

RESOLUTION NO. R-98- 1317

RESOLUTION APPROVING ZONING PETITION DOA81-152(D)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF SUNSET CENTRES LTD. PARTNERSHIP  
BY DAVID CARPENTER, AGENT  
(BOYNTON TRAIL CENTRE)

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 DOA81-152(D) was presented to the Board of County Commissioners at a public hearing conducted on August 27, 1998; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA81-152(D), the petition of Sunset Centres Ltd. Partnership, by David Carpenter, agent, for a Development Order Amendment (DOA) to Add movie theatre (requested use), reconfigure site plan and add building square footage (+14,189) and access 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 August 27, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution

The motion was seconded by Commissioner Foster 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	--	<b>Absent</b>
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on August 27, 1998.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

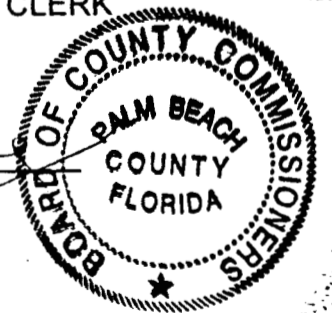
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK

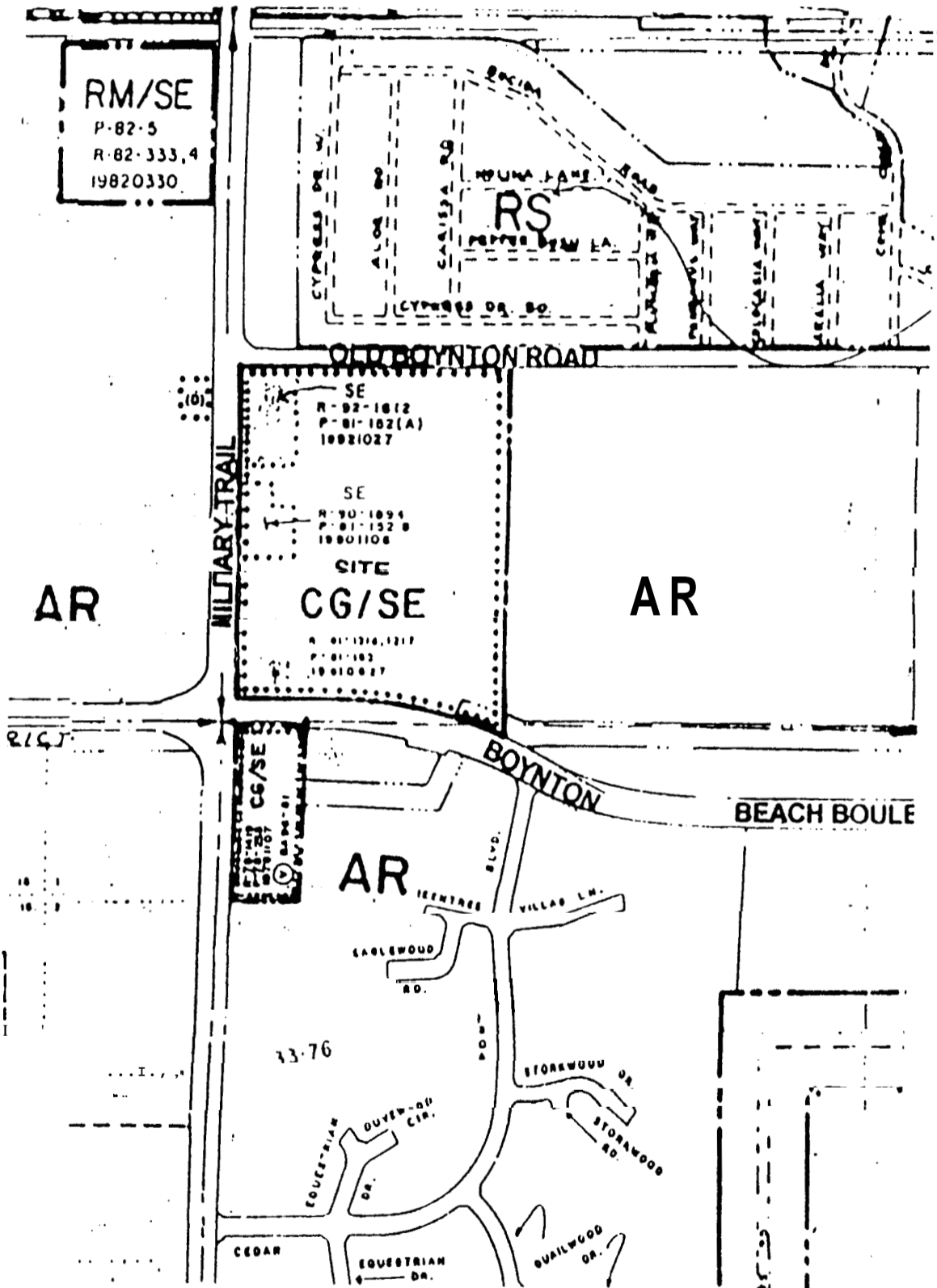


**EXHIBIT A**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

**PLAT OF BQYNTON TRAIL CENTRE / RECORDED IN PLAT  
BOOK 48, PAGE 191; PALM BEACH COUNTY RECORDS**

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

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

#### A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-81-1217 (Petition **81-152**), R-90-811 (Petition **81-152(A)**), and R-90-1894 (Petition **81-152(B)**), shall remain in full force and effect. 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. (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 July 8, 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)

#### B. ARCHITECTURAL CONTROL

1. Building A (Theatre/Retail building) shall be constructed to be consistent with the facade elevations by Boca Architects Collaborative, Inc. dated November 19, 1997. (BLDG PERMIT: BLDG - Zoning)
2. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof treatment, shall be provided on the all facades of Building A and the 11,200 square foot retail building at the southwest corner of the site. This architectural character and treatment shall also be compatible with the facades of the main portion of the shopping center (Buildings B-L). (BLDG PERMIT: BLDG - Zoning)
3. Exterior storage areas shall be screened from view and integrated into the building design to make it compatible with the building architecture. (BLDG PERMIT: MONITORING - Bldg)

#### C. BUILDING AND SITE DESIGN

1. The maximum height for all new or renovated structures within the affected areas of Petition **81-152(D)**, including all air conditioning and mechanical equipment, measured from finished grade to highest point, shall not exceed thirty-five (35) feet. (BLDG PERMIT: BLDG - Zoning)
2. All new or renovated air conditioning and mechanical equipment within the affected areas of Petition **81-152(D)** shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principal structure. (BLDG PERMIT: BLDG - Zoning)
3. All areas or receptacles for the storage and disposal of trash for Building A (Theatre/Retail building), garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within 150 feet of the east property line and shall be confined to the areas designated on the site plan dated July 8, 1998. (DRC/ONGOING: ZONING/CODE ENF)

**D. CONCURRENCY**

1. Prior to final site plan approval by the Development Review Committee (DRC) the petitioner shall revise their concurrency to match the uses and square footages as shown on the approved site plan dated July 8, 1998. (DRC: ZONING)

**E. ENGINEERING**

1. Prior to July 1, 1999 or prior to the issuance of the first Building Permit, (excluding interior or exterior improvements to existing structures) which ever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for

- a) Military Trail at Boynton Beach Boulevard, 64 feet from centerline,
- b) Boynton Beach Boulevard at Military Trail, 76 feet from centerline,

This additional right of way shall be in accordance with Palm Beach County's expanded intersection details and shall be free of all encumbrances and encroachments. The property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING - Eng)

2. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures) the property owner shall convey a drainage easement minimum 20 feet in width which shall provide equal positive outfall to the adjacent LWDD Canal as shown on the March 16, 1998 Master Plan prepared by David L. Carpenter and Associates. Construction by the applicant within this easement shall conform to Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final recordation. (BLDG PERMIT: MONITORING - Eng)
3. The Property owner shall construct a within this proposed drainage easement a closed piping system, appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of this drainage system shall be approved by the County Engineer.
  - A) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and the maintenance of the existing drainage system for the adjacent roadways until the new system has been constructed.
  - B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit (excluding interior or exterior improvements to existing structures). (BLDG PERMIT: Monitoring - Eng)
  - (3) Construction shall be completed prior to the issuance of the certificate of occupancy for the 11,200 retail structure to be located in the northeast corner of the intersection of Military Trail and Boynton Beach Boulevard. (CO: MONITORING - Eng)

4. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures) the property owner shall convey a temporary roadway construction easement along Boynton Beach Boulevard, Military Trail and Old Boynton Road to Palm Beach County. The geometrics for the temporary roadway construction easement shall be in accordance with Palm Beach County's expanded intersection details. Construction within this easements by the applicant shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING - Eng)
  
5. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
  - A. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures), 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 Florida Department of Transportation Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
  
  - B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners' 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 prior to the issuance of a certificate of occupancy. If certificates of occupancy are requested prior to road construction along Boynton Beach Boulevard, surety to satisfy Condition 5.B shall be posted in a manner acceptable to the County Engineer and County Attorney. (CO: MONITORING - Eng)
  
  - C. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit (excluding interior or exterior improvements to existing structures). (BLDG PERMIT: MONITORING - Eng)

F. LANDSCAPING - STANDARD

1. **All canopy trees required to be planted on site by this approval, Petition 81-152(D), 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; and,
  - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
  
2. **All palms required to be planted on site by this approval, Petition 81-152(D), 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. **A group of three or more palm or pine trees may supersede the requirement for a perimeter canopy tree in that location. Only fifty (50) percent of the required canopy trees may be replaced by the clustered palm or pine trees within each required buffer. (CO: LANDSCAPE - Zoning)**

G. LANDSCAPING - INTERIOR

1. **Foundation plantings or grade level planters shall be provided along the north (Old Boynton Road frontage), east (Military Trail frontage) and west facades of Building A (Theatre/Retail building) and along the south and west facades of the 11,200 square foot retail building at the southwest corner of the site. The required plantings shall consist of the following:**
  - a. The minimum width of the required landscape areas shall be five (5) feet;
  - b. The length of the required landscaped areas shall be no less than 50% of the total length of the applicable exterior side of the structure; and,
  - c. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE)
  
2. **Prior to the issuance of the Certificate of Occupancy for the 11,200 square foot retail building at the southwest corner of the site, the petitioner shall provide additional landscaping along the perimeter of the lake. The landscaping materials shall be a minimum of one (1) twelve (12) foot high canopy tree every forty (40) feet on center. A cluster of three (3) palm or pine trees may replace a required canopy tree. (DRC/CO: Zoning/Landscape)**
  
3. **Prior to final site plan approval, the site plan shall provide for shade trees, at one per every thirty (30) linear feet, in the landscape median strips in the parking area. The trees shall have a minimum 3" trunk diameter and be in**



accordance with Section 7.3.G.2.c of the ULDC. The trees shall be installed prior to the issuance of the Certificate of Occupancy for the 11,200 square foot building at the southwest corner of the site. (DRC/CO: PLANNING/LANDSCAPE - Zoning/Planning)

H. LANDSCAPING ALONG SOUTH AND WEST PROPERTY LINES (ADJACENT TO BOYNTON BEACH BOULEVARD AND MILITARY TRAIL)

1. Landscaping and buffering along the affected southernmost 220 of the west property line and westernmost 380 of the south property line shall be upgraded to include:
  - a. A minimum twenty (20) foot wide landscape buffer strip;
  - b. One (1) canopy tree planted every thirty (30) feet on center;
  - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum of sixty (60) feet on center between clusters;
  - d. A minimum one (1) to three (3) foot undulating berm, with an average height of two (2) feet, measured from the top of the curb; and,
  - e. 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 thirty-six (36) inches. (CO: LANDSCAPE)

I. LIGHTING

1. All new outdoor lighting used within the affected area of Petition 81-152(D) to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG / CODE ENF - Zoning)
2. All outdoor lighting fixtures within the affected area of Petition 81-152(D) shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting for the theatre use shall be extinguished daily no later than thirty (30) minutes after the end of the last show. (ONGOING: CODE ENF)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF)

J. MUPD

1. Total gross floor area shall be limited to a maximum of 268,849 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)
2. To ensure consistency with the site plan dated July 8, 1998 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRC: ZONING)
3. All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (site plan dated July 8, 1998). (DRC: ZONING)

4. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)
5. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

**K. PARKING**

1. Prior to issuance of the building permit for the interior renovation of Building A or the 11,200 square foot freestanding retail building at the southwest corner of the site, copies of the recorded approved Shared Parking Agreement shall be submitted to the Zoning Division and the Building Division. (BLDG PERMIT: ZONING/BLDG - Zoning)

**L. SIGNS**

1. New freestanding signs or replacement of existing freestanding signs permitted after August 6, 1998, including entrance wall, point of purchase and directional signs, fronting on Military Trail shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - twenty-five (25) 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)
2. New freestanding signs or replacement of existing freestanding signs permitted after August 6, 1998, including entrance wall, point of purchase and directional signs, fronting on Old Boynton Road 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 - 100 square feet;
  - c. Maximum number of signs - one (1); and
  - d. Style - monument style only. (CO: BLDG)
3. New wall signs or replacement of existing signs mounted on the facades of Building A (Theatre/Retail building) or the 11,200 square foot retail building at the southwest corner of the site, permitted after August 6, 1998, shall be limited to the following:
  - a. Maximum sign face area - 100 square feet total for signs on the north facade of Building A (Theatre/Retail building) and 120 square feet

total, not to exceed 60 square feet per sign, for signs on the west facade of Building A (Theatre/Retail building) and 50 square feet for each sign for 11,200 square foot Retail Building at the south west corner of the site; and,

- b. Maximum number of signs - Two (2) for north facade and (3) for west facade (Military Trail and Old Boynton Road frontages) for Building A (Theatre/Retail building); One (1) west facade (Military Trail frontage) and one (1) for south facade (Boynton Beach Blvd. frontages) for 11,200 square foot retail building at the south west corner of the site. (CO: BLDG)

4. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)

#### M. USE LIMITATION

1. Use of Building A shall be limited to a 33,011 square foot, 8 screen, 1,575 seat theatre and 16,426 square foot of retail floor area. If the use of Building A is replaced by permitted uses within the MUPD district, the permitted uses must have equivalent or less traffic generation and each tenant shall not exceed 5,000 square feet in floor area. (DRC: ZONING)
2. Daily hours of operation for the theatre use shall be limited from 10:00 a.m. to the end of the last show, with the last show to commence no later than 10:30 p.m. (ONGOING: CODE ENF)

#### 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. 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 ULCC, 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)



SEP 15 1998

Department of Planning,  
Zoning & Building  
100 Australian Avenue  
Palm Beach, Florida 33480  
Phone: 561-835-2100

INTER-OFFICE COMMUNICATION  
PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING

TO: Willa Oswalt, Minutes Clerk  
FROM: L. Martin Hodgkins, Zoning Director *fmh*  
DATE: September 3, 1998  
RE: Amended Conditions from the August 27, 1998  
and September 1, 1998 BCC

Palm Beach County  
Board of County  
Commissioners  
Jim Van Der Meer, Chairman  
L. Martin Hodgkins, Zoning Director  
Edward T. Marcus  
Mar. J. A. Roberts  
Warren H. Newell  
Mary M. Larty  
Ron L. Foster

County Administrator  
Robert A. Smith, Jr.

The conditions of these resolutions are true and correct and reflect the changes approved by the Board of County Commissioners on August 27, 1998. The following petitions were amended:

- |              |                            |
|--------------|----------------------------|
| DOA96-85A    | RECIO REZONING             |
| CA97-110     | AL PACKER FORD USED TRUCKS |
| DOA95-02(A)  | BONVIE MUPD - BURDINES     |
| PDD98-13     | MILITARY & LANTANA MUPD    |
| Z98-42       | SOUTHERN RETAIL            |
| CA98-43      | MERKERT FAMILY MAUSOLEUM   |
| PDD98-10     | TURNER MUPD                |
| DOA81-152(D) | BOYNTON TRAIL CENTRE       |

The conditions of this resolution are true and correct and reflect the changes approved by the Board of County Commissioners on September 1, 1998. The following petition was amended:

- |         |                  |
|---------|------------------|
| CA98-34 | COUNTRY PURSUITS |
|---------|------------------|

Please contact me at 233-5234 if you **have** any questions.

F:\COMMON\WPDATA\PROD\BCC\1998\CONDITIO.MEM

100 Australian Avenue  
Palm Beach, Florida 33480