

RESOLUTION NO. R-2007-1610

RESOLUTION APPROVING ZONING APPLICATION DOA2006-185  
(CONTROL NUMBER 1981-219)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF FAMILY BEDNER  
BY JON E. SCHMIDT & ASSOCIATES, AGENT  
(BOYNTON & LAWRENCE OFFICE MUPD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, 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 DOA2006-185 was presented to the Board of County Commissioners at a public hearing conducted on September 24, 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 DOA2006-185, the application of Family Bedner, by Jon E. Schmidt & Associates, agent, for a Development Order Amendment to add land area, reconfigure the site plan and add/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 September 24, 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 McCarty and, upon being put to a vote, the vote was as follows:

|                              |          |
|------------------------------|----------|
| Addie L. Greene, Chairperson | - Absent |
| John F. Koons, Vice Chair    | - Absent |
| Karen T. Marcus              | - Aye    |
| Robert J. Kanjian            | - Aye    |
| Mary McCarty                 | - Aye    |
| Burt Aaronson                | - Aye    |
| Jess R. Santamaria           | - Aye    |

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 24, 2007.

Filed with the Clerk of the Board of County Commissioners on 24th day of September.

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

Application DOA2006-185  
Control No. 1981-219  
Project No. 05613-000

SHARON BOCK,  
CLERK & COMPTROLLER

BY:

  
DEPUTY CLERK

EXHIBIT A  
LEGAL DESCRIPTION

TRACT "B" AND A PORTION OF TRACT "A", BOYNTON & LAWRENCE M.U.P.D., ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 87, PAGES 143 AND 144 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND A PORTION OF THE NORTHWEST ONE-QUARTER (NW ¼) OF SECTION 30, TOWNSHIP 45 SOUTH, RANGE 43 EAST, AND A PORTION OF THE SOUTHWEST ONE-QUARTER (SW ¼) OF SECTION 19, TOWNSHIP 45 SOUTH, RANGE 43 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

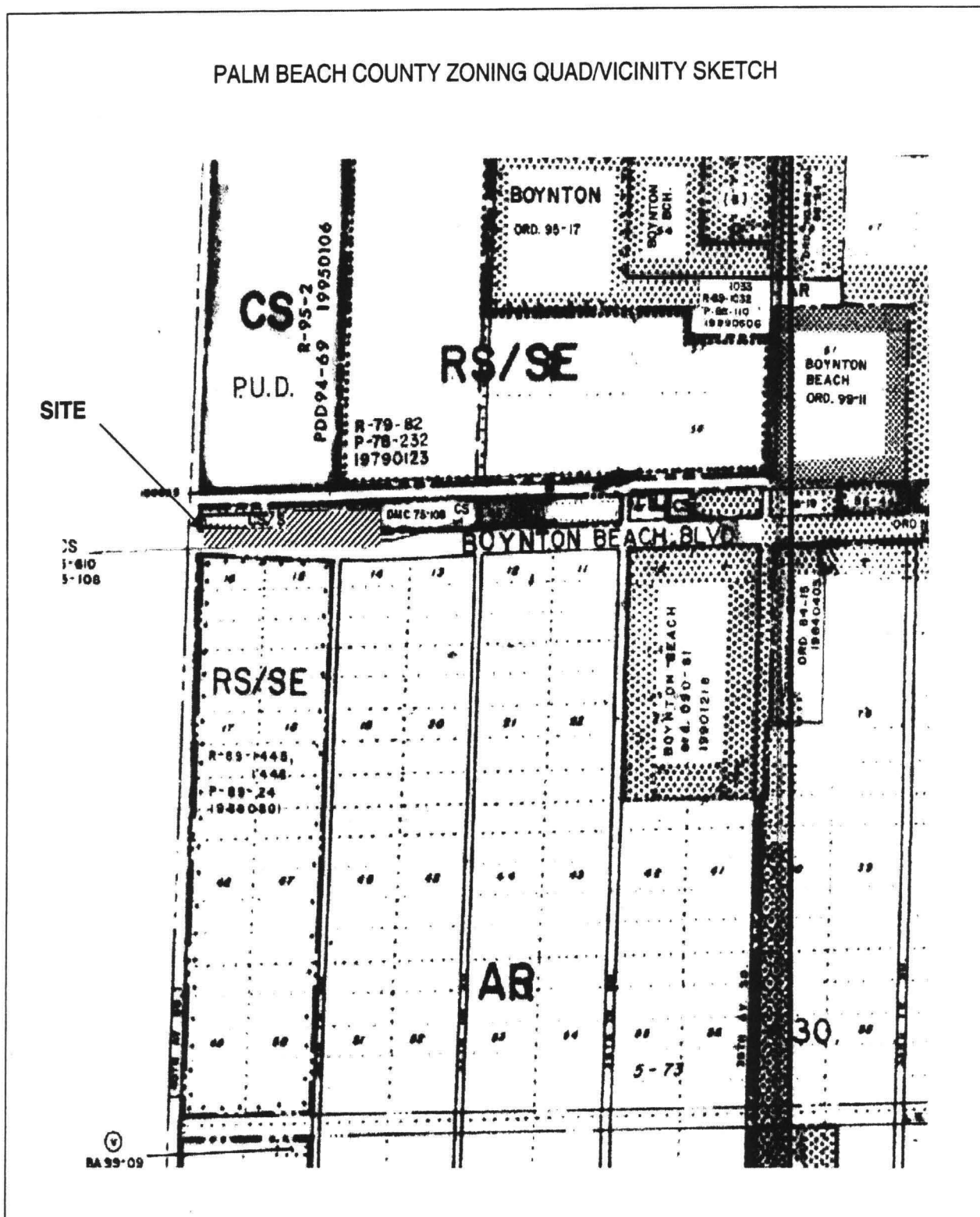
BEGIN AT THE NORTHWEST CORNER OF SAID TRACT "B", THENCE N00°32'29"W, ALONG THE NORTHLY EXTENSION OF THE WEST LINE OF SAID TRACT B, A DISTANCE OF 73.04 FEET TO NORTH LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL No. 24 PER OFFICIAL RECORDS BOOK 3155, PAGE 669 AND OFFICIAL RECORDS BOOK 3329, PAGE 1155 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID NORTH LINE N87°32'10"E, A DISTANCE OF 470.76 FEET TO THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT "B"; THENCE S00°38'04"E, ALONG SAID NORTHERLY EXTENSION, A DISTANCE OF 85.04 FEET TO A 2.00 FEET SOUTH OF AND PARALLELL WITH THE NORTH LINE OF SAID TRACT "A" SAID LINE ALSO BEING THE SOUTH LINE OF A 12.00 FOOT EASEMENT CONVEYED TO LAKE WORTH DRAINAGE DISTRICT PER OFFICIAL RECORDS BOOK 11093, PAGE 506 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ALONG SAID PARALLEL LINE AND SOUTH EASEMENT LINE S87°32'10"W, A DISTANCE OF 470.90 FEET TO THE WEST LINE OF TRACT "A"; THENCE ALONG SAID WEST LINE ALSO BEING THE WEST LINE OF SAID TRACT "B" N00°32'29"W, A DISTANCE OF 12.01 FEET TO THE POINT OF BEGINNING;

CONTAINING 40,021 SQUARE FEET OR .0919 ACRES MORE OR LESS.

SURVEYOR'S NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON S87°32'10"W FOR THE NORTH LINE OF TRACT "B"
2. NO SEARCH OF THE PUBLIC RECORDS WAS PERFORMED BY THIS FIRM FOR EASEMENTS, RIGHT-OF-WAYS OR OTHER MATTERS OF RECORD.
3. THIS SKETCH IS NOT COVERED BY LIABILITY INSURANCE.

EXHIBIT B  
VICINITY SKETCH



Application No. 2006-185  
Zoning Quad 20  
Date February 1, 2006



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition 1 of Resolution 1987-094, Petition 1981-219(C), which currently states:  
  
The developer shall comply with all previous conditions of approval (Petition No. 81-219(B), unless specifically modified previously or herein.  
  
Is hereby amended to read:  
  
All previous conditions of approval applicable to the subject property, as contained in Resolution R- 82-327, Petition 1981-219; R-85-19, Petition 1981-219(A);R-86-460, Petition 1981-219(B); R-87-94, Petition 1981-219(C) 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)
2. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Site Plan is dated November 13, 2006. 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)
3. Prior to Site Plan certification, the developer shall provide cross access/parking agreements with the bank parcel on the west end of the Site. (DRO:ZONING-Zoning) (Previous Condition 5 of Resolution R-1987-094, Petition 1981-219(C).
4. Condition 13 of Resolution 86-460, Petition 81-219(B) which currently states:  
  
The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority meeting.  
  
Is hereby deleted. [Reason: No longer applicable]
5. Should the Lake Worth Drainage District (LWDD) require the use of the property encumbered by the easement, the owner shall revise the plan to the configuration and layout on the previously approved site plan (approved on 04/14/99) which provided the required number of parking spaces (110) and the required landscape buffers around the perimeter of the site. (DRO:ZONING Zoning)

#### ENGINEERING

1. Petitioner shall convey to Palm Beach County within ninety (90) days of Special Exception approval sixty (60) feet from centerline for the ultimate right-of-way for Boynton West Road. (ONGOING:ENG-Eng) (Previous Condition 1 of Resolution R-82-327, Petition 81-219). [Note:Completed]
2. Petitioner shall extend the existing left turn lane, west approach, on Boynton West Road at Lawrence Road per the County Engineer's approval prior to the issuance of a Certificate of Occupancy. (ONGOING:ENG-Eng) (Previous Condition 1.a of Resolution R-82-327, Petition 81-219). [Note:Completed]
3. Petitioner shall construct at the project's west entrance onto Boynton West Road prior to the issuance of a Certificate of Occupancy, a left turn lane, west approach. (CO:MONITORING-Eng). (Previous Condition 1.b of Resolution R-82-327, Petition 81-219). Note:Boynton Beach Boulevard no longer allows for left turns into the site.



4. Petitioner shall construct at the project's entrance and Lawrence Road a left turn lane, north approach, prior to the issuance of a Certificate of Occupancy. (CO:MONITORING-Eng). (Previous Condition 1.c of Resolution R-82-327, Petition 81-219). [Note:Completed]
5. Condition 2 of Resolution R-82-327, Petition 81-219 which currently states:  
  
Petitioner shall contribute Eighteen Thousand and Six Hundred Dollars (\$18,600) toward the cost of meeting this project's direct and identifiable traffic impact, which shall be paid on a pro-rata basis at the time of issuance of building permit(s). Said funds shall be applied toward the installation of signalization at the intersection of Boynton West Road and Lawrence Road.  
  
Is hereby deleted. [Reason: Impact fees are now a code requirement.]
6. Condition 3 of Resolution R-85-19, Petition 81-219 A which currently states:  
  
The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year one hour storm per requirements of the Permit Section, Land Development Division. (ONGOING:ENG-Eng)  
  
Is hereby deleted. [Reason:Drainage is now a code requirement.]
7. The property owner shall convey for the ultimate right of way of Boynton Beach Boulevard, 60 feet from centerline within 90 days of adoption of the resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first building permit. (ONGOING:ENG-Eng) (Previous Condition 4 of Resolution R-85-19, Petition 81-219A). [Note:Completed]
8. Condition 5 of Resolution R-85-19, Petition 81-219 A 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 it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$8,975. If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount shall be credited toward the increased Fair Share Fee. In addition, based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$4,488 toward Palm Beach County's existing Roadway Improvement Program, this total fee is to be paid within 12 months of the approval date by the Board of County Commissioners.  
  
Is hereby deleted. [Reason:Impact Fees are now a code requirement.]
9. Petitioner shall revise the existing site plan to indicate the adjacent parcel to the east as well as a redesign of the proposed exit onto Lawrence Road. (ONGOING:ENG-Eng) (Previous Condition 6 of R-85-19, Petition 81-219A). [Note: Site is now built out and access onto Lawrence Road is now existing]
10. The petitioner shall redesign the exit onto Lawrence Road as per the County Engineer's approval, prior to Site Plan Certification. (Previous Condition 7 of Resolution R-85-19, Petition 81-219A) (ONGOING:ENG-Eng). [Note: Site is now built out and access onto Lawrence Road is now existing]
11. The property owner shall incorporate the above construction into the existing 6-lane construction program for Boynton Beach Boulevard from Military Trail to Congress Avenue by incorporating a change-order to the existing contract. This property owner shall be fiscally responsible for all costs incorporated with this change order including but not limited to construction plan changes, construction cost, and pavement markings. These change orders shall be accomplished prior to the issuance of a Certificate of Occupancy or prior to the letting of the Contract for Boynton Beach Boulevard whichever shall first occur." (ONGOING:ENG-Eng).

(Previous Condition 8 of Resolution R-86-460, Petition 81-219 B) Note: Boynton Beach Boulevard has now been widened.

12. Condition 9 of Resolution R-86-460, Petition 81-219 B which currently states:

The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. (ONGOING)

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

13. Condition 10 of Resolution 86-460, Petition 81-219 B 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 Fair Share Fee for this project presently is \$12,056.00 (450 trips X \$26.79 per trip) for Phase II (east of project). (ONGOING).

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

14. Condition 11 of Resolution 86-460, Petition 81-219 B which currently states:

The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the application of a Building Permit.

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

15. Condition 12 of Resolution 86-460, Petition 81-219 B which currently states:

The property owner shall obtain a Turnout Permit from the Florida Department of Transportation for access onto Boynton Beach Boulevard.

Is hereby deleted. [Reason: Permits are now code requirements.]

16. Condition 5 of Resolution 87-94, Petition 81-219 C 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 it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently is \$16,101 (601 trips X \$26.79 per trip) (east 1/2of the project)."

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

## HEALTH

1. Condition. 4 of Resolution R-86-460, Control No. 1981-219, which currently states:

Any fuel or chemical storage tanks shall be installed in accordance with Chapter 17-61, Florida Administrative Code. The design and installation plans will be submitted to the Health Department for approval prior to installation.

Is hereby deleted. [Reason: No longer applicable].

2. Condition. 5 of Resolution R-86-460, Control No. 1981-219, which currently states:

Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, FAC.

Is hereby deleted. [Reason: Code requirement].

3. Condition 6 of Resolution R-86-460, Control No. 1981-219, which currently states:  
Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.  
  
Is hereby deleted. [Reason: Code requirement].
4. Condition 7 of Resolution R-86-460, Control No. 1981-219, which currently states:  
Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.  
  
Is hereby deleted. [Reason: Code requirement].
5. Condition 1 of Resolution R-85-19, Petition 1981-219(A), which currently states:  
Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.  
  
Is hereby deleted. [Reason: Code requirement].
6. Condition 2 of Resolution R-85-19, Petition 1981-219(A), which currently states:  
Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.  
  
Is hereby deleted. [Reason: Code requirement].

#### LANDSCAPING – STANDARDS

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

#### LANDSCAPING ALONG THE NORTH PROPERTY LINE (ALONG THE PARKING AREA WITHIN THE LWDD CANAL EASEMENT)

2. A minimum of seventy-five percent (75%) of canopy trees to be planted in the north landscape buffer along the parking area within the LWDD easement 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. (DRO: LANDSCAPE - Zoning).
3. In addition to the code requirements and the proposed landscaping, landscaping along the north property line along the parking area within the LWDD canal easement shall be upgraded to include:
  - a. 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. (DRO: LANDSCAPE - Zoning)



## LIGHTING

1. Security lighting shall be directed away from nearby residences. (ONGOING: CODE ENF - Zoning) (Previous Condition 3 of Resolution 86-460, Petition 81-219(B)).

## MASS TRANSIT

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 Master Plan and/or site plan prior to final approval of 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: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation, 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. (PLAT/BLDG PERMIT: ENG-Monitoring)

## SIGNS

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall revise the plan to include a Master Sign Program. (DRO : ZONING - Zoning)

## SITE DESIGN

1. Condition 2 of Resolution R-82-327, Petition 81-219, which currently states:  
  
The site plan shall be amended to conform to CS-Specialized Commercial zoning requirements.  
  
Is hereby deleted. [Reason: No longer applicable]
2. Petitioner shall revise the existing site plan to indicate the adjacent parcel to the east as well as a redesign of the proposed exit onto Lawrence Road. (Previous Condition 6 of Resolution R-85-19, Petition 81-219(A)) [Note:Completed]
3. Condition 1 of Resolution 86-460, Petition 81-219(B), which currently states:  
  
Prior to site plan certification, the site plan shall be revised to reflect the following:
  - a) Required landscaping between the vehicular use areas and the adjacent properties, or variance relief shall be obtained from the Board of Adjustments.
  - b) Include both required and proposed interior landscaping calculations within the tabular information, or variance relief shall be obtained from the Board of Adjustments.  
Is hereby deleted. [Reason: Code requirement]
4. Previous Condition 14 of Resolution 86-460, Petition 81-219(B) which currently states:  
  
Any parking spaces in excess of the required minimum shall be converted to landscape islands in order to break up the expanse of paving in the parking area.  
  
Is hereby deleted. [Reason: Reconfiguration of site plan]

5. Condition 2 of Resolution 87-94, Petition 81-219(C), which currently states:

Prior to site plan certification, the site plan shall be amended to reflect the following:

- a) required number of trees
- b) one of two alternative landscape strips between project site and abutting residential zone north of the site
- c) required perimeter landscape strip between off-street parking area and abutting right-of-way or obtain Board of Adjustment relief
- d) minimum dimensions for interior islands and medians.

Is hereby deleted. [Reason: Code requirement]

6. Condition 3 of Resolution 87-94, Petition 81-219(C), which currently states:

The developer shall modify the proposed Site Plan to permit 2-way (minimum 25') access width between the east and west parcel and 15' minimum along the north property line.

Is hereby deleted. [Reason: Reconfiguration of current site plan]

#### USE LIMITATIONS

1. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind the structure. (Previous Condition 2 of Resolution 86-460, Petition 81-219(B)) (ONGOING: CODE ENF - Zoning)

#### 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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.

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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida.  
(ONGOING: MONITORING -