

RESOLUTION NO. R-99- 1153

RESOLUTION APPROVING ZONING PETITION DOA89-127(C)
DEVELOPMENT ORDER AMENDMENT
PETITION OF IRISH TRADING & INVESTMENTS INC. / MOTIVA ENTERPRISES /
FLAGLER REALTY & DEVELOPMENT
BY KILDAY & ASSOCIATES, AGENT
(WATERFORD CROSSING MUPD)

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 DOA89-127(C) was presented to the Board of County Commissioners at a public hearing conducted on June 29, 1999; 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 DOA89-127(C), the petition of Irish Trading & Investments Inc./ Motiva Enterprises/ Flagler Realty & Development, by Kilday & Associates, agent, for a Development Order Amendment (DOA) to reconfigure master plan, add buildings square footage, modify/delete conditions in resolution R-91-364, and add a second fast food restaurant 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 June 29, 1999, 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 Marcus and, upon being put to a vote, the vote was as follows:

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

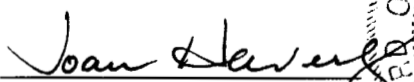
The Chair thereupon declared that the resolution was duly passed and adopted on June 29, 1999.

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

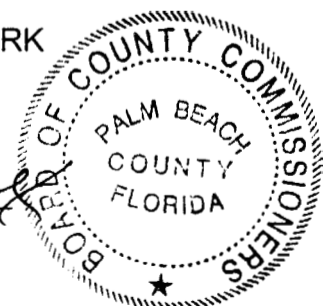


EXHIBIT A
LEGAL DESCRIPTION

All of the Plat of **WATERFORD CROSSINGS, a P.C.D.**, according to the plat thereof, on file in the Office of the Clerk of the Circuit Court in and for **Palm** Beach County, Florida, recorded in Plat **Book 66**, Page 118.

EXHIBIT B
VICINITY SKETCH

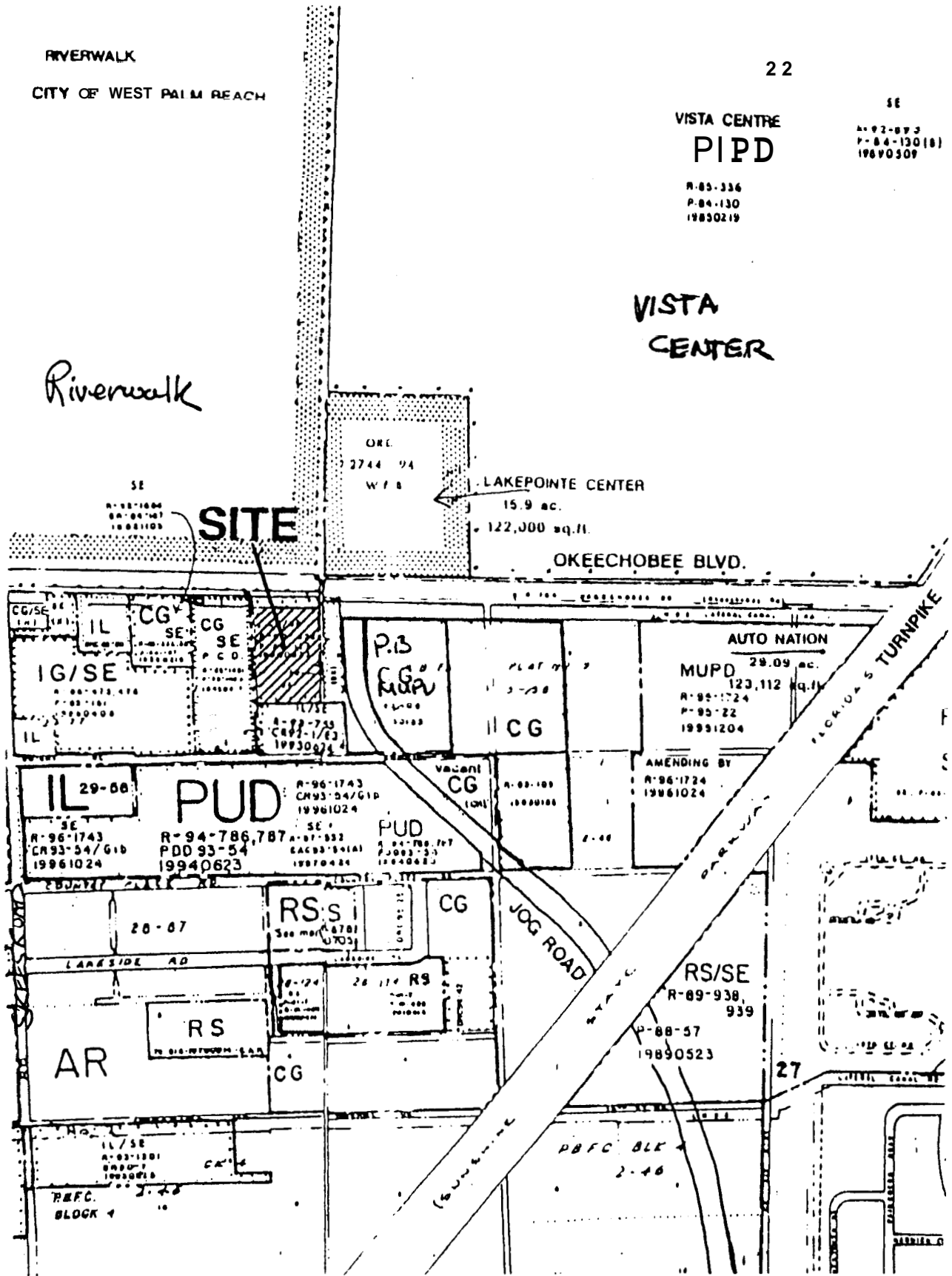


EXHIBIT C

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 conditions of approval contained in R-90-853 (Petition 89-127), and R-90-1443 (Petition 89-127(A), are hereby repealed. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-91-364 (Petition 89-127(B), have been consolidated herein. The approval granted by Resolution R-90-852 Petition 89-127, Resolutions R-90-853 (Petition 89-127), and R-90-1443 (Petition 89-127(A), however, shall remain in full force and effect. (MONITORING)

2. Condition A.3 of Resolution R-91-364, Petition 89-127(B) which currently states:

Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review).

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 March 25, 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. Condition A.1 of Resolution R-91-364, Petition 89-127(B) which currently states:

The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.

AND

Condition A.2 of Resolution R-91-364, Petition 89-127(B) which currently states:

The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.

Is hereby deleted. REASON: [Code Requirement]

B. ENVIRONMENTAL RESOURCES MANAGEMENT

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

C. LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINE (ABUTTING OKEECHOBEE BOULEVARD AND JOG ROAD)

1. Landscaping and buffering along the north and east property line shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip;
 - 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. One (1) canopy tree planted every twenty-five (25) feet on center. A group of three (3) or more palm or pine trees may supersede the requirement for 25% percent of the canopy trees in that location;
 - d. One (1) additional palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and,
 - e. Twenty-four (24) inch high shrub or hedge material, spaced no more than twentyfour (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches.
 - f. Prior to final certification of the site plan by the DRC, the applicant will contact McDonald's and request permission to install at the applicant's expense, the above-referenced landscaping within the limits of their parcel adjacent to Okeechobee Boulevard. If McDonald's declines permission, the condition above will not apply to the McDonald's parcel. (CO: LANDSCAPE)

D. LANDSCAPING - INTERIOR

1. Divider and vehicular medians shall be planted a minimum of one (1) tree per twenty (20) feet on center. (DRC/CO: ZONING/LANDSCAPE)

E. ENGINEERING

1. LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- 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 of Okeechobee Boulevard 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'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 prior to the issuance of a certificate of occupancy. (CO: MONITORING - Eng)
 - c. Declaration of Covenants and Restriction Documents evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING - Eng)
- 2. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF OKEECHOBEE BOULEVARD
 - 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 Okeechobee Boulevard Rights-of-way contiguous to the site. 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 Concrete Median Cutout; Landscape and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When installation of paver blocks and landscape plantings are permitted by the Florida Department of Transportation, 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 the landscape material and paver block shall be funded at the property owners expense. This new landscape material and paver block shall 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 within 90 days of notification to the property owner by the County Engineer that the permit from the Florida Department of Transportation has been issued. (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)

3. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN 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 for the area 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 Agreement, 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 and paver block material shall be funded at the property owners expense. All new 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: MONITORING - Eng)

F. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, minimum necessary to satisfy the Palm Beach County Security Code, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All 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 shall be extinguished no later than one half (1/2) hour after the closing of each individual use, excluding security lighting only. (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)

G. MASS TRANSIT

1. A. 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) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)

2. Mass transit access, shelters and/or bus stops, if required, shall 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 - Eng)

H. MUPD

1. Total gross floor area shall be limited to a maximum of 56,024 square feet. Expansion, including requested uses, shall be limited to five percent (5%) or 1,000 square feet, whichever is less subject to Traffic Division approval. (DRC: ZONING)
2. To ensure consistency with the site plan dated March 25, 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. Prior to final 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)
4. Prior to final 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)

I. REQUESTED USES

1. The existing fast food restaurants shall be limited to a maximum of 4,938 square feet of gross floor area and 106 seats. (DRC: ZONING)

2. The second fast food restaurant shall be limited to a maximum of 2,105 square feet of gross floor area and 80 seats, unless otherwise stated herein. (DRC: ZONING)
3. The motel shall be limited to a maximum of 33,781 square feet. (DRC: ZONING)
4. All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners March 25, 1999. (DRC: ZONING)

J. SIGNS

1. Condition B.1 of R-91-364 which currently states:

Point of purchase signs permitted on site shall be as follows:

- a. Along Okeechobee Boulevard: a maximum of three (3) signs not exceeding **260** square feet in total face area and not exceeding fifteen (15) feet in height.
- b. Along Jog Road: a maximum of three (3) signs not exceeding **315** square feet in total face area and not exceeding fifteen (15) feet in height.
- c. Prior to site plan certification, the petitioner shall submit a Master Sign Program to the Zoning Division which shall specify sign location, sign size, unified color and graphic representation. (Previously Condition 21. R-90-1443, Petition 89-127(A))

AND

Condition B.2 of Resolution R-91-364, Petition 89-127(B) which currently states:

If prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign related conditions of approval.

Are hereby amended to state:

Freestanding point of purchase signs fronting on Okeechobee Boulevard shall be consistent with Signage Program by Kilday and Associates dated June 3, 1999 and shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point: ten feet (10);
- b. Maximum sign face area per side - 80 square feet sign "A"
- c. Maximum sign face area per side - 100 square feet sign "C";
- d. Maximum number of signs - two (2) and the one (1) existing fast food restaurant sign; and,
- e. Style - monument style only. (CO: BLDG)

2. The existing sign for the fast food restaurant fronting on Okeechobee Boulevard shall meet the standards above of a 10 (ten) foot high and eighty (80) square foot monument sign if any alterations on the sign occur. If this condition is not met then previous Condition B.2. R-91-364, Petition 89-127(B), shall continue to apply which restricts the sign to a maximum sign face area of eighty six (86) square feet and a maximum height of fifteen (15) feet. (CO: BLDG)
3. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)
4. 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 feet (10);
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - three (3); and,
 - d. Style - monument style only. (CO: BLDG)

K. 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 C.1 of Resolution R-91-364, Petition 89-127(B) which currently states:

As provided in the Palm Beach County Zoning Code, Sections **400.2** and **402.6**, 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; 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 use of the subject property; and/or
- b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
- 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by a petition for writ of certiorari to the Fifteenth Judicial Circuit.

Are 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)