

RESOLUTION NO. R-99- 702

RESOLUTION APPROVING ZONING PETITION PDD99-005
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF PALM BEACH COUNTY HEALTH DISTRICT
BY ROBERT BASEHART, AGENT
(P.B.C. NURSING HOME)

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 PDD99-005 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 1999; 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 made 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; and,
7. This official zoning map amendment (rezoning) with approved conditions 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 PDD99-005, the petition of Palm Beach County Health District by Robert Basehart, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) to rezone from Specialized Commercial (CS) to Multiple Use Planned Development (MUPD) with a nursing or convalescent facility 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 B, attached hereto and made a part hereof, was approved on April 22, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on April 22, 1999.

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

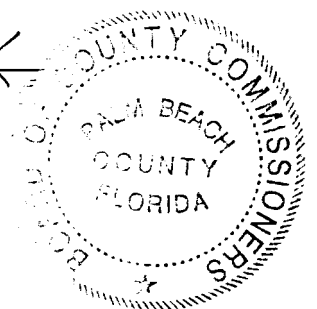


EXHIBIT A
LEGAL DESCRIPTION

ALL OF LOTS **13 AND 18 AND THE WEST ONEHALF OF TRACTS 12 AND 19 MODEL LAND CO.** SUBDMSION OF SECTION 20 TOWNSHIP **44 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 79, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 55 FEET OF THE SAID TRACT 13 AND THE WEST ONE HALF OF THE SAID TRACT 12, AND LESS THE SOUTH 40 FEET OF TRACT 18 AND THE WEST ONE HALF OF THE SAID TRACT 19.**

CONTAINING **593,945 SQUARE FEET OR 13.635 ACRES MORE OR LESS.**

EXHIBIT B
VICINITY SKETCH

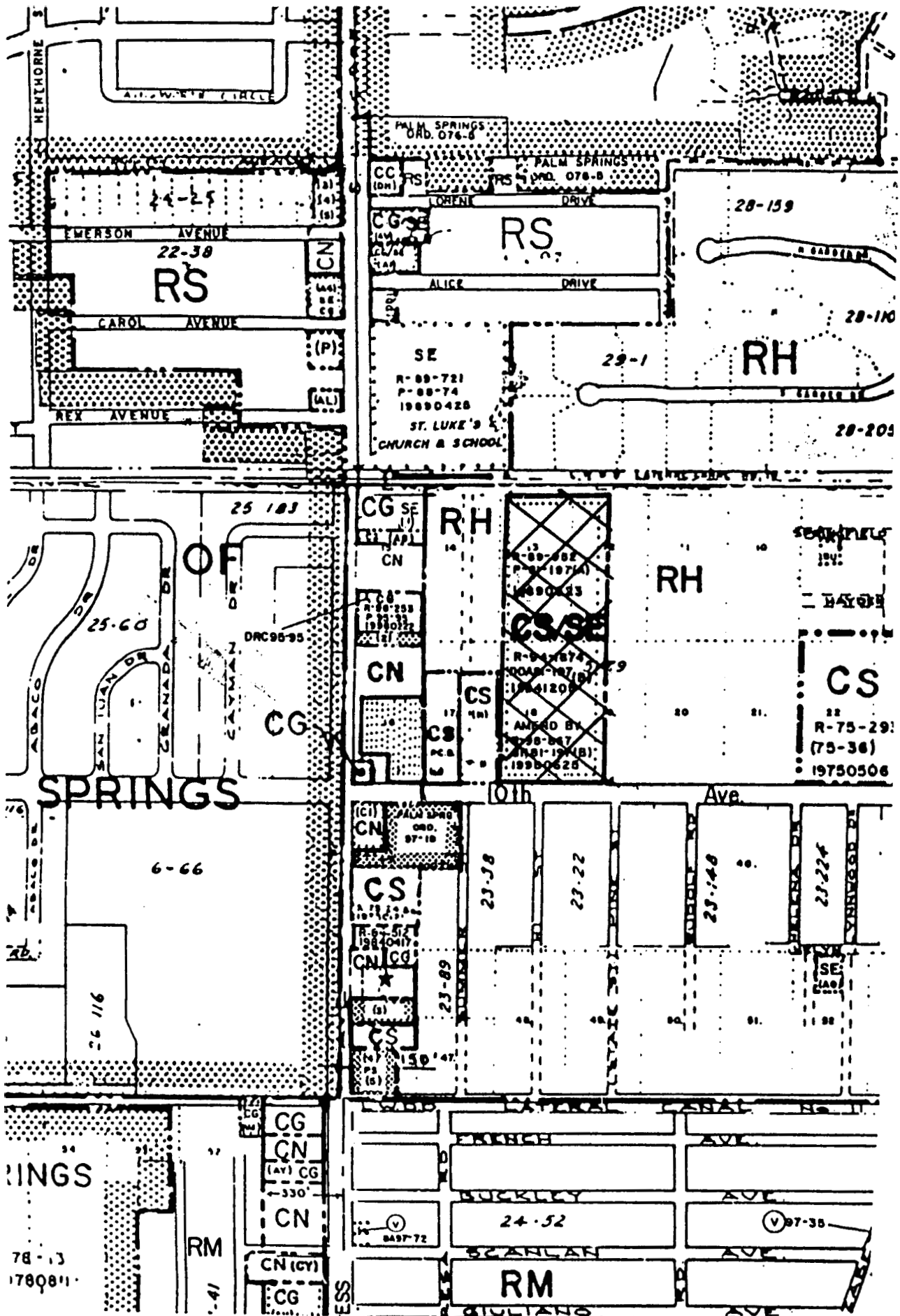


EXHIBIT C

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.I of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions ~~R-81-1614~~, R-81-1615 and R-89-952, have been **consolidated** as contained herein. The petitioner shall **comply** with **all** previous conditions of approval unless **expressly modified**.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property as contained in Resolutions R-81-1614, R-81-1615, (Petition 81-197), R-89-952, (Petition 81-197(A)) and R-94-1674, (Petition 81-197(B)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated January 20, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)
3. The petitioner shall have three (3) years, from adoption of the resolution approving Zoning Petition PDD99-005, to commence development on the site. Only one (1) administrative time extension for a maximum of twelve (12) months may be granted. (DATE: MONITORING)

B. GENERAL

1. Condition B.I of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Prior to certification, the site plan shall be amended to indicate the following:

- a. Revised **tabular** information which shall
 - 1) Key each structure on site;
 - 2) Specify the number of stories and overall height of each structure; and
 - 3) Indicate total **floor** area for each structure
- b. Access dimensions for **all** curb cuts.
- c. Revised **landscapetabular** which addresses the entire 14.2 acres.
- d. Required minimum tree count (247 trees).

- e. Required right-of-way dimension of **55** feet from **centerline** of Tenth Avenue North.
- f. Indicate the parking required and proposed for each structure and corresponding uses.

Is hereby deleted. [Reason: Code requirement]

- 2. Condition B.2 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Prior to Site Plan Review Committee certification, the petitioner shall indicate all structures on site with respective square footages. All multiple floor structures shall indicate individual floor areas for each level. The site plan shall meet all of the requirements of Section **401.2** of the Zoning Code and said requirements set forth in the **Special Exception Application**, pages **8** and **9**.

Is hereby deleted. [Reason: not applicable, code requirement]

- 3. Condition B.3 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Prior to Site Plan Review Committee Certification, the petitioner shall submit an as built survey which clearly show all structures on site, including building square footage, height, and appropriate dimensions.

Is hereby deleted. [Reason: condition satisfied, not applicable]

- 4. Condition B.4 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Graphics presented at the Board of County Commissioners public hearing shall be submitted simultaneously with submittal of the site plan to Site Plan Review Committee.

Is hereby deleted. [Reason: not applicable]

C. LANDSCAPING - STANDARDS

- 1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Tree height: fourteen **(14)** feet.
- b. Trunk diameter: 3.5 inches measured **4.5** feet above grade.
- c. Canopy diameter: seven **(7)** feet. Diameters shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least **3.5 feet** in length. (Previously Condition C.1 of Resolution R-94-1674, Petition DOA81-197(B))(BLDG-Zoning)

D. LANDSCAPING - INTERIOR

1. Condition D.1 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

One landscape island shall be provided for every ten (10) parking spaces required for the construction of the subject addition (81-197(B)). The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet.

Is hereby amended to read:

One landscape island shall be provided for every ten (10) parking spaces required for the construction of affected area. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (BLDG: Zoning)

2. All Australian pine trees on site shall be cut and maintained at a maximum height of eight (8) feet. (Previously Condition D.2 of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG-Zoning)

Is hereby deleted. [Reason: Code requirement to remove]

E. ENGINEERING

1. Petitioner shall convey to Palm Beach County within ninety (90) days of Special Exception approval 54' from centerline for the ultimate right of way for Tenth Avenue North. (Previously Condition E.1 of Resolution R-94-1674, Petition DOA81-197(B)) (ENG)

[Note: This condition has been completed.]

2. Condition E.2 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Petitioner shall contribute Four Hundred and Fifty Dollars (\$450 00) toward the cost of meeting this project's direct and identifiable traffic impact to be paid at the time of issuance of the building permits.

Is hereby deleted. [REASON: condition has been satisfied, code requirement]

3. Condition 7 of Resolution R-89-952, Petition 81-197(A) was deleted by Resolution R-94-1674, Petition DOA81-1967(B)

4. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Tenth Avenue North, 55 feet from centerline free of all encumbrances and encroachments. Petitioner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. (Previously Condition E.4 of Resolution R-94-1674, Petition DOA81-197(B)) (ENG) [NOTE: Condition has been satisfied]

5. Condition E.5 of Resolution R-94-1674, Petition DOA81-197(B) 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 presently is \$16,020.00 (598 trips X \$26.79 per trip).

Is hereby deleted. [REASON: condition has been satisfied, code requirement]

6. Condition E.6 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

In addition the petitioner shall contribute the amount of \$3,211.00 as established in Article V Section 3 (Insignificant Project Standard) of the Traffic Performance Standards Code. These total funds of \$19,231.00 shall be paid prior to the issuance of the first Building Permit or prior to whichever shall first occur.

Is hereby deleted. [REASON: condition has been satisfied]

7. Condition E.7 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of \$3,211.00 shall be credited toward the increased Fair Share Fee.

Is hereby deleted. [REASON: condition has been satisfied]

8. Condition E.8 of Resolution R-94-1674, Petition DOA81-197(B) 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 Zoning Petition 81-197(B) which permits construction of a 7,000 square foot oncology building at the time of issuance of the Building Permit presently is \$6,930.00 (126 additional trips/day X \$55.00 per trip)

Is hereby deleted. [REASON: no longer applicable square footage deleted by R-98-867]

F. LANDSCAPING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip.
 - b. A six (6) foot high opaque wall, fence or berm and hedge combination. (Previously Condition F.1 of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG-Zoning)

2. The following landscaping requirements shall be installed on the exterior side of the required six **(6)** foot high barrier:
 - a. One ~~(1)~~ canopy tree planted every twenty **(20)** feet on center.
 - b. Thirty **(30)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height of forty-eight **(48)** inches. (Previously Condition F.2 of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG-Zoning)
3. Along the interior side of the required barrier, the property owners shall install twenty-four **(24)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center, to be maintained at a minimum height of ~~thirty-six~~ **(36)** inches. (Previously Condition F.3 of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG-Zoning)

Is hereby deleted. [Reason: Code Requirement]

G. LANDSCAPING, EXISTING

1. Prior to building permit or October 5, 1999, whichever comes first, the petitioner shall replace any existing damaged or dead and missing plant materials pursuant to the approved landscape plan (Exhibit 45 of Petition 81-197(A)) for the entire site. The replacement landscape material shall meet the minimum ULDC requirements at time of installation. (DRC: ZONING)

H. HEALTH

1. Condition G.1 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

The developer will take reasonable precautions during the development of this project to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties.

Is hereby deleted. [REASON: code requirement]

2. Condition G.2 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

The developer will take necessary precautions to insure there will be no pollutant run-off from this project to adjacent or nearby surface waters.

Is hereby deleted. [REASON: code requirement]

3. Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (Previously Condition G.3 of Resolution R-94-1674, Petition DOA81-197(B)) (HEALTH)

4. Condition G.4 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Sewer service is available to the property, therefore, no septic tank shall be permitted on this site. **All** existing onsite sewage disposal systems must be abandoned in accordance with Chapter **10D-6, F.A.C.**, and Palm Beach County ECR-I.

Is hereby deleted. [REASON: code requirement]

5. Condition G.5 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Water service is available to the property, therefore, no well shall be permitted on the site to provide potable water. **All** existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II.

Is hereby deleted. [REASON: code requirement]

6. Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 64E-16FAC. (ONGOING:HEALTH/CODE ENF)
7. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730FAC. (ONGOING:HEALTH/CODE ENF)

I. LIGHTING

1. **All** outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (Previously Condition H. of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG/CODE ENF)

J. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (Previously Condition 1.1 of Resolution R-94-1674, Petition DOA81-197(B)) (SWA)

K. USE LIMITATION

1. Condition J.1 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

The use of proposed addition shall be limited to office use only associated with the Hospital and their related uses or physicians with staff privileges.

Is hereby deleted. [Reason: not applicable]

L. SIGNAGE

1. **No** off-premise signs shall be permitted on the site. (Previously Condition K.1 of Resolution R-94-1674, Petition DOA81-197(B)) (ONGOING: CODE ENF)
2. Should the existing **signage** be relocated, removed or altered, all **point** of purchase or freestanding signs fronting on 10th Avenue North 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);
 - d. Style - monument style only. (Previously Condition K.2 of Resolution R-94-1674, Petition DOA81-197(B)) (BLDG)

M. REZONING

1. Prior to June 1, 2000, the property owner shall agree to the County's rezoning of the site's MUPD zoning district to the INST zoning district or any zoning district that is consistent with the site's future land use designation and the ULDC regulations as amended. If the ULDC is amended to provide for a consistent zoning district then the property owner will be relieved of this condition. (DATE: MONITORING - Zoning-Planning)

N. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. Condition L.1 of Resolution R-94-1674, Petition DOA81-197(B) which currently states:

Failure to comply with any of these conditions of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or
- b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;

- c. A requirement of the development to conform with **updated** standards of development, applicable 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;
- 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 Conditional Use, Rezoning, 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 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)