

RESOLUTION NO. R-2004-0729

RESOLUTION APPROVING ZONING PETITION CA2003-031
CLASS A CONDITIONAL USE
PETITION OF S.E.C OF SDA CORP FOR BETHANIE SDA CHURCH
BY JACK POTREKUS, INC., AGENT
(BETHANIE SDA CHURCH)

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 Board of County Commissioners, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20, as amended) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; 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 CA2003-031 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2004; 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 recommendations of the Zoning Commission; 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 (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, 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 CA2003-031, the petition of S.E.C of SDA Corp for Bethanie SDA Church, by Jack Potrekus, agent, for a Class A Conditional Use to allow a church or place of worship in the Residential Transitional Suburban Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 22, 2004, 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 McCarty and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	- Aye
Tony Masilotti, Vice Chairman	- Absent
Jeff Koons	- Absent
Warren H. Newell	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Addie L. Greene	- Aye

The Chair thereupon declared that the resolution was duly passed and adopted on April 22, 2004.

Filed with the Clerk of the Board of County Commissioners on 17 day of May, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

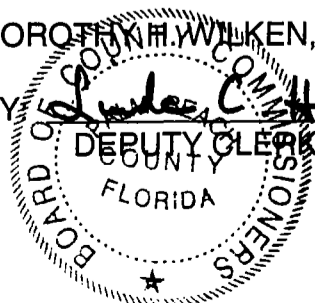
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

DOROTHY H. WILKEN, CLERK

BY: 
DEPUTY CLERK

Petition CA2003-031
Project No. 5049-000



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

THE WEST HALF OF THE TRACT 16, LESS THE NORTH 208.72 FEET AND THE NORTH 105 FEET OF THE SOUTH 376 FEET OF THE WEST 180 FEET THEREOF, SUBDIVISION OF THE SOUTH EAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE RIGHT OF WAY FOR MILITARY TRAIL (STATE ROAD 809)

PARCEL 2

THE NORTH 105 FEET OF THE SOUTH 376 FEET OF THE WEST 180 FEET OF SUBDIVISION OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3

A TRACT OF LAND DESCRIBED AS: BEGINNING AT A POINT IN THE NORTH LINE OF THE WEST HALF (W1/2) OF TRACT 16 OF THE SUBDIVISION OF THE SOUTHEAST QUARTER (SE1/4) OF THE SOUTHWEST QUARTER (SW1/4) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 9, PAGE 74, SAID POINT BEING 208.72 FEET WEST OF THE NORTHEAST CORNER OF THE WEST HALF (W1/2) OF SAID TRACT 16; THENCE SOUTHERLY, PARALLEL TO THE EAST LINE OF THE WEST HALF (W1/2) OF TRACT 16, A DISTANCE OF 208.72 FEET TO A POINT; THENCE WESTERLY ALONG A LINE PARALLEL TO THE NORTH LINE OF TRACT 16, A DISTANCE OF 124 FEET, MORE OR LESS, TO THE WEST LINE OF TRACT 16; THENCE NORTH ALONG THE WEST LINE OF TRACT 16, A DISTANCE OF 208.72 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF SAID TRACT 16; THENCE EASTERLY ALONG THE NORTH LINE OF TRACT 16, A DISTANCE OF 129 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TOGETHER WITH A RIGHT OF EGRESS AND INGRESS OVER THE EAST 20 FEET OF THE WEST HALF (W1/2) OF TRACT 16, LESS THE NORTH 208.72 FEET THEREOF, AND OVER THE SOUTH 20 FEET OF THE NORTH 228.72 FEET SAID WEST HALF (W1/2) OF SAID TRACT 16.

EXHIBIT B
VICINITY SKETCH

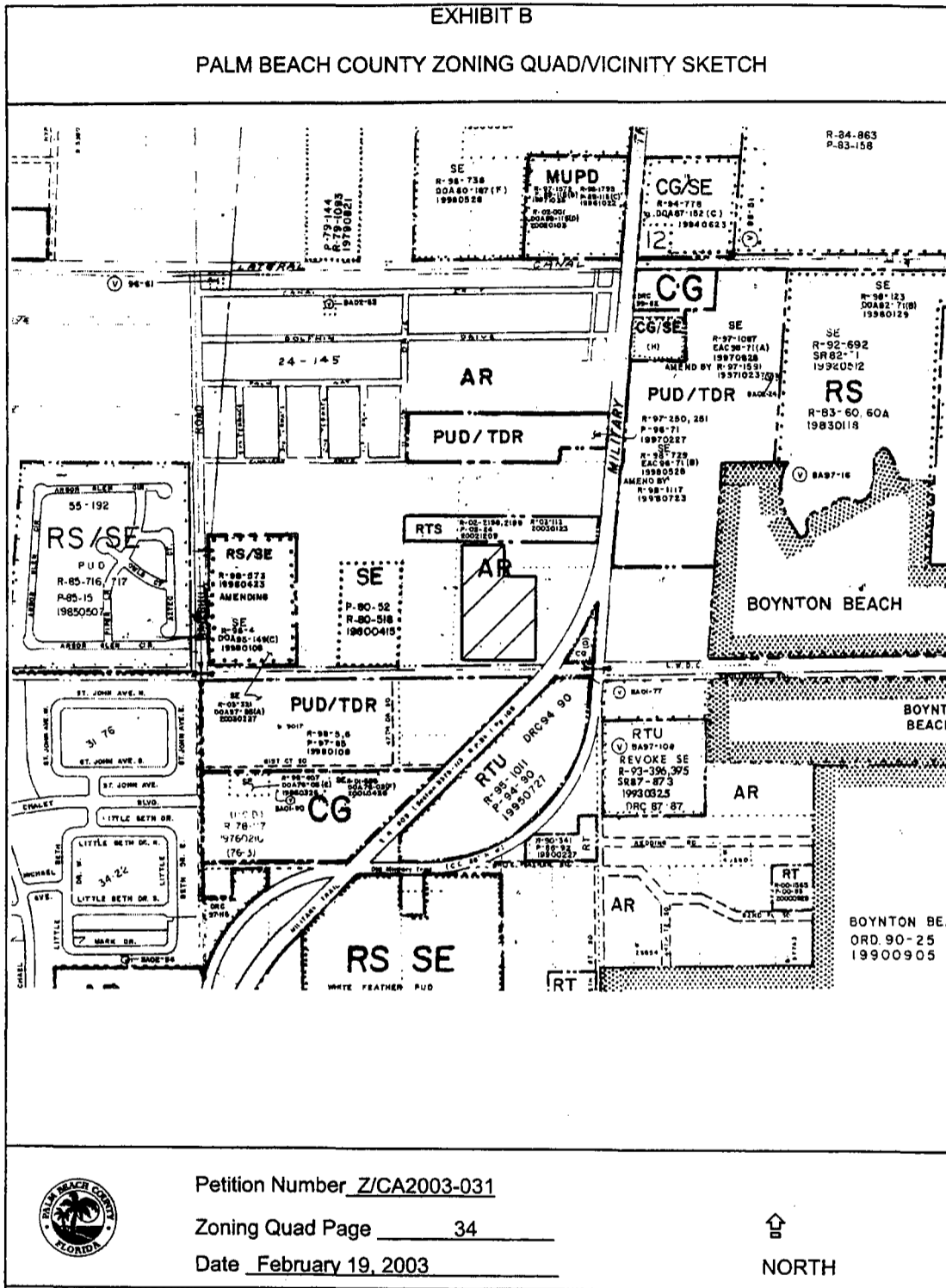


EXHIBIT C

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 site plan is dated January 14, 2004. 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: DRO: ZONING-Zoning)

B. ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval of the site plan, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 6.6.E. and Section 6.6.C of the ULDC. Development shall be consistent with the approved architectural elevations and DRO approved site plan. (DRO: ZONING - Zoning)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-ERM)

D. LANDSCAPING-STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: 3.5 inches measured at 4.5 feet above grade;
 - c. canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on the property 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. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply where a single row of hedge is required on one or both sides of a fence. (CO: LANDSCAPE - Zoning)
4. All trees and palms material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
 5. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
 6. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning)
 7. Field adjustment of plant materials and berms may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE - Zoning)
 8. Prior to final DRO approval of the site plan, an Alternative Landscape Plan shall be submitted for landscaping along the property lines and any portion of the property where existing vegetation may affect the proposed landscaping. (DRO: LANDSCAPE - Zoning)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after February 26, 2007. 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 Article 2 Chapter E of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. Prior to issuance of a Building Permit the Developer shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. A recorded plat waiver is also acceptable provided this property is eligible for a plat waiver in accordance with the provisions of the ULDC as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)
3. Prior to the issuance of a building permit the property owner shall convey to the Public by road right of way warranty deed or by plat for 80th Road South, 60 feet north of the ultimate north right of way line for the LWDD L-20 Canal. Right of way conveyance shall free of all encumbrances and encroachments. The Developer 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. The Grantor further warrants that the property being conveyed meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the

Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Right of way conveyance shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG. PERMIT: MONITORING-Eng)

4. Prior to the issuance of the first Building Permit, this property owner shall obtain a safe sight easement from the property owner to the east as shown on the preliminary site plan. Location of the easement shall be subject to the approval of the County Engineer. Form for the easement shall be approved by the County Attorney. (BLDG PERMIT: MONITORING-Eng)
5. a. The property owner shall construct the following road improvements concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations, appropriate drainage, and a pedestrian pathway.
 - 1) construct 80th Road South from Military Trail west to the west property line. Construction shall be to local street standards, minimum 2-10 foot travel lanes.
 - 2) reconstruct and close the existing median opening on Military Trail at 80th Road South. (ONGOING:ENG-Eng)
- 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)
6. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG-Eng)
7. Prior to the issuance of the first Building Permit, the property owner shall convey a 20 foot access easement to the property owner to the north in the location shown on the Preliminary Development Plan.
8. a. Advanced notification and coordination shall be given to the north property owner as to when the work for the driveway within this 20 foot easement shall begin. Access to the northern property shall remain open at all times during construction within the easement by this property owner. (ONGOING:ENG-Eng)
- b. Construction of the access easement consisting of shell rock shall be completed prior to the issuance of a building permit. (BLDG PERMIT: MONITORING-Eng)

F. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF 80th ROAD SOUTH)

1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;

- b. a continuous two (2) foot high berm measured from top of curb;
- c. one (1) native canopy tree for each thirty (30) linear feet of the property line;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG THE NORTH, EAST AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL AND UNDEVELOPED PROPERTY)

- 1. Landscaping and buffering along the north, east and west property lines shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a continuous two (2) foot high berm measured from finished grade;
 - c. a six (6) foot high opaque wood fence to be located on the plateau of the berm;
 - d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, and shall be planted alternating on both sides of the fence;
 - e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the fence;
 - f. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation, and be planted on both sides of the fence; and,
 - g. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation, and be planted on the exterior side of the fence. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING - INTERIOR

- 1. Foundation planting or grade level planters shall be provided along the facades of all structures as shown on the site plan dated January 14, 2004 to consist with 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 (50) percent 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 - Zoning)
- 2. Landscaping for terminal islands in the parking area shall consist of the following:

- a. one (1) canopy tree for each island; and,
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG / CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor, freestanding lighting fixtures shall be setback a minimum of fifty (50) feet from the north, east and west property lines. (CO: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 9:30 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)
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 - Zoning)

J. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), 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 January 14, 2004 (Rec.# 35, 36, 37, 41, and 47) regarding shaded pedestrian pathways and vehicular and pedestrian connections. (DRO:PLANNING-Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the notations at the northeastern and eastern property lines that read "future vehicle/pedestrian connection (WBACP)" shall be amended to read "proposed vehicular and pedestrian cross access to be paved to the property line". (DRO:PLANNING-Planning)
3. Prior to the issuance of a Certificate of Occupancy (CO), the property owner shall pave the two (2) vehicular and pedestrian cross access points, including shade trees, to the edge of their respective property lines at the locations shown on the final certified site plan that will read "proposed vehicular and pedestrian cross access to be paved to the property line." (CO:MONITORING-Planning)
4. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include street cross section details of a landscaped pathway/sidewalk along the sidewalk along the property's frontage along Military Trail in order to provide shade/canopy for the sidewalk along Military Trail. (DRO:LANDSCAPE-Planning)

5. Prior to final site plan approval by the Development Review Officer (DRO), in order to comply with Recommendation 41 from the West Boynton Area Community Plan, the property owner shall provide cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for all internal sidewalks shown in this project. (DRO: PLANNING-Planning)

K. SIGNS

1. Freestanding signs shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. maximum sign face area per side – sixty (60) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only;
 - e. location - within twenty (20) feet of the entrance of 80th Road South; and,
 - f. signs shall be limited to identification of tenants and hours of service only. (CO: BLDG - Zoning)
2. Prior to the issuance of the Certificate of Occupancy, the property owner shall install one (1) directional sign at the entry of the twenty-foot access easement for the property directly north of the Church site. This sign shall be limited to and consist of the following:
 - a. maximum sign height, measured from finished grade to highest point – four (4) feet;
 - b. maximum sign face area per side – eight (8) square feet;
 - c. messages on sign - “Private entry” and “no parking allowed” or “No trespassing”, etc. The property owner shall coordinate with the property owner of the north parcel for approval of the sign message and intent;
 - d. the property owner shall coordinate signage installation pursuant to Engineering Condition E.5. (CO: BLDG – Zoning)

L. USE LIMITATION

1. All services shall be held within the church and the hours of operation shall be limited to 8:00 a.m. to 9:00 p.m. excluding holiday services. (ONGOING: CODE ENF - Zoning)
2. Accessory outdoor uses such as temporary sales events shall be limited to a maximum of four (4) events per year and shall be setback a minimum of eighty (80) feet from all perimeter property lines. No temporary amusements or special events are permitted on the property. (ONGOING/SPECIAL PERMIT: CODE ENF - Zoning)
3. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

M. 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 Code Enforcement Special Master 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. (ONGOING:MONITORING-Zoning)