

RESOLUTION NO. R-2018- 1279

RESOLUTION APPROVING ZONING APPLICATION DOA-2017-01437  
(CONTROL NO. 1998-00078)  
a Development Order Amendment  
APPLICATION OF Preschool Developers, LLC, Valencia Square Retail, LLC  
BY Preschool Developers, LLC, AGENT  
(Valencia Square 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, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA-2017-01437 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2018;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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-2017-01437, the Application of Preschool Developers, LLC, Valencia Square Retail, LLC, by Preschool Developers, LLC, Agent, for a Development Order Amendment to reconfigure the Site Plan, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on August 23, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Melissa McKinlay, Mayor	-	Aye
Commissioner Mack Bernard, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Dave Kerner	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Mary Lou Berger	-	Aye
		Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on August 23, 2018.

Filed with the Clerk of the Board of County Commissioners on September 12th, 2018

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 R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK  


EXHIBIT A

LEGAL DESCRIPTION

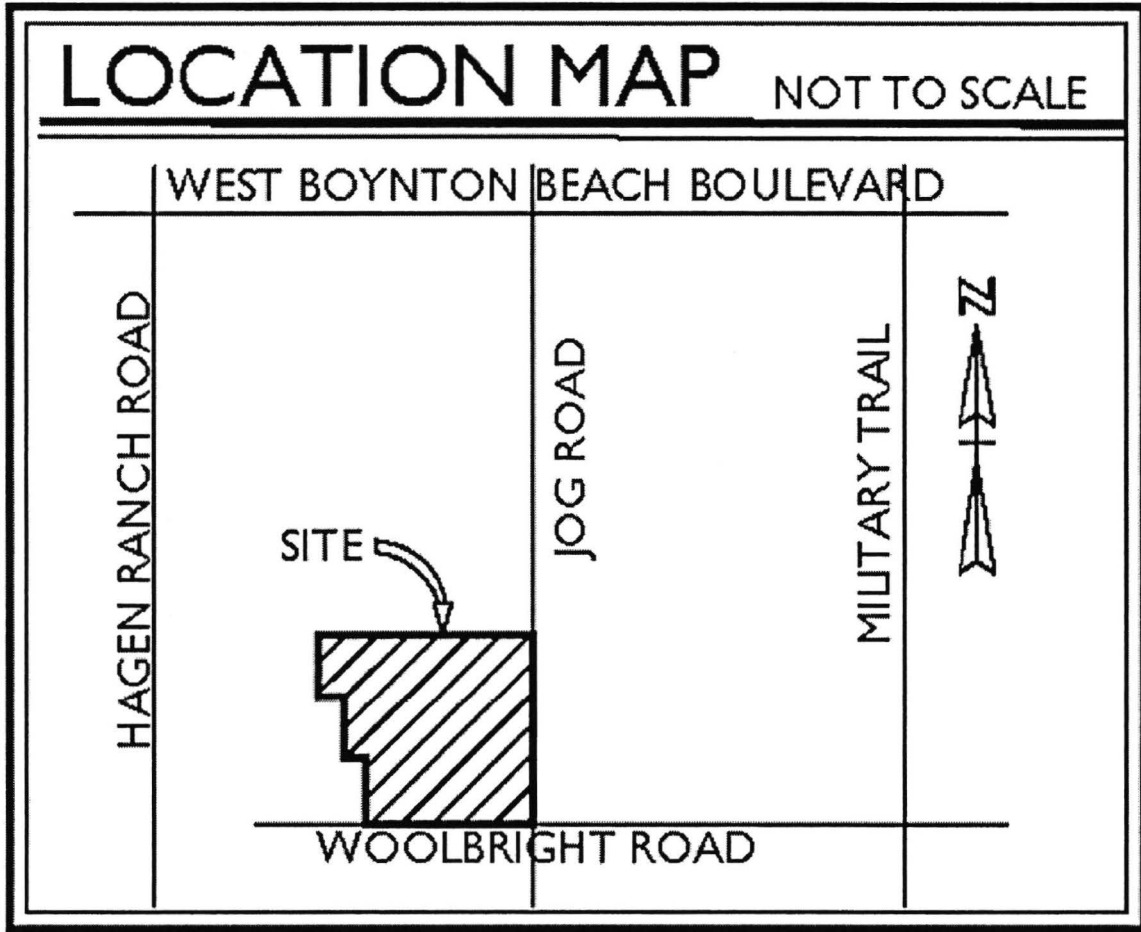
"LEGAL DESCRIPTION OF M.U.P.D."

ALL OF THE PLAT OF SHOPPES OF MADISON, M.U.P.D., AS RECORDED IN PLAT BOOK 110, AT PAGES 55 THROUGH 57, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 23.845 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-0002, Control No. 1998-00078, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2011-1454, Control No. 1998-00078, 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: ZONING - Zoning)

##### Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-0002, Control No. 1998-00078, 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 and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-0002, Control No. 1998-00078, which currently states:

The approved Preliminary Site Plan is dated December 12, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

##### Is hereby amended to read:

The approved Preliminary Site Plan is dated March 12, 2018. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

3. Previous ALL PETITIONS Condition 3 of Resolution R-2013-0002, Control No. 1998-00078, which currently states:

All Requested Use Conditions of Approval of Resolution No. R-2010-677, Control No. 1998-078, shall remain in full force and effect. (ONGOING: ZONING - Zoning)

**Is hereby deleted** [REASON: Code requirement.]

##### ARCHITECTURAL REVIEW

1. 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 ATTY) [Note: COMPLETED] (Previous ARCHITECTURAL

REVIEW Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. At time of submittal for final plan approval by the Development Review Officer (DRO), the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved architectural elevations, the Development Review Officer (DRO) approved site plan, all applicable Conditions of Approval, and all Unified Land Development Code (ULDC) requirements. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

3. Site plan shall be revised to be consistent with proposed elevations prepared by Oliver Glidden and Partners Architects and Planners, Inc. dated June 20, 2002. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. Design of gutters and downspouts shall be architecturally integrated into the architectural design of the building. Painting of the gutters and downspout shall not constitute architectural integration. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 4 of Resolution R-2013-0002, Control No.1998-00078)

## **ENGINEERING**

1. The Property Owner shall construct Woolbright Road from Jog Road, west to the project's entrance as a non-plan collector road. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. Construction shall be subject to the County Engineering approval and shall be to non plan collector street standards minimum of two 12 foot travel lanes.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. Prior to DRO approval of the site plan/master plan the Property Owner shall obtain conceptual approval from the LWDD for the three proposed canal crossings of the LWDD L-26 Canal. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

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

a. Building Permits for more than 15,120 square feet of general retail shall not be issued until the contract is awarded for the 4 lane widening of Woolbright Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. Building Permits for more than 168,100 square feet of general retail, 29 single family dwelling units, or the equivalent of 5960 net daily external trips per day, shall not be issued until the contract is awarded for the 4 lane widening of Boynton Beach Boulevard from Lyons Road to the Florida Turnpike plus the appropriate paved tapers. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

c. Building Permits for more than 168,100 square feet of general retail, 29 single family dwelling units and 3500 square feet of fast food restaurant, or the equivalent of 6562 net daily external trips per day, shall not be issued until the contract is awarded for the 6 lane widening of Jog Road from Lake Ida Road to West Atlantic Avenue plus the appropriate paved tapers. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

d. Building permits for no more than 65,000 s.f. of retail area (the equivalent of 266 net new PM peak hour trips) shall be issued until the contract for construction is let on Jog Road from Lake Ida Road to Atlantic Avenue as a 6 lane section. (BLDGPM: MONITORING -

Engineering) [Note: COMPLETED]

e. No building permits for the site shall be issued after December 31, 2013. A time extension for this condition may be approved by the County Engineer based on an approved Traffic Study, which complies with the mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. The developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. This plat shall be recorded prior to the issuance of a building permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-0002, Control No.1998-00078)

#### 5. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS

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 along the entire frontage of the MUPD for the Jog Road right-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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. All required median landscaping, including an irrigation system 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 Homeowners' 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/ONGOING: MONITORING - Engineering) [Note: COMPLETED]

c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDGPM: ACCOUNTING - Accounting) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2013-0002, Control No.1998-00078)

6. The Property Owner shall provide a temporary access connection to the existing dirt road along the south property line. This access easement shall continue to provide legal access to the Property Owner to the west subject to approval of the County Engineer. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2013-0002, Control No.1998-00078)

7. Prior to final site plan approval, Phase I development shall include a landscaped pathway/sidewalk system along the Phase I line that borders Woolbright Road in order to provide shade/canopy for the pedestrian walkway. (DRO: ZONING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2013-0002, Control No.1998-00078)

8. Prior to final site plan approval, Phase II development shall include a landscaped pathway/sidewalk system along Jog Road and Woolbright Road in order to provide shade/canopy for the pedestrian walkway of both phases I and II. (DRO: ZONING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2013-0002, Control No.1998-00078)

9. CUTOUT LANDSCAPE STRIPS WITHIN THE CONCRETE 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 provide for landscape cutouts within the concrete median of Jog Road Rights-of-Way contiguous to the frontage. As part of this permit process, the Property Owner shall enter into a Right of Way concrete median cutout; Landscape and paver block Installation including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the County Engineer, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material shall be funded at the Property Owner's expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assignees or duly established Property Owner's Association Perpetual maintenance includes, but is not limited to, pruning, fertilizing and irrigation to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO/ONGOING: MONITORING - Engineering) [Note: COMPLETED]

c. Declaration of Covenants and Restriction Documents shall be established or amended as required evidencing this obligation prior to issuance of a building permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2013-0002, Control No.1998-00078)

10. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the northern project driveway and Jog Road. Signalization shall be a span-wire installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. The Property Owner shall provide acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division prior to December 31, 2011. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2013-0002, Control No.1998-00078)

11. Prior to final site plan approval by the DRO, the Property Owner shall amend the site plan to reflect the property boundary after right of way dedications and unobstructed safe sight triangles at each project entrance. (DRO: ENGINEERING - Engineering) (Previous ENGINEERING Condition 11 of Resolution R-2013-0002, Control No.1998-00078)

12. Prior to February 28, 2012, the Property Owner shall modify the sidewalk and crosswalk at the pedestrian and vehicular cross access to Valencia Pointe to be consistent with ADA standards. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-2013-0002, Control No.1998-00078)

## **ENVIRONMENTAL**

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRO site plan certification. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

## **LANDSCAPE - GENERAL**



**1. LANDSCAPE - GENERAL-STANDARDS (ALL PHASES)**

Fifty (50%) percent of 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; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements.

(CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. All palms required to be planted on site by this approval, shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. eighteen (18) to twenty-four (24) inches - groundcover and small shrub;
- b. twenty-four (24) to thirty-six (36) inches - medium shrub;
- c. forty-eight (48) to seventy-two (72) inches - large shrub; and,
- d. this condition does not apply to buffer where a single row of hedge/shrub material is required, and to the landscaping for Phase 1/pharmacy. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2013-0002, Control No.1998-00078)

5. All trees and palms shall be planted in a meandering and naturalistic pattern, except for the landscaping of Phase 1/pharmacy. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 5 of Resolution R-2013-0002, Control No.1998-00078)

6. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 6 of Resolution R-2013-0002, Control No.1998-00078)

**LANDSCAPE - INTERIOR**

7. Foundation planters shall be provided along all facades of the Phase 1 building excluding loading and drive through areas to 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 fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 7 of Resolution R-2013-0002, Control No.1998-00078)

8. Foundation planters shall be provided along all facades of the MUPD buildings (except Phase 1) excluding loading and drive through areas to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than fifty percent (50%) of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 8 of Resolution R-2013-0002, Control No.1998-00078)

9. A minimum of two (2) sets of trellis/shaded structure shall be provided for a minimum of three (3) landscape divider medians in the main parking lot. Each structure shall have a minimum of eight (8) feet in width and eighty (80) feet in length. Vines shall be planted adjacent to each structure. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 9 of Resolution R-2013-0002, Control No.1998-00078)

#### **LANDSCAPE - INTERIOR-LANDSCAPE TERMINAL ISLANDS**

10. Landscaping for terminal islands in the parking area shall consist of the following:

- a. one (1) canopy trees for each ten (10) linear feet of the island; and,
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 10 of Resolution R-2013-0002, Control No.1998-00078)

#### **LANDSCAPE - INTERIOR-LANDSCAPE DIVIDER MEDIANS**

11. Landscaping for divider median in any parking area, where there is no shade structure requirement per Condition K.3 shall consist of the following:

- a. one (1) flowering or canopy tree for each twenty-five (25) linear feet of the median;
- b. one (1) palm for each thirty-five (35) linear feet of the median; and,
- c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 11 of Resolution R-2013-0002, Control No.1998-00078)

#### **LANDSCAPE - PERIMETER-LANDSCAPE - GENERAL-GENERAL-LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES, EXCLUDING PHASE 1 (ABUTTING RESIDENTIAL)**

12. Prior to the issuance of the first Certificate of Occupancy (CO) of Phase 2 landscaping and buffering along the north and west property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction shall be permitted;
- b. a continuous two and one-half (2.5) foot high berm measured from top of curb;
- c. a six (6) foot high opaque concrete panel wall on the plateau of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
- d. one (1) canopy tree for each twenty (20) feet of property line, and alternating on both sides of the wall; and
- e. one (1) palm or pine tree for each thirty (30) linear feet of the property line, and alternating on both sides of the wall. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 12 of Resolution R-2013-0002, Control No.1998-00078)

#### **LANDSCAPE - PERIMETER**

13. The following landscaping requirements shall be installed on both sides of the required wall:

- a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and
- b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 13 of Resolution R-2013-0002, Control No.1998-00078)

**LANDSCAPE - PERIMETER-LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINES OF PHASE 1 (JOG AND WOOLBRIGHT ROAD FRONTAGES)**

14. Landscaping and buffering along the east and south property lines shall be upgraded to include:

- a. A minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) feet overlap into a utility easement;
- b. A minimum two to three foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb;
- c. Equivalent of one (1) canopy tree planted every twenty (20) feet of linear property line;
- d. Equivalent of one (1) palm or pine tree for each twenty (20) linear feet of frontage with a maximum spacing of sixty (60) feet on center between clusters. A group of three or more palms/pines in a cluster may not supersede the requirement for a canopy tree in that location; and
- e. 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. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 14 of Resolution R-2013-0002, Control No.1998-00078)

**LANDSCAPE - PERIMETER-LANDSCAPING ALONG EAST AND SOUTH PROPERTY LINES, EXCLUDING PHASE 1 (JOG AND WOOLBRIGHT ROAD FRONTAGE)**

15. Landscaping and buffering along the south and east property line (except for Phase 1, frontage of the pharmacy) shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) native canopy tree for each thirty (30) feet of the property line;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 15 of Resolution R-2013-0002, Control No.1998-00078)

**LANDSCAPE - PERIMETER-ACCESS POINTS- BOTH SIDES OF WOOLBRIGHT ROAD**

16. Special planting treatment shall be provided on both sides of the western access point of Woolbright Road and the north access point of Jog Road. Landscape treatment shall consist of the following:

- a. a minimum of five (5) specimen palms (Medjool, Canary Island Date, Royal, or Coconut);
- b. a minimum of five (5) flowering trees; and shrub or hedge materials;
- c. plant materials under this condition may satisfy landscape requirements for two (2) palms in the western buffer; and
- d. an architectural design feature consists of a trellis/shade structure with vines at the end of the driveway, adjacent to Retail Building G. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 16 of Resolution R-2013-0002, Control No.1998-00078)

**LANDSCAPE - PERIMETER-WOOLBRIGHT AND JOG CENTRAL ACCESS POINT**

17. Landscape treatment for both sides of the central access point located on Woolbright Road and Jog Road shall consist of:

- a. a minimum of three (3) specimen palms (Medjool, Canary Island Date, Royal, or Coconut);
- b. a minimum of five (5) flowering trees; and shrub or hedge materials; and
- c. plant materials under this condition may satisfy landscape requirements for two (2) palms in the western buffer. (CC: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 17 of Resolution R-2013-0002, Control No.1998-00078)

#### **LIGHTING**

1. All outdoor lighting fixtures shall be setback a minimum of fifty (50) feet from the north property line and a minimum of twenty-five (25) feet from the west property line. (CC: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous LIGHTING Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

2. The neon sign for the Pharmacy (Walgreens) shall be extinguished no later than thirty (30) minutes after the hours of operation. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 6 of Resolution R-2013-0002, Control No.1998-00078)

#### **PALM TRAN**

1. Prior issuance of the first Building Permit, 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 is required. (BLDGPERMIT: MONITORING-Palm Tran) [Note: COMPLETED] (Previous Palm Tran Condition 1 of Resolution R-2013-0002, Control No. 1998-00078)

#### **PLANNED DEVELOPMENT**

1. 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 - County Attorney) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

#### **PLANNING**

1. The site plan shall conform with the recommendations of the West Boynton Area Community Plan, which were incorporated onto the site plan dated March 26, 1999. In addition, the indication of a pedestrian/vehicular cross access to the west shall remain on the site plan. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. Prior to final master plan certification by the Development Review Committee (DRC), in order to comply with Recommendations 42 and 47 from the West Boynton Area Community Plan, the Applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation through the commercial development. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

3. Prior to final site plan approval, Phase 1 development shall include cross section details of a landscaped pathway/sidewalk system along the Phase I line that borders Woolbright Road in order to provide shade/canopy for the pedestrian walkway. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. Prior to final site plan approval, Phase 2 development shall include cross section details of a landscaped pathway/sidewalk system along Jog Road and Woolbright Road in order to

provide shade/canopy for the pedestrian walkway of both phases 1 and 2. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 4 of Resolution R-2013-0002, Control No.1998-00078)

5. Concurrent with the issuance of building permits in excess of 15,120 square feet, the petitioner shall construct a vehicular and pedestrian cross access point to include shade trees to the edge of the western property line at the location shown on the final certified site plan that reads generalized future pedestrian and vehicular cross access per Cond. P.1. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 6 of Resolution R-2013-0002, Control No.1998-00078)

## **SIGNS**

1. Freestanding outparcel identification signs fronting on Jog Road shall be limited as follows:

a. Maximum number of signs - three (3) for Jog Road frontage. (BLDGPMPT: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. Ground mounted freestanding signs on Jog Road and Woolbright Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point twelve (12) feet;
- b. Maximum sign face area per side - one hundred (100) square feet;
- c. Maximum number of signs - three (3) for Jog Road frontage and two (2) for Woolbright Road frontage; and,
- d. Style - monument style only. (BLDGPMPT: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

## **SITE DESIGN**

1. The maximum height for the principal structures (except for Buildings H, J, K and L) shall be one story and shall not exceed thirty (30) feet. The maximum height for Buildings H, J, K and L shall not exceed forty-five (45) feet. Ornamental towers shall not exceed sixty-five (65) feet. All heights shall be measured from finished grade to the highest point. (CC/ONGOING: BUILDING DIVISION - Zoning) (Previous SITE DESIGN Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

2. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be located a minimum of seventy (70) feet from the north property line, and a minimum of seventy-five (75) feet from the south, east and west property lines. (DRO/ONGOING: CODE ENF - Zoning) (Previous SITE DESIGN Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

3. Prior to final DRC certification of the preliminary development/site plan, the petitioner shall revise the site plan to show a covered loading dock for the Grocery Store" Building J. A full pitched roof, a minimum of thirty (30) feet in width and fifty (50) feet in length, shall be provided over the loading dock. Design, color, pitch and material of the roof shall be consistent with the principal structure. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. Outdoor retail business activities shall not be allowed on site unless allowed by Special Permit, excluding deliveries only. (ONGOING: CODE ENF - Zoning) (Previous SITE DESIGN Condition 5 of Resolution R-2013-0002, Control No.1998-00078)

5. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate interior shopping cart storage. (DRO: BUILDING DIVISION - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 6 of Resolution R-2013-0002, Control No.1998-00078)

## **USE LIMITATIONS - ALL PHASES**

1. Hours of business operation, including deliveries and loading activities for all retail uses shall be limited to 7:00 a.m. to 11:00 p.m. daily. Hours of business operation for the

general/fast food restaurant(s) may be open at 6:00 a.m. This condition shall not apply to a drive thru lane designated for the sale of pharmaceutical items only. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2013-0002, Control No.1998-00078)

### **USE LIMITATIONS**

2. No outdoor commercial use shall commence business activities, (including delivery and stocking operations) prior to 6:00 a.m. nor continue outdoor activities later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2013-0002, Control No.1998-00078)

3. Overnight storage, overnight deliveries or parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2013-0002, Control No.1998-00078)

4. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2013-0002, Control No.1998-00078)

### **COMPLIANCE**

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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; the 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 Unified Land Development Code 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 of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

### **DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.