

RESOLUTION NO. R-98-875

RESOLUTION APPROVING ZONING PETITION EAC95-17(D)
DEVELOPMENT ORDER AMENDMENT
PETITION OF ADDISON COURT
BY ROBERT BENTZ, AGENT
(ADDISON COURT)

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 EAC95-17(D) was presented to the Board of County Commissioners at a public hearing conducted on June 25, 1998; 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 EAC95-17(D), the petition of Addison Court, by Robert Bentz, agent, for a Development Order Amendment /Expedited Application Consideration (EAC) to Modify Condition G.1 (restaurant) of R-96-1187 on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 25, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on June 25, 1998.

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

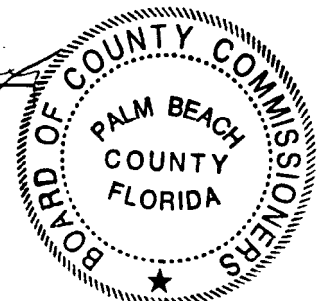


EXHIBIT A

LEGAL DESCRIPTION

DEDICATION:

KNOWN ALL MEN BY THESE PRESENTS THAT ADDISON COURT PARTNERSHIP, A FLORIDA GENERAL PARTNERSHIP, OWNER OF THE LAND SHOWN HEREON SITUATE IN SECTION 36, TOWNSHIP 46 SOUTH, RANGE 42 EAST SHOWN HEREON **AS** ADDISON COURT PLAT 1, BEING MORE PARTICULARLY DESCRIBED **AS** FOLLOWS:

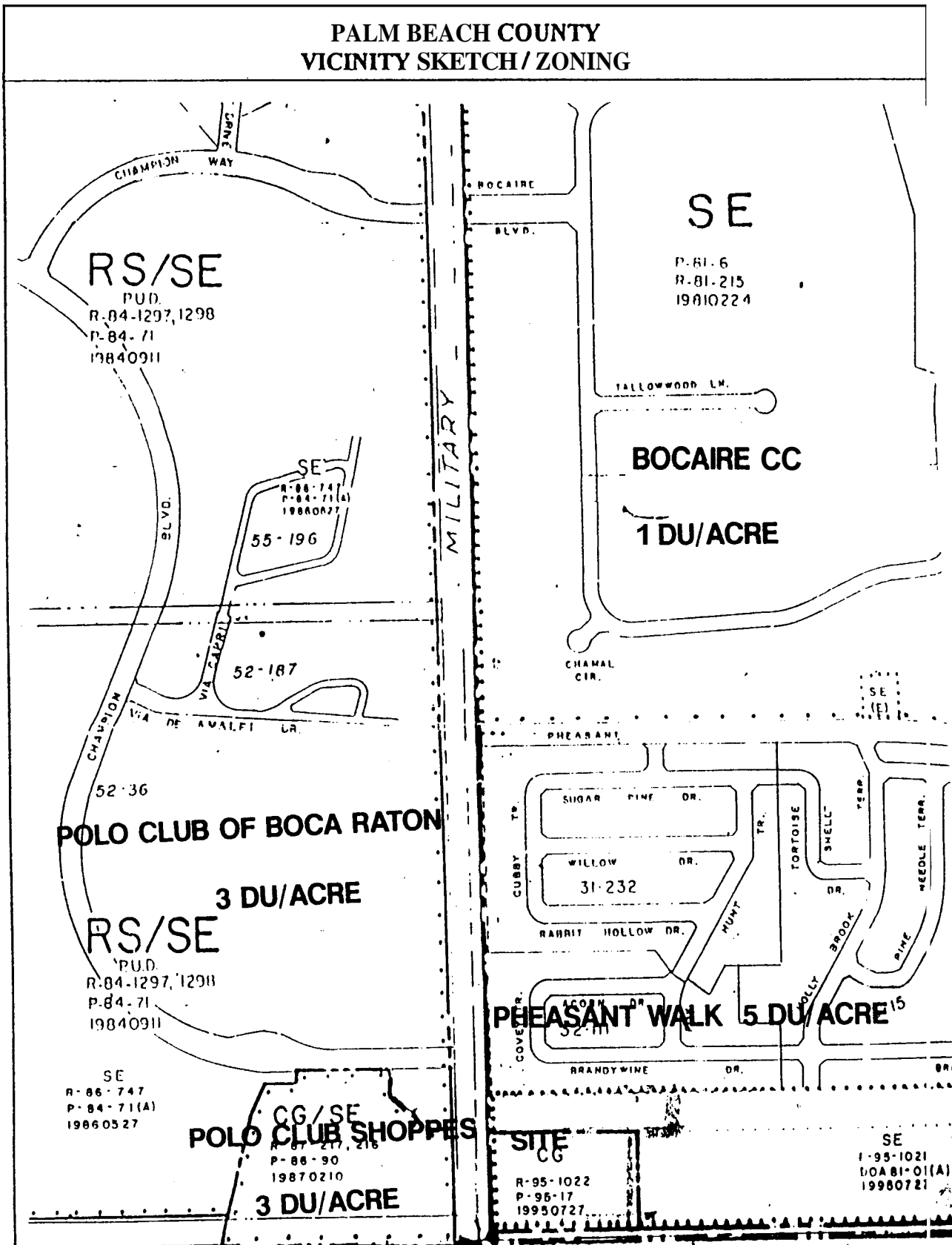
A PARCEL OF LAND IN THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 36, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED **AS** FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 36. THENCE RUN SOUTH 89°40'13" EAST (ON AN ASSUMED BEARING) 53.00 FEET ALONG THE WESTERLY PROLONGATION OF THE NORTHERLY BOUNDARY OF BOCA TECH - PHASE TWO. ACCORDING TO THE PLAT THEREOF, **AS** RECORDED IN PLAT BOOK 47, PAGES 142 AND 143, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°40'13" EAST ALONG SAID PROLONGATION AND SAID NORTHERLY BOUNDARY, 604.48 FEET; THENCE RUN NORTH 00°19'47" EAST ALONG THE WESTERLY BOUNDARY OF TRACT X-I, BOCA GOLF AND TENNIS CLUB - SECTION 2, ACCORDING TO THE PLAT THEREOF, **AS** RECORDED IN PLAT BOOK 63, PAGES 144 AND 145, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, 440.00 FEET; THENCE RUN NORTH 89°40'13" WEST ALONG THE SOUTHERLY BOUNDARY OF SAID TRACT X-I, 607.02 FEET; THENCE RUN DUE SOUTH 440.01 FEET ALONG THE EASTERLY RIGHT-OF-WAY LINE OF MILITARY TRAIL, **AS** SHOWN IN OFFICIAL RECORDS BOOK _____, PAGE _____, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, TO THE POINT OF BEGINNING.

SAID LAND LYING IN PALM BEACH COUNTY, FLORIDA CONTAINING 6.12 ACRES, MORE OR LESS.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



UNIVERSITY PARK CITY OF BOCA RATON

95-17 D



Petition Number: 95-17
 Zoning Quad Page: 37
 Date: 4/15/98 APR 15 1998



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-95-1022** (Petition 95-17), **R-95-01** (Petition **CB95-17(A)**) and Resolution **R-96-1187**, Petition **95-17(B)**, and **96-1945** Petition **95-17(C)**, 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)(Previously Condition A. 1 of Resolution R-96-1945, Petition 95-17(C))

B. CONCURRENCY

1. Prior to issuance of the first building permit, a Concurrency Reservation is required. (Previously Condition B.1 of Resolution R-96-1945, Petition 95-17(C). (BLDG PERMIT: CONCURRENCY/BLDG))

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The **Preserve Management/** Vegetation Relocation Plan shall be submitted to and receive approval from the **Department** of Environmental Resources Management prior to DRC site plan certification. (Previously Condition C.1 of Resolution R-96-1945, Petition 95-17(C). (DRC: ERM))

D. LANDSCAPING ALONG THE NORTH PROPERTY LINE

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - b. A six (6) foot high chain link fence with green or black vinyl coating. (Previously Condition D.1 of Resolution R-96-1945, Petition 95-17(C). (BLDG))
2. The following landscaping requirements shall be installed on the exterior side of the required fence
 - a. One (1) canopy tree planted every twenty (**20**) feet on center.
 - b. Thirty six (36) 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 six (6) feet. (Previously Condition D.2 of Resolution R-96-1945, Petition 95-17(C). (ELDG-Zoning))

E. ENGINEERING

1. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists **or** as it may **from** time to time be amended. The Fair Share Fee for this project, Zoning Petition Number **95-17**, **to** be paid at the time **of** issuance of the Building Permit presently is:
 - a. **\$29,315.00** for the proposed quality restaurant (**533 trips/day X \$55.00** per trip);
 - b. **\$31,515.00** for the proposed bank with drive thru (**573 trips/day X \$55.00** per trip);
 - c. **\$52,415.00** for the proposed retail center (**953 trips/day X \$55.00** per trip; and
 - d. **\$11,000.00** for the proposed church/synagogue (**200 trips/day X \$55.00** per trip) (Previously Condition E.1 of Resolution R-96-1945, Petition 95-17(C). (BLDG PERMIT: IMPACT FEE COORD).

2. In order to comply with the mandatory **Traffic** Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. Building Permits for only the **21,450** square feet church or synagogue shall be issued until the construction has **begun** for dual left turn lanes north and south approaches on Military **Trail** at its intersection with Clint Moore Road, plus the **appropriate** paved tapers. (Previously Condition E.2.a of Resolution R-96-1945, Petition 95-17(C)(BLDG - Eng)
 - b. Condition E.2.b **was** deleted by Resolution R-96-1945.

3. **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 all adjacent median(!;) of all abutting rights-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. (Previously Condition E.3.a of Resolution R-96-1945, Petition 95-17(C). (BLDG PERMIT: BLDG - **Eng**)

- 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, heir?; **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. (Previously Condition E.3.b of Resolution R-96-1945, Petition 95-17(C) (CO: BLDG - Eng)
 - 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. (Previously Condition E.3.c of Resolution R-96-1945, Petition 95-17(C) (CO: BLDG - Eng). (CO: BLDG - Co Atty)
 - d. **If** the required landscaping is not installed **prior** to commencement of the **6** laning **of** Military Trail, the **property** owner shall post surety for the installation of the Landscaping with the Office of the County Engineer in a form and manner acceptable to the County Engineer prior to the issuance of a building permit for any of the uses **onsite**. This surety shall be based upon a certified cost estimate from the developers Landscape Architect. (Previously Condition E.3.d of Resolution R-96-1945, Petition 95-17(C)
4. A preliminary drainage study **of** this site shall be submitted **by** the Developer's Engineer and approved by the County Engineer prior to DRC approval. Should this commercial site develop an **offsite** drainage system, then this developer shall provide an equivalent lake **system** and **or** dry retention area to be utilized by the Pheasant Walk drainage system to the north. It is the intent of this condition that this supplement to the Pheasant Walk Drainage System shall provide measurable benefit to the existing Pheasant Walk Drainage System, and shall in no way negatively impact the existing Pheasant Walk drainage system. All costs for the construction, and installation **of** the supplement to the Pheasant Walk drainage system, if required, shall be the responsibility of this property owner. (DRC: **ENG**) (Previously Condition E.4 of Resolution R-96-1945, Petition 95-17(C)
5. **Prior** to DRC approval, the site plan shall be amended to reflect the **final** location of the Pheasant Walk drainage ditch along the projects **west** property line. (DRC: **ENG**) (Previously Condition E.5 of Resolution R-96-1945, Petition 95-17(C)
6. The property shall be accessed by way **of** a partial median opening located at Station Number **165** on Military Trail opposite the north entrance. The median opening shall permit left turns in only, and **shall** be served by a southbound left **turn** lane of **150** feet storage length and **a 50** feet taper on Military Trail. Right turns in and out of the site shall also be permitted at the north entrance as well as the south **entrance** to the property. (**ENG**) (Previously Cond. **E.6** of R-96-1945, Pet 95-17(C)

F. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: **3.5** inches measured 45 feet above **grade**.
 - c. Canopy diameter: seven (**7**) feet. Diameter shall be determined by the average canopy radius at **3** points measured **from** the trunk to the outermost branch tip. Each radius shall measure at least **3.5** feet in length.
 - d. Credit may be given for existing **or** relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previously Condition F.1 of Resolution R-96-1945, Petition 95-17(C))

2. **All** palms required to be planted on site by this approval shall meet the following minimum standards at time of installation:
 - a. Palm heights: twelve (12) feet clear trunk **or** grey wood, whichever is greater;
 - b. Clusters: staggered heights twelve (**12**) to eighteen (**18**) feet; and
 - c. Pruning: minimum six (**6**) fronds, no clipped **or** spiked cuts.
 - d. Credit may be given for existing **or** relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previously Condition F.2 of R-96-1945, Petition 95-17(C))

G. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING MILITARY TRAIL)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. One (**1**) canopy tree planted every thirty (**30**) feet on center;
 - c. One (**1**) palm **or** pine tree for each thirty (**30**) linear feet of frontage. A group of three **or** more palm **or** pine trees may supersede the requirement for a canopy tree in that location; and
 - d. Thirty-six (**36**) 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**) (Previously Condition G.1 of Resolution R-96-1945, Petition 95-17(C))

H. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (Previously Condition H.1 of Resolution R-96-1945, Petition 95-17(C). (ONGOING: BLDG/CODE ENF - Zoning)

2. All outdoor lighting fixtures shall not exceed twenty five (**25**) feet in height, measured from finished grade to highest point. (Previously Condition H.2 of Resolution R-96-1945, Petition 95-17(C). (BLDG - Zoning)

I. SITE DESIGN

1. **The drive-up** teller queuing lane for the financial institution shall accommodate one (1) vehicle space beyond the point of service. (DRC: **BLDG zoning**) (Previously Condition 1.1 of Resolution R-96-1945, Petition 95-17(C))

J. SIGNS

1. Point of purchase **and/or** freestanding signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. Maximum sign face area per side - 140 square feet;
 - c. Maximum number of signs - two (2); and
 - d. Style - monument style only. (CO: **BLDG**) (Previously Condition J.1 of Resolution R-96-1945, Petition 95-17(C))

K. USE LIMITATION

1. Condition K.1 of Resolution R-96-1945, Petition 95-17(C) which currently states:

One (1) 6,500 square foot restaurant shall be permitted on site. The restaurant shall not be located adjacent to the north property line.

Is hereby amended to state:

Two (2) restaurants with a combined total of 6,500 square foot shall be permitted on site. The restaurants shall not be located adjacent to the north property line. (DRC: BLDG)

L. WATER UTILITIES

1. The Developer shall be required to extend a 16 inch water main From Champions Boulevard and provide a 16 inch stubout on the northwest corner of Old Clint Moore Road and Military Trail. (Previously Condition L.1 of Resolution R-96-1945, Petition 95-17(C)). (PBCWUD)

M. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Condition M.1 of Resolution R-96-1945, Petition 95-17(C) 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; 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.

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:

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

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning

approval, in accordance with the provisions of Section **5.8** of the **ULDC**, in **response** to any flagrant violation **and/or** continued violation **of** any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in **the** Unified Land Development Code (ULDC), as amended. Appeals **of** 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. (MONITORING)