

RESOLUTION NO. R-99- 986

RESOLUTION APPROVING ZONING PETITION PDD98-078(A)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF HERBERT AND KARL KAHLERT
BY KILDAY & ASSOCIATES, AGENT
(THE SHOPPES OF MADISON)

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 PDD98-078(A) was presented to the Board of County Commissioners at a public hearing conducted on May 27, 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 PDD98-078(A), the petition of Herbert and Karl Kahlert by Kilday & Associates, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from Agricultural Residential (AR) to Multiple Use Planned Development (MUPD) 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 May 27, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on May 27, 1999.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Daniel Alt*
COUNTY ATTORNEY

BY: *Joan Harvey*
DEPUTY CLERK

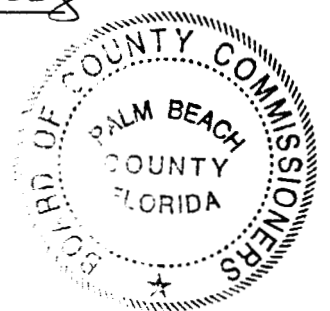


EXHIBIT A
LEGAL DESCRIPTION

TRACTS 49 THROUGH 51 AND 62, INCLUSIVE, LESS THE WEST 10 FEET OF THE NORTH 375 FEET OF TRACT 51 AND LESS THE WEST 92 FEET OF THE SOUTH 284 FEET OF TRACT 51 AND LESS THE WEST 440 FEET OF TRACT 61, AND LESS THE RIGHT OF WAY FOR JOG ROAD, SAID LANDS LYING ENTIRELY WITHIN BLOCK 56, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, PALM BEACH COUNTY RECORDS.

EXHIBIT B
VICINITY SKETCH

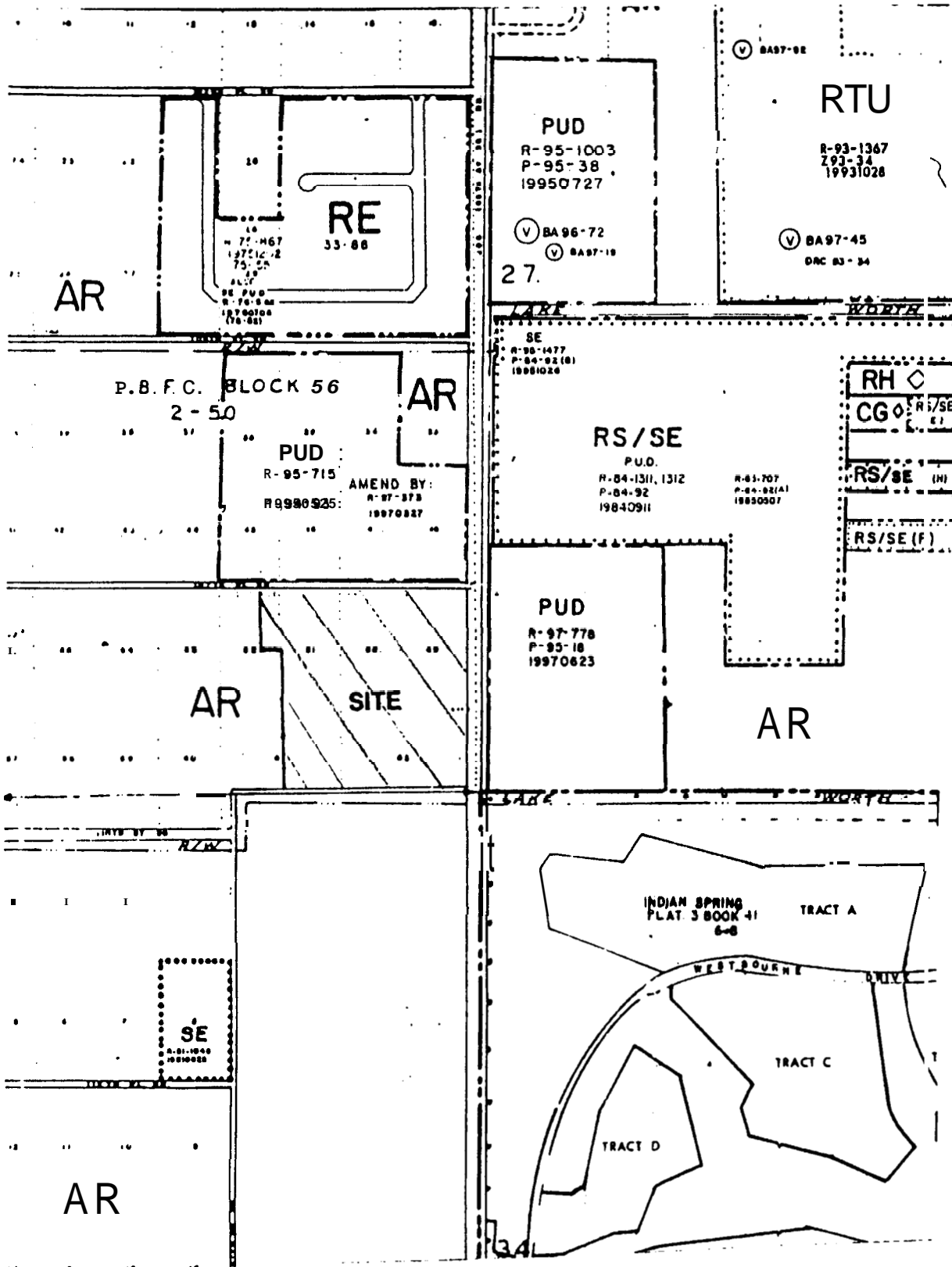


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved preliminary development plan is dated April 9, 1999. All modifications must be approved by the Board of County Commissioners unless the proposed change; are required to meet conditions of approval or are in accordance with the U.D.C. (ONGOING: ZONING)

B. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment, including but not limited to color, building materials, fenestration and roof lines, shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG - Zoning)
2. 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)

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to 22,680 square feet. Expansion shall be limited to Phase 1 with an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less subject to approval by the Traffic and Zoning Division. (DRC: ZONING)
2. The maximum height for all principal structures, measured from finished grade to highest point, shall be one story and not exceed thirty (30) Feet. (BLDG PERMIT: BLDG - Zoning)

D. DUMPSTERS

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be located a minimum of one hundred (100) feet from any property line. (DRC / ONGOING: ZONING / CODE ENF)

E. ENGINEERING

1. The Property owner shall construct Woolbright Road from Jog Road, west to the projects entrance as a non-plan collector road.
 - 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 acquisition of any additional required right-of-way. Construction shall be subject to the

County Engineering approval and shall be to non plan collector street standards minimum of two 12 foot travel lanes.

- b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
2. Prior to DRC approval of the site plan/master plan the property owner shall obtain conceptual approval from the LWDD for the three proposed canal crossings of the LWDD L-26 Canal. (DRC APPROVAL: Eng)
 3. In order to comply with the mandatory Traffic Performance Standard, the Developer shall be restricted to the following phasing schedule:
 - a. No Building Permits for the site may be issued after February 28, 2000. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng)
 4. The developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. This plat shall be recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING-Eng)
 5. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS
 - 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 the adjacent median along the entire frontage of the MUPD for the Jog Road 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 PERMIT: MONITORING - Eng.)

- b. All required median landscaping, including an irrigation system, 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'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)
 - c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDG PERMIT: MONITORING - Eng)
- 6. The property owner shall provide a temporary access connection to the existing dirt road along the south property line. This access easement shall continue to provide legal access to the property owner to the west subject to approval of the County Engineer. (ONGOING: MONITORING - Eng)
- 7. Prior to final site plan approval, Phase I development shall include a landscaped pathway/sidewalk system along the Phase I line that borders Woolbright Road in order to provide shade/canopy for the pedestrian walkway. (DRC: LANDSCAPE- Eng-Planning)
- 8. Prior to final site plan approval, Phase II development shall include a landscaped pathway/sidewalk system along Jog Road and Woolbright Road in order to provide shade/canopy for the pedestrian walkway of both phases I and II. (DRC: LANDSCAPE- Eng-Planning)
- 9. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIUM OF JOG ROAD
 - 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 provide for landscape cutouts within the concrete median of Jog Road Rights-of-way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way concrete median cutout; Landscape and paver block Installation including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the County Engineer, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material 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, the cost of cutting out the concrete median and the installation of all landscape material shall be funded at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assignees or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut

out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (Eng)

- c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDG.PERMIT:MONITOR NG - Eng.)

F. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC: EIRM)

G. LANDSCAPING - STANDARDS

1. Fifty (50%) percent of all canopy 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. 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, 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 not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES OF PHASE 1

1. Landscaping and buffering along the north and west property lines of Phase I shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip;
 - b. Continuous three (3) foot high berm measured from top of curb with a three (3) foot hedge on the plateau of the berm;
 - c. One (1) canopy tree planted every twenty (20) linear feet of property line;
 - d. Twenty-four (24) 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!)
2. The landscape treatment may be removed with issuance of first building permit for Phase 2. (BLDG PERMIT: LANDSCAPE)

I. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES OF PHASE 2

1. Prior to the issuance of the first Certificate of Occupancy (CO) of Phase 2 landscaping and buffering along the north and west property lines shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip;
 - b. Continuous three (3) foot high berm measured from top of curb with a three (3) foot hedge, fence or wall on the plateau of the berm;
 - c. One (1) canopy tree planted every twenty (20) linear feet of property line;
 - d. Equivalent of one (1) palm or pine tree for each twenty (20) linear feet of property line, with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palms/pines may not supersede the requirement for a canopy tree in that location;
 - e. If a three (3) foot masonry screen wall is used, canopy tree; and pines/palms shall be located on alternating sides of the three (3) foot wall; with a,
 - f. A twenty-four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be located on both sides of the screen. (CO: LANDSCAPE)

J. LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINES (JOG AND WOOLBRIGHT ROAD FRONTAGES)

1. Landscaping and buffering along the east and south property lines shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) feet overlap into a utility easement;
 - b. A minimum two to three foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb;
 - c. Equivalent of one (1) canopy tree planted every twenty (20) feet of linear property line;
 - d. Equivalent of one (1) palm or pine tree for each twenty (20) linear feet of frontage with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palms/pines in a cluster may not supersede the requirement for a canopy tree in that location; and
 - e. Twenty-four (24) 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)

K. LANDSCAPING - INTERIOR

1. 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: ZONING)
2. Foundation planters shall be provided along all facades of the MUPD buildings excluding loading and drive through areas to 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 fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

L. 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. (CO / ONGOING: BLDG / CODE ENF - Zoning)
- 2. All freestanding outdoor lighting fixtures shall not exceed twenty-five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
- 3. All outdoor lighting fixtures shall be set back a minimum of fifty (50) feet from any residential property line. (CO: BLDG - Zoning)
- 4. All outdoor lighting shall be extinguished no later than thirty (30) minutes after the hours of operation, excluding security lighting only. (ONGOING: CODE ENF)
- 5. 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)
- 6. Lighting shall be provided to mark all access ways or driveways. (CO/ONGOING: BLDG/CODE ENF - Zoning)

M. MASS TRANSIT

- 1. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) integrated with pedestrian linkages on or adjacent to the subject property, when required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING / PLANNING)
- 2. Mass transit access, shelters and/or bus stops, when required shall be integrated with pedestrian linkages, and be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stop; by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING - PLANNING - Eng)

N. MUPD

1. 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)
2. To ensure consistency with the site plan dated April 9, 1999 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. Hours of business operation (open to the public) shall be limited from 7:00 a.m. to 11:00 p.m. daily with the exception of a general restaurant use which may open at 6:00 a.m. This condition shall not apply to a drive thru lane designated for the sale of pharmaceutical items only. (ONGOING: ZONING/CODE ENF)
4. No outdoor commercial use shall commence business activities (including delivery and stocking operations) prior to 7:00 a.m. nor continue outdoor activities later than 10:00 p.m. daily. (ONGOING: CODE ENF- Zoning)
5. Overnight storage, overnight deliveries or parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF)

O. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the Planning Division shall ensure that this site plan conforms with the plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the site plan dated March 26, 1999 (Rec.# 42 and 47). In addition, the indication of a pedestrian/vehicular cross access to the west shall remain on the site plan. (DRC: PLANNING)
2. Prior to final master plan certification by the Development Review Committee (DRC), in order to comply with Recommendations 42 and 47 from the West Boynton Area Community Plan, the applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation through the commercial development. The shade trees, excluding palm trees, shall be a minimum of twelve (12) feet in height with a minimum spread of five (5) feet and a minimum clear trunk of five (5) feet. (DRC: PLANNING)

P. SIGNS

1. Freestanding point of purchase signs fronting on Jog 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 - two (2); and
 - d. Style - monument style only. (CO: BLDG)

2. Freestanding point of purchase signs fronting on Woolbright 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. (CO: BLDG)
3. Wall signage for the proposed buildings and canopies shall be limited to the east and south facades facing Jog and Woolbright Road. (BLDG PERMIT: BLDG - Zoning)

Q. 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 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)