

RESOLUTION NO. R-2005-1122

RESOLUTION APPROVING ZONING APPLICATION DOA2004-293
(CONTROL NUMBER 1994-013)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF CHIMU INC
BY DAVID L. CARPENTER & ASSOC. - DAVID CARPENTER, AGENT
(CHIMU SHOPPING CENTER)

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 Application DOA2004-293 was presented to the Board of County Commissioners at a public hearing conducted on June 15, 2005; 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.
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 Application DOA2004-293, the petition of Chimu Inc, by David L. Carpenter & Assoc. - David Carpenter, agent, for a Development Order Amendment to reconfigure the site plan and modify/delete conditions of approval for a Special Exception to allow a Planned Commercial Development 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 15, 2005, 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 KOONS and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	- AYE
Addie L. Greene, Vice Chairperson	- AYE
Karen T. Marcus	- ABSENT
Jeff Koons	- AYE
Warren H. Newell	- AYE
Mary McCarty	- ABSENT
Burt Aaronson	- AYE

The Chair thereupon declared that the resolution was duly passed and adopted on June 15, 2005.

Filed with the Clerk of the Board of County Commissioners on 20th day of JULY, 2005.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

The Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of Section 1, Township 45 South, Range 42 East, LESS the right-of-way as conveyed to the County of Palm Beach on October 12, 1959 in Official Record Book 415, page 181, Public Records of Palm Beach County, Florida.

Legal Description of the Right of Way Dedication of Hypoluxo Road recorded in Official Record Book 415, at Page 181:

That portion of:

The West ½ of the SE ¼ of the SW ¼ of Section 1, Twp. 45 S., Rge. 42 E.,

which lies South of the following described North right-of-way line of Hypoluxo Road, to-wit:

As a point of reference start at the South Quarter corner of Section 1, Twp. 45 S., Rge. 42 E., run northerly along the East line of the SW ¼ of said Section 1 for a distance of 104.05 feet; thence run North 88 deg. 59 min. 33 sec. West for a distance of 56.32 feet to Point of Beginning of said North right-of-way description. Thence continue North 88 deg. 59 min. 33 sec. West, for a distance of 3030.60 feet to the beginning of a curve concave to the northerly and having a radius of 5679.65 feet; thence run in a westerly direction along the arc of said curve for a distance of 48.85 feet to the end of curve; thence run North 88 deg. 29 min. a 59 sec. West, for a distance of 4767.04 feet to the beginning of a curve concave to the southerly and having a radius of 5779.65 feet; thence run in a westerly direction along the arc of said curve for a distance of 75.72 feet to a point of the West line of Section 2, Twp. 45 S., Rge. 42 E., said point being 84.00 feet North of the SW corner of said Section 2.

Also Less and Excepting:

Legal Description of the Right of Way Dedication of Hypoluxo Road recorded in Official Record Book 6661, at Page 1788.

A portion of a parcel of land described in Official Record Book 4353, Page 1356 of the public records of Palm Beach County, Florida, also lying within the Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of Section 1, the Township 45 South, Range 42 East, Palm Beach County, Florida and being more particularly described as follows:

Commence at the Southeast corner of the Southwest one-quarter of said Section 1, thence North 88°50'22" West along the South line of said Section 1, a distance of 663.20 feet; thence North 00°13'51" West along the East Line of the Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of said Section 1, a distance of 97.64 feet to POINT OF BEGINNING; thence North 89°23'36" West along the North Right-of-Way line of Hypoluxo Road and described in official record book 415, page 181 of the Public Records of Palm Beach County, Florida, a distance of 663.13 feet; thence North 00°16'06" West along the West line of the Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of said Section 1, a distance of 43.19 feet; thence South 44°33'14" East, a distance of 34.91 feet to a point on a line 110.0 feet North of (as measured at right angles_ and parallel with the South line of the Southwest one-quarter of said Section 1; thence South 88°50'22" East along said parallel line a distance of 566.24 feet; thence South 89°45'22" East, a distance of 72.63

feet; thence South 00°13'51" East along the previously described East line of the Southwest one-quarter of the Southeast one-quarter of the Southwest one-quarter of said Section 1, a distance of 13.55 feet to the POINT OF BEGINNING.

Containing 380,872 Square Feet or 8.74 acres more or less.

EXHIBIT B
VICINITY SKETCH

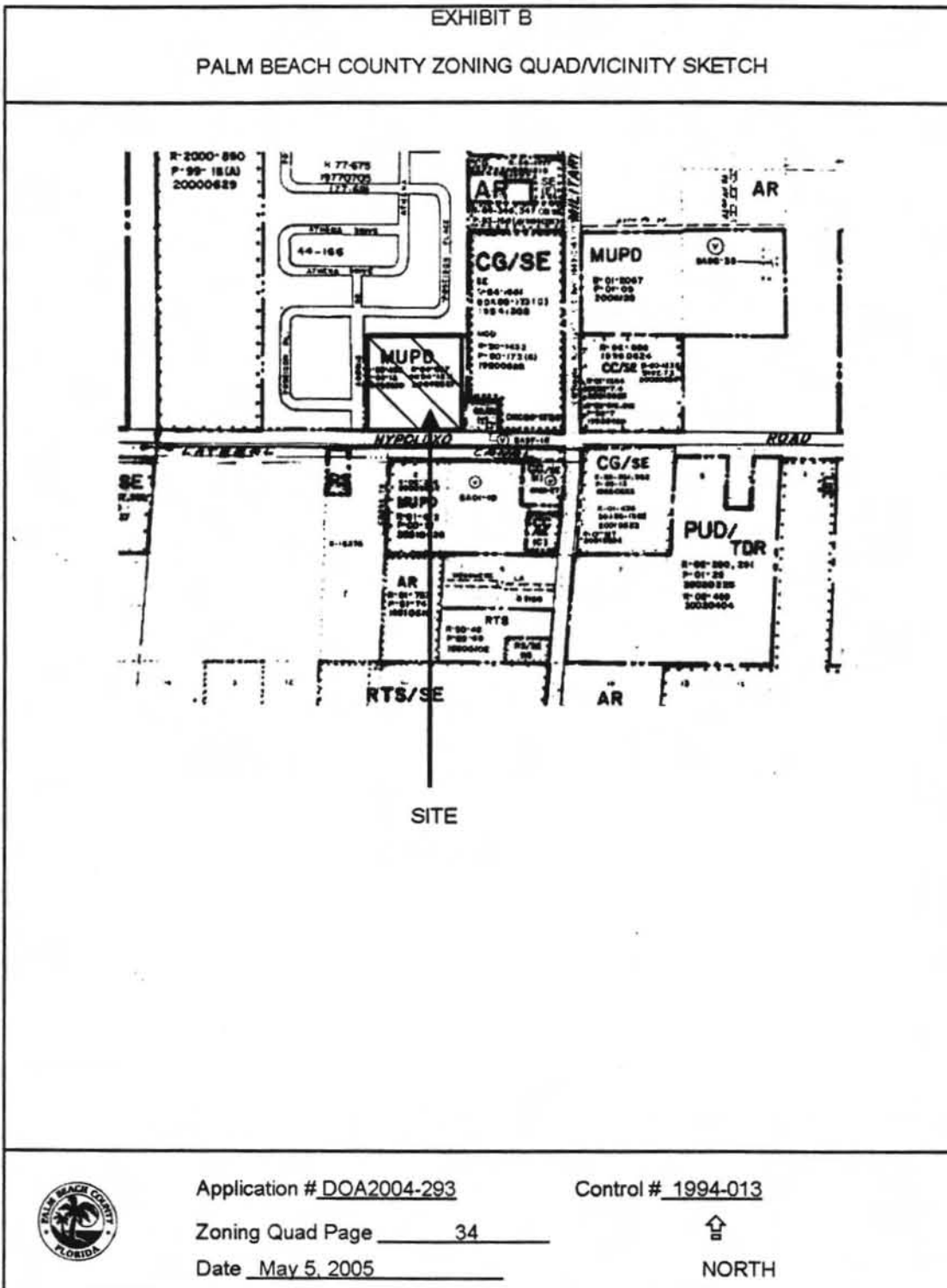


EXHIBIT C

CONDITIONS OF APPROVAL

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

ALL PETITIONS

1. Development of the property is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated January 31, 2005. 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. (DRO: ZONING – Zoning)

ARCHITECTURAL REVIEW

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate an architectural focal point at the following locations:
 - a. both sides of each entrance located on Hypoluxo Road;
 - b. the south side of the entrance located on Adonis Avenue;
 - c. the area located on the east property line at the southeast corner of the T-intersection at the point of cross access to the site to the east;
 - d. the southwest corner of the anchor retail building.
 - e. the focal points shall be in the form of a plaza, fountain, columns, arcade or any other site element or similar pedestrian oriented public areas; and,
 - f. details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: DRO – Arch Review)
2. At time of submittal for final Development Review Officer (DRO) approval, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for the commercial structures. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: DRO – Arch Review)
3. Prior to final approval of the site plan by the Development Review Officer (DRO), the site plan shall be revised to indicate a plaza at the front façade of the 47,600 square foot retail building. The plaza shall be subject to the following:
 - a. Location as shown on the site plan dated January 31, 2005;
 - b. a minimum of two thousand (2,000) square feet in area;
 - c. an architectural feature with a design consistent with the principal structure;
 - d. details of the plaza shall be submitted to the Architectural Review Section for review and approval. (DRO: DRO – Arch Review)

BUILDING AND SITE DESIGN

1. Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue indicated on the site plan dated January 31, 2005. The minimum dimension for each area shall be as follows:
 - a. access points located on Hypoluxo Road - 1,200 square feet;
 - b. the access point located on Adonis Avenue - 1,000 square feet;

- c. all T-intersections - 750 square feet; and,
- d. all pedestrian cross-walks - seven (7) foot wide. Alternating colors shall be provided where pedestrian cross-walks intersect with decorative paver areas for vehicular traffic. (DRO/BLDG PERMIT: ZONING - Zoning)

- 2. Previous Condition A.1 of Resolution R-95-435, Petition 1994-013, which currently states:

Total gross floor area shall be limited to a maximum of 79,500 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall amend the Concurrency Reservation to indicate the maximum allowed square footage.

Is hereby deleted. Reason: [Dictated by A.1].

- 3. **The minimum setback for all structures adjacent to the north property line shall be sixty-five (65) feet.** (BUILDING-Zoning) (Previous Condition A.2 of Resolution R-95-435, Petition 1994-013)

- 4. Previous Condition A.3 of Resolution R-95-435, Petition 1994-013, which currently states:

The maximum height for all structures, measured from finished grade to highest point, shall not exceed thirty-five (35) feet.

Is hereby amended to read:

The maximum building height for the northern most building (47,600 square foot retail building) shall be twenty-five (25) feet excluding decorative architectural features and elements, which shall be limited to a maximum height of thirty-five (35) feet. (BLDG PERMIT: BLDG PERMIT – Zoning)

- 5. Previous Condition A.4 of Resolution R-95-435, Petition 1994-013, which currently states:

All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principal structure.

Is hereby deleted. Reason: [Code requirement].

- 6. Previous Condition A.5 of Resolution R-95-435, Petition 1994-013, which currently states:

No openings shall be permitted in the north or west facades of the principal building, except for required emergency exits.

Is hereby deleted. Reason: [Not applicable].

- 7. Previous Condition A.6 of Resolution R-95-435, Petition 1994-013, which currently states:

A maximum of one (1) out-parcel shall be permitted on site.

Is hereby deleted. Reason: [Not applicable, code requirement].

8. **No truck traffic shall be allowed on Adonis Drive. The petitioner shall install a directional sign prohibiting trucks on Adonis Drive. (ONGOING: CODE ENF - Zoning) (Previous Condition A.7 of Resolution R-95-435, Petition 1994-013)**
9. **An opaque wing wall a minimum of twelve (12) feet in height, along the north edge and running the entire length of the loading area shall be installed prior to issuance of a Certificate of Occupance for the principal structure. (CO: BLDG PERMIT - Zoning) (Previous Condition A.8 of Resolution R-95-435, Petition 1994-013)**
10. Previous Condition A.9 of Resolution R-95-435, Petition 1994-013, which currently states:

The required bike path shall be contiguous and constructed at grade with appropriate curb cuts.

Is hereby deleted. Reason: [Not applicable].
11. Previous Condition A.10 of Resolution R-95-435, Petition 1994-013, which currently states:

To ensure consistency with the site plan dated September 28, 1994 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 administratively relocated to portions of the site not previously covered.

Is hereby deleted. Reason: [Not applicable/Code requirement].

ENGINEERING

1. **Prior to site plan approval by the Development Review Committee, the property owner shall record a cross access easement to the property owner to the east, subject to the approval by the County Attorney and County Engineer. (DRO: COUNTY ATTY - Eng) (Previous Condition E.1 of Resolution R-95-435, Petition 1994-013)**
2. **The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 25-foot safe sight corner at the intersection of Adonis Drive and Hypoluxo Road prior to the issuance of the first Building Permit. Right-of-way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate as determined by the County Engineer. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.2 of Resolution R-95-435, Petition 1994-013) (Completed)**
3. Previous Condition E.3 of Resolution R-95-435, Petition 1994-013, which currently states:

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 impact fee for zoning petition number 94-13 is to be paid as follows:

- a) **The Fair Share Fee for the main 75,000 square foot center to be paid at the time of issuance of the Building Permit presently is \$170,940.00 (3,108 trips X \$55.00 per trip).**
- b) **The Fair Share Fee for each of the 4,500 square foot fast food restaurant is \$46,558.00 (1,693 trips X \$27.50 per trip).**

Is hereby deleted. [Reason: Code requirement]

- 4. Previous Condition E.4 of Resolution R-95-435, Petition 1994-013, which currently states:

LANDSCAPE WITHIN MEDIAN

- 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 Hypoluxo Road right-of-way. 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. 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 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, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng)**

Is hereby amended to read:

LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of completion or certificate of occupancy. (CC/CO: MONITORING -Eng)
 - c) At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: ENG - Eng)
 - d) Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG: ENG - Eng)
5. Previous Condition E.5 of Resolution R-95-435, Petition 1994-013, which currently states:

The Property owner shall construct a left turn lane north approach on Adonis Drive at Hypoluxo Road. 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. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING PERMIT: ENG - Eng)

Is hereby amended to read:

The property owner shall construct: a) right turn lane east approach on Hypoluxo Road at the Project's Entrance Road. b) left turn lane north approach on Adonis Drive at Hypoluxo Road. All construction shall be 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 and acquisition of any additional required right-of-way.¹ Permits required by Palm Beach County for this construction in a and b shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

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

- a) No Building Permits for the site may be issued after January 1, 2009. 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.E of the Unified Land Development Code. (DATE: MONITORING - Eng)
 - b) Building Permits for more than:
 - 31,500 square feet of general retail;
 - 16,000 square feet general office;
 - 4,500 square foot fast food restaurant;
 shall not be issued until construction has begun for the 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
7. Prior to issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. 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. (BLDG PERMIT:MONITORING-Eng)
8. Construction for these improvements in 6.a and 6.b shall be completed prior to the issuance of the first Certificate of Completion or Certificate of Occupancy. (CC/CO: MONITORING - Eng)

LANDSCAPING - STANDARDS

1. Previous Condition B.1 of Resolution R-95-435, Petition 1994-013, which currently states:

All 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.**

Is hereby amended to read:

Fifty (50) percent of canopy trees 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. (BLDG PERMIT: ZONING – Landscape)
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. (BLDG PERMIT: ZONING – Landscape)
 3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: ZONING – Landscape)

LANDSCAPING - INTERIOR

1. Shade structures (trellis and/or gazebo) shall be provided in the following locations and design requirements:
 - a. a minimum of two (2) shade structures to be placed along the entrance road into the project from Hypoluxo Road; and,
 - b. the shade structure shall have a minimum dimension of one hundred100 square feet and a minimum of ten (10) feet in height; and,
 - c. details of the shade structures shall be submitted to the Architectural Review Section for review and approval at final site plan approval by the Development Review Officer. (DRO/BLDG PERMIT: DRO/ZONING – Zoning)

2. Previous Condition C.1 of Resolution R-95-435, Petition 1994-013, which currently states:

One landscape island shall be provided for a maximum of every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet.

Is hereby deleted. Reason: [Code Requirement].

3. Previous Condition C.2 of Resolution R-95-435, Petition 1994-013, which currently states:

Interior grade-level tree planters shall be provided, in accordance with Section 7.3.E.2.a.(2)(b) of the ULDC. All required interior grade-level planters shall be planted with one (1) canopy tree and appropriate groundcover.

Is hereby deleted. Reason: [Code Requirement].

4. Previous Condition C.3 of Resolution R-95-435, Petition 1994-013, which currently states:

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 and 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.

Is hereby deleted. Reason: [Not applicable].

5. Previous Condition C.4 of Resolution R-95-435, Petition 1994-013, which currently states:

Landscape islands shall be provided along the front facade of the principal structure. The required landscape islands shall be a minimum of five (5) feet wide, and a minimum combined total length of forty percent (40%) of the front dimension of the structure. The required minimum landscape islands shall, at a minimum, be planted with one (1) canopy tree planted every twenty (20) feet on center and appropriate groundcover. A group of three or more palm trees may supersede the requirement for a canopy tree in that location.

Is hereby deleted. Reason: [Code Requirement].

6. Previous Condition C.5 of Resolution R-95-435, Petition 1994-013, which currently states:

A minimum five (5) foot wide landscape strip shall be provided along the entire west facade of the principal structure. The required landscape strip shall, at a minimum, be landscaped as follows:

- a. **One (1) canopy tree planted every twenty (20) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,**
- b. **Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.**

Is hereby deleted. Reason: [Code Requirement].

LANDSCAPING ALONG NORTH PROPERTY LINE

1. Previous Condition D.1 of Resolution R-95-435, Petition 1994-013, which currently states:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. **A minimum fifteen (15) foot wide landscape buffer strip.**
- b. **A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development.**

Is hereby deleted. Reason: [Code requirement].

2. Previous Condition D.2 of Resolution R-95-435, Petition 1994-013, which currently states:

The following landscaping requirements shall be installed on the exterior side of the required wall:

- a. **One (1) canopy tree planted every twenty (20) feet on center;**
- b. **One (1) palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,**

- c. **Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches.**

Is hereby deleted. Reason: [Code Requirement].

3. Previous Condition D.3 of Resolution R-95-435, Petition 1994-013, which currently states:

Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.

Is hereby deleted. Reason: [Code requirement].

LANDSCAPING ALONG SOUTH PROPERTY LINE

1. Previous Condition F.1 of Resolution R-95-435, Petition 1994-013, which currently states:

Landscaping within the required buffer along the south property line, abutting Hypoluxo Road, shall be upgraded to include:

- a. **One (1) canopy tree planted every fifteen (15) feet on center;**
- b. **One (1) palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,**
- c. **Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation.**

Is hereby amended to read:

In addition to ULDC requirements, landscaping and buffering along the south property line shall be upgraded to include one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING Landscape)

LANDSCAPING ALONG WEST PROPERTY LINE

1. Previous Condition G.1 of Resolution R-95-435, Petition 1994-013, which currently states:

Landscaping and buffering along the west property line, abutting Adonis Drive, shall be upgraded to include:

- a. **A minimum thirty (30) foot wide landscape buffer strip.**
- b. **A minimum eight (8) foot high barrier consisting of minimum three (3) foot high berm topped with a minimum five (5) foot high opaque fence. The berm/fence combination shall extend from the entrance on Adonis Drive to the north property line and connect to the required wall along the north property line to prevent access to the site through the landscape buffer. The required berm shall extend south to Hypoluxo Road.**

Is hereby amended to read:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the west property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and a half (2.5) feet; and,
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)
2. Previous Condition G.2 of Resolution R-95-435, Petition 1994-013, which currently states:

Landscaping within the required buffer shall be upgraded to include:

- a. **A double row of trees consisting of one (1) canopy tree planted every fifteen (15) feet on center on each row in an alternating pattern;**
- b. **One (1) palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,**
- c. **Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation planted on the exterior side of the required fence.**

Is hereby deleted. Reason: [Code requirement].

LIGHTING

1. **All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets.** (BLDG PERMIT: BLDG - Zoning) (Previous Condition H.1 of Resolution R-95-435, Petition 1994-013)
2. **All outdoor lighting fixtures within one hundred (100) feet of the north and west property lines shall not exceed fifteen (15) feet in height, measured from finished grade to highest point.** (BLDG PERMIT: BLDG - Zoning) (Previous Condition H.2 of Resolution R-95-435, Petition 1994-013)
3. **All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement.** (ONGOING: CODE ENF - Zoning) (Previous Condition H.3 of Resolution R-95-435, Petition 1994-013)

RECYCLE SOLID WASTE

1. Previous Condition I.1 of Resolution R-95-435, Petition 1994-013, which currently states:

All property owners and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products.

Is hereby deleted. [Reason: Code requirement].

SIGNS

1. Previous Condition J.1 of Resolution R-95-435, Petition 1994-013, which currently states:

Free standing point of purchase signs fronting on Hypoluxo Road shall be limited as follows:

- a. **Maximum sign height, measured from finished grade to highest point - twenty (20) feet;**
- b. **Maximum sign face area per side - 180 square feet or as established by the ULDC, whichever is less;**
- c. **Maximum number of signs - one (1) per structure, a total of two (2) signs;**
- d. **Monument style only.**

Is hereby deleted. Reason: [Code requirement, petitioner request].

2. **No freestanding point of purchase sign shall be permitted on Adonis Drive.** (BLDG PERMIT: BLDG PERMIT - Zoning) (Previous Condition J.2 of Resolution R-95-435, Petition 1994-013)

PALMTRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the site plan prior to final approval by the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: MONITORING - Palm Tran)
2. Prior to issuance of the first Building Permit or recordation of the plat, whichever shall first occur, the property owner shall convey and or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT/PLAT: MONITORING - Eng)

PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include all sidewalks, decorative pavement pedestrian crosswalks, and cross access points, consistent with the certified site plan dated January 31, 2005. The site plan shall be revised to include a label for the vehicular and pedestrian cross access point to the eastern property line that shall read proposed vehicular and pedestrian cross access". (DRO: PLANNING - Planning)
2. Prior to final site plan approval by the DRO, the property owner shall record a cross access easement from the subject property to the site to the east (Petition 1980-173B) in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Planning)
3. Prior to the issuance of a certificate of completion or certificate of occupancy for any buildings on site, the property owner shall pave the cross access point to the edge of the eastern property line at the location shown on the site plan labeled proposed vehicular and pedestrian cross access". (CC/CO: MONITORING -Planning)

UTILITIES

1. If any relocations/modifications to the County's existing water and wastewater facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (BLDG PERMIT: BLDG - Utilities)

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. Previous Condition K.1 of Resolution R-95-435, Petition 1994-013, which currently states:

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; cease and desist 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 user of the subject property; and/or**
- b. **The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;**
- 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;**
- d. **Referral to code enforcement; and/or**
- e. **Imposition of entitlement density or intensity.**

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 Conditional Use, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Is 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 the 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 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)