

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-306  
(CONTROL NUMBER 1997-118)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF BEAR ON JOG LTD  
BY KILDAY & ASSOCIATES, INC., AGENT  
(ADDISON PLACE 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 DOA-2008-306 was presented to the Board of County Commissioners at a public hearing conducted on June 30, 2008; 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 DOA-2008-306, the application of Bear On Jog Ltd, by Kilday & Associates, Inc., agent, for a Development Order Amendment to a Development Order Amendment To add square footage and modify a condition 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 30, 2008, 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 Jeff Koons and, upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 30, 2008.

Filed with the Clerk of the Board of County Commissioners on 7<sup>th</sup> day of July, 2008.

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

SHARON BOCK, CLERK &  
COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



EXHIBIT A  
LEGAL DESCRIPTION

**Addison Place MUPD**

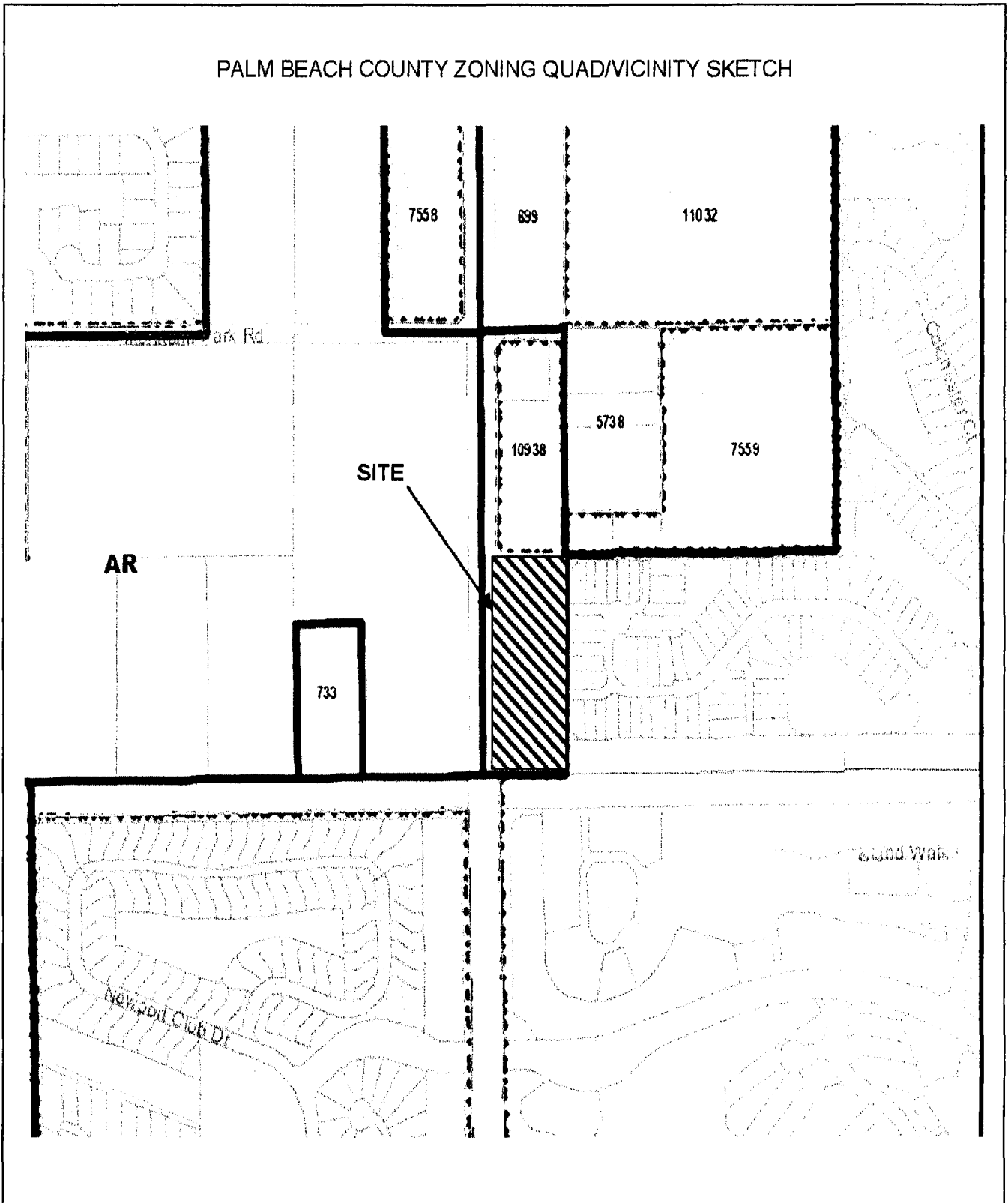
**Legal Description:**

Tract "A" of ADDISON PLACE M.U.P.D., according to the Plat thereof as recorded in Plat Book 84, Page 40, of the Public Records of Palm Beach County, Florida.

Said lands situated in Palm Beach County, Florida and containing 146,081 square feet (3.33536 acres) more or less.

EXHIBIT B  
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



AR

SITE

733

7558

699

11032

10938

5738

7559



Application No. 2008-306  
Zoning Quad 37  
Date June 5, 2008

↑  
NORTH

## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-98-727(Control 97-118) and Resolution R-98-1510(Control 97-118) 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 Unified Land Development Code (ULDC) and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)
2. Condition A.1 of Resolution R-98-727, Control 97-118 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 revised site plan and architectural renderings (dated January 15, 1998) by REG Architects, Inc. are dated April 2, 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-Zoning)  
  
Is hereby amended to read:  
  
Development of the site is limited to the uses as approved by the Board of County Commissioners. The approved site plan is dated April 14, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING:ZONING-Zoning)
3. Prior to the April 23, 1998 Board of County Commissioners Public Hearing, the petitioner shall submit architectural renderings as part of the application and shall be make part of the record. Approvals for this project shall be based on conformity with these renderings. (DRO-ONGOING: ZONING) (97-118) (Previous Condition A. 2 of Resolution R-98-727, Control 97-118) [Completed].

#### BUILDING AND SITE DESIGN

1. Condition B.1 of Resolution R-98-727, Control 97-118 which currently states:  
  
Total gross floor area shall be limited to a maximum 30,000 square feet. (DRC: ZONING-Zoning) Is hereby deleted [REASON: Subject to All Petitions Condition No. 2.]
2. All structures shall be limited to one story and the maximum height for all structures, measured from finished grade to highest point, shall not exceed thirty five (35) feet. (BLDG PERMIT: BLDG - Zoning) (Previous Condition B.2 of Resolution R-98-727, Control 97-118)
3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning) (Previous Condition B.3 of Resolution R-98-727, Control 97-118)
4. Similar architectural character and treatment, including but not limited to color (earth tones and pastel colors), material, fenestration and roof treatment, shall be provided on all sides of the buildings. (BLDG PERMIT: BLDG - Zoning) (Previous Condition A. 1 of Resolution R-98-727, Control 97-118)

5. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to indicate an eight (8) foot high opaque fence along the east side of the outdoor seating area, located on the north end of the building. (DRO:LANDSCAPE-Zoning)

## ENGINEERING

### 1. LANDSCAPE WITHIN MEDIAN OF JOG ROAD

- 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 Jog Road rights-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. 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. 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) (Previous Engineering Condition E2 of Zoning Resolution R-98-727, Zoning Petition Number PDD97-118)
- B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners 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 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 building permit to reflect this obligation. (BLDG PERMIT: MONITORING - Eng) (Previous Engineering Condition E1 of Zoning Resolution R-98-727, Zoning Petition Number PDD97-118) Note: Landscape Condiiton Complete

## ENVIRONMENTAL

ERM Condition 1 of Resolution R-98-0727, Control No. 1997-118 which currently states:

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC: ERM)

Is hearby deleted. [REASON: Condition Completed]

## LANDSCAPE STANDARD

1. All canopy 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.
  - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition D.1 of Resolution R-98-727, Control 97-118)

## LANDSCAPING ALONG NORTH PROPERTY LINE

2. Landscaping and buffering along the north property line shall include:
  - a. A minimum ten (10) foot wide landscape buffer strip;
  - b. One (1) canopy tree spaced no more than twenty (20) feet on center;
  - c. One (1) palm for each twenty-five (25) linear feet of property line with no maximum spacing between clusters. A group of three (3) palms may not substitute for a perimeter canopy tree and;
  - d. Twenty four (24) 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-Zoning) (Previous Condition G.1 of Resolution R-98-727, Control 97-118)

## LANDSCAPING ALONG SOUTH PROPERTY LINE

3. Landscaping and buffering along the south property line shall include:
  - a. A Type 2 Incompatible Landscape Buffer, 50 % reduction of the buffer's width shall be permitted. (CO: LANDSCAPE-Zoning) (Previous Condition H.1 of Resolution R-98-727, Control 97-118)

## LANDSCAPING ALONG EAST PROPERTY LINE

4. Landscaping and buffering along the east property line shall include:
  - a. A minimum fifteen (15) foot wide landscape buffer strip; and
  - b. A minimum six (6) foot high solid concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development; and
  - c. A continuous earth berm measured from top of curb two (2) foot high. (CO: LANDSCAPE-Zoning) (Previous Condition I.1 of Resolution R-98-727, Control 97-118)

## LANDSCAPING-LANDSCAPING ALONG WEST PROPERTY LINE

5. Landscaping and buffering along the west property line shall include:
  - a. A minimum twenty (20) foot wide Landscape Buffer strip;
  - b. One (1) canopy tree spaced no more than thirty (30) feet on center;
  - c. One (1) palm for each twenty-five (25) linear feet of property line with no maximum spacing between clusters. A group of three (3) palms may not substitute for a perimeter canopy tree and;
  - d. Twenty four (24) 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-Zoning) (Previous Condition F.1 of Resolution R-98-727, Control 97-118)

6. The following landscaping requirements shall be installed on the exterior (east) side of the required wall:
  - a. One (1) canopy tree planted at a minimum of twenty (20) feet on center; and
  - b. Twenty four (24) 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-Zoning) (Previous Condition I.1 of Resolution R-98-727, Control 97-118)
7. The following landscaping requirements shall be installed on the interior (west) side of the required wall:
  - a. One (1) canopy tree planted at a minimum of twenty (20) feet on center; and
  - b. Twenty four (24) 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-Zoning) (Previous Condition I.2 of Resolution R-98-727, Control 97-118)

#### LANDSCAPE INTERIOR

8. One landscape island shall be provided for every twelve (12) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred twenty (120) linear feet. (DRO: ZONING-Landscape) (Previous Condition J.1 of Resolution R-98-727, Control 97-118)
9. Foundation planter strip shall be provided along the front and side facades of all structures. The minimum width of the required foundation planter strip shall be five (5) feet. The combined length of the required foundation planter strip shall be no less than 40% of the accumulative length of the structure. All required foundation planter strips shall be planted with a minimum of one (1) tree or palm every 20 feet and appropriate ground cover. (DRO / CO: ZONING / LANDSCAPE) (Previous Condition J.2 of Resolution R-98-727, Control 97-118)

#### LIGHTING

1. All outdoor lighting used to illuminate the subject property shall be of low intensity, shielded and directed down and away from adjacent properties and streets. Any ground lighting used to illuminate project identification signage shall be directed toward the sign face and away from adjacent residential properties. (CO/ONGOING: BLDG/CODE ENF-Zoning) (Previous Condition K.1 of Resolution R-98-727, Control 97-118)
2. All outdoor lighting poles, with the exception of those placed on the east side of proposed building, shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. All outdoor light poles placed on the east side of the proposed building shall not exceed twenty (20) Feet in height. (CO: BLDG - Zoning) (Previous Condition K.2 of Resolution R-98-727, Control 97-118)
3. All outdoor light poles shall be located a minimum of twelve (12) feet from the east (residential) property line, with house-side cutoff shields to prevent lighting from spilling into residential areas. (CO: BLDG-Zoning) (Previous Condition K.3 of Resolution R-98-727, Control 97-118)
4. All outdoor lighting shall be extinguished no later than 11 :00 p.m. Sunday through Thursday, and no later than 12:30 a.m. Friday and Saturday, excluding security lighting only. (ONGOING: CODE ENF-Zoning) (Previous Condition K.4 of Resolution R-98-727, Control 97-118)



## LAKE WORTH DRAINAGE DISTRICT

1. Prior to final approval by the Development Review Officer (DRO), the 10 foot FPL Easement (ORB11068/750) overlapping an existing Lake Worth Drainage District Easement (ORB10766/646) shall be removed. (DRO: LWDD- Zoning)
2. In accordance with the Easement Deed (ORB10766/646) for the L-38 Canal no other easements, buildings, effects, construction, improvements, trees or shrubs shall be permitted upon the property described in Exhibit A. (ONGOING: LWDD-Zoning/Bldg Permit)

## PLANNING

1. The property shall be restricted to the following uses:
  - a. Financial institution;
  - b. Office, business or professional;
  - c. Medical office or dental clinic;
  - d. Florist;
  - e. Personal services;
  - f. General retail; (See Condition M.5)
  - g. Laundry services;
  - h. Newsstand or gift shop;
  - i. Printing or copying services;
  - j. Restaurant (no primary delivery services, fast food, or drive thru window);
  - k. Veterinary clinic (no overnight boarding or outdoor runs).  
(ONGOING-PLANNING-Planning) (Previous Condition N.1. Resolution R-98-1510, Control No. 1997-118)

## SIGNS

1. Freestanding sign fronting on Jog Road shall be limited as follows:
  - a. Maximum sign height eight - (8) feet measured from the adjacent sidewalk to the highest point;
  - b. Maximum sign face area per side - ninety- six(96) square feet;
  - c. Maximum number of signs - one (1 );
  - d. Monument style only. (CO: BLDG-Zoning) (Previous Condition L.1 of Resolution R-98-1510, Control 97-118)
2. Freestanding sign fronting on the corner of Jog Road and the easement shall be limited as follows:
  - a. Maximum sign height- twelve (12) feet; measured from finished grade to
  - b. Maximum sign face area per side - one hundred (100) square feet
  - c. Maximum number of signs - one (1 );
  - d. Monument style only. (Previous Condition L.2 of Resolution R-98-1510, Control 97-118) (CO: BLDG-Zoning)
3. Condition L.3 of Resolution R-98-727, Control 97-118, which currently states:

Wall signs shall be limited to the northern, southern and western facades of the buildings. (CO: BLDG-Zoning) Is hereby deleted [Reason Code Requirement]

## USE LIMITATIONS

1. Hours of operation for retail business activities, including deliveries, shall be 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 12:00a.m. Friday to Saturday. (ONGOING: CODE ENF - Zoning) (Previous Condition M.1 of Resolution R-98-727, Control 97-118)

2. Condition M.2 of Resolution R-98-727, Control 97-118, which currently states:

Outdoor retail and associated business activities shall not be allowed on site. (ONGOING: CODE ENF - Zoning) Is hereby deleted. [Reason: outdoor seating area may be considered as associated business activities].

3. Condition M. of Resolution R-98-727, Control 97-118 which currently states:

Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space as shown on the approved site plan dated March 17, 1998. (ONGOING: CODE ENF-Zoning) Is hereby deleted [Reason Code Requirement]

4. Condition M.4 of Resolution R-98-727, Control 97-118 which currently states:

Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF-Zoning)

Is hereby deleted [REASON: Code Requirement]

5. No uses such as auto parts stores, marine supply sales and sales of bulky household goods such as lawnmowers, mopeds, motorcycles and golf carts shall be permitted on the site. (ONGOING: CODE ENF- Zoning) (Previous Condition M.5 of Resolution R-98-727, Control No. 97-118)

6. All outdoor music shall be in accordance with noise limitations as outlined in the performance standards of the ULDC. No live music shall be permitted on the outdoor seating area. (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) (ONGOING: MONITORING - Zoning) (Previous Condition O.1 of Resolution R-98-727, Control 97-118)

1. Condition O.2 of Resolution R-98-727, Control No.97-118, which currently states:

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

1. 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, owner 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
2. 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 ULOC at the time of the finding of noncompliance, 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 my 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.

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 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 - Zoning)

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