

RESOLUTION NO. R-2004-2273

RESOLUTION APPROVING ZONING PETITION DOA1993-029A
(CONTROL NO. 1993029)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ROBERT C. MALT & CO.
BY LAND RESEARCH MANAGEMENT, INC., AGENT
(ORLEANS COURT COMMERCIAL)

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 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1993-029A was presented to the Board of County Commissioners at a public hearing conducted on October 28, 2004; 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 2.E (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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan, contingent upon the approval of Small Scale Development Amendment No. SCA 2004-00002;
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 2.K.3.b 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 DOA1993-029A, the petition of Robert C. Malt & Co., by Land Research Management, Inc., agent, for a Development Order Amendment to delete land area, reconfigure site plan, and modify/delete conditions of approval 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 October 28, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

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

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2004-00002 (ORLEANS COURT INDUSTRIAL, a.k.a. Orleans Court Industrial and Orleans Court Commercial) is effective.


Filed with the Clerk of the Board of County Commissioners on 15 day of November, 2004.

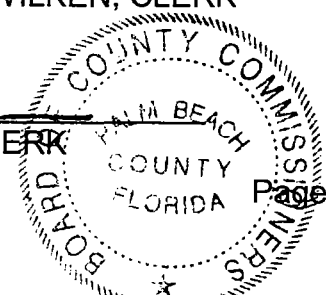
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



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Petition DOA1993-029A
Control No. 1993029
Project No. 5456-000

EXHIBIT A

LEGAL DESCRIPTION

PARCEL A

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF THE **REPLAT OF WESTOVER**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 23, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL, AS CONVEYED TO THE STATE OF FLORIDA, AS RECORDED IN OFFICIAL RECORD BOOK 664, PAGE 360, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALSO BEING A LINE 53 FEET WEST OF AND PARALLEL WITH THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, AND THE NORTH LINE OF ORLEANS COURT, FORMERLY KNOWN AS HAZARD STREET, A RIGHT-OF-WAY 60 FEET IN WIDTH, AS SHOWN ON THE PLAT OF **WESTOVER**, AS RECORDED IN PLAT BOOK 4, AT PAGE 72, OF THE AFORESAID PUBLIC RECORDS, SAID INTERSECTION BEING THE SOUTHEAST CORNER OF THE CLEAR SIGHT CORNER IN OFFICIAL RECORD BOOK 9909, PAGE 33 OF SAID PUBLIC RECORDS; THENCE NORTH 88°36'23" WEST ALONG SAID NORTH LINE OF ORLEANS COURT, A DISTANCE OF 24.95 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE NORTH 88°36'23" WEST A DISTANCE OF 375.57 FEET; THENCE NORTH 01°28'29" EAST A DISTANCE OF 126.91 FEET TO THE SOUTH LINE OF LOTS 157 AND 156 OF SAID PLAT OF **WESTOVER**; THENCE SOUTH 88°35'33" EAST, ALONG SAID SOUTH LINE OF LOTS 157 AND 156 AND ITS EASTERLY PROLONGATION, A DISTANCE OF 296.09 FEET TO THE CENTERLINE OF THAT CERTAIN SERVICE STREET, SHOWN ON THE AFORESAID PLAT OF **WESTOVER**, AND ABANDONED IN OFFICIAL RECORD BOOK 8300, PAGE 1501 OF THE AFORESAID PUBLIC RECORDS; THENCE SOUTH 01°30'22" EAST, ALONG SAID CENTERLINE, A DISTANCE OF 63.44 FEET; THENCE SOUTH 88°36'23" EAST A DISTANCE OF 104.50 FEET TO THE WESTERLY LINE OF THE ADDITIONAL RIGHT-OF-WAY FOR MILITARY TRAIL, AS RECORDED IN OFFICIAL RECORD BOOK 664, PAGE 360 OF THE AFORESAID PUBLIC RECORDS; THENCE SOUTH 01°30'22" WEST ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 38.45 FEET TO THE NORTH-MOST CORNER OF THE CLEAR SITE CORNER AS RECORDED IN OFFICIAL RECORD BOOK 9909, PAGE 33 OF THE AFORESAID PUBLIC RECORDS; THENCE SOUTH 46°26'59" WEST, ALONG THE NORTHWESTERLY LINE OF SAID CLEAR SITE CORNER, A DISTANCE OF 35.32 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 43876 SQUARE FEET OR 1.00725 ACRES, MORE OR LESS.

THE ARH@ PORTION OF PARCEL AA@ BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

"RH" PARCEL

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF THE **REPLAT OF WESTOVER**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 23, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL, AS CONVEYED TO THE STATE OF FLORIDA, AS RECORDED IN OFFICIAL RECORD BOOK 664, PAGE 360, OF THE PUBLIC RECORDS OF PALM

BEACH COUNTY, FLORIDA, ALSO BEING A LINE 53 FEET WEST OF AND PARALLEL WITH THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, AND THE NORTH LINE OF ORLEANS COURT, FORMERLY KNOWN AS HAZARD STREET, A RIGHT-OF-WAY 60 FEET IN WIDTH, AS SHOWN ON THE PLAT OF **WESTOVER**, AS RECORDED IN PLAT BOOK 4, AT PAGE 72, OF THE AFORESAID PUBLIC RECORDS, SAID INTERSECTION BEING THE SOUTHEAST CORNER OF THE CLEAR SIGHT CORNER IN OFFICIAL RECORD BOOK 9909, PAGE 33 OF SAID PUBLIC RECORDS; THENCE NORTH 88°36'23" WEST ALONG SAID NORTH LINE OF ORLEANS COURT, A DISTANCE OF 247.00 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE NORTH 88°36'23" WEST A DISTANCE OF 153.52 FEET; THENCE NORTH 01°28'29" EAST A DISTANCE OF 126.91 FEET TO THE SOUTH LINE OF LOTS 157 AND 156 OF SAID PLAT OF **WESTOVER**; THENCE SOUTH 88°35'33" EAST, ALONG SAID SOUTH LINE OF LOTS 157 AND 156 AND ITS EASTERLY PROLONGATION, A DISTANCE OF 153.59 FEET; THENCE SOUTH 01°30'22" WEST A DISTANCE OF 126.87 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 19,485 SQUARE FEET OR 0.44731 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

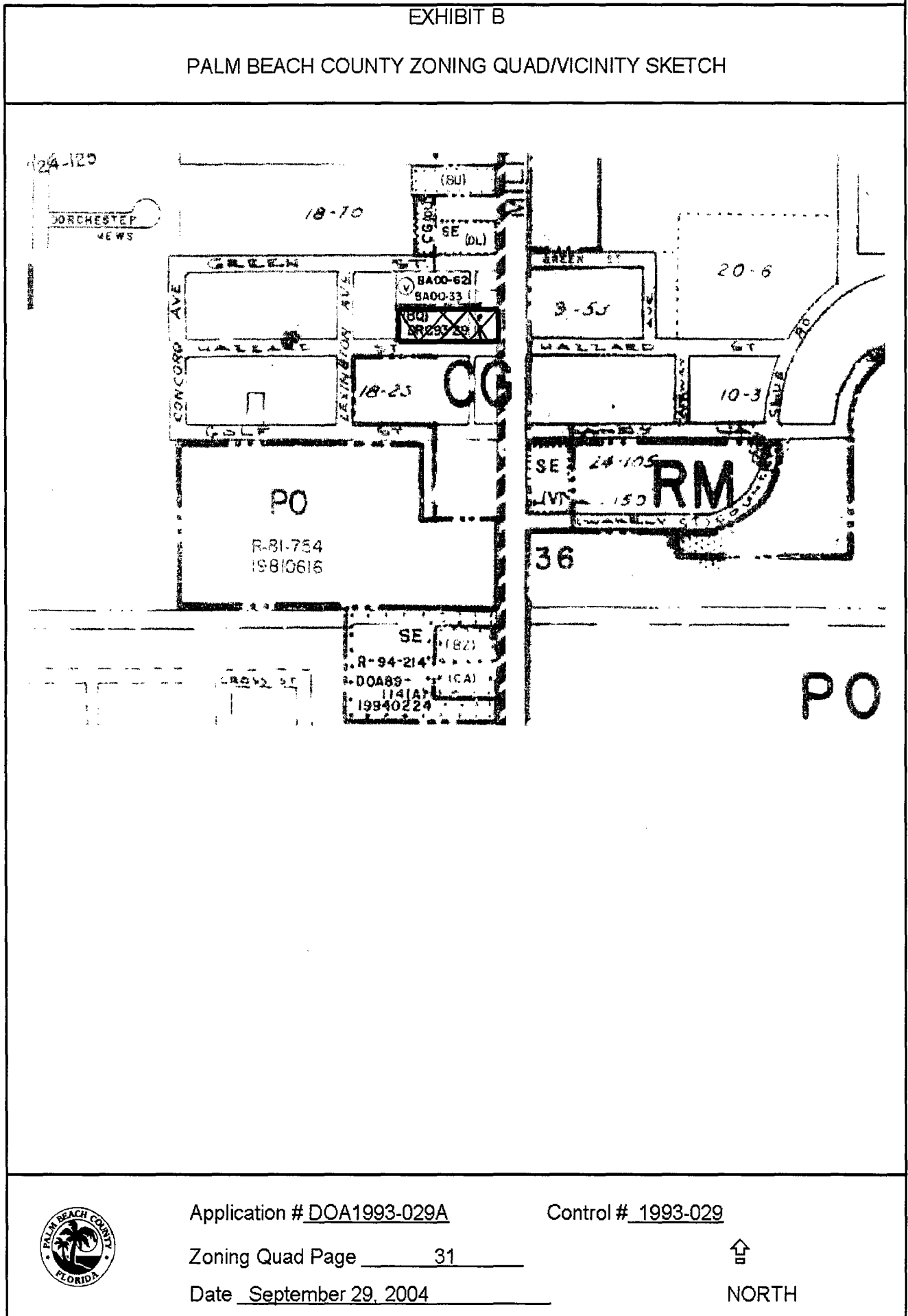


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-94-949 (Petition 1993-029), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8. of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING -Zoning)
2. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated August 16, 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: ZONING - Zoning)
3. Condition A.1. of Resolution R-94-949, Petition 1993-029, which currently states:

Prior to issuance of any permits, the property owner shall apply for and receive certification of a Final Site Plan by the Development Review Committee (DRC). (ZONING)

Is hereby deleted. [Reason: Code requirement.]

B. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Condition C.1. of Resolution R-94-949, Petition 1993-029, which currently states:

Secondary containment for stored Regulate Substances (fuels, oils and other hazardous chemicals) is required. The Department of Environmental Resources Management is willing to provide guidance on appropriate protective measures. (BUILDING/ERM)

Is hereby deleted. [Reason: Code requirement.]

C. LANDSCAPING - STANDARD

1. Prior to October 28, 2005, the property owner shall install new and/or replace all required, dead and/or missing plant materials on the entire subject property. (DATE: LANDSCAPE - Zoning)
2. Fifty (50) percent of all new and replacement canopy trees required to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (ONGOING: LANDSCAPE - Zoning)
3. All new and replacement 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. (ONGOING: LANDSCAPE - Zoning)
4. All new and replacement shrub or hedge materials required to be planted in the landscape buffers 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 to the five (5) foot wide compatibility buffer or where a single row of shrub or hedge is required on one or both sides of a wall. (BLDG PERMIT: LANDSCAPE - Zoning)

D. LIGHTING

- 1. **In order to mitigate any potential adverse impact on existing and future residential uses, lighting within the parking area shall be limited to a maximum height of fifteen (15) feet, measured from finished grade to highest point.** (ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition F.1. of Resolution R-94-949, Petition 1993-029)
- 2. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting and low voltage landscape/accent type lights used to emphasize plant material only. (ONGOING: CODE ENF - Zoning)

E. ENGINEERING

- 1. **The property owner has voluntarily agreed to convey to Palm Beach County a twenty-five (25) foot safe sight corner at the intersection of Orleans Court and Military Trail. This right of way dedication shall be prior to February 15, 1995 or prior to the issuance of the first Building Permit, whichever shall first occur. This right of way 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.** (DATE/BLDG PERMIT: MONITORING/BUILDING - Eng (Previous Condition E.1. of Resolution R-94-949, Petition 1993-029) [Note: Completed.]
- 2. **The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time**

to time be amended. The Fair Share Fee for this project at the time of the Building Permit presently is \$11,000.00 (200 trips X \$55.00 per trip). (BLDG PERMIT: IMPACT FEE COORDINATOR - Eng) (Previous Condition E.2. of Resolution R-94-949, Petition 1993-029) [Note: Completed.]

3. **LANDSCAPE WITHIN MEDIAN**

A. Prior to issuance of a Building Permit, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

<u>Trees:</u>	<u>Ground cover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- 1) All plants shall be container grown or field collected and transplanted from the project site.
- 2) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification. (BLDG PERMIT: ENG - Eng)

B. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowners Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. (CO/PLAT: BLDG/ENG - Eng)

C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BLDG PERMIT/PLAT: BLDG/ENG - County Attorney) (Previous Condition E.3. of Resolution R-94-949, Petition 1993-029) [Note: Completed.]

4. The petitioner shall provide vehicular cross access to the property to north of the subject site in a form acceptable to the County Engineer and Zoning Division. (DRC: ENG/ZONING - Eng) (Previous Condition E.4. of Resolution R-94-949, Petition 1993-029) [Note: Completed.]

5. **Prior to issuance of any permits, the petitioner shall record in the public records of Palm Beach County, an access easement in a manner and form acceptable to the County Attorney and County Engineer. (BLDG PERMIT: CO ATTY/ENG - Eng) (Previous Condition E.5. of Resolution R-94-949, Petition 1993-029) [Note: Completed.]**
6. Prior to January 1, 2006, the property owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (DATE: MONITORING - Eng)
7. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG -Eng)

F. PLANNING

1. Condition D.1. of Resolution R-94-949, Petition 1993-029, which currently states:

Prior to certification of a final site plan by the Development Review Committee (DRC), the petitioner shall file a boundary plat for the subject property. (PLANNING/Engineering)

Is hereby deleted. [Reason: Petitioner requested and superseded by new Condition E.6.]

G. SIGNS

1. Condition G.1. of Resolution R-94-949, Petition 1993-029, which currently states:

Point of purchase signs for the subject site shall be limited as follows:

- a. **Maximum sign height, measured from finished grade - ten (10) feet;**
- b. **Maximum sign face area per side - 100 square feet;**
- c. **Maximum number of signs - one (1). (BUILDING)**

Is hereby amended to read:

New or replacement freestanding point of purchase signs 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 - one hundred (100) square feet;
 - c. maximum number of signs - one (1) for the entire site;
 - d. style - monument style only;
 - e. location - to the east of the easternmost ingress/egress on Orleans Court only; and,
 - f. sign content shall be limited to identification of tenant name(s) and/or project name only. (BLDG PERMIT: BLDG - Zoning)
2. New or replacement wall signs shall be limited to the south and east facades of the building and individual lettering size shall be limited to a maximum of twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG - Zoning)

H. USE LIMITATION

1. Condition B.1. of Resolution R-94-949, Petition 1993-029, which currently states:

To ensure consistency with the Palm Beach County Comprehensive Plan, the property located between the western property line and a point one hundred and sixty five (165) feet east of the western property's line shall be limited to the following uses: parking, landscaping, and/or, water retention only. (BUILDING)

Is hereby deleted. [Reason: Petitioner requested and no longer applicable.]

2. Deliveries and loading shall not be permitted prior to 7:00 a.m. nor continue later than 6:00 p.m. daily. (ONGOING: CODE ENF - Zoning)
3. Overnight storage or parking of a delivery vehicle or truck shall be permitted only within a designated parking space. This space shall:
 - a. be shown on the final site plan prior to approval by the Development Review Officer (DRO);
 - b. accommodate a maximum of one (1) delivery vehicle or truck;
 - c. be utilized after business hours only; and,
 - d. be in a location that is acceptable to the Zoning Division, excluding the loading area. (DRO/ONGOING: ZONING/CODE ENF - Zoning)

I. 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 Article 2.E 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)