

RESOLUTION NO. R-2011-0959

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2010-02573
(CONTROL NO. 1981-00186)
a Development Order Amendment
APPLICATION OF Chick-fil-A, Inc.
BY Corporate Property Services, Inc., AGENT
(Chick-fil-A at Lee Square)

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

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

WHEREAS, Zoning Application DOA/R-2010-02573 was presented to the Board of County Commissioners at a public hearing conducted on June 27, 2011; 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, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment.

WHEREAS, Article 2.A.1.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 DOA/R-2010-02573, the petition of Chick-fil-A, Inc., by Corporate Property Services, Inc., agent, for a Development Order Amendment to reconfigure the site plan; relocate requested uses; and, to modify/delete Conditions of Approval (All Petitions, Building and Site Design, Use Limitations) in the PCD Zoning District 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 27, 2011, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Commissioner Karen T. Marcus, Chair	-	Aye
Commissioner Shelley Vana, Vice Chair	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Steven L. Abrams	-	Absent
Commissioner Burt Aaronson	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on June 27, 2011.

Filed with the Clerk of the Board of County Commissioners on June 29th, 2011.

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a star at the bottom center. The inner ring contains 'PALM BEACH COUNTY' at the top and 'FLORIDA' at the bottom, also separated by a star at the bottom center.

EXHIBIT A

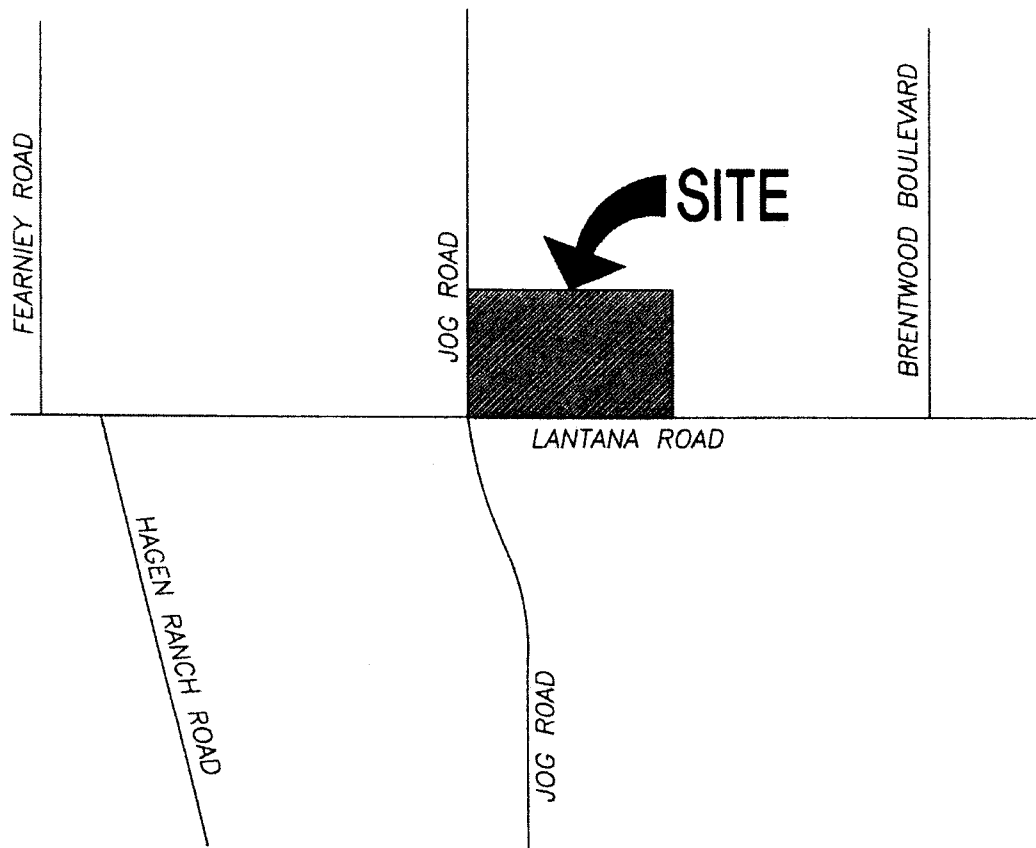
LEGAL DESCRIPTION

LEE SQUARE LEGAL DESCRIPTION

TRACT "A", LEE SQUARE, AS RECORDED IN PLAT BOOK 68, PAGES 186 AND 187
OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

VICINITY SKETCH



NORTH

SCALE: N.T.S.

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petitions 1 of Resolution R-98-8, Control No. 1981-186, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-93-399, Petition 81-186(D), 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-98-8 (Control 1981-186), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2.All Petitions 2 of Resolution R-98-8, Control No. 1981-186, 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 August 20, 1997. 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated February 14, 2011. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

3.All Petitions 3 of Resolution R-98-8, Control No. 1981-186, which currently states:

The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County. (Previously Condition A.2 of Resolution R-93-399, Petition 81-186(D))

Is hereby deleted. REASON: No longer applicable.

4.All Petitions 4 of Resolution R-98-8, Control No. 1981-186, which currently states:

Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 64) unless the proposed use or design changes are permitted pursuant to Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) and/or required by conditions of approval. (Previously Condition A.3 of Resolution R-93-399, Petition 81-186(D))

Is hereby deleted. REASON: No longer applicable pursuant to amended All Petitions 2.

5.All Petitions 5 of Resolution R-98-8, Control No. 1981-186, which currently states:

The petitioner shall submit an application to the Development Review Committee for the certification of a revised site plan for this petition prior to October 1, 1993. (Previously

Condition A.4 of Resolution R-93-399, Petition 81-186(D))

Is hereby deleted. Reason: No longer applicable.

6. Use Limitation 4 of Resolution R-98-8, Control No. 1981-186, which currently states:

Use of the large scale building supply facility shall be limited to this specific use only.

Is hereby deleted. REASON: See All Petitions 2 and a Building Supplies Use is a Requested Use. A change in use to Retail Sales, General or another permitted use would reduce the nonconformity.

ARCHITECTURAL REVIEW

1. Condition C.5 of Resolution R-98-8, Control No. 1981-186, which currently states:

All mechanical equipment in the CSH zoned portion of the subject property shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.

All mechanical equipment associated with the main retail center in the CG zoned portion of the subject property only shall be roof mounted and screened from view and/or painted on all sides in a manner consistent with the color and character of the principle structure.

All mechanical equipment associated with the five (5) out parcels in the CG zoned portion of the subject property shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.

Is hereby amended to read:

All mechanical equipment for buildings in the portion of the site lying north and east of the rear drive aisle and all outparcels shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.

All mechanical equipment associated with the main retail center (Buildings A - G) shall be roof mounted and screened from view and/or painted on all sides in a manner consistent with the color and character of the principle structure. (BLDG PERMIT: ARCH REV - Arch Rev)

2. All structures shall have a similar architectural treatment on all sides. (BLDG PERMIT: ARCH REV - Arch Rev) (Previous Condition C.6 of Resolution R-98-8, Control No. 1981-186)

3. The maximum height, from grade to roof line, for all structures shall not exceed thirty-five (35) feet. (DRO: ARCH REV-Arch Rev) (Previous Condition C.4 of Resolution R-98-8, Control No. 1981-186)

ARCHITECTURAL REVIEW-ARCHITECTURAL FOCAL POINT

4. Prior to site plan certification, the site plan shall be amended to indicate typical tree planter details, subject to approval by the Zoning Division, for Conditions K.1. and K.2. (DRO: ZONING-Arch Rev) (Previous Condition K.6 of Resolution R-98-8, Control No. 81-186) [Note: COMPLETED]

DRO

1. Condition C.11 of Resolution R-98-8, Control No. 1981-186, which currently states:

Development shall be limited to Phase I as shown on the approved site plan until additional commitments for utility capacity are submitted to the Health Department.

Is hereby deleted. REASON: No longer applicable

2. Condition C.12 of Resolution R-98-8, Control No. 1981-186, which currently states:

Total gross floor area shall be limited to a maximum of 369,073 square feet. Additional square feet may be allowed in accordance with Zoning Code Section 402.7.

Is hereby deleted. REASON: No longer applicable.

3.Condition R.1 of Resolution R-98-8, Control No. 1981-186), which currently states:

A maximum of 1,846 parking spaces shall be permitted on site.

Is hereby deleted. REASON: No longer applicable per PDD parking range Art. 3.E.1.C.2.h.2)a)(1).

4.Condition R.2 of Resolution R-98-8, Control No. 1981-186), which currently states:

Prior to site plan certification, the tabular data on the site plan shall be amended to indicate the total number of loading spaces required for the entire PCD. All required loading spaces for each use shall be clearly indicated on the site plan.

Is hereby deleted. REASON: No longer applicable.

5.Condition R.5 of Resolution R-98-8, Control No. 1981-186), which currently states:

Prior to Site Plan Certification, vehicular access to the east from Oak Royal Drive shall be deleted from the site plan.

Is hereby deleted. REASON: No longer applicable.

6.Condition T.3 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to Site Plan certification, the petitioner shall submit a Master Sign Program which specifies sign location, sign dimensions, unified color, unified graphics and conformance to all sign related conditions of approval.

Is hereby deleted. REASON: Code requirement.

7.Concurrency 1 of Resolution R-98-8, Control No. 1981-186, which currently states:

This project has a Concurrency Exemption for 331,900 square feet of retail use. The petitioner has secured a Concurrency Equivalency Determination showing that the uses and increased square footage included in this petition generate the same or lower impacts as were included on the Certificate for Concurrency Exemption. This Concurrency Equivalency Determination has been approved by the Director of Planning, Dennis Foltz, to allow an additional 37,900 square feet to be added to this site for use as a large scale building supply store (with garden center) ONLY. This square footage may not be converted for any other use, other than a large scale building supply store. If it is not used for this purpose, the site plan must be modified to show the reduction of 37,900 square feet.

Is hereby deleted. REASON: Per the approved Traffic Impact Analysis dated October 4, 2010 and revised December 22, 2010, the site is vested with 248,954 square feet of retail, a 2,540 square foot fast food restaurant with a drive-thru, a 10 fueling position gas station with a car wash and a 736 square foot convenience store, which have all be in operation for 5 or more years.

DRO-AUTO SERVICE STATION (NO- REPAIR)

8.Condition B.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate the location of the car wash facility. [Note: COMPLETED]

Is hereby deleted. REASON: No longer applicable.

9. Condition B.3 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate the location of a receptacle for the storage and disposal of trash and garbage (i.e. dumpster) adjacent to the auto service station.

Is hereby deleted. Reason: No longer applicable.

DRO

10. Condition J.3 of Resolution R-98-8, Control 1981-186, which currently states:

Prior to site plan certification, the landscape tabular data on the site plan shall be revised to reflect conformance to minimum Landscape Code requirements and all landscape conditions.

Is hereby deleted. REASON: No longer applicable.

ENGINEERING

1. Previous Condition E.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

Install signalization, when warranted as determined by the County Engineer, at the project's east turnout and Lantana Road, but in no event shall it be later than five (5) years from the issuance of the last certificate of occupancy. (ONGOING: ENGINEERING - Eng)

Is hereby amended to read:

a. Prior to the issuance of the next building permit, the Property Owner shall make a one-time payment to the Palm Beach County Board of County Commissioners in the amount of \$140,000.00 toward the following improvements to Lantana Road:

- i. Extend the west-approach left-turn lane on Lantana Road at the Project's eastern driveway to a minimum of 280 feet in storage length and a taper length of 50 feet or as approved by the County Engineer;
- ii. Close the east-approach left-turn lane on Lantana Road at the western driveway of Pinewood Square;
- iii. Extend the east approach dual left-turn lanes on Lantana Road at Jog Road to a minimum of 450 feet of storage length and a taper length of 100 feet or as approved by the County Engineer; and
- iv. Install signalization at Lantana Road and the Project's eastern driveway entrance. Signalization shall be a span wire installation or as approved by the County Engineer.

The improvements identified in subparagraphs (i) through (iv), above, are collectively Lantana Road Improvements." No credit against road impact fees shall be provided for this contribution. (BLDG PERMIT: MONITORING-Eng)

b. In the event the County does not commence construction of the Lantana Road Improvements by June 30, 2013 or within 2 years of receipt of payment, whichever occurs last, the County shall refund the \$140,000.00 to the Property Owner. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits. (DATE/ONGOING: MONITORING-Eng)

2. Previous Condition E.4. of Resolution R-98-8, Control No. 1981-186, which currently states:

The Developer shall provide discharge control and treatment for the storm-water runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain on-site the storm-water runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as

required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. [Reason: Drainage is a Code Requirement.]

3. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from storm-water runoff from the remainder of the site. (ONGOING: ENGINEERING - Eng) (Previous Condition E.5. of Resolution R-98-8, Control No. 1981-186)

4. Prior to August 1, 1991, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Roadway Production Division by road right-of-way warranty deed for the construction of a right turn lane on:

- a. Jog Road and the project's main entrance 700 feet north of Lantana Road;
- b. Lantana Road at the project's main entrance 400 feet east of Jog Road.

This right of way shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet. (DATE/BLDG PERMIT: MONITORING - Eng) (Previous Condition E.6. of Resolution R-98-8, Control No. 1981-186)

[Note: COMPLETED]

5. The Property owner shall construct a right turn lane on Jog Road and the project's main entrance and on Lantana Road at the project's main entrance concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng) (Previous Condition E.7. of Resolution R-98-8, Control No. 1981-186)

[Note: COMPLETED]

6. 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 Fair Share Fee for this project at the time of the Building Permit presently is \$592,295.00 (10,769 trips X \$55.00 per trip). Credit for previous road work done by the developer for his participation in the Jog Road/Lantana Road improvements shall be considered and approved as determined by the County Engineer. (ONGOING: ENGINEERING - Eng) (Previous Condition E.8 of Resolution R-98-8, Control No. 1981-186)

[Note: COMPLETED]

7. Prior to issuance of any building permits, developer shall provide to County a boundary plat, including all access points, present and future, for said parcel and referencing the Unity of Control Covenants. All review of site plans and/or master plan shall be through the Site Plan Review Committee. (BLDG PERMIT: MONITORING - Eng) (Previous Condition E.9 of Resolution R-98-8, Control No. 1981-186)

[Note: COMPLETED]

8. Previous Condition E.10 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to the issuance of a building permit for the main center, the property owner shall convey one (1) pedestrian access easement along the east property line between this parcel and Lee's Crossing PUD. The exact location of this pedestrian access easement shall be approved by the County Engineer and shown on the approved site plan. The property owner shall complete the construction of all pathways from this proposed Planned Commercial Development to the east prior to the issuance of a Certificate of Occupancy for the main center. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

Is hereby deleted. [Reason: To allow the property owner to remove the existing pedestrian access that has become a safety issue.]

9. Detailed signing and striping plans shall be approved by the Traffic Division prior to the issuance of a building permit for the main center. (ONGOING: ENGINEERING Eng) (Previous Condition E.11 of Resolution R-98-8 Control No. 1981-186)

10. Prior to site plan certification, the applicant shall amend the site plan to indicate the new location of the median break on Jog Road. The location and construction date shall be approved by Engineering. (DRO: ENGINEERING - Eng) (Previous Condition E.12 of Resolution R-98-8, Control No. 1981-186)
[Note: COMPLETED]

11. LANDSCAPE WITHIN MEDIAN

The property owner shall contribute \$34,000 (Thirty-four Thousand Dollars) to Palm Beach County for the landscaping and maintenance of the medians on Jog Road and Lantana Road adjacent to this site. The \$17,000 (Seventeen Thousand) presently held in escrow will be released to the County prior to January 1, 1998. The remaining \$17,000 shall be paid to the County over a four year period according to the following schedule:

1. \$4,250 (Four Thousand Two Hundred Fifty Dollars) to be paid to the Land Development Division yearly prior to December 1, 1999, 2000, 2001 and 2002. [Note: COMPLETED]

OR

2. A total of \$8,500 (Eight Thousand Five Hundred Dollars) (taking into account prior payments referred to in paragraph #1 above) shall be paid to the County prior to the issuance of a building permit for each of the two outparcels fronting on Jog Road. (DATE: MONITORING - Eng) (Previous Condition P.1 of Resolution R-98-8, Control No. 1981-186)
[Note: COMPLETED ITEM 1]

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

a. No Building Permits for the site may be issued after December 31, 2015. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

13. Within ninety (90) days of a request by the County Engineer, the Property Owner shall provide to Palm Beach County Traffic Division an easement for the construction of a traffic signal on Lantana Road at the project's eastern driveway. The area of the easement shall be based upon the design of the signal, shall extend within the driveway approaching Lantana Road a sufficient length to accommodate detector loops, shall be the area required to accommodate signalization so as not to encroach into paved parking areas and avoid conflicts with existing utility encroachments, shall be free of all encumbrances and encroachments which would prevent signalization, and may overlap required buffers, all as determined by the County Engineer. In the event the high voltage lines crossing the project's eastern driveway and extending north along the west side of the driveway must be moved to accomplish signalization, and the cost is excessive as determined by the County Engineer, the property owner and County Engineer shall review the feasibility of signal installation. The Property Owner shall not record the required documents. After final acceptance of the location, legal sketches and easement documents, Palm Beach County shall record all appropriate documents. (ONGOING: MONITORING-Eng)

ENVIRONMENTAL

1. Secondary containment for stored Regulated Substances -fuels, oils, solvents, or other hazardous chemicals - is required. Environmental Resources Management Department staff shall provide guidance on appropriate protective measures. (ONGOING:

ERM-ERM) (Previous Condition G.1 of Resolution R-98-8, Control No. 1981-186)

2.Plans for underground storage tanks must be signed off by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures. (ONGOING: ERM-ERM) (Previous Condition G.2 of Resolution R-98-8, Control No. 1981-186)

HEALTH

1.Previous conditon H 1 of Resolution r-98-8; Control 1981-186 which reads:

Generation and diposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and Agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents. (ONGOING: HEALTH -Health)

Is hereby amended to read;

Operators and owners of facilities generating toxic, hazardous, or industrial wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adaqueate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department, and the agency responsible for sewage works is used. (ONGOING: HEALTH- Health)

2.Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING: HEALTH- Health) (Previous condition Health 2. of Resoulution R98-8; Control 1981-186)

3.Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH-Health) (Previous condition Health 3. of Resoulution R-98-8; Control 1981-186)

4.The owner, occupant or tenant of the facility shall participate in an oil recycling program which insures proper re-use or disposal of waste oil. (ONGOING: HEALTH-Health) (Previous conditon Health 4 of Resolution R-98-8; Control 1981-186)

5.Previous conditon Health 5. of Resolution R-98-8: Control 1981-186) which reads:

No portion of this project is to be approved on well and/or septic tank, existing or new. Existing soptic tanks are to be abandoned in accordance with Chapter 10D-6, F.A.C. (ONGOING: HEALTH-Health)

Is hereby DELETED: REASON- Code Requirement

LANDSCAPE - GENERAL

1.Prior to site plan certification, the petitioner shall submit a Landscape Master Plan for review and approval by the Zoning Division. The Landscape Master Plan shall demonstrate conformance to all Landscape Code requirements and conditions of approval. (DRO: ZONING-Zoning) (Previous Condition J.2 of Resolution R-98-8, Control No. 1981-186) [NOTE: COMPLETED for the perimeter buffers and the portion of the site south and west of the rear drive aisle.]

LANDSCAPE - INTERIOR-PARKING AREA SOUTH AND WEST OF THE REAR DRIVE AISLE ONLY

2.One landscape island, planted with a minimum of one native canopy trees or two native palm trees, and appropriate ground cover, shall be provided for every twelve (12) parking spaces utilizing 90 degree angle parking dimensions. (Previous Condition K.1 of Resolution R-98-8, Control 1981-186) [NOTE: COMPLETED.]

3. Landscaped divider medians shall be provided between abutting rows of parking spaces utilizing 60 degree angle parking dimensions. The minimum width of this median shall be five (5) feet. One native canopy tree or two native palm trees, and appropriate ground cover, shall be planted for each thirty (30) linear feet of the divider median, with a maximum spacing of sixty (60) feet on center. (ONGOING: ZONING - Landscaping) (Previous Condition K.2 of Resolution R-98-8, Control No. 1981-186) [NOTE: COMPLETED.]

4. Landscaped terminal islands shall be provided for all rows of parking. (ONGOING: ZONING-Landscaping) (Previous Condition K.3 of Resolution R-98-8, Control No. 1981-186)

5. Fifty percent (50%) of all trees within the interior parking area shall be twelve (12) feet in height or greater. The remaining fifty percent (50%) shall be ten (10) feet in height or greater. (ONGOING: ZONING-Landscaping) (Previous Condition K.4 of Resolution R-98-8, Control No. 1981-186)

6. Seventy-five percent (75%) of all trees within the interior parking area shall be shade trees. (ONGOING: ZONING-Landscaping) (Previous Condition K.5 of Resolution R-98-8, Control No. 1981-186)

LANDSCAPE - INTERIOR-BUILDING A

7. Prior to site plan certification, the applicant shall amend the site plan to indicate a three foot wide landscape strip behind the large scale building supply store. The length of this strip shall be the linear distance between the compactor and loading area behind the store. This landscape strip shall include:

a. Thirty-six (36) inch high wax myrtles spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of forty-eight (48) inches. (DRO: ZONING-Zoning) (Previous Condition K.8 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED]

LANDSCAPE - INTERIOR-AUTO SERVICE STATION (NO REPAIR) OUTPARCEL

8. A minimum of fifteen percent (15%) of the gross paved area of the gas station out-parcel shall be devoted to interior landscaping. If the landscaped area is moved to the perimeter of the out-parcel, it shall be designed as an integral part of the adjacent landscape buffers. In addition, one (1) native canopy tree shall be planted in the adjacent interior landscape areas for each 250 square feet of paved vehicular use area. (ONGOING: LANDSCAPING-Landscaping) (Previous Condition B.7 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED.]

LANDSCAPE - INTERIOR-REAR DRIVE AISLE DIVIDER MEADIANS

9. Condition K.7 of Resolution R-98-8, Control No. 1981-186, which currently states:

Landscaping along both sides of the vehicular use drive separating the CSH and CG zoned portions of the property shall be upgraded to include twelve (12) foot tall native canopy trees planted twenty (20) feet on center and a continuous opaque hedge twenty-four (24) inches in height and planted twenty-four (24) inches on center.

Is hereby amended to read:

Landscaping along both sides of the rear drive aisle shall be upgraded to include twelve (12) foot tall native canopy trees planted twenty (20) feet on center and a continuous opaque hedge

a. twenty-four (24) inches in height and planted twenty-four (24) inches on center on the south and west side (existing Phase 1); and
b. thirty-six (36) inches in height and a maximum spacing of thirty (30) inches with appropriate ground cover on the north and east side of the drive aisle (affected area). (BLDG PERMIT: LANDSCAPING-Landscaping)

LANDSCAPE - INTERIOR-PREVIOUS PEDESTRIAN ACCESS FROM LEE'S CROSSING PUD

10. Prior to final approval by the Development Review Officer (DRO), the property owner shall apply for a building permit to close the existing wall opening in the east perimeter buffer and restore the wall and buffer plantings pursuant to the release of easement previously granted in ORB7197/PG1783. (DRO: ZONING - Zoning)

LANDSCAPE - PERIMETER

11. A twenty five (25) foot landscaped buffer strip shall surround the entire perimeter of the subject property. (Previous Condition J.1. of Resolution R-98-8, Control No. 1981-186)

LANDSCAPE - PERIMETER-LANDSCAPING AND BUFFERING ALONG NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

12. Condition L.1 of Resolution R-98-8, Control No. 1981-186, which currently states:

Landscaping and buffering along the north property line shall be installed prior to:

- a. Issuance of a building permit for any building in the CSH zoned portion of the site, or
- b. Issuance of a certificate of occupancy (C.O.) for any building in the CG zoned portion or Phase I of the site.

Is hereby amended to read:

Prior to the issuance of a Building Permit for Building K, L or M, whichever shall first occur, the approved Landscape Plan dated November 20, 1992 for the east approximately 740 feet of the north perimeter buffer shall be amended to replace prohibited plant species with non-prohibited plant species. All plant materials in the north perimeter buffer shall be installed prior to the commencement of construction activities for Buildings K, L, or M whichever shall first occur. (BLDG PERMIT: LANDSCAPE-Landscape)

13. Buffering shall include a six (6) foot high concrete wall, painted on both sides a color consistent with the shopping center. (Previous Condition L.2 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED]

14. The following landscape requirements shall be installed on the exterior side of the buffer:

- a. Native canopy trees spaced no more than twenty (20) feet on center. The minimum height of these trees shall be as follows:
 - 1) Fifty percent (50%) - fourteen (14) feet.
 - 2) Twenty-five percent (25%) - twelve (12) feet.
 - 3) Twenty-five percent (25%) - ten (10) feet.
- b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet.
- c. Thirty-six (36) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition L.3 of Resolution R-98-8, Control No. 1981-186)

15. Thirty-six (36) inch high shrubs or hedge material, spaced no more than twenty four (24) inches on center, shall be installed on the interior side of the required buffer. (Previous Condition L.4 of Resolution R-98-8, Control No. 1981-186)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING LANTANA ROAD)

16. Landscaping within the landscape buffer abutting Lantana Road shall be upgraded to include:

- a. Native canopy trees spaced an average of twenty (20) feet on center. The minimum height of these trees shall be as follows:
 - 1) Fifty percent (50%) - fourteen (14) feet.
 - 2) Twenty-five percent (25%) - twelve (12) feet.
 - 3) Twenty-five percent (25%) - ten (10) feet.
- b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet.
- c. Thirty-six (36) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-two (42)

inches within eighteen months, or a minimum forty-two (42) inch high hedge/berm combination. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition M.1 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED.]

LANDSCAPE - PERIMETER-LANDSCAPING AND BUFFERING ALONG EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

17. Condition N.1 of Resolution R-98-8, Control No. 1981-186, which currently states:

Landscaping and buffering along the east property line shall be installed prior to:

- a. Issuance of a building permit for any building in the CSH zoned portion of the site, or
- b. Issuance of a certificate of occupancy (C.O.) for any building in the CG zoned portion or Phase I of the site.

Is hereby amended to read:

Prior to the issuance of a building permit for any building lying in the portion of the site north or east of the rear drive aisle, landscaping and buffering along the east property line shall be installed in accordance with the Alternative Landscape Plan approved on March 14, 2007 and an approved phasing plan. (BLDG PERMIT: LANDSCAPE-Landscape)

18. Buffering shall include a six (6) foot high concrete wall painted on both sides a color consistent with the shopping center. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition N.2 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED]

19. The following landscape requirements shall be installed on the exterior side of the buffer:

- a. Native canopy trees spaced no more than twenty (20) feet on center. The minimum height of these trees shall be as follows:
 - 1) Fifty percent (50%) - fourteen (14) feet.
 - 2) Twenty-five percent (25%) - twelve (12) feet.
 - 3) Twenty-five percent (25%) - ten (10) feet.
- b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet.
- c. Thirty-six (36) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition N.3 of Resolution R-98-8, Control No. 1981-186) [COMPLETED - ALP dated March 14, 2007.]

20. Thirty-six (36) inch high shrubs or hedge material, spaced no more than twenty four (24) inches on center, shall be installed on the interior side of the required buffer. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition N.4 of Resolution R-98-8, Control No. 1981-186)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING JOG ROAD)

21. Landscaping within the landscape buffer along Jog Road shall be upgraded to include:

- a. Native canopy trees spaced an average of twenty (20) feet on center. The minimum height of these trees shall be as follows:
 - 1) Fifty percent (50%) - fourteen (14) feet.
 - 2) Twenty-five percent (25%) - twelve (12) feet.
 - 3) Twenty-five percent (25%) - ten (10) feet.
- b. One twelve (12) foot tall native palm tree for each thirty (30) linear feet.
- c. Thirty-six (36) inch high shrubs or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-two (42) inches within eighteen months, or a minimum forty-two (42) inch high hedge/berm combination. (BLDG PERMIT: LANDSCAPE-Landscape) (Previous Condition O.1 of Resolution R-98-8, Control No. 1981-186) [Note: COMPLETED.]

LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed away from adjacent properties and streets. (BLDG PERMIT: BLDG-Bldg) (Previous Condition Q.1 of Resolution R-98-8, Control No. 1981-186)

2. Condition Q.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

Lighting fixtures within two hundred (200) feet of the north and east property lines (within the CSH zoned portion of the project) shall not exceed fifteen (15) feet in height. All other lighting on the site shall not exceed forty (40) feet in height.

Is hereby amended to read:

Lighting fixtures within the portion of the site lying north and east of the rear drive aisle and within two hundred (200) feet of the property boundary shall not exceed fifteen (15) feet in height in addition to ULDC requirements. (BLDG PERMIT: BLDG - Bldg)

3. Condition Q.3 of Resolution R-98-8, Control No. 1981-186, which currently states:

All outdoor lighting for the recreation field and fraternal clubs shall be extinguished no later than 10:00 p.m. All other outdoor lighting within the CSH zoned portion of the project shall be extinguished no later than 2:00 a.m. Security lighting only is excluded from this requirement.

Is hereby deleted. REASON: The CSH Zone is vacant and the recreation field is no longer proposed. Current ULDC requirements for Security Lighting and Time Restrictions are more restrictive.

PARKING

1. All uses shall utilize shared parking and circulation arrangements acceptable to the Planning, Zoning and Building Department. Shared parking and cross access agreements which are acceptable to the County Attorney shall be recorded in the public record prior to site plan certification. (ONING: ZONING-Zoning) (Previous Condition R.4 of Resolution R-98-8, Control No. 1981-186) [COMPLETED - ORB 6955, PG 1384]

2. Vehicle parking shall be limited to the parking areas designated on the approved site plan. No parking of vehicles shall be permitted in landscaped areas, right-of-way or interior drives. (ONING: ZONING-Zoning) (Previous Condition R.3 of Resolution R-98-8, Control No. 1981-186)

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: ZONING-Zoning) (Previous Condition R.6 of Resolution R-98-8, Control No. 1981-186)

PLANNED DEVELOPMENT

1. Prior to issuance of a building permit, the petitioner shall record a copy of a Restrictive Covenant in the public record indicating that all out-parcels, structures and uses within the PCD are part of a single unified planned development, regardless of ownership. This covenant shall not be removed, altered, changed or amended without written approval from the County and shall be in a form acceptable to the County Attorney. (Previous Condition U.1 of Resolution R-98-8, Control No. 1981-186) [COMPLETED - ORB 6955, PG 1384]

SIGNS

1. Condition T.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

Free standing signs fronting on Jog Road shall be limited as follows:

- a. Maximum sign height - twenty five (25) feet, measured from finished grade to highest point.
- b. Maximum pole height - ten (10) feet, measured from finished grade to lowest point of sign face.
- c. Maximum total sign face area - 666 square feet.
- d. Maximum number of signs - three (3).

Is hereby deleted. REASON: Previously approved signs are vested per Art. 1.F.5, Nonconforming Site Element, building permits, and corresponding required tags. All new

signs must comply with current ULDC requirements.

2. Condition T.1 of Resolution R-98-8, Control No. 1981-186, which currently states:

Free standing signs fronting on Lantana Road shall be limited as follows:

- a. Maximum sign height - twenty five (25) feet, measured from finished grade to highest point.
- b. Maximum pole height - ten (10) feet, measured from finished grade to lowest point of sign face.
- c. Maximum total sign face area - 664 square feet.
- d. Maximum number of signs - three (3).

Is hereby deleted. REASON: Previously approved signs are vested per Art. 1.F.5 Nonconforming Site Elements, building permits, and corresponding required tags. Any new sign must comply with current ULDC requirements.

3. Condition T.5 of Resolution R-98-8, Control No. 1981-186, which currently states:

All other signs shall comply with the Palm Beach County Sign Code Ordinance 72-23, and shall indicate principle use only. Specifically, no snipe signs, banners, balloons, off premise, or other prohibited type of advertisement shall be permitted on site.

Is hereby deleted. REASON: Previously approved signs are vested per Art. 1.F.5 Nonconforming Site Elements, building permits, and corresponding required tags. Any new sign must comply with current ULDC requirements.

4. Condition T.6 of Resolution R-98-8, Control No. 1981-186, which currently states:

If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign-related conditions of approval.

Is hereby deleted. REASON: Previously approved signs are vested per Art. 1.F.5 Nonconforming Site Elements, building permits, and corresponding required tags. Any new sign must comply with current ULDC requirements.

SITE DESIGN

1. Condition C.1 of Resolution R-98-8, Control No. 1981-186, which currently states:

The minimum setback for all structures adjacent to residential areas shall be twenty five (25) feet.

Is hereby deleted. REASON: Minimum setback from residential uses of 30 feet per ULDC Table 3.E.3.D is more restrictive.

2. Receptacles for the storage and disposal of trash, garbage or vegetation (i.e. dumpsters) shall not be located within seventy-five (75) feet of the north or east property lines. (DRO: ZONING-Zoning) (Previous Condition C.2 of Resolution R-98-8, Control No. 1981-186)

3. All areas or receptacles for the storage and disposal of trash, garbage or vegetation (dumpsters only) shall be screened by an enclosure constructed of brick, decorative concrete, other decorative masonry consistent with the architectural character of the development, or comparable wood or steel. The open end of the enclosure shall have an obscure opaque gate. All exterior sides, except the open end, shall be landscaped with thirty-six (36) inch high shrubs and hedges planted at two (2) foot intervals, or an alternative acceptable to the Zoning Director. This provision shall not apply to litter containers provided for the convenience of pedestrians. (DRO: ZONING-Zoning) (Previous Condition C.3 of Resolution R-98-8, Petition 1981-186)

4. Condition C.7 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate pedestrian access to the shopping center from the east. Access shall be provided through the shopping center at a convenient location. Pathways across paved vehicular use areas shall be striped and marked with an above grade sign. Sidewalks shall be installed within landscaped areas and adjacent to vehicular use areas where necessary. (DRO: ZONING-Zoning); and,

Condition C.13 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the petitioner shall amend the site plan to indicate: all phase lines; modification and improvement of the proposed pedestrian walkway path specifically delineated on the proposed site plan. The pedestrian walkway shall be a minimum of five (5) feet in width located adjacent to the south side of the food store, subject to Zoning and Engineering approval. (DRO: ZONING-Zoning) [Note: COMPLETED.]

Are hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Preliminary Site Plan dated February 14, 2011 shall be revised to delete the pedestrian access point from Lee's Crossing PUD pursuant to the release of the existing pedestrian easement created in ORB7197/PG1783. (DRO: ZONING - Zoning)

5. Proposed loading zones shall be screened with wing walls and mechanical equipment shall be roof-mounted and screened with solid barriers. (DRO: ZONING-Zoning) (Previous Condition C.10 of Resolution R-98-8, Control No. 1981-186)

6. Prior to site plan certification, the site plan shall be amended to reflect the location of shopping cart storage and retrieval areas within the parking areas adjacent to the shopping center. (DRO: ZONING-Zoning) (Previous Condition C.8 of Resolution R-98-8, Control No. 1981-186)

SOLID WASTE AUTHORITY

1. All property owners and/or lessee's shall participate in recycling programs when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (ONGOING: SWA-SWA) (Previous Condition S.1 of Resolution R-98-8, Control No. 1981-186)

USE LIMITATIONS-AUTO SERVICE STATION (NO REPAIR)

1. The convenience store shall be limited to a maximum of 750 square feet in total gross floor area. (ONGOING: ZONING-Zoning) (Previous Condition B.1 of Resolution R-98-8, Control No. 1981-186)

2. There shall be no repair or maintenance of vehicles on site. (ONGOING: ZONING-Zoning) (Previous Condition B.4 of Resolution R-98-8, Control No. 1981-186)

3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (ONGOING: ZONING-Zoning) (Previous Condition B.5 of Resolution R-98-8, Control No. 1981-186)

4. Prior to site plan certification, the site plan shall be amended to indicate facilities for the provision of air and water for minor vehicle maintenance. The owner of the service station facility shall provide air and water for minor vehicle maintenance to the public at no charge. (ONGOING: CODE ENF-Code Enf) (Previous Condition B.6 of Resolution R-98-8, Control No. 1981-186)

8. The car wash facility shall utilize a 100% water recycling system. (ONGOING: CODE ENF - Building) (Previous Condition B.8 of Resolution R-98-8, Petition 1981-186)

USE LIMITATIONS-DAY CARE CENTER

9. The day care center shall be limited to a maximum of 100 students and 5,000 square

feet of floor area. (ONGOING: ZONING-Zoning) (Previous Condition F.1 of Resolution R-98-8, Control No. 1981-186)

10. Day Care Center F.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate three (3) drop-off stalls in the adjacent parking area. Each stall shall be a minimum of twelve (12) feet in width by twenty (20) feet in length.

Is hereby deleted. REASON: Code requirement is now 5 drop-off spaces.

11. Day Care Center F.3 of Resolution R-98-8, Control No. 1981-186, which currently states:

Prior to site plan certification, the site plan shall be amended to indicate stripped cross walks between the day care facility and the parking area. All cross walks shall be marked with an above grade sign.

Is hereby deleted. REASON: No Longer Applicable.

12. The outdoor activity area shall have a minimum area of 7,500 square feet and shall be screened by a six (6) foot high wood fence. The exterior side of the fence shall be landscaped with twelve (12) foot tall high native canopy trees planted no more than thirty (30) feet on center and thirty-six (36) inch high shrubs or hedge material planted twenty-four (24) inches on center. (CO: ZONING-Landscaping) (Previous Condition F.4 of Resolution R-98-8, Control No. 1981-186)

13. One twelve (12) foot high native canopy tree per seven-hundred fifty (750) square feet of outdoor activity area shall be provided. All trees required by this condition shall be planted within the interior of the outdoor activity area and in compliance with HRS requirements. (CO: LANDSCAPE-Landscape) (Previous Condition F.5 of Resolution R-98-8, Control No. 1981-186)

USE LIMITATIONS-PORION OF THE SITE LYING NORTH AND EAST OF THE REAR DRIVE AISLE

14. Condition V.1 of Resolution R-98-8, Control No. 1981-186, which currently states:

No outdoor activities shall be allowed on the CSH zoned portion of the site, including deliveries and use of the baseball/activity area, prior to 6:00 a.m. nor continue later than 10:00 p.m.

Is hereby amended to read:

No outdoor activities shall be allowed on the portion of the site lying north and east of the rear drive aisle, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. (ONGOING: CODE ENF - Code Enf.)

15. Condition V.2 of Resolution R-98-8, Control No. 1981-186, which currently states:

No indoor activities shall be allowed within any structure in the CSH zoned portion of the site prior to 6:00 a.m. nor continue later than 1:00 a.m.

Is hereby deleted. REASON: Current Code is more restrictive.

USE LIMITATIONS

16. Condition V.3 of Resolution R-98-8, Control No. 1981-186, which currently states:

No outdoor loudspeaker system audible from the property lines shall be operated on the subject property between the hours of 8:00 p.m. and 8:00 a.m.

Is hereby deleted. REASON: Current Code regulates Maximum Sound Levels in specific decibels received on residential properties from all sound sources.

UTILITIES-IRRIGATION WATER USE

1. Condition I.1. of Resolution R-98-8, Control No. 1981-186, which currently states:

When irrigation quality water is available within five-hundred (500) feet of the property, the petitioner shall connect to the system. The cost for connection shall be borne by the property owner.

Is hereby deleted. REASON: No longer applicable.

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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 Unified Land Development Code (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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)