

RESOLUTION NO. R-95-435

RESOLUTION APPROVING ZONING PETITION PDD94-13
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF CHIMU, INC.

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 petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD94-13 was presented to the Board of County Commissioners at a public hearing conducted on March 30, 1995; and,

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3 .D.9 (Action by Board of County Commissioners) 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 PDD94-13, the petition of Chimu, Inc., for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Agricultural Residential (AR) ZONING DISTRICT to the Multiple Use Planned Development District (MUPD) ZONING DISTRICT including A REQUESTED USE (R) for a fast food restaurant, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on March 30, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Absent
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Absent

The Chair thereupon declared that the resolution was duly passed and adopted this 30th day of March, 1995.

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

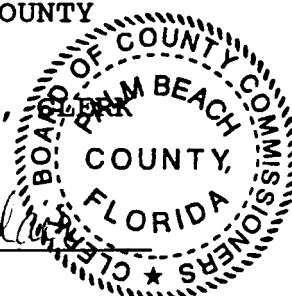


EXHIBIT A
LEGAL DESCRIPTION

THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LESS THE RIGHT-OF-WAY CONVEYED TO THE COUNTY OF PALM BEACH ON OCTOBER 12, 1959 IN OFFICIAL RECORDS BOOK 415, PAGE 181, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 8.94 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH

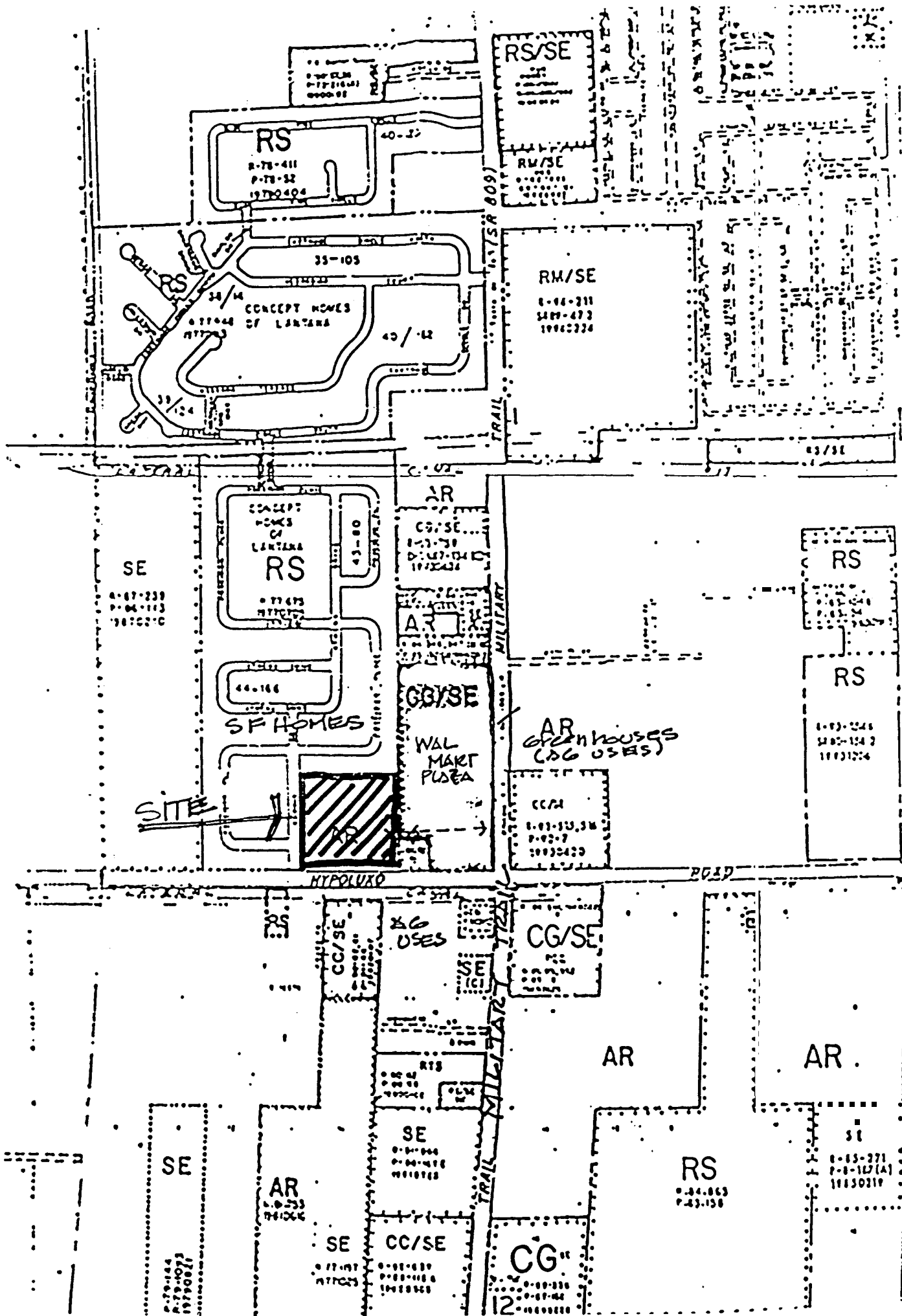


EXHIBIT C

CONDITIONS OF APPROVAL

A. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 79,500 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. Prior to site plan certification by the Development Review Committee (DC), the petitioner shall amend the Concurrency Reservation to indicate the maximum allowed square footage. (BUILDING-Zoning)
2. The minimum setback for all structures adjacent to the north property line shall be sixty-five (65) feet. (BUILDING-Zoning)
3. The maximum height for all structures, measured from finished grade to highest point, shall not exceed thirty-five (35) feet. (BUILDING-Zoning)
4. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principal structure. (BUILDING-Zoning)
5. No openings shall be permitted in the north or west facades of the principal building, except for required emergency exits. (BUILDING)
6. A maximum of one (1) out-parcel shall be permitted on site. (BUILDING - Zoning)
7. No truck traffic shall be allowed on Adonis Drive. The petitioner shall install a directional sign prohibiting trucks on Adonis Drive. (BUILDING/CODE ENFORCEMENT)
8. An opaque wing wall a minimum of twelve (12) feet in height, along the north edge and running the entire length of the loading area shall be installed prior to issuance of a Certificate of Occupance for the principal structure. (ZONING/BUILDING)
9. The required bike path shall be contiguous and constructed at grade with appropriate curb cuts. (ZONING/BUILDING)
10. To ensure consistency with the site plan dated September 28, 1994 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. (ZONING)

B. 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. (BUILDING-Zoning)

C. LANDSCAPING - INTERIOR

1. One landscape island shall be provided for a maximum of every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (BUILDING-Zoning)
2. Interior grade-level tree planters shall be provided, in accordance with Section 7.3. E. 2.a. (2)(b) of the UDC. All required interior grade-level planters shall be planted with one (1) canopy tree and appropriate groundcover. (BUILDING-Zoning)
3. 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. (BUILDING-Zoning)
4. Landscape islands shall be provided along the front facade of the principal structure. The required landscape islands shall be a minimum of five (5) feet wide, and a minimum combined total length of forty percent (40%) of the front dimension of the structure. The required minimum landscape islands shall, at a minimum, be planted with one (1) canopy tree planted every twenty (20) feet on center and appropriate groundcover. A group of three or more palm trees may supersede the requirement for a canopy tree in that location (BUILDING - Zoning)
5. A minimum five (5) foot wide landscape strip shall be provided along the entire west facade of the principal structure. The required landscape strip shall, at a minimum, be landscaped as follows:
 - a. 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 native canopy tree in that location; 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. (BUILDING-Zoning)

D. LANDSCAPING ALONG NORTH PROPERTY LINE

1. Landscaping and buffering along the north property Line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip.

- b. A six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (BUILDING-Zoning)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. One (1) canopy tree planted every twenty (20) feet on center;
 - b. One (1) palm tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; 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. (BUILDING-Zoning)
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. (ZONING)

E. ENGINEERING

1. Prior to site plan approval by the Development Review Committee, the property owner shall record a cross access easement to the property owner to the east, subject to the approval by the County Attorney and County Engineer. (ENGINEERING)
2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 25 foot safe sight corner at the intersection of Adonis Drive and Hypoluxo Road prior to the issuance of the first Building Permit. Right-of-way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate as determined by the County Engineer. (MONITORING/BUILDING - Engineering).
3. The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The impact fee for zoning petition number 94-13 is to be paid as follows:
 - a) The Fair Share Fee for the main 75,000 square foot center to be paid at the time of issuance of the Building Permit presently is \$170,940.00 (3,108 trips X \$55.00 per trip).
 - b) The Fair Share Fee for each of the 4,500 square foot fast food restaurant is \$46,558.00 (1,693 trips X \$27.50 per trip). (IMPACT FEE COORDINATOR).

4. LANDSCAPE WITHIN MEDIAN

- 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 Hypoluxo Road right-of-way. 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. 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. (BUILDING - Engineering)
- B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All 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. (BUILDING - Engineering)
- C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (BUILDING - County Attorney)

5. The Property owner shall construct a left turn lane north approach on Adonis Drive at Hypoluxo 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. 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. (BUILDING - Engineering).

F. LANDSCAPING ALONG SOUTH PROPERTY LINE

1. Landscaping within the required buffer along the south property line, abutting Hypoluxo Road, shall be upgraded to include:
- a. One (1) canopy tree planted every fifteen (15) feet on center;
- b. One (1) palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,
- c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation. (BUILDING-Zoning)

G. LANDSCAPING ALONG WEST PROPERTY LINE

1. Landscaping and buffering along the west property line, abutting Adonis Drive, shall be upgraded to include:
 - a. A minimum thirty (30) foot wide landscape buffer strip.
 - b. A minimum eight (8) foot high barrier consisting of minimum three (3) foot high berm topped with a minimum five (5) foot high opaque fence. The berm/fence combination shall extend from the entrance on Adonis Drive to the north property line and connect to the required wall along the north property line to prevent access to the site through the landscape buffer. The required berm shall extend south to Hypoluxo Road. (BUILDING-Zoning)
2. Landscaping within the required buffer shall be upgraded to include:
 - a. A double row of trees consisting of one (1) canopy tree planted every fifteen (15) feet on center on each row in an alternating pattern;
 - b. One (1) palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,
 - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation planted on the exterior side of the required fence. (BUILDING-Zoning)

H. 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. (BUILDING/CODE ENFORCEMENT)
2. All outdoor lighting fixtures within one hundred (100) feet of the north and west property lines shall not exceed fifteen (15) feet in height, measured from finished grade to highest point. (BUILDING)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (CODE ENFORCEMENT)

I. RECYCLE SOLID WASTE

1. All property owners and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

J. SIGNS

1. Free standing point of purchase signs fronting on Hypoluxo Road shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twenty (20) feet;
 - b. Maximum sign face area per side - 180 square feet or as established by the ULDC, whichever is less;
 - c. Maximum number of signs - one (1) per structure, a total of two (2) signs;
 - d. Monument style only. (BUILDING)
2. No freestanding point of purchase sign shall be permitted on Adonis Drive. (BUILDING)

K. COMPLIANCE

1. Failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions;
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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 Conditional Use, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the **Fifteenth** Judicial Circuit. (MONITORING)