

RESOLUTION NO. R-2007- 1034

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1911
(CONTROL NUMBER 1981-152)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF WASHINGTON REAL ESTATE PARTNERS, LLC
BY LAND DESIGN SOUTH, INC., AGENT
(BOYNTON TRAIL 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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2006-1911 was presented to the Board of County Commissioners at a public hearing conducted on June 28, 2007; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 DOA2006-1911, the application of Washington Real Estate partners, LLC, by Land Design South, Inc., agent, for a Development Order Amendment to reconfigure site plan, add square footage 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 June 28, 2007, 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:

| | |
|------------------------------|-------|
| Addie L. Greene, Chairperson | - Aye |
| John F. Koons, Vice Chair | - Aye |
| Karen T. Marcus | - Aye |
| Warren H. Newell | - Aye |
| Mary McCarty | - Aye |
| Burt Aaronson | - Aye |
| Jess R. Santamaria | - Aye |

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 28, 2007.

Filed with the Clerk of the Board of County Commissioners on 28th day of June.


This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK


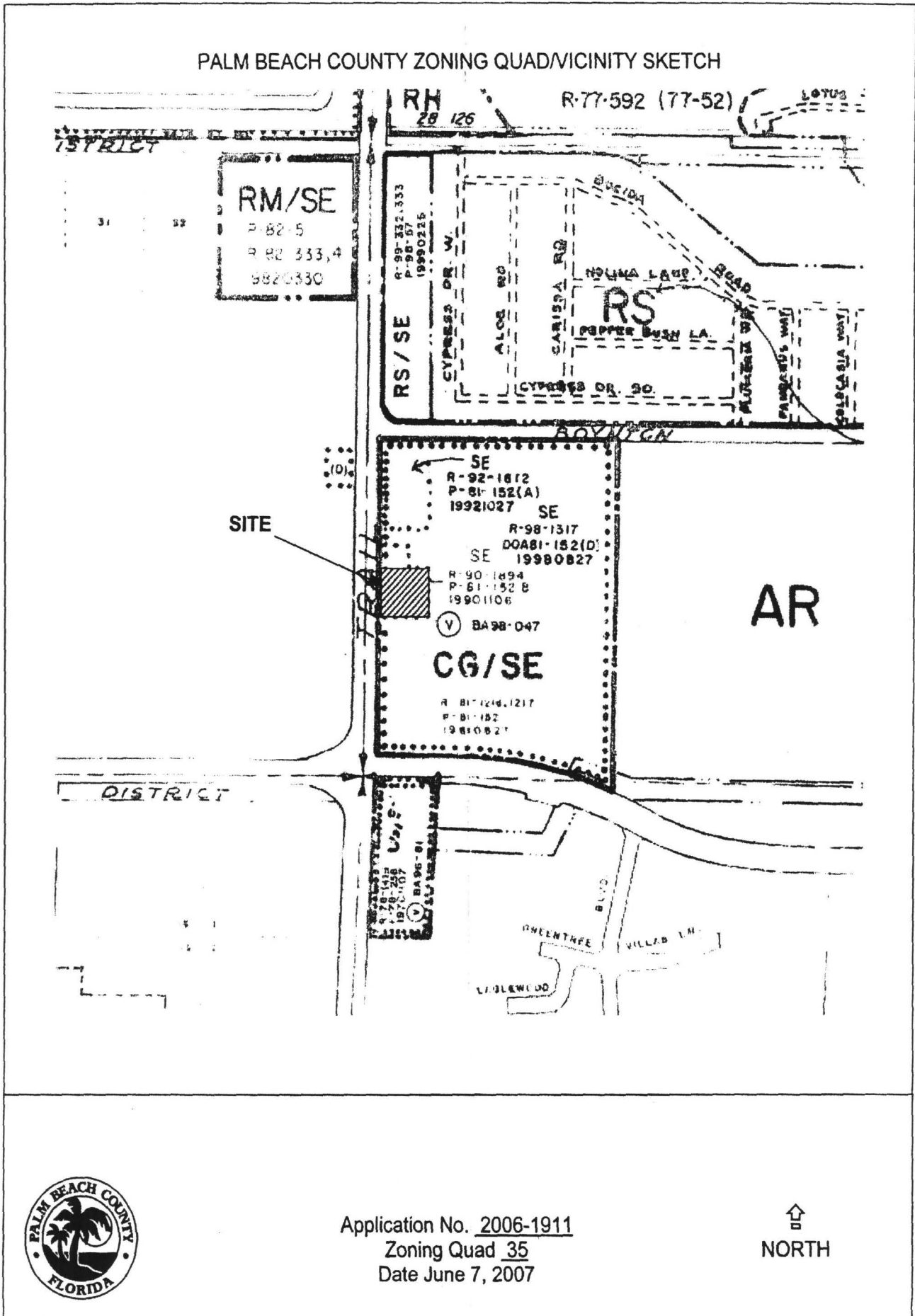


EXHIBIT A
LEGAL DESCRIPTION

ALL OF PARCEL C OF BOYNTON TRAIL CENTRE, A PLANNED COMMERCIAL DEVELOPMENT, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 48, PAGE 191, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B

VICINITY SKETCH



Application No. 2006-1911
Zoning Quad 35
Date June 7, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Condition Standard Conditions 1 of Resolution R-1990-1894, Petition 1981-152(B), which currently states:

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

Is hereby deleted. [REASON: superseded by All Petitions Condition 4].

2. Condition Standard Conditions 2 of Resolution R-1990-1894, Petition 1981-152(B), which currently states:

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

Is hereby deleted. [REASON: Code requirement].

3. Condition Standard Conditions 3 of Resolution R-1990-1894, Petition 1981-152(B), which currently states:

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

Is hereby deleted. [superceded by All Petitions Condition 5].

4. Condition A.1 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-81-1217 (Petition 81-152), R-90-811 (Petition 81-152(A)), and R-90-1894 (Petition 81-152(B)), shall remain in full force and effect. 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. (ONGOING: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-81-1217 (Petition 81-152), R-90-811 (Petition 81-152(A)), R-90-1894 (Petition 81-152(B)), and R-98-1317 (Petition 1981-152(D)) have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

5. Condition A.2 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

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 July 8, 1998. 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)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated April 13, 2007. 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)

6. Condition 6 of Resolution R-90-1894, Petition 1981-152(B), which currently states;

The property owner shall participate in a recycling program when available in the area. The program include paper, plastic, metal and glass products, as programs, are available.

Is hereby deleted. [REASON: Completed]

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval for each outparcel under this approval, the architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval. This condition shall apply to all undeveloped and redeveloped parcels meeting the substantial renovation criteria. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. Building A (Theatre/Retail building) shall be constructed to be consistent with the facade elevations by Boca Architects Collaborative, Inc. dated November 19, 1997. (BLDG PERMIT: BLDG - Zoning) (Previous Condition B.1 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED].
3. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof treatment, shall be provided on the all facades of Building A and the 11,200 square foot retail building at the southwest corner of the site. This architectural character and treatment shall also be compatible with the facades of the main portion of the shopping center (Buildings B-L). (BLDG PERMIT: BLDG - Zoning) (Previous Condition B.2 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED].
4. Exterior storage areas shall be screened from view and integrated into the building design to make it compatible with the building architecture. (BLDG PERMIT: MONITORING - Bldg) (Previous Condition B.3 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED].
5. The maximum height for all new or renovated structures within the affected areas of Petition 81 -1 52(D), including all air conditioning and mechanical equipment, measured from finished grade to highest point, shall not exceed thirty-five (35) feet. (BLDG PERMIT: BLDG - Zoning) (Previous Condition C.1 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]
6. All new or renovated air conditioning and mechanical equipment within the affected areas of Petition 81-152(D) shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principal structure. (BLDG PERMIT: BLDG -Zoning) (Previous Condition C.2 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]
7. Air conditioning and exhaust equipment shall be roof-mounted and screened from the east with solid barriers extending above the height of such equipment.

(Previous Condition 13 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED]

8. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Att) (Previous Condition J.4 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]
9. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Att) (Previous Condition J.5 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]

ENGINEERING

1. Prior to July 1, 1999 or prior to the issuance of the first Building Permit, (excluding interior or exterior improvements to existing structures) whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for:
 - a) Military Trail at Boynton Beach Boulevard, 64 feet from centerline,
 - b) Boynton Beach Boulevard at Military Trail, 76 feet from centerline,

This additional right of way shall be in accordance with Palm Beach County's expanded intersection details and 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING - Eng) (Previous Condition E1 of Zoning Resolution No R-98-1317) [Note: Data Base indicates condition complete]
2. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures) the property owner shall convey a drainage easement minimum 20 feet in width which shall provide legal positive outfall to the adjacent LWDD Canal as shown on the March 16, 1998 Master Plan prepared by David L. Carpenter and Associates. Construction by the applicant within this easement shall conform to Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final recordation. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E2 of Zoning Resolution No R-98-1317)
3. The Property owner shall construct within this proposed drainage easement a closed piping system, appropriate wingwall or other structures as required by and approved by the County Engineer. The elevation and location of this drainage system shall be approved by the County Engineer.
 - A) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not

limited to, utility relocations and the maintenance of the existing drainage system for the adjacent roadways until the new system has been constructed.

- B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit (excluding interior or exterior improvements to existing structures). (BLDG PERMIT: Monitoring - Eng)
 - C). Construction shall be completed prior to the issuance of the certificate of occupancy for the 11,200 square foot retail structure to be located in the northeast corner of the intersection of Military Trail and Boynton Beach Boulevard. (CO: MONITORING - Eng) (Previous Condition E3 of Zoning Resolution No R-98-1317)
4. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures) the property owner shall convey a temporary roadway construction easement along Boynton Beach Boulevard, Military Trail and Old Boynton Road to Palm Beach County. The geometrics for the temporary roadway construction easement shall be in accordance with Palm Beach County's expanded intersection details. Construction within this easement by the applicant shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance.(BLDG PERMIT: MONITORING - Eng) (Previous Condition E4 of Zoning Resolution No R-98-1317)
5. LANDSCAPE WITHIN MEDIAN OF STATE ROADS
- A. Prior to issuance of a building permit (excluding interior or exterior improvements to existing structures), the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting Florida Department of Transportation Road Right-of-Ways. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)
 - B. All required median landscaping, including an irrigation system if required, shall be installed at the property owner's expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. If certificates of occupancy are requested prior to road construction along Boynton Beach Boulevard, surety to satisfy Condition 5.B shall be posted in a manner acceptable to the County Engineer and County Attorney. (CO: MONITORING - Eng)

- C. Declaration of Covenants and Restriction Documents shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit (excluding interior or exterior improvements to existing structures). (BLDG PERMIT: MONITORING - Eng) (Previous Condition E5 of Zoning Resolution No R-98-1317)
6. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
- A) No Building Permits for the site may be issued after June 28, 2010. A time extension for this condition may be approved by the County Engineer 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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
7. Petitioner shall construct as a 4-lane, median-divided section prior to the issuance of a Certificate of Occupancy:
- a. Military Trail from Boynton West Road to Old Boynton West Road
b. Boynton West Road from Military Trail to the project's east property line. (Previous Condition E1 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]
8. Petitioner shall construct at the intersection of Military Trail and Boynton West Road prior to the issuance of a Certificate of Occupancy:
- a. left turn lane, north approach
b. left turn lane, south approach
c. left turn lane, east approach
d. left turn lane, west approach
(Previous Condition E2 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]
9. Petitioner shall construct at both of the project's entrances onto Military Trail prior to the issuance of a Certificate of Occupancy:
- a. left turn lane, north approach
b. left turn lane, south approach
(Previous Condition E3 of Resolution No. R- 81-1217) [Note: Roadway has now been 6 laned and median configuration and turn lanes have been modified so condition is now considered complete]
10. Petitioner shall only be permitted one median Opening on Boynton West Road, a minimum distance of 600 feet east of Military Trail. (Previous Condition E4 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]
11. Petitioner shall construct at the project's entrance and Boynton West Road prior to the issuance of a Certificate of Occupancy a left turn lane, west approach. (Previous Condition E5 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]
12. Petitioner shall construct at the intersection of Military Trail and Old Boynton Road prior to the issuance of a Certificate of Occupancy:
- a. left turn lane, east approach.
(Previous Condition E6 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]
13. Signalization when warranted, as determined by the County Engineer, but shall be no later than five (5) years after the issuance of the final Certificate of Occupancy at the intersection of Military Trail and Old Boynton Road. (Previous Condition E7 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]

14. Petitioner shall construct Old Boynton West Road to a 3-lane section prior to the issuance of a Certificate of Occupancy from Military Trail to the project's east entrance. (Previous Condition E8 of Resolution No. R- 81-1217) [NOTE: CONDITION COMPLETE]

15. Condition E9 of Resolution No. R- 81-1217 which currently states:

Petitioner shall contribute One Hundred Seventy-one Thousand One Hundred and Eighty-eight dollars (\$171,188.00) toward the cost of meeting this direct and identifiable traffic impact, to be the time of issuance of the building permits. This amount shall be credited toward road construction approved by the County Engineer.

Is hereby deleted. [REASON: Impact fees are now a code requirement]

16. Condition E10 of Resolution No. R- 81-1217 currently states:

The developer will take reasonable precautions during the development of this project to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties.

Is hereby deleted. [REASON: Construction of the site is completed]

17. Condition E10 of Resolution No. R- 90-811 which currently states:

The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in affect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by & three (3) year-one (1)-hour storm with a total rainfall of 3 inches as required by the Permits Section, Land Development Division. - In the event that the subject site abuts: a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved .by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. [Reason: drainage is now a code requirement]

18. Condition E11 of Resolution No. R- 90-811 which currently states:

The Developer shall design the drainage system such that drainage from those areas, which may contain hazardous or undesirable waste, shall be separate from stormwater runoff from the remainder of the site.

Is hereby deleted. [Reason: drainage is now a code requirement]

19. Condition E12 of Resolution No. R- 90-811 which currently states:

The Developer shall pay a Fair Share Fee in the amount and manner required by the Fair Share Contribution for Road Improvements Ordinance" as if presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$15,235.00 (277 trips x \$55.00 per trip)

Is hereby deleted. [Reason: Impact fees are now a code requirement]

HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previous Condition Health 4 of Resolution R-90-1894, Petition 1981-152(B)).

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previous Condition Health 5 of Resolution R-90-1894, Petition 1981-152(B)).
3. Prior to the issuance of a building permit, the property owner shall submit to the Palm Beach County Health Department documentary evidence of the satisfactory removal of petroleum contaminated soil on the property. (BLDG PERMIT:MONITORING-Health)

LANDSCAPING-STANDARD

1. Condition F.1 of Resolution R-1998-1317, Petition 1981-152(D), which currently states:

All canopy trees required to be planted on site by this approval, Petition 81-152(D), shall meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: Seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

Is hereby amended to read:

All newly planted canopy trees required to be planted on site or replacement of canopy trees required under previous approvals shall meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: Seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

2. Condition F.2 of Resolution R-1998-1317, Petition 1981-152(D), which currently states:

All palms required to be planted on site by this approval, Petition 81-152(D), 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)

Is hereby amended to read:

All newly planted palms required to be planted on site by this approval or replacement of palms required under previous approvals 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: LANDSCAPE - Zoning)

3. A group of three or more palm or pine trees may supersede the requirement for a perimeter canopy tree in that location. Only fifty (50) percent of the required canopy trees may be replaced by the clustered palm or pine trees within each required buffer. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous condition F.3 of Resolution R-1998-1317, Petition 1981-152(D))
4. Prior to the issuance of the Certificate of Occupancy for the 11,200 square foot retail building at the southwest corner of the site, the petitioner shall provide additional landscaping along the perimeter of the lake. The landscaping materials shall be a minimum of one (1) twelve (12) foot high canopy tree every forty (40) feet on center. A cluster of three (3) palm or pine trees may replace a required canopy tree. (DRC/CO: Zoning/Landscape) (Previous condition G.2 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]

LANDSCAPING-INTERIOR

5. Foundation plantings or grade level planters shall be provided along the north (Old Boynton Road frontage), east (Military Trail frontage) and west facades of Building A (Theatre/Retail building) and along the south and west facades of the 11,200 square foot retail building at the southwest corner of the site. The required plantings shall consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of the applicable exterior side of the structure; and,
 - c. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DROLANDSCAPE-Zoning) (Previous condition G.1 of Resolution R-1998-1317, Petition 1981-152(D))
6. Prior to final site plan approval, the site plan shall provide for shade trees, at one per every thirty (30) linear feet, in the landscape median strips in the parking area. The trees shall have a minimum 3" trunk diameter and be in accordance with Section 7.3.G.2.c of the ULDC. The trees shall be installed prior to the issuance of the Certificate of Occupancy for the 11,200 square foot building at the southwest corner of the site. (DRC:/CO: PLANNING/LANDSCAPE - Zoning/Planning) (Previous condition G.3 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]

LANDSCAPING ALONG THE EAST PROPERTY LINE (ADJACENT TO RESIDENTIAL)

7. Opaque screening at least six (6) feet in height shall be established along the eastern boundary. (Previous condition 14 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED]

LANDSCAPING ALONG SOUTH AND WEST PROPERTY LINES (ADJACENT TO BOYNTON BEACH BOULEVARD AND MILITARY TRAIL)

8. Landscaping and buffering along the affected southernmost 220' of the west property line and westernmost 380' of the south property line shall be upgraded to include:
 - a. A minimum twenty (20) foot wide landscape buffer strip;
 - b. One (1) canopy tree planted every thirty (30) feet on center;
 - c. One (1) palm or pine tree for each thirty (30) linear feet of frontage, with a maximum of sixty (60) feet on center between clusters;
 - d. A minimum one (1) to three (3) foot undulating berm, with an average height of two (2) feet, measured from the top of the curb; and,
 - e. 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 thirty-six (36) inches. (CO: LANDSCAPE) (Previous condition H.1

LIGHTING

1. Condition I.1 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

All new outdoor lighting used within the affected area of Petition 81-152(D) to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG / CODE ENF - Zoning)

Is hereby deleted. [REASON: Code Requirement]
2. All outdoor lighting fixtures within the affected area of Petition 81-152(D) shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning) (Previous condition i.2 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]
3. All outdoor lighting for the theatre use shall be extinguished daily no later than thirty (30) minutes after the end of the last show. (ONGOING: CODE ENF-Zoning) (Previous condition i.2 of Resolution R-1998-1317, Petition 1981-152(D))
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning) (Previous condition I.3 of Resolution R-1998-1317, Petition 1981-152(D))

PARKING

1. Prior to issuance of the building permit for the interior renovation of Building A or the 11,200 square foot freestanding retail building at the southwest corner of the site, copies of the recorded approved Shared Parking Agreement shall be submitted the Zoning Division and the Building Division. (BLDG PERMIT: ZONING/BLDG - Zoning) (Previous condition K.1 of Resolution R-1998-1317, Petition 1981-152(D)) [NOTE: COMPLETED]

SIGNS

1. Condition 4 of Resolution R-1990-811, Petition 1981-152(A) which currently states:

All Advertisement displayed on site shall be in conformance with the Palm Beach County Sign Code. No banners, flag, snipe signs, balloons, etc., shall be permitted on site.

Is hereby deleted. [REASON: Code Requirement]
2. New freestanding signs or replacement of existing freestanding signs permitted after August 6, 1998, including entrance wall, point of purchase and directional signs, fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twenty-five (25) feet;
 - b. Maximum sign face area per side - 150 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG - Zoning) (Previous condition L.1 of Resolution R-1998-1317, Petition 1981-152(D))
3. New freestanding signs or replacement of existing freestanding signs permitted after August 6, 1998, including entrance wall, point of purchase and directional signs, fronting on Old Boynton Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG - Zoning)) (Previous condition L.2 of Resolution R-1998-1317, Petition 1981-152(D))
4. New wall signs or replacement of existing signs mounted on the facades of Building A (Theatre/Retail building) or the 11,200 square foot retail building at the southwest corner of the site, permitted after August 6, 1998, shall be limited to the following:
- a. Maximum sign face area - 100 square feet total for signs on the north facade of Building A (Theatre/Retail building) and 120 square feet total, not to exceed 60 square feet per sign, for signs on the west facade of Building A (Theatre/Retail building) and 50 square feet for each sign for 11,200 square feet Retail Building at the southwest corner of the site; and,
 - b. Maximum number of signs - Two (2) for north facade and (3) for west facade (Military Trail and Old Boynton Road frontages) for Building A (Theatre/Retail building); One (1) west facade (Military Trail frontage) and one (1) for south facade (Boynton Beach Blvd. frontages) for 11,200 square foot retail building at the southwest corner of the site. (CO: BLDG Zoning) (Previous condition L.3 of Resolution R-1998-1317, Petition 1981-152(D))
5. Condition L.4 of Resolution R-1998-1317, Petition 1981-152(D), which currently states:

No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING: CODE ENF - Zoning)

Is hereby deleted. [REASON: Code Requirement]

SITE DESIGN

1. Condition J.1 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

Total gross floor area shall be limited to a maximum of 268,849 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)

Is hereby amended to read:

Total gross floor area shall be limited to a maximum of 272,824 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less. (DRO): ZONING-Zoning)

2. Condition J.2 of Resolution R-1998-1317, Petition 1981-152(D), which currently states:

To ensure consistency with the site plan dated July 8, 1998 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (DRO: ZONING - Zoning) (Previous)

Is hereby deleted. [REASON: Code Requirement]

3. Condition J.3 of Resolution R-1998-1317, Petition 1981-152(D), which currently states:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (site plan dated

July 8, 1998). (DRO: ZONING - Zoning)

Is hereby amended to read:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (site plan dated April 13, 2007). (DRO: ZONING - Zoning)

4. Loading areas and service courts along the eastern portion of the property shall be enclosed with wing wall of at least ten (10) feet in height. (Previous condition 12 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED].
5. The parking lot in the vicinity of the "fast food restaurant" area shall be redesigned to eliminate back-out parking into the internal access road. (Previous condition 15 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED].
6. Petitioner shall abandon the platted setback, which is currently in effect on the subject property. (Previous condition 16 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED].
7. Petitioner shall indicate the location of the lift station prior to Site Plan Review Committee meeting. (Previous condition 17 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED].
8. Condition D.1 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

Prior to final site plan approval by the Development Review Committee (DRC) the petitioner shall revise their concurrency to match the uses and square footages as shown on the approved site plan dated July 8, 1998. (DRC: ZONING)

Is hereby deleted. [REASON: Code Requirement]

9. Loading areas and service courts along the eastern portion of the property shall be enclosed with wing wall of at least ten (10) feet in height. (BLDG PERMIT: BLDG - Zoning) (Previous Condition 12 of Resolution R-1981-1217, Petition 1981-152) [NOTE: COMPLETED]

USE LIMITATIONS

1. There shall be no outdoor storage of materials or equipment, nor storage of disassembled or inoperative vehicles on site. (ONGOING: CODE ENF - Zoning) (Previous Condition 3 of Resolution R-1990-811, Petition 1981-152(A))
2. Use of Building A shall be limited to a 33,011 square foot, 8 screen, 1,575 seat theatre and 16,426 square foot of retail floor area. If the uses of Building A is replaced by permitted uses within the MUPD district, the permitted uses must have equivalent or less traffic generation and each tenant shall not exceed 5,000 square feet in floor area. (DRO: ZONING - Zoning) (Previous Condition M.1 of Resolution R-1998-1317, Petition 1981-152(D))
3. Daily hours of operation for the theatre use shall be limited from 10:00 a.m. to the end of the last show, with the last show to commence no later than 10:30 p.m. (ONGOING: CODE ENF CODE ENF) (Previous Condition M.2 of Resolution R-1998-1317, Petition 1981-152(D))

COMPLIANCE

1. Condition 13 of Resolution R-1990-811, Petition 1981-152(A), which currently states:

Failure to comply with any conditions of approval may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Is hereby deleted. [REASON: Superseded by Compliance condition 3]

2. Condition Compliance 7 of Resolution R-1990-1894, Petition 1981-152(B), which currently states:

As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:

- a. The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or
- b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special exception as well as any previously granted certifications of concurrency or exemptions there from; and/or
- c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions.

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

Is hereby deleted. [Reason: Superseded by Compliance condition 4]

3. 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) (Previous Condition N.1 of Resolution R-1998-1317, Petition 1981-152(D))

4. Condition N.2 of Resolution R-1998-1317, Petition 1981-152(D) which currently states:

Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

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 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.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)