

23/47/41

**RESOLUTION NO. R-97-1078**

**RESOLUTION APPROVING ZONING PETITION DOA75-68(Q)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF NOBLE MANAGEMENT CORP  
BY ROBERT BASEHART, AGENT  
(LOGGERS RUN - WENDY'S)**

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 DOA75-68(Q) was presented to the Board of County Commissioners at a public hearing conducted on July 24, 1997; 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.

**ORIGINAL**

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 DOA75-68(Q), the petition of Noble Management Corp, by Robert Basehart, agent, for a Development Order Amendment (DOA) to modify condition B.2 (Cross-Access) of R-97-10 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 24, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

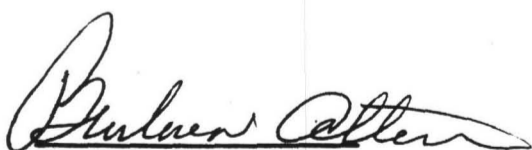
Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	Aye
Karen T. Marcus	--	Absent
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on August 28, 1997.

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**

**LEGAL DESCRIPTION:**

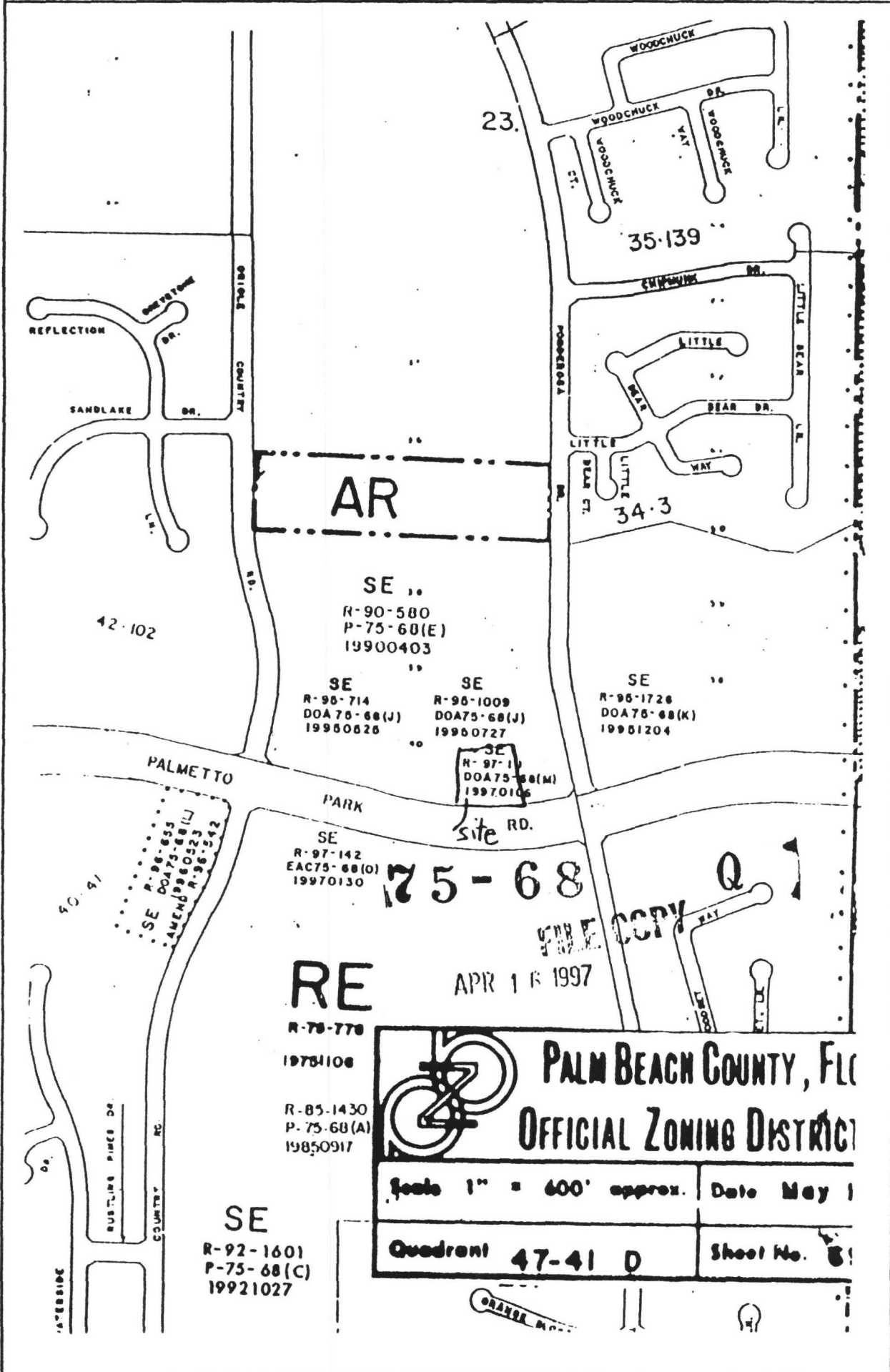
TRACT 3 OF LOGGER'S RUN COMMERCIAL PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 49, PAGES 56-57, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN PLAM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID TRACT 3; THENCE N.00 41'07"W., ALONG THE WEST LINE OF SAID TRACT 3 FOR A DISTANCE OF 222.62 FEET TO THE NORTHWEST CORNER OF TRACT 3; THENCE N.89 45'38"E., ALONG THE NORTH LINE OF SAID TRACT 3 FOR A DISTANCE OF 188.60 FEET TO THE NORTHEAST CORNER OF SAID TRACT 3; THENCE S.07 27'18"E., ALONG THE EAST LINE OF SAID TRACT 3, A DISTANCE OF 210.00 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 3 AND A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PALMETTO PARK ROAD AND THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST THAT BEARS N.07 27'18"W., AND HAVING FOR ITS ELEMENTS A RADIUS OF 1809.86 FEET AND A CENTRAL ANGLE OF 06 46'11"; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID TRACT 3 AND THE NORTH RIGHT OF WAY LINE OF PALMETTO PARK ROAD AND THE ARC OF SAID CIRCULAR CURVE AN ARC DISTANCE OF 213.84 FEET TO THE POINT OF BEGINNING. THIS SITE LIES IN SECTIONS 23 & 26, TOWNSHIP 47 SOUTH, RANGE 41 EAST.

AREA OF SITE: 1,006 ACRES MORE OR LESS.

EXHIBIT B

PALM BEACH COUNTY  
VICINITY SKETCH / ZONING



**PALM BEACH COUNTY, FLA**  
**OFFICIAL ZONING DISTRICT**

Scale 1" = 600' approx. Date May 1

Quadrant 47-41 D Sheet No. 8



Petition Number: 75-68 Q  
 Zoning Quad Page \_\_\_\_\_  
 Date: April 16, 1997



## EXHIBIT C

### CONDITIONS OF APPROVAL

**NOTE: All previous conditions of approval applicable to the subject property, as contained in Resolutions R-75-778, R-85-1430, R-86-453, R-87-1199, R-94-1309, R-94-1477, R-95-714, R-95-1009, R-95-1726, R-96-655 and R-97-142 remain in full effect. The conditions listed below apply only to the commercial out parcel Tract 3 in the parcel designated as Tract M on the Loggers Run Master Plan.**

#### **A. ALL PETITIONS**

- 1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-97-10, (Petition 75-68(M)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)**
- 2. Condition A.1 of Resolution R-97-10, Petition 75-68(M) which currently states:**

**Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated September 26, 1996). All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.(DRC: ZONING)**

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 May 29, 1997. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)**

#### **B. ACCESS**

- 1. Vehicular access to the site shall be limited to interior access from the shopping center. No additional access on to Palmetto Park Road shall be permitted. (Previously Condition B.1 of Resolution R-97-10, Petition 75-68(M) (DRC: ZONING - Eng)**

**May be deleted. Reason: Code requires all access to POD be shown on Master Plan and does not permit additional accesses to be added without approval from the BCC.**

- 2. Condition B.2 of Resolution R-97-10, Petition 75-68(M) which currently states:**

**Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record a cross access agreement from the subject property to the surrounding parcels to the north, east, and west in a form acceptable to the County Attorney.**

Is hereby amended to read:

Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record a cross access agreement from the subject property to the surrounding parcels to the north, and west, in a form acceptable to the County Attorney. (DRC: ZONING - Co Att) [Condition in Compliance]

3. Prior to the issuance of the building permit for the fast food restaurant (Wendy's) the Loggers Run Shopping Center shall record an access easement to the adjacent auto service station (Chevron). Access easement location shall be in the southeast quadrant of the site subject to approval by the County Engineer and verified with recordation in a form acceptable to the County Attorney. (BLDG PERMIT: Co Att - Eng)

C. ARCHITECTURAL CONTROL

1. **Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the proposed building. The architectural design of the building shall create an overall unified image, utilizing, but not limited to, the items specified below.**
  - a. **Common elements such as consistent forms, colors, architectural details and landscape materials.**
  - b. **Roof and/or trim color shall be coordinated with base colors. Gutters and down spouts shall be integrated into the architectural design of the building. (Previously Condition C.1 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: BLDG - Zoning)**
2. **All air conditioning and mechanical equipment shall be screened from view and not visible from any property line. Screening shall consist of a visually opaque barrier consistent with the color, character and architectural style of the principal structure. (Previously Condition C.2 of Resolution R-97-10, Petition 75-68(M) (CO: BLDG - Zoning)**
3. **Exterior storage and loading areas if provided, shall be screened from view and integrated into the building design to make it compatible with the building architecture. (Previously Condition C.3 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: BLDG - Zoning)**
4. **Prior to final DRC certification, the site plan shall be amended to include effective screening of all loading areas from adjacent rights-of-way and residential areas. (Previously Condition C.4 of Resolution R-97-10, Petition 75-68(M) (DRC: ZONING)**

**D. DUMPSTERS**

1. **Prior to issuance of a Certificate of Occupancy (CO), the petitioner shall construct an eight (8) foot high opaque concrete dumpster enclosure. The height of the dumpster enclosure shall be measured from the elevation of the asphalt adjacent to and outside the enclosed area. (Previously Condition D.1 of Resolution R-97-10, Petition 75-68(M) (CO: BLDG - Zoning)**
2. **Dumpster/trash removal shall be prohibited between the hours of 7:00 p.m. to 9:00 a.m.. (Previously Condition D.2 of Resolution R-97-10, Petition 75-68(M) (ONGOING: CODE ENF - Zoning)**
3. **All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within fifty (50) feet of Palmetto Park Road. (Previously Condition D.3 of Resolution R-97-10, Petition 75-68(M) (CO: BUILDING/Zoning)**

**E. ENGINEERING**

1. **The Property owner shall construct a pedestrian pathway along the north right of way of Palmetto Park Road, from the project's east property line to Oriole County Road. 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. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (Previously Condition E.1 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT/CO: MONITORING/Eng)**
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 adjacent median(s) of all abutting rights-of-way from Ponderosa Drive west to the shopping center entrance. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (Prev. Cond. E.2.a of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: MON - 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. (Previously Condition E.2.b of Resolution R-97-10, Petition 75-68(M) (CO: MONITORING - 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. (Prev. Cond. E.2.c of Reso. R97-10, Pet. 75-68(M) (CO: MONITORING - Eng)**

**F. LANDSCAPING**

- 1. **All trees required to be planted shall be native evergreen species and meet the following minimum standards at time of 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. (Previously Condition F.1 of Resolution R-97-10, Petition 75-68(M) (CO: LANDSCAPE - Zoning)**
- 2. **All palms required to be planted on site by this approval shall be native species and 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.**
  - d. **Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previously Condition F.2 of Resolution R-97-10, Petition 75-68(M) (CO: LANDSCAPE - Zoning)**
- 3. **All existing pine trees in proposed landscape areas shall be preserved. (Previously Condition F.3 of Resolution R-97-10, Petition 75-68(M) (CO: LANDSCAPE - Zoning)**

**G. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING PALMETTO PARK ROAD)**

- 1. **Landscaping and buffering along the south property line shall be upgraded to include:**



- a. **A minimum twenty-five (25) foot wide landscape buffer strip.**
- b. **An undulating two (2) foot high berm with the height of berm measured from the top of curb.**
- c. **One (1) canopy tree for each twenty (20) linear feet of perimeter property line with a maximum spacing of thirty (30) feet on center.**
- d. **One (1) palm or pine tree for each thirty (30) linear feet perimeter property line with a maximum spacing of eighty (80) feet between clusters. A grouping of three or more palms or pine trees may supersede the requirement for a canopy tree in that location.**
- e. **Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty-six (36)inches.**
- f. **The required shrub/hedge material shall extend from the subject property west to the shopping center entrance on Palmetto Park Road. (Previously Condition G.1 of Resolution R-97-10, Petition 75-68(M) (CO: LANDSCAPE - Zoning)**

**H. LANDSCAPING - INTERIOR**

- 1. **Landscaping shall be provided along the south, and east facades of the principal structure and meet the following minimum standards:**
  - a. **The minimum width of this foundation planting shall be five (5) feet.**
  - b. **The petitioner shall install one tree for each thirty (30) linear feet of adjacent building facade with a maximum spacing of forty (40) feet on center.**
  - c. **The petitioner shall install one palm for each twenty (20) linear feet of adjacent building facade with a maximum spacing of fifty (50) feet between palm clusters.**
  - d. **The petitioner shall provide appropriate ground cover and shrub material in the foundation planting areas.(Previously Condition H.1 of Resolution R-97-10, Petition 75-68(M) (CO: LANDSCAPE)**

**I. LIGHTING**

- 1. **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. (Previously Condition I.1 of Resolution R-97-10, Petition 75-68(M) (CO/ONGOING: BLDG / CODE ENF - Zoning)**
- 2. **All outdoor lighting fixtures shall not exceed thirty (30) feet in height, measured from finished grade to highest point. (Previously Condition I.2 of Resolution R-97-10, Petition 75-68(M) (CO: BLDG - Zoning)**

3. **All outdoor lighting shall be extinguished no later than 11:00 p.m., excluding security lighting only.** (Previously Condition I.3 of Resolution R-97-10, Petition 75-68(M) (ONGOING: CODE ENF)
4. **Petitioner shall install high pressure sodium street lights at all entrances. The street lights shall be a minimum 22,000 lumens/200 watt bulb and consistent with the street lighting style along Palmetto Park Road.** (Previously Condition I.4 of Resolution R-97-10, Petition 75-68(M) (CO: BLDG - Zoning)

**J. SIGNAGE**

1. **Freestanding point of purchase signs fronting on Palmetto Park 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 - one (1); and**
  - d. **Style - monument style only.** (Previously Condition K.1 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: BLDG - Zoning)
2. **Exterior or window neon lighting shall not be permitted.** (Previously Condition K.2 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: BLDG - Zoning)

**K. USE LIMITATIONS**

1. **Total gross floor area shall be limited to a maximum of 3,350 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less.** (Previously Condition A.2 of Resolution R-97-10, Petition 75-68(M) (DRC: ZONING)
2. **Total seating capacity shall be limited to ninety-six (96) seats.** (Previously Condition A.3 of Resolution R-97-10, Petition 75-68(M) (DRC: BUILDING-Zoning)
3. **The maximum height, measured from finished grade to roof line, for all structures shall not exceed twenty (25) feet.** (Previously Condition A.4 of Resolution R-97-10, Petition 75-68(M) (BLDG PERMIT: BUILDING)
4. **Business hours open to the public shall be limited from 7:00 a.m. to 10:00 p.m. daily, and 7:00 a.m. to 11:00 p.m. Friday and Saturday.** (Previously Condition A.5 of Resolution R-97-10, Petition 75-68(M) (ONGOING: CODE ENF)
5. **Delivery or unloading activities shall be prohibited between the hours of 7:00 p.m. to 9:00 a.m. No deliveries 2:30 p.m. to 4:00 p.m. when school is in session.** (Previously Condition A.6 of Resolution R-97-10, Petition 75-68(M) (ONGOING: CODE ENF)
6. **To ensure consistency with the site plan dated ~~March 28, 1996~~, May 29, 1997, presented to the Board of County Commissioners, no more than ten (10) 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.** (Previously Condition A.7 of Resolution R-97-10, Petition 75-68(M) (DRC: ZONING)

7. **Outdoor speaker or public address systems, except for the drive-thru ordering station, shall not be permitted on site. (Previously Condition A.8 of Resolution R-97-10, Petition 75-68(M) (ONGOING: CODE ENF - Zoning)**

L. **COMPLIANCE**

1. Condition L.1 of Resolution R-97-10, Petition 75-68(M) which currently states:

**Failure to comply with any of the conditions of approval for the subject property at any time may result in:**

- a. **The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or**
- b. **The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or**
- c. **A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or**
- d. **Referral to code enforcement; and/or**
- e. **Imposition of entitlement density or intensity.**

**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; 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)