

RESOLUTION NO. R-2003- 0104

RESOLUTION APPROVING ZONING PETITION DOA1981-109G
DEVELOPMENT ORDER AMENDMENT
PETITION OF WEST DELRAY REALTY, INC.
BY BASEHART PLANNING, INC., AGENT
(ATLANTIC SQUARE MUPD - RUBIN FUNERAL HOME)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1981-109G was presented to the Board of County Commissioners at a public hearing conducted on January 23, 2003; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA1981-109G, the petition of West Delray Realty, Inc., by Basehart Planning, Inc., agent, for a Development Order Amendment to allow a funeral home 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 January 23, 2003, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Absent
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 23, 2003.

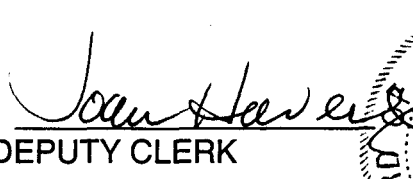
Filed with the Clerk of the Board of County Commissioners on 26 day of February, 2003.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

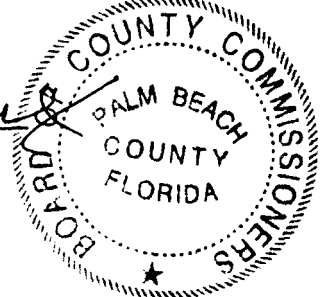


EXHIBIT A
LEGAL DESCRIPTION

ALL OF THE PLAT OF ATLANTIC SQUARE AS RECORDED IN PLAT BOOK 84,
PAGES 144-146 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions **R-81-1050, R-84-339, R-85-274, R-85-945 and R-89-579**, are hereby repealed. (ONGOING: MONITORING-Zoning) (Previous Condition A.1 of Resolution R-99-0006, Petition 81-109(F))
2. All previous conditions of approval applicable to the subject property, as contained in Resolution R-1999-0006 (Petition 1981-109F), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)
3. Condition A.2 of Resolution R-99-0006, Petition 81-109(F), which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated September **16, 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.

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated October 15, 2002. 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)

B. ARCHITECTURAL CONTROL

1. **All** proposed buildings on the site, except for the home improvement building, shall be designed and constructed to be consistent with the elevations dated September **16, 1998** and colored rendering dated October **7, 1998** prepared by Vander Ploeg and Associates, Inc., Architects and Planners. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. (DRC/BLDG PRMT: ZONING/BLDG -Zoning) (Previous Condition B.1 of Resolution R-99-0006, Petition 81-109(F))
2. Each facade of all proposed buildings on the site shall also have varied building colors by use of contrasting, but complimentary, colors for the building trims (**i.e.** stucco banding, louvers or vents, door and window frames, etc.). Roof and trim colors shall be coordinated with base colors. The use of primary colors shall be restricted to building trims only. The petitioner shall use neutral ~~or~~ pastel colors for the base colors. (BLDG PRMT: BLDG/ZONING -Zoning) (Previous Condition B.2 of Resolution R-99-0006, Petition 81-109(F))

3. The home improvement building, shall be designed and constructed to be consistent with the elevations prepared by Greenberg Farrow, Architecture Engineering Planning, dated September **16, 1998**. An equal or upgraded alternative exterior wall architectural treatment acceptable to the Zoning Division may be provided in lieu of the pre-cast concrete architectural treatment presently proposed. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. (DRC/BLDG PRMT: ZONING/BLDG – Zoning) (Previous Condition B.3 of Resolution R-99-0006, Petition 81-109(F))
4. Prio: **to final site plan certification** by the Development Review Committee (DRC), revised colored architectural elevations for the Home Improvement building shall be approved by the Zoning Division. The approved elevations of Conditions B.1 and 6.3 shall be made a part of the certified site plan and the petition file. (DRC: ZONING – Zoning) (Previous Condition B.4 of Resolution R-99-0006, Petition 81-109(F))
5. All roof mounted air conditioning and mechanical equipment shall be screened from view on all sides by the roof parapet or roof treatment (**i.e.** dormers, cuppola, etc.) which is consistent with the color, character and architectural style of the principle structure. (BLDG PRMT: BLDG – Zoning) (Previous Condition B.5 of Resolution R-99-0006, Petition 81-109(F))

C. BUILDING AND SITE DESIGN

1. All ground mounted air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material. (BLDG PRMT: BLDG – Zoning) (Previous Condition C.1 of Resolution R-99-0006, Petition 81-109(F))

2. Condition C.2 of Resolution R-99-0006, Petition 81-109(F), which currently states:

Total gross floor area shall be limited to a maximum of **171,560** square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less.

~~Is~~ hereby deleted. [Reason: Code requirement.]

3. Condition C.3 of Resolution R-99-0006, Petition 81-109(F)), which currently states:

To ensure consistency with the site plan dated September **16, 1998** presented to the Board of County Commissioners, no more than twenty-five (25) percent ~~of~~ the total approved square footage or other area indicated as being covered by structures shall be administratively relocated to portions of the site not previously covered.

Is hereby deleted. [Reason: Code requirement.]

4. All areas or receptacles for the storage and disposal of trash, garbage or vegetation, such as dumpsters and trash compactors, shall not be located within fifty (50) feet of the south property line were it abuts residential property and shall be confined to areas designated on the site plan. (DRC/BLDG PRMT: ZONING/BLDG – Zoning) (Previous Condition C.4 of Resolution R-99-0006, Petition 81-109(F))

5. The maximum height for all structures, including all air conditioning and mechanical equipment, measured from finished grade to highest point, shall not exceed thirty-five **(35)** feet or the heights indicated on the elevations of Conditions B.1 and **8.3**, whichever is less. (BLDG PRMT: BLDG – Zoning) (Previous Condition C.5 of Resolution R-99-0006, Petition 81-109(F))

D. LANDSCAPING - STANDARDS

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: Fourteen **(14)** feet.
 - b. Trunk diameter: **3.5** inches measured **4.5** feet above grade.
 - c. Canopy diameter: Seven **(7)** feet. Diameter shall be determined by the average canopy radius at **3** points measured from the trunk to the outermost branch tip. Each radius shall measure at least **3.5** feet in length; and,
 - 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-99-0006, Petition 81-109(F))

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. Building Permits which generates more than **558 trips/day (6,065** square feet of gross building floor area of general retail) shall not be issued until construction has begun for the widening of Jog Road as a 6 lane median divided section from Linton Boulevard to Clint Moore Road plus the appropriate paved tapers. (BLDG PRMT: BLDG/ENG – Eng) [Complete]
 - b. Building Permits which generates more than **7,349 trips/day** shall not be issued until construction has begun for dual left turn lanes on Military Trail at Clint Moore Road plus the appropriate paved tapers. (BLDG PRMT: BLDG/ENG – Eng) [Complete]
 - c. If the proposed development is not built out by December **31, 1996**, then building permits which generates more than **7,349** trips per day shall not be issued until Military Trail is under construction as a 6 lane median divided section from Linton Blvd. to Clint Moore Road. (BLDG PRMT: BLDG/ENG – Eng) [Complete]

The mix of allowable commercial uses within the site may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DRC: ZONING/ENG – Eng) (Previous Condition E.1 of Resolution R-99-0006, Petition 81-109(F))

2. Prior to DRC approval of the site plan this property owner shall convey cross access **easement(s)** and indicate directional signage to the commercial property owners to the east, west and south. The location, number and document content of these easements and directional signage shall be subject to the approval of the County Engineer and County Attorney. (DRC: ENG/CTY ATY – Eng) (Previous Condition E.2 of Resolution R-99-0006, Petition 81-109(F))

3. Condition E.3 of Resolution R-95-0528, Petition 81-109(E) was deleted.
4. Condition E.4 of Resolution R-95-0528, Petition 81-109(E) was deleted.
5. The property owner shall construct the following turn lanes concurrent with paving and drainage improvements for the site.
 - a. Right turn lane west approach on West Atlantic Avenue at El Clair Ranch Road. [Complete]
 - b. Right turn lane west approach on West Atlantic Avenue at the projects western entrance. [Complete]
 - ~~c. Right turn lane south approach on Jog Road at the projects north~~ entrance. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. [Complete]
 - d. Left turn lane north approach on Jog Road at the project's southern entrance.
 - e. Left turn/U-turn lane south approach on Jog Road at the Project's southern entrance.
 - f. Separate left and right turn lanes on the project's southern entrance at Jog Road. (BLDG PRMT: BLDG/ENG – Eng) (Previous Condition E.5 of Resolution R-99-0006, Petition 81-109(F))
6. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way to provide for a separate right turn lane on Atlantic Avenue at the projects west entrance and on Jog Road at the projects north entrance onto Jog Road. Both right turn lane rights of way shall provide for a right turn lane of 280 feet in storage length, twelve feet in width and a taper length of 50 feet. This additional right of way shall be free of all encumbrances and encroachments and shall include "Safe Sight Corners" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG PRMT: MONITORING/BLDG – Eng) (Previous Condition E.6 of Resolution R-99-0006, Petition 81-109(F))
7. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at West Atlantic Avenue and El Clair Ranch Road. (DATE: MONITORING – ENG) (Previously Condition E.7 of Resolution R-99-0006, Petition 81-109(F))
8. Prior to the issuance of a Building Permit the Property Owner shall fund the cost of flashing traffic signal (which may be converted to a full signal when warranted as determined by the County Engineer) at the project's south entrance onto Jog Road. It is the intent that this signal be installed by Palm Beach County prior to the issuance of a Certificate of Occupancy for the Home Depot. (BLDG PRMT: MONITORING – Eng) (Previous Condition E.8 of Resolution R-99-0006, Petition 81-109(F))
9. The use of the 131,273 square foot structure, inclusive of the outdoor sales area, shall be limited to a home improvement use or equivalent traffic uses as determined by the County Engineer. (DRC: ENG – Eng) (Previous Condition E.9 of Resolution R-99-0006, Petition 81-109(F))

10. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF WEST ATLANTIC AVENUE

- 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 cutouts within the concrete median of West Atlantic Avenue Road Right-of-way for the area contiguous to the frontage. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape **Installation and Maintenance, Removal, and Indemnification** Agreements. When landscape cutouts and plantings are permitted by the Florida Department of Transportation, the landscapematerialwithin the concrete cutouts shall be approved by the County Engineer. All new landscape material shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscapematerial, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PRMT: MONITORING – Eng)
- B. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of the landscape material shall be funded at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assigns 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 within 90 days of notification to the property owner by the County Engineer that the permit from the Florida Department of Transportation has been issued. (DATE/ONGOING: ENG/LANDSCAPE – Eng)
- C. Declaration of Covenants and Restriction Documents evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.10 of Resolution R-99-0006, Petition 81-109(F))

11. "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 cutouts within the concrete median of Jog Road Right-of-way for the area contiguous to the frontage. As part of this permit process, the property owner shall enter into an Indemnification Agreement. When landscape cutouts and plantings are permitted, the landscape material within the concrete cutouts shall be approved by the County Engineer. All new landscape material shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, irrigation to the cut out areas, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species other than those listed in the County standards may be allowed subject to approval by the

County Engineer. (BLDG PRMT: MONITORING – Eng)

- B. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of the landscape material shall be funded at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation. All landscape material shall be installed within 90 days of the permit issued from Palm Beach County. (DATE/ONGOING: ENG/LANDSCAPE – Eng)
- C. Declaration of Covenants and Restriction Documents evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG.PRMT: MONITORING – Eng) (Previous Condition E.11 of Resolution R-99-0006, Petition 81-109(F))

12. 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 of 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. (BLDG PERMIT: MONITORING – Eng)
- 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 evidencing this obligation, prior to issuance of a building permit to reflect this obligation. (BLDG PRMT: MONITORING – Eng) (Previous Condition E.12 of Resolution R-99-0006, Petition 81-109(F))

13. LANDSCAPE WITHIN MEDIAN OF STATE ROADS

- 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 West Atlantic Avenue Right-of-way. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way, Landscape Maintenance, Removal, and Indemnification Agreement. When landscaping is permitted by the Florida Department of Transportation, **landscaping shall, at a minimum, consist of the "Low Cost Planting Concept"** outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PRMT: MONITORING – Eng)
- 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 prior to the issuance of a certificate of occupancy. (CO: MONITORING – Eng)
- C. Declaration of Covenants and Restriction Documents evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG PRMT : MONITORING – Eng) (Previous Condition E.13 of Resolution R-99-0006, Petition 81-109(F))

F. LANDSCAPING- INTERIOR

1. One landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. In addition to the ULDC requirements for the landscaping materials within the island, one (1) additional canopy tree and appropriate groundcover shall be provided for each island. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition F.1 of Resolution R-99-0006, Petition 81-109(F))

2. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress and egress to the site. The minimum width of this median shall be six (6) feet. The minimum length of this median shall be twenty five (25) feet. A minimum width of five (5) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition F.2 of Resolution R-99-0006, Petition 81-109(F))
3. Permanently planted and irrigated above grade planters, foundation ~~plantings or grade level~~ planters shall be provided **along all facades** of all structures and shall consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet for all facades and six (6) feet three (3) inches for the west facade of the home improvement building;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure, with the exception of the west facade of the home improvement building. The landscaped areas of the west facade of the home improvement building shall be installed consistent with the detail dated October 9, 1998 and planting detail of the west elevation as presented to the BCC on October 22, 1998; and,
 - c. Landscape areas shall be planted with a minimum of one (1) tree or palm every twenty (20) linear foot of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition F.4 of Resolution R-99-0006, Petition 81-109(F))

G. LANDSCAPING ALONG SOUTH AND EAST PROPERTY LINE (ABUTTING RESIDENTIAL LAND USE – CONTIGUOUS TO FLORAL LAKES PUD)

1. Landscaping and buffering along the south and east property lines, abutting residential land uses, shall be upgraded to include:
 - a. A minimum twenty five (25) foot wide landscape buffer strip;
 - b. A two (2) foot high continuous berm, measured from finished grade; and,
 - c. A six (6) foot high opaque concrete wall located at the plateau of the berm, measured from finished grade. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition G.1 of Resolution R-99-0006, Petition 81-109(F))
2. The following landscaping requirements shall be installed within the buffer, consistent with the buffer detail, Section A-A, dated September 16, 1998:
 - a. One (1) canopy tree planted every twenty (20) feet on center, alternating on both sides of the required wall of Condition G.1.c. The spacing of the trees shall be measured lineally, not diagonally across the width of the buffer. A group of three or more palm trees or pine trees may supersede the requirement for a canopy tree in that location. A maximum of fifty (50) percent of the required canopy trees within each buffer may be replaced by the palm or pine trees;

- b. One (1) palm tree or pine tree for each twenty **(20)** linear feet, with a maximum spacing of sixty (60) feet on center between clusters. The palms may alternate on both sides of the required wall of Condition G.1.c. The spacing of the palm or pine trees shall be measured lineally, not diagonally across the width of the buffer; and,
 - c. Thirty (30) inch high shrub or hedge material installed exterior to the required wall of Condition G.1.3 and spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height of forty-eight **(48)** inches. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition G.2 of Resolution R-99-0006, Petition 81-109(F))
3. Along the interior side of the required wall, the property owner shall install twenty-four **(24)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center, to be maintained at a minimum height of thirty-six (36) inches. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition G.3 of Resolution R-99-0006, Petition DOA81-109(F))

H. LANDSCAPING ALONG ALL PROPERTY LINES (NOT ABUTTING RESIDENTIAL LAND USE)

1. Landscaping and buffering along all property lines that do not abut residential land uses shall be upgraded to include:
- a. One (1) canopy tree planted every twenty **(20)** feet on center. A group of three or more palm trees or pine trees may supersede the requirement for a native canopy tree in that location. A maximum of fifty (50) percent of the required canopy trees within each buffer may be replaced by the palm or pine trees;
 - b. One (1) palm tree or pine tree for each twenty **(20)** linear feet, with a maximum spacing of sixty (60) feet on center between clusters; and,
 - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height of forty-eight **(48)** inches. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition H.1 of Resolution R-99-0006, Petition 81-109(F))
2. Where the landscape buffer is impacted by an overhead power line system, the petitioner may submit a landscape betterment plan for approval by the Development Review Committee (DRC). The landscape betterment plan shall meet the intent of the conditions of approval, with the exception that palms may be substituted for canopy trees at a 3:1 ratio and the berm requirement may not be waived. A maximum of fifty (50) percent of the required canopy trees within each buffer may be replaced by the palm trees. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition H.2 of Resolution R-99-0006, Petition 81-109(F))

I. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES (ADJACENT TO ATLANTIC AVENUE AND JOG/CARTER ROAD)

1. Landscaping and buffering along the west property line, abutting Jog/Carter Road, shall be upgraded to include:
- a. A minimum three (3) foot high berm, measured from the top of the curb;

- b. One (1) canopy tree planted every twenty (20) feet on center. A group of three or more palm trees may supersede the requirement for a canopy tree in that location. A maximum of fifty (50) percent of the required canopy trees within the buffer may be replaced by the palm trees;
 - c. One (1) palm tree for each thirty (30) linear feet of frontage with a maximum of sixty (60) feet on center between clusters; and,
 - d. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation and maintained at a height of thirty-six (36) inches. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition 1.1 of Resolution R-99-0006, Petition 81-109(F))
2. Landscaping and buffering along the north property line, adjacent to West Atlantic Avenue, shall be upgraded to include:
- a. One (1) canopy tree planted every twenty (20) feet on center. A group of three or more booted sabal palm trees may supersede the requirement for a canopy tree in that location. A maximum of fifty (50) percent of the required canopy trees within the buffer may be replaced by the palm trees;
 - b. One (1) booted sabal palm tree for each thirty (30) linear feet of frontage with a maximum of sixty (60) feet on center between clusters; and,
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation and maintained at a height of seventy-two (72) inches. (DRC/CO: ZONING/LANDSCAPE – Zoning) (Previous Condition 12 of Resolution R-99-0006, Petition 81-109(F))

J. LIGHTING

- 1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG PERMIT/ONGOING: BLDG/CODE ENF – Zoning) (Previous Condition J.1 of Resolution R-99-0006, Petition 81-109(F))
- 2. All outdoor lighting fixtures shall not exceed thirty (30) feet in height, measured from finished grade to the highest point and shall be setback a minimum of fifty (50) feet from all perimeter property lines. Outdoor lighting fixtures along the south property line adjacent to commercial uses (Atlantic II Shopping Center) may be excluded from the fifty (50) foot setback provided that the fixtures do not exceed a maximum height of twenty-five (25) feet, measured from finished grade to the highest point. (DRC/BLDG PRMT: ZONING/BLDG – Zoning) (Previous Condition J.2 of Resolution R-99-0006, Petition 81-109(F))
- 3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (ONGOING: CODE ENF – Zoning) (Previous Condition J.3 of Resolution R-99-0006, Petition 81-109(F))

K. MASS TRANSIT

- 1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)

- B. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to the issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, ~~appropriate lighting, waste container, and bicycle rack.~~ **Bus** shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING – Eng) (Previous Condition K.1 of Resolution R-99-0006, Petition 81-109(F))
2. All printed and electronic advertising for the project, when practical, shall contain information that mass transit service to the site is available. This condition shall apply to advertising for the entire project only, not to individual stores or tenants. (ONGOING: PALM TRAN – Palm Tran) (Previous Condition K.2 of Resolution R-99-0006, Petition 81-109(F))
3. Commercial locations which are open to the public shall not restrict public mass transit access. (ONGOING: PALM TRAN – Palm Tran) (Previous Condition K.3 of Resolution R-99-0006, Petition 81-109(F))

L. MUPD

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. (DRC: ZONING – Co Att) (Previous Condition L.1 of Resolution R-99-0006, Petition 81-109(F))
2. 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. (DRC: ZONING – Co Att) (Previous Condition L.2 of Resolution R-99-0006, Petition 81-109(F))
3. Condition L.3 of Resolution R-99-0006, Petition 81-109(F), which currently states:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (site plan exhibit dated September 16, 1998).

Is hereby amended to read:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (site plan exhibit dated October 15, 2002). (DRC: ZONING – Zoning)

M. PARKING

1. To ensure compliance with the requirements of the ULDC, the petitioner shall, prior to certification of a Preliminary Development Plan (PDP) by the Development Review Committee (DRC), amend the PDP to indicate a maximum of 799 parking spaces, excluding the 23 overflow spaces within the LWDD easement, or obtain a variance from the Board of Adjustment for any additional parking spaces in excess of the MUPD requirements. In the event the ULDC is amended to delete the requirements for MUPD's to limit the maximum number of parking spaces to the minimum required, the petitioner shall be relieved of this requirement. (DRC: ZONING – Zoning) (Previous Condition M.1 of Resolution R-99-0006, Petition 81-109(F))
2. All loading docks and/or loading areas shall be screened from view from all property lines which are adjacent to residential uses by a twelve (12) foot high wing wall, measured from finished grade to highest point, consistent with the color and character of the principle structure. The screen wall requirement may not be relocated within the perimeter buffers unless a variance to exceed the maximum eight (8) foot barrier height of the buffer is obtained from the Board of Adjustment. (DRC/BLDG PRMT: ZONING/BLDG – Zoning) (Previous Condition M.2 of Resolution R-99-0006, Petition 81-109(F))
3. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within the loading and delivery areas designated on the site plan. (ONGOING: CODE ENF – Zoning) (Previously Condition M.3 of Resolution R-99-0006, Petition 81-109(F))
4. Overnight or daytime parking of funeral home vehicles such as hearses and limousines shall not be permitted on site, with exception to loading and deliveries, and queuing for funeral processions. (ONGOING: CODE ENF – Zoning)

N. SIGNS

1. Freestanding signs (including entrance wall and point of purchase signs) fronting on Jog/Carter Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - Twelve (12) feet for the southernmost sign and ten (10) feet for second sign;
 - b. Maximum sign face area per side - 120 square feet for the southernmost sign and 80 square feet for second sign;
 - c. Maximum number of signs - Two (2);
 - d. Location - Within twenty-five (25) feet of each entrance. Encroachment into safe sight corners shall not be permitted; and,
 - e. Style - Monument style only. (DRC/BLDG PRMT: ZONING/BLDG – Zoning) (Previous Condition N.1 of Resolution R-99-0006, Petition 81-109(F))
2. Freestanding signs (including entrance wall and point of purchase signs) fronting on Atlantic Avenue shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet for the two (2) easternmost signs and ten (10) feet for third sign;
 - b. Maximum sign face area per side - 150 square feet for the two (2) easternmost signs and **80** square feet for third sign;
 - c. Maximum number of signs - Three **(3)**;
 - d. Location - Within twenty-five (25) feet of each entrance for the two (2) easternmost signs and within **100** feet from the west property line for the third sign. Encroachment into safe sight corners shall not be permitted; and,
 - e. Style - Monument style only. (DRC/BLDG PRMT: ZONING/BLDG - Zoning) (Previous Condition **N.2** of Resolution R-99-0006, Petition 81-109(F))
3. The petitioner shall provide directional signage for adjacent commercial developments at each required cross access easement. Prior to final site plan certification by the Development Review Committee (DRC), the petitioner shall amend the site plan to indicate all required directional signage. (DRC/BLDG PRMT: ZONING/BLDG - Zoning) (Previous Condition N.3 of Resolution R-99-0006, Petition 81-109(F))
 4. Condition N.4 of Resolution R-99-0006, Petition 81-109(F), which currently states:

No off-premise signs or relocated billboards shall be permitted on the site.

Is hereby deleted. [Reason: Inconsistent with billboard settlement agreement.]
 5. Wall signs mounted on the home improvement building facades shall be limited to the following:
 - a. Maximum sign area - 450 square feet total; and,
 - b. Location - West facade only. (BLDG PERMIT: ZONING/BLDG - Zoning) (Previous Condition N.5 of Resolution R-99-0006, Petition 81-109(F))
 6. No banners, flags or pennants, with or without advertisement, shall be attached to the chain link fences of the home improvement building. (ONGOING: CODE ENF - Zoning) (Previous Condition N.6 of Resolution R-99-0006, Petition 81-109(F))
 7. **Signage** prohibiting the idling of delivery trucks shall be posted at all loading areas and pick-up lanes as shown on the site plan dated September **16, 1998**. (DRC: CODE ENF - Zoning) (Previous Condition N.7 of Resolution R-99-0006, Petition 81-109(F))

O. USE LIMITATION

1. Condition O.2 of Resolution R-99-0006, Petition 81-109(F), which currently states:

Hours of operation for all uses shall be limited to the hours of **6:00** a.m. to **10:00** p.m. daily.

Is hereby amended to read:

Hours of operation for all uses, excluding the funeral home, shall be limited to the hours of 6:00 a.m. to 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning)

2. No cremation shall be permitted on site. (ONGOING: CODE ENF – Zoning)
3. Funeral processions shall be required to exit the site from the southernmost access point located on Jog Road, and use no less than three (3) escorts. (ONGOING: CODE ENF – Zoning)
4. The fast food restaurant shall provide interior, air conditioned sit down eating facility for a maximum of sixty (60) seats. (DRC/BLDG PERMIT: ZONING/BLDG – Zoning) (Previous Condition 0.1 of Resolution R-99-0006, Petition 81-109(F))
5. The fast food restaurant shall be limited to only one (1) drive through lane. (DRC: ZONING – Zoning) (Previous Condition 0.3 of Resolution R-99-0006, Petition 81-109(F))
6. Condition 0.4 of Resolution R-99-0006, Petition 81-109(F), which currently states:

No deliveries or waste collection shall be permitted prior to 6:00 a.m. or later than 10:00 p.m. daily.

Is hereby amended to read:

No deliveries or waste collection shall be permitted prior to 6:00 a.m. or later than 10:00 p.m. daily, with exception to funeral transfer services. (ONGOING: CODE ENF – Zoning)

7. The fast food restaurant shall not have outdoor seating. (DRC/BLDG PERMIT/ONGOING: ZONING/BLDG/CODE ENF – Zoning) (Previous Condition 0.5 of Resolution R-99-0006, Petition 81-109(F))
8. The fast food restaurant shall not have outdoor play equipment or areas. (DRC/BLDG PERMIT/ONGOING: ZONING/BLDG/CODE ENF – Zoning) (Previous Condition 0.6 of Resolution R-99-0006, Petition 81-109(F))
9. Outdoor seasonal or temporary retail sales shall not be permitted unless a special permit is approved by the Zoning Division. (ONGOING/SPECIAL PERMIT: CODE ENF/ZONING – Zoning) (Previous Condition 0.7 of Resolution R-99-0006, Petition 81-109(F))
10. Cutting of lumber or other building materials shall be confined within the home improvement building. (ONGOING: CODE ENF – Zoning) (Previously Condition 0.8 of Resolution R-99-0006, Petition 81-109(F))
11. No portion of the Shopping Center shall be used or occupied as a meeting hall; bingo hall; for industrial purposes; skating or roller rink; bowling alley; sales of boats, trailers, automobiles or other vehicles; cocktail lounge or bar serving alcoholic beverages (except as an incident to a full kitchen restaurant operation, provided that the total revenues derived from the sale of alcoholic beverages shall not exceed forty percent (40%) of the total revenues generated from such restaurant); massage parlor; discotheque; dance hall; off track betting establishment; library or reading room; amusement or game room as a primary use; so-called “flea market”; pool room; so called “head shop”; night club; school, training or educational facility or other operation catering primarily to students or trainees as opposed to customers; vocational school instructing aircraft or automotive mechanics; gun range; or any business or use which emits offensive odors, fumes, dust or vapors (a properly maintained gas station shall not be deemed to fall into this category); is a public or private nuisance, emits loud noise or

sounds which are objectionable; creates fire, explosive or other hazard; warehousing, except as incidental to a retail business; adult book store or store selling or exhibiting pornographic material; and/or adult entertainment facility (as defined in the most current version of the Palm Beach County Unified Land Development Code). (ONGOING/DRC/BLDG PERMIT:CODE ENF/ZONING –Zoning) (Previous Condition 0.9 of Resolution R-99-0006, Petition 81-109(F))

P. 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) (Previous Condition P.2 of Resolution R-99-0006, Petition 81-109(F))

2. Condition P.1 of Resolution R-99-0006, Petition **81-109(F)**, which currently states:

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or,
- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

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

Is hereby amended to read:

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

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