

RESOLUTION NO. R-2008- 0116

RESOLUTION APPROVING ZONING APPLICATION DOA2007-1189
(CONTROL NUMBER 2006-367)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF GROVE NURSERIES, INC
BY KIMLEY HORN AND ASSOCIATES, INC., AGENT
(THE GROVE MUPD)

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

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2007-1189 was presented to the Board of County Commissioners at a public hearing conducted on January 24, 2008; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA2007-1189, the application of Grove Nurseries Inc, by Kimley Horn and Associates, Inc., agent, for a Development Order Amendment to reconfigure the site plan, and to modify and delete conditions of approval on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 24, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Jeff Koons moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 24, 2008.

Filed with the Clerk of the Board of County Commissioners on January 24, 2008.

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK


EXHIBIT A
LEGAL DESCRIPTION

A PORTION OF TRACTS 81, 82, 83, 111, 112, BLOCK 49, PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45-54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE WEST 25.00 FEET THEROF; SAID LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF THE PLAT OF INDIAN HILLS, PLAT NO. 1, A P.U.D., AS RECORDED IN PLAT BOOK 75, PAGES 133-139, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE WITH A BEARING OF S. 89° 03' 17" W., ALONG THE NORTH RIGHT OF WAY OF BOYNTON BEACH BLVD. (S.R. 804), A DISTANCE OF 454.54 FEET TO A POINT; THENCE WITH A BEARING OF N. 00° 56' 17" W. ALONG THE EAST RIGHT OF WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL NO. E-2-E, SAID LINE ALSO BEING 25.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF TRACTS 112 AND 81, A DISTANCE OF 796.25 FEET TO A POINT, SAID POINT LYING 30.00' FEET WEST OF THE SOUTHWEST CORNER OF TRACT "D", AS RECORDED IN THE ABOVE DESCRIBED PLAT OF INDIAN HILLS PLAT NO. 1; THENCE WITH A BEARING OF N. 89° 03' 17" E. ALONG THE WESTERN EXTENSION OF THE SOUTH LINE OF SAID TRACT "D", A DISTANCE OF 825.00 FEET TO A POINT ON THE WEST LINE OF OPEN SPACE NO. 2, OF THE PLAT OF INDIAN HILLS PLAT NO. 1; THENCE WITH A BEARING OF S. 40° 17' 51" W., ALONG THE WEST LINE OF OPEN SPACE NO. 2, A DISTANCE OF 388.49 FEET TO A POINT; THENCE WITH A CURVE TO THE LEFT HAVING A RADIUS OF 461.33 FEET, A CENTRAL ANGLE 41° 14' 34" AND AN ARC LENGTH OF 332.08 FEET TO A POINT; THENCE WITH A BEARING OF S. 00° 56' 43" E., A DISTANCE OF 200.00 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 443,683 SQUARE FEET (10.185 ACRES +/-)

SUBJECT TO RIGHT OF WAY EASEMENT, DEED AND OTHER RESERVATIONS, RESTRICTIONS, RIGHTS OF WAYS AND EASEMENTS OF RECORD.

EXHIBIT B
VICINITY SKETCH

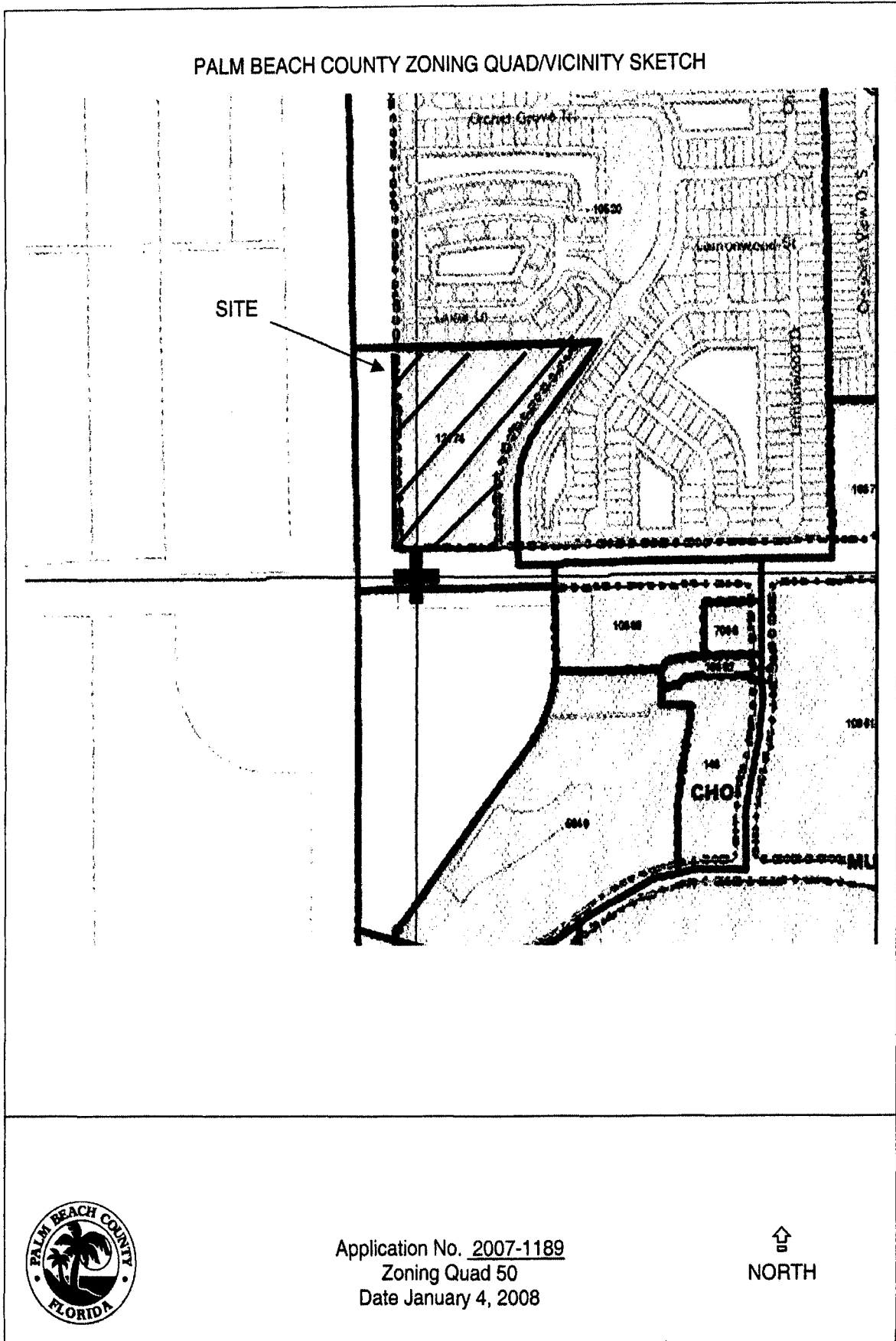


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous All Petitions Condition 1 of Resolution 2007-0089, Control No. 2006-367, which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated November 15, 2006 plan. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

Is hereby amended read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated October 29, 2007 plan. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

2. The relocation of 16,800 square feet and the deletion of the third story of Building "A" shall be permitted at final approval by the Development Review Officer (DRO). The relocation of the 16,800 square feet shall not be considered as amendments to the BCC/ZC approved plan pursuant to Article 2.D.1G.3, and may be split between the remaining two floors of Building "A", the two floors of Building "B" and the one floor of Building "C". (DRO: ZONING-Zoning) Previous All Petitions Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367. [Note: Completed]

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning) (Previous Architectural Review Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)
2. Buildings "A" and "B" shall not exceed two (2) stories, and Building "C" shall not exceed one (1) story in height. Height of all buildings shall be limited to a maximum of thirty-five (35) feet from finished grade to the highest point of the building. (DRO: ARCH REVIEW-Zoning) (Previous Architectural Review Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367)

DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within one hundred (100) feet of the north property line and shall be confined to the areas designated on the site plan. (DRO: ZONING - Zoning) (Previous Dumpster Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

ENGINEERING

Previous Engineering Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367 which states:

1. Engineering Condition E1 of Zoning Resolution 2007-0089 which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. Building Permits for more than:

- 30,500 square feet of gross leasable general office floor area (and)
- 50,400 square feet of gross leasable medical office floor area shall not be issued until Construction commences for the construction of an additional left turn lane south approach (dual lefts) on the southbound exit ramp for the Florida Turnpike west exit at Boynton Beach Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

b. Building Permits for more than:

- 36,000 square feet of gross leasable general office floor area (and)
- 50,400 square feet of gross leasable medical office floor area shall not be issued until Construction commences for the construction of:
 - separate south approach right turn lane
 - an additional thru lane north approach on Hagen Ranch Road at Boynton Beach Boulevard plus the appropriate paved tapers and receiving lanes. (BLDG PERMIT: MONITORING-Eng)

c. No Building Permits for the site may be issued after January 1, 2011. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE:MONITORING-Eng)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. Building Permits for more than:

- 84,500 square feet of gross leasable medical office floor area shall not be issued until Construction commences for the construction of an additional north and south approach through lane at Boynton Beach Boulevard and Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

b. No Building Permits for the site may be issued after January 1, 2013. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. Engineering Condition E2 of Zoning Resolution 2007-0089 which currently states:

Acceptable surety required for the offsite road improvements as outlined in Condition No. 1(a) and No. 1(b) shall be posted with the Office of the Land Development Division on or before July 25, 2007. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)

Is hereby deleted. [Reason: Funding for the required improvement is now in place.]

3. Prior to the issuance of a building permit the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the project's entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" 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. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng) (Previous Condition E3 of Zoning Resolution R2007-089, Control No. 2006-367)

4. The Property owner shall construct a right turn lane east approach on Boynton Beach Boulevard at the Project Entrance:

- a. 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.
- b. Permits required by Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
- c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition E4 of Zoning Resolution R2007-089, Control No. 2006-367)

5. Previous Engineering Condition E5 of Zoning Resolution 2007-0089 which currently states:

Prior to September 1, 2007 the Property owner shall complete construction plans of the offsite Traffic Performance Standards intersection improvements outlined in condition 1 above. These construction plans shall be approved by the Florida Department of Transportation for improvements in Condition No. 1(a) and Palm Beach County Engineering Department for improvements in Condition No. 1(b) based those agencies minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the FDOT and Palm Beach County. (DATE:MONITORING-Eng) Prior to April 1, 2008 the Property owner shall complete construction of the offsite Traffic Performance Standards intersection improvements outlined in condition 1 above. (DATE:MONITORING-Eng)

Is hereby deleted. [Reason: Revised traffic study no longer requires these improvements]

6. Previous Engineering Condition E6 of Zoning Resolution 2007-0089 which currently states:

Prior to April 1, 2008 the Property owner shall complete construction of the offsite Traffic Performance standards intersection improvements outlined in condition 1 above. (DATE:MONITORING -Eng) (Previous Condition E6 of Zoning Resolution R2007-089, Control No. 2006-367)

Is hereby deleted. [Reason - Another developer will be completing the required work].

7. Landscape Within the Median of Boynton Beach Boulevard

- a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Boynton Beach Boulevard. This landscaping and irrigation shall at a minimum conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS as shown in the Boynton Beach Turnpike Interchange Design Guidelines and Standards for future Development shall be reviewed by the County Engineer to determine if the Turnpike Interchange Design Guideline Landscaping is appropriate for this corridor. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below.
- b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
- c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
- d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner.
- e. OTIS landscaping is determined to be appropriate then the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of a Building Permit. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Boynton Beach Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (Previous Condition E7 of Zoning Resolution R2007-089, Control No. 2006-367)

HEALTH

1. The property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF - Health) (Previous Health Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

LANDSCAPE – STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)
2. A minimum of sixty-five (65%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367)
3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 3 of Zoning Resolution R2007-089, Control No. 2006-367)
4. All palms required to be planted on the property by this approval, except on individual residential lots, (remove underlined text except for PUD/residential projects only) shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 4 of Zoning Resolution R2007-089, Control No. 2006-367)

LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL, INDIAN HILLS PUD)

5. In addition to code requirements, landscaping and buffer width along the north property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a eight (8) foot high opaque concrete block wall. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
 - c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. the property owner/developer may apply for a variance to allow all the required plant materials to be located on the interior side of the wall through the Type II Variance process and approval by the Zoning Commission. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 6 of Zoning Resolution R2007-089, Control No. 2006-367)

LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF ORCHARD GROVE TRAIL)

6. In addition to the code requirements, landscaping and/or buffer width along the east property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a two (2) foot high continuous berm;
 - c. a six (6) foot high opaque concrete block wall to be placed on the plateau of the berm. This wall shall extend and connect to the 8-foot high wall along the north property line. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
 - d. one (1) palm or pine for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 7 of Zoning Resolution R2007-089, Control No. 2006-367)

LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF BOYNTON BEACH BOULEVARD)

7. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum twenty-five (25) foot wide landscape buffer strip;
 - b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
 - c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line;
 - d. one (1) palm (Royal Palm) tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm;
 - e. shrub planting shall comply to ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 5 of Zoning Resolution R2007-089, Control No. 2006-367)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previous Lighting Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

2. Previous Lighting Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367 which states:

All outdoor, freestanding lighting fixtures be setback one hundred (100) feet from the north property line. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted [Reason: Superseded by Code]

3. Previous Lighting Condition 3 of Zoning Resolution R2007-089, Control No. 2006-367 which states:

The lighting conditions above shall not apply to propose low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

Is hereby deleted [Reason: Superseded by Code]

4. All outdoor lighting shall be extinguished no later than one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous Lighting Condition 4 of Zoning Resolution R2007-089, Control No. 2006-367)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous Mass Transit Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)
2. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT: ENG-PalmTran) (Previous Mass Transit Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be prepared to comply with the Boynton Beach Turnpike Interchange Design Guidelines & Standards for Future Development dated November 12, 1996 (Exhibit 3 of ORD. 96-65) (BBTIDG). If a conflict exists between the Design Guidelines and the ULDC, the more restrictive shall apply. Compliance with median landscaping requirements of the Design Guidelines shall be subject to approval by the Engineering Dept. (DRO: PLANNING: Planning) (Previous Planning Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

SIGNS

1. Freestanding signs fronting on Boynton Beach Boulevard shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point ten (10) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1);
 - d. signs shall be limited to identification of tenants only; and,
 - e. no back lit signs shall be permitted. (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)
2. Freestanding signs fronting on Orchard Grove Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. maximum sign face area per side - sixty (60) square feet;
 - c. maximum number of signs - one (1);
 - d. signs shall be limited to identification of tenants only; and,
 - e. no back-lit signs shall be permitted. (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367)
3. The property owner shall provide interior signage to direct traffic to the appropriate exit for east bound traffic to Orchid Grove Trail and for west bound traffic to Boynton Beach Boulevard. All signage shall comply to on-site directional signs of the ULDC. (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 3 of Zoning Resolution R2007-089, Control No. 2006-367)

USE LIMITATIONS

1. Retail business activity shall not be allowed on the property, including deliveries, prior to 7:00 a.m. nor continue later than 9:00 p.m. Monday through Saturday and 8:00 a.m. to 6:00 p.m. Sunday. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

2. All construction traffic shall be limited to the Boynton Beach Boulevard access point. (ONGOING: CODE - ENF Zoning) (Previous Use Limitations Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367)
3. Construction activities shall be limited to 7:00 a.m. to 6 p.m. Monday through Saturday. Construction activities shall be prohibited on Sundays and Legal Holidays. (ONGOING:CODE ENF-Zoning) (Previous Use Limitations Condition 3 of Zoning Resolution R2007-089, Control No. 2006-367)
4. During Construction phases of the site, the property owner and/or developer shall maintain Orchid Grove Trail to keep it clean from debris, and maintain the undeveloped portion of the site, including but not limited to, trash/debris removal grass mowing, etc.) until the entire site is being developed. (ONGOING:CODE ENF-Zoning) (Previous Use Limitations Condition 4 of Zoning Resolution R2007-089, Control No. 2006-367)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD-PBCWUD) (Previous Utilities Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)

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 Compliance Condition 1 of Zoning Resolution R2007-089, Control No. 2006-367)
2. Previous Compliance Condition 2 of Zoning Resolution R2007-089, Control No. 2006-367 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 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 Article 2.E 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)

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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)