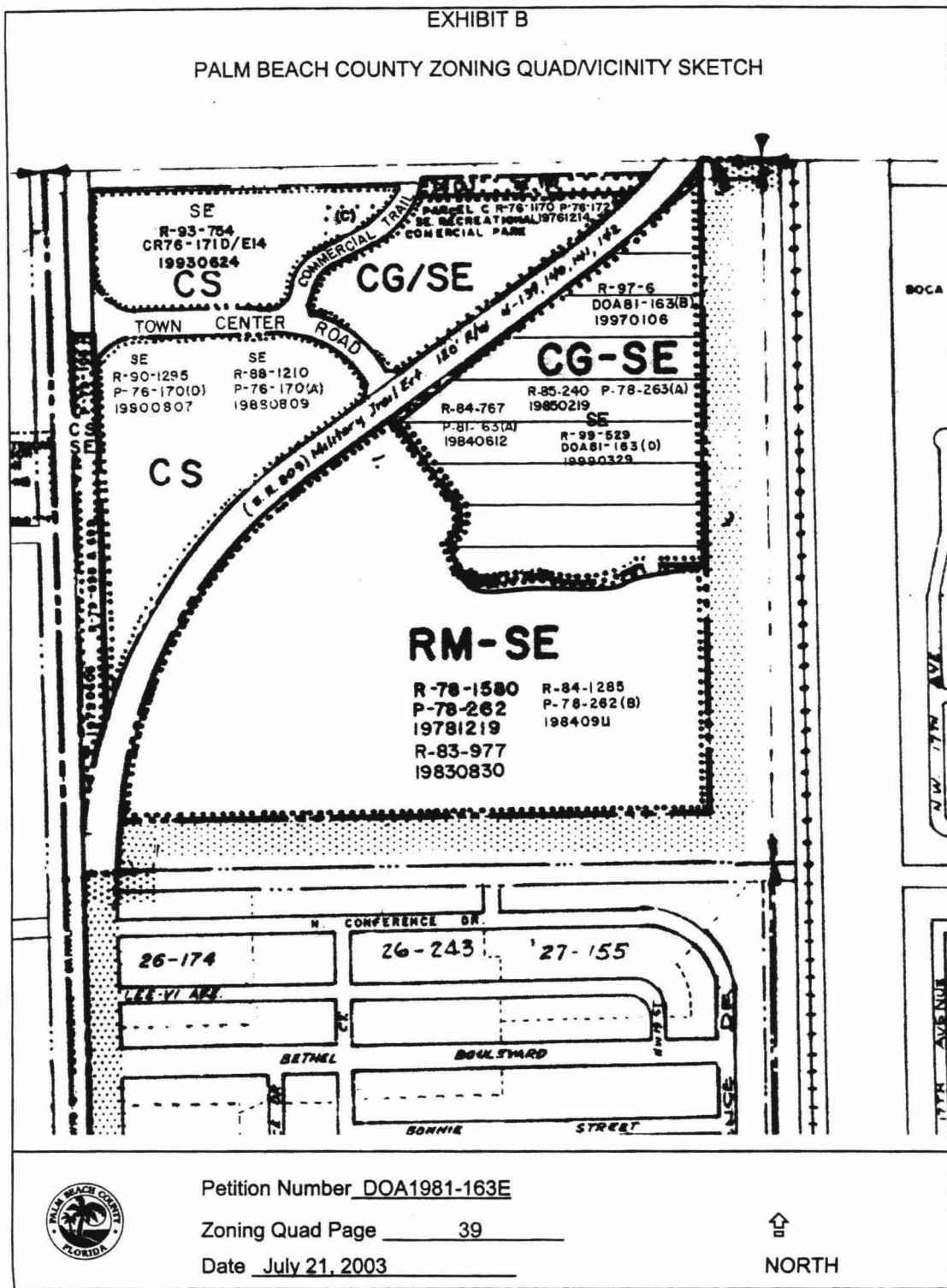


EXHIBIT C

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. Condition A.1 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-97-6 (Petition 81-163(B)) have been consolidated herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-99-0529 (Petition DOA81-163(D)), have been consolidated herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING – Zoning)

2. Condition A.2 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated October 27, 1998. 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)

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 site plan is dated August 21, 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 – Zoning)

B. ARCHITECTURAL CONTROL

1. Condition B.1 of Resolution R-99-0529, Petition DOA81-163 (D), which currently states:

The fast-food restaurant shall be consistent with the character of the main center and the surrounding developments. Consistency shall be obtained by using all of the following:

- a. **Similar colors selection for the building and trims to match the main center;**
- b. **Similar roof treatment and design; and,**

c. Similar architectural trims, fenestration and details.

Is hereby amended to read:

At time of submittal for final Development Review Committee (DRC) approval of the master plan, the architectural elevations for the fast food restaurant shall be submitted simultaneously with the master plan for final architectural review and approval. Elevations shall be designed to be consistent with Sec. 6.6.E of the ULDC. Development shall be consistent with the approved architectural elevations. (DRC: ZONING – Zoning)

2. **Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the all new buildings or new construction within the main center.** (BLDG PERMIT: ZONING - Bldg) (Previous Condition B.2 of Resolution R-99-0529, Petition DOA81-163(D))
3. **The maximum height for the fast-food restaurant, including mechanical and air conditioning equipment, measured from finished grade to the highest point, shall be twenty-five (25) feet.** (BLDG PERMIT: ZONING - Bldg) (Previous Condition B.3 of Resolution R-99-0529, Petition DOA81-163(D))
4. Condition C.4 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

All mechanical and air conditioning equipment shall be roof mounted and screened with parapets or be contained within the enclosed loading and service area.

Is hereby amended to read:

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, or be contained within the enclosed loading and service area (DRC: ARCH REV – Zoning)

5. Design of gutters and downspouts shall be integrated into the architectural design of the fast food restaurant. Painting of the gutters and downspout shall not constitute architectural integration. (DRC: ARCH REV – Zoning)

C. BUILDING AND SITE DESIGN

1. Condition C.1 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

The site plan must be amended to show square footage devoted to various uses and to show parking bay dimensions.

Is hereby deleted. [REASON: No longer applicable.]

2. Condition C.2 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

Prior to Site Plan Certification a revised site plan shall be submitted reflecting a master signage program and its location.

Is hereby deleted. [REASON: Code requirement.]

3. Condition C.3 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:
 - a. **The maximum building gross square footage shall not exceed 436,000 square feet, excluding the following:**
 - exterior wall thickness
 - elevator shafts, including walls
 - stair towers, including walls
 - mechanical equipment, electrical and telephone rooms
 - exterior balconies and open walkways
 - open-air plazas.
 - b. **An additional 49,000 square feet of gross floor area shall be permitted by Petition 81-163(B). This additional square footage excludes the following- parking garages.**

Is hereby deleted. [REASON: Superseded by Condition A.2.]

4. **Security lighting shall be directed away from nearby residences.** (ONGOING: CODE ENF – Zoning) (Previous Condition C.5 of Resolution R-99-0529, Petition DOA81-163(D).
5. **The office buildings and the hotel building shall be reduced by two (2) stories each. This will result in two (2) office towers of eight (8) stories and one hotel of twelve (12) stories.** (DRC: ZONING – Zoning) (Previous Condition C.6 of Resolution R-99-0529, Petition DOA81-163(D). [Completed.]
6. Condition C.7 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

Exact copies of all graphics presented at the Board of County Commissioner’s public hearing shall be submitted to the Zoning Division and made part of the permanent petition file.

Is hereby deleted.
7. Prior to final Development Review Committee (DRC) approval, the site plan shall be amended to indicate the total number of parking spaces provided. (DRC: ZONING – Zoning)
8. The Certificate of Occupancy for the fast food restaurant out parcel shall not be issued until an access agreement to the adjacent parcel to the east has been executed and recorded between the two affected property owners. (CO: BLDG)

D. ERM

1. **The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect these preservation areas during site clearing and construction.** (ONGOING: ERM – ERM) (Previous Condition D.1 of Resolution R-99-0529, Petition DOA81-163(D).

E. ENGINEERING

1. **Petitioner shall contribute Ninety-Two Thousand Three Hundred Dollars, (\$92,300.00) 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 developer, at his option, may elect to construct in kind improvements to the arterial roadway system to include, but not limited to, the construction of an additional two (2) lanes on Butts Road from Military Trail westerly approximately one thousand one hundred (1,100) feet (replacement value \$130,000.00), signalize the intersection of Butts Road and Military Trail (replacement value \$14,000.00), and/or the construction of a dual left turn lane, south approach and a right turn lane, north approach, at the intersection of Military Trail and Butts Road (replacement value \$20,000.00). However, if an ordinance dealing with this subject matter is adopted, this condition will be superseded by that ordinance; except that, regardless of the form or status of any ordinance, this development shall be required to provide as a minimum the above Ninety-two Thousand Three Hundred Dollars (\$92,300.00) toward alleviating some of its traffic impacts. (BLDG PRMT: ENG – Eng) (Previous Condition E.1 of Resolution R-99-0529, Petition DOA81-163(D). (Note: Impact fee ordinance has been adopted.)

2. **Petitioner shall construct at Military Trail and the north access road left turn lanes on both the north and south approaches.** (ENG) [Note: Completed.] (Previous Condition E.2 of Resolution R-99-0529, Petition DOA81-163(D).
3. **Prior to the issuance of a Certificate of Occupancy:**
 - a. **Construct at Military Trail and Town Center Road**
 - 1) **left and right turn lanes, north approach** [Note: Completed.]
 - 2) **left turn lane, east approach** [Note: Completed.]
 - 3) **dual left turn lanes and separate right turn lane, south approach, and** [Note: Completed.]
 - 4) **left and right turn lanes, west approach** [Note: Completed.]
 - b. **Construct at Military Trail and the south access road a left turn lane on the north and south approaches.** (CO: ENG – Eng) [Note: Completed.] (Previous Condition E.3 of Resolution R-99-0529, Petition DOA81-163(D).
4. **Petitioner shall contribute Two Hundred Sixty-two Thousand Dollars (\$262,000.00) within 120 days of Special Exception approval toward the construction program for Military Trail as a four lane median divided section from Glades Road north through the Yamato Road intersection as provided for in the 1981-1982 proposed County budget. In the event this roadway improvement is not part of the 1981-1982 County budget, the approval of this petition shall be readdressed by the Board of County Commissioners. The terms of this condition are to be specifically set forth in the road construction agreement approved by the County Attorney's Office and the County Engineer's office.** (DATE: ENG – Eng) (Previous Condition E.4 of Resolution R-99-0529, Petition DOA81-163(D). [Note: Completed.]
5. **Petitioner shall reconstruct Town Center Circle per the County Engineer's approval.** (ENG) (Previous Condition E.5 of Resolution R-99-0529, Petition DOA81-163(D). [Note: Completed.]

6. **Prior to site plan certification, the developer and property owner shall amend the plat to remove interior property lines and unnecessary easements.** (DRC: ENG – Eng) [Not Completed] (Previous Condition E.6 of Resolution R-99-0529, Petition DOA81-163(D)).
7. **Prior to site plan certification, utility releases will be required for paving and berming in any remaining easement running through this property.** (DRC: UTILITIES/ENG – Eng) (Previous Condition E.7 of Resolution R-99-0529, Petition DOA81-163(D)).
8. **Developer shall construct signalization at the intersection of Military Trail and a.) Town Center Road, b.) Town Center Circle, and c.) Bethel Boulevard when warranted by the County Engineer. Funds for this signalization shall be held by Palm Beach County in the form of a Letter of Credit or Cash prior to the issuance of a Building Permit.** (BLDG PRMT: ENG – Eng) [Note: Completed.] (Previous Condition E.9 of Resolution R-99-0529, Petition DOA81-163(D)).
9. Condition E.10 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

The developer shall be given credit for the entire Fair Share Traffic Impact Fee for monies already collected and construction already completed pursuant to Resolution R-81-1369.

The developer shall pay a Fair Share Fee in the amount and manner required by the “Fair Share Contribution for Road Improvement Ordinance” as it presently exists or as it may from time to time be amended. Presently, the Fair Share Fee for this project is \$161,975.00.

Is hereby deleted. [REASON: Impact fees are code requirements.]

10. **Joint access shall be provided to the parcels lying east of this project. There shall be access as already shown on the project’s site plan in the southeast portion of the parcel and there shall be an additional access point, to be mutually approved by the County, the City and developer, within the northeast portion of the parcel to that parcel zoned Public Ownership and Industrial which lies west of the Seaboard Coastal Line Railroad.** (ENG) (Previous Condition E.11 of Resolution R-99-0529, Petition DOA81-163(D)).
11. **The Crocker Company shall meet with both the City and the County to review access to their parcel from Military Trail and take such steps as are necessary to insure safe ingress and egress from the project while maintaining smooth an efficient traffic flow on Military Trail.** [Note: Completed.] (Previous Condition E.12 of Resolution R-99-0529, Petition DOA81-163(D)).
12. **The Crocker Company shall meet with Palm Beach County and the City of Boca Raton to review the intersection of Military Trail and Palmetto Park Road and shall aid in the implementation of intersectional improvements necessary to mitigate the project’s traffic impact by transferring the funds designated for the cost of signalization as provided in Condition 9(c) above the subject intersection improvement project. This transfer of funding shall be approved by the County Engineer.** (ENG) (Previous Condition E.13 of Resolution R-99-0529, Petition DOA81-163(D)).

13. Condition E.14 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project to be paid at the time of issuance of the Building Permit for Zoning Petition 81-163(B) presently is \$71,060 (1292 additional trips X \$55.00 per trip)

Is hereby deleted. [REASON: Impact fees are code requirements.]

14. **The Developer shall be restricted to the following phasing schedule:**
- a. **No building permits for more than 33,000 additional square feet of retail (Phase I) shall be issued after December 31, 1998 until the contract has been let for construction of a 6-lane divided section on Military Trail from Glades Road to Clint Moore Road. (DATE/BLDG PRMT: MONITORING – Eng) [Note: Completed.] (Previous Condition E.15.a of Resolution R-99-0529, Petition DOA81-163(D).**
 - b. **No building permits shall be issued after December 31, 1998 until construction has begun for the addition of a second east approach left turn lane at the intersection of Military Trail and Town Center Road. This construction shall also include modifications to the west approach to accommodate the geometrics to the east approach. (DATE/BLDG PRMT: MONITORING – Eng) (Previous Condition E.15.a of Resolution R-99-0529, Petition DOA81-163(D). [Note: Completed.]**
15. **Acceptable surety required for the offsite road improvements as outlined in the condition above shall be posted with the Office of the Land Development Division on or before January 1, 1999 if building permits for 49,000 additional square feet have not been issued. If the developer agrees to delete any floor area from the site plan for which he has not received building permits by December 31, 1998, then he shall not be required to post surety for this road improvement. Surety in the amount of 110% shall be based upon a certified cost estimate by the Developer's Engineer. (TPS) (DATE: MONITORING – Eng) (Previous Condition E.17 of Resolution R-99-0529, Petition DOA81-163(D). [Note: Completed.]**
16. **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 Military Trail 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 PRMT: MONITORING – Eng) [Note: Completed.] (Previous Condition E.18.a of Resolution R-99-0529, Petition DOA81-163(D)).

- 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: MONITORING - Eng) [Note: Completed.] (Previous Condition E.18.b of Resolution R-99-0529, Petition DOA81-163(D)).**
- 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 Condition E.18.c of Resolution R-99-0529, Petition DOA81-163(D)).**

F. HEALTH

1. **Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (ONGOING: HEALTH – Health) (Previous Condition F.1 of Resolution R-99-0529, Petition DOA81-163(D)).**

G. LANDSCAPING

1. **A six (6) foot wall is required around the perimeter of the property abutting residential prior to issuance of Certificates of Occupancy. (CO: LANDSCAPE – Zoning) (Previous Condition G.1 of Resolution R-99-0529, Petition DOA81-163(D)).**
2. **The developer shall install a combination berm, wall, shrub, and tree treatment along the entire southern boundary of this site to provide an immediate opaque buffer of six feet in height and trees the equivalent of one per twenty feet of property boundary. Loading areas must also be effectively screened from view from the residential property to the south. These buffers shall be installed prior to the issuance of any Certificate of Occupancy. (CO: LANDSCAPE – Zoning) (Previous Condition G.2 of Resolution R-99-0529, Petition DOA81-163(D)).**

H. LANDSCAPING – STANDARD

1. **All canopy trees required to be planted on site by DOA 81-163(B), 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. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length.**
 - d. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE – Zoning) (Previous Condition H.1 of Resolution R-99-0529, Petition DOA81-163(D)).**
2. Condition H.2 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

All palms required to be planted on site by DOA 81-163(B) shall meet the following minimum standards at time of installation:

- a. **Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;**
- b. **Clusters: staggered heights twelve (12) to eighteen (18) feet; and**
- c. **Pruning: minimum six (6) fronds, no clipped or spiked cuts.**
- d. **Credit may be given for existing or relocated palms provided they meet current ULDC requirements.**

Is hereby amended to read:

All new or replacement palms required to be planted 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 ULDC requirements. (CO: LANDSCAPE – Zoning)
3. All new or replacement 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 five (5) foot wide compatibility buffers or where a single row of hedge is required. (CO: LANDSCAPE – Zoning)
4. All new trees or palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE – Zoning)
5. 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)

I. LANDSCAPING ALONG NORTHWEST AND SOUTHWEST PROPERTY LINES (ABUTTING R-O-W AND RESIDENTIAL)

1. **Landscaping and buffering along the northwest property line adjacent to the area revised by DOA 81-163(B) shall be upgraded to include:**
 - a. **One (1) canopy tree planted every twenty (20) feet on center;**
 - b. **One (1) palm for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a canopy tree in that location; and,**
 - c. **Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be planted and maintained at a minimum height of thirty-six (36) inches. (DRC/CO: ZONING/LANDSCAPE) (Previous Condition I.1 of Resolution R-99-0529, Petition DOA81-163(D).**

J. LANDSCAPING ALONG THE NORTHEAST CORNER OF THE SUBJECT SITE ADJACENT TO THE FREESTANDING FAST FOOD RESTAURANT

1. Condition J.1 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

Landscaping and buffering along the northeast corner of the subject site, 320 feet adjacent to Military Trail and 600 feet on the east property line shall be upgraded to include:

- a. **A minimum twenty (20) foot wide landscape buffer strip; adjacent to Military Trail;**
- b. **One (1) canopy tree planted for every twenty (20) linear feet;**
- c. **One (1) palm for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for 25% of the canopy trees in that location; and,**
- d. **Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be planted and maintained at a minimum height of thirty-six (36) inches.**

Is hereby amended to read:

Landscaping and buffering along the east three hundred (300) feet of the north property line shall be upgraded to include:

- a. **A minimum twenty (20) foot wide landscape buffer strip. Reductions may be permitted to allow parking spaces and associated landscape terminal islands to encroach a maximum of ten (10) feet;**
- b. **One (1) canopy tree planted for every thirty (30) linear feet of the property line;**
- c. **One (1) palm or pine tree for every 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 two (2) linear feet of the property line. Shrub shall be a minimum of eighteen (18) inches at installation;**
- e. **One (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum of twenty-four (24) inches at installation; and,**

- f. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum of thirty (30) inches at installation. (CO: LANDSCAPE – Zoning)
2. Landscaping and buffering along the north six hundred (600) feet of the east property line shall be upgraded to include:
 - a. One (1) canopy tree planted for every twenty (20) linear feet of the property line;
 - b. One (1) palm for every twenty (20) linear feet of the property line, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for 25% of the canopy trees in that location; and,
 - c. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be planted and maintained at a minimum height of thirty-six (36) inches.

K. LANDSCAPING – INTERIOR

1. **Landscape planter areas shall be provided along the front and side walkways of all new building expansion areas consistent with the landscape program along the walkways of the existing retail and restaurant uses. All required landscape planter areas shall consist of a minimum of one (1) tree or palm every 20 feet on center and appropriate ground cover. (DRC/CO: LANDSCAPE – Zoning) (Previous Condition K.1 of Resolution R-99-0529, Petition DOA81-163(D)).**
2. **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/CO: LANDSCAPE – Zoning) (Previous Condition K.2 of Resolution R-99-0529, Petition DOA81-163(D)).**
3. **The ten (10) foot wide landscape divider medians abutting the center accessway shall be provided with one (1) tree and appropriate ground cover planted for each twenty (20) linear feet of the divider median. (DRC/CO: LANDSCAPE – Zoning) (Previous Condition K.3 of Resolution R-99-0529, Petition DOA81-163(D)).**
4. Condition K.4 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to indicate the following:

- a. **A five (5) foot wide divider median, excluding curbing, along the west side of the drive-thru lane. The length of the median shall start from the point of service and continue along the entire exterior facade of the fast-food restaurant (excluding the median by-pass). Within the median, one (1) canopy tree or native booted palm shall be installed every twenty (20) feet on center and appropriate ground covering;**

- b. **Designation with appropriate signage of the seven (7) parking spaces on the northwestern portion of the site as employee parking.**

Is hereby amended to read:

Prior to final site plan approval by the Development Review Committee, the site plan shall be amended to indicate a five (5) foot wide divider median, excluding curbing, along the exterior side of the fast food restaurant drive-thru lane. The length of the median shall start from the point of service and continue along the entire exterior facade of the fast-food restaurant (excluding the median by-pass). Within the median, one (1) canopy tree or native booted palm shall be installed every twenty (20) feet on center and appropriate ground covering. (DRC/CO: ZONING/BLDG – Zoning)

L. LWDD

1. **Petitioner shall convey the South 20.00 feet of the Northeast 1/4 of Section 23, Township 47 South, Range 42 East of Military Trail to the Lake Worth Drainage District with some physical Canal Improvement or Storm Sewer System to be determined by the Developer. (LWDD) (Previous Condition L.1 of Resolution R-99-0529, Petition DOA81-163(D).**

M. MASS TRANSIT

1. **Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board or Palm Tran. (DRC: PALM TRAN – Palm Tran) (Previous Condition M.1 of Resolution R-99-0529, Petition DOA81-163(D).**
2. **Mass transit access, shelters and/or bus stops, if required, shall be located and constructed by the petitioner within three (3) years (October 24, 1999) in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to accommodate the requirement for mass transit access and/or bus shelters, if requested by the County Engineer. Mass transit access shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, and a bicycle rack. (DATE: MONITORING – Eng) (Previous Condition M.2 of Resolution R-99-0529, Petition DOA81-163(D).**
3. **All printed and electronic advertising for the project, where practical, shall contain information that mass transit service to the site is available. (ONGOING: PALM TRAN – Palm Tran) (Previous Condition M.3 of Resolution R-99-0529, Petition DOA81-163(D).**

N. SIGNS

1. Condition N.1 of Resolution R-99-0529, Petition DOA81-163 (D), which currently states:

Prior to May 28, 2001, the existing billboard along the north portion of the property shall be removed. No administrative time extensions may be granted for this condition.

Is hereby deleted. [REASON: Inconsistent with billboard settlement agreement.]

2. **Freestanding point of purchase signs fronting on Military Trail for the fast food restaurant shall be limited as follows:**

- a. **Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;**
- b. **Maximum sign face area per side - 150 square feet;**
- c. **Maximum number of signs - one (1); and**
- d. **Style - monument style only. (CO: BLDG) (Previous Condition N.2 of Resolution R-99-0529, Petition DOA81-163(D)).**

3. **Replacement of the freestanding signs along Military Trail shall be limited to the following:**

- a. **Maximum sign height, measured from finished grade to highest point - twenty (20) feet;**
- b. **Maximum sign face area per side - 150 square feet;**
- c. **Maximum number of signs - two (2); and**
- d. **Style - monument style only. (CO: BLDG) (Previous Condition N.3 of Resolution R-99-0529, Petition DOA81-163(D)).**

4. Condition N.4 of Resolution R-99-0529, Petition DOA81-163(D), which currently states:

No off-premise signs or relocated billboards shall be permitted on the site.

Is hereby deleted. [REASON: Inconsistent with billboard settlement agreement.]

O. COMPLIANCE

1. Condition O.1 of Resolution R-99-0529, Petition DOA81-163(D), 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.

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)

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) (Previous Condition O.2 of Resolution R-99-0529, Petition DOA81-163(D)).