

RESOLUTION NO. R-2003-0322

RESOLUTION APPROVING ZONING PETITION Z2002-053
OFFICIAL ZONING MAP AMENDMENT (REZONING)
WITH A CONDITIONAL OVERLAY ZONE (COZ)
PETITION OF GIARDINA DI VILLA PALMA
BY GEORGE GENTILE, ASLA, AGENT
(VILLA PALMA PROFESSIONAL PARK)

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

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

WHEREAS, Zoning Petition 22002-053 was presented to the Board of County Commissioners at a public hearing conducted on February 27, 2003; and

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

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

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

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition Z2002-053, the petition of Giardina Di Villa Palma by George Gentile, ASLA, agent, for an Official Zoning Map Amendment rezoning from the Residential Medium Density to the General Commercial Zoning District with a CONDITIONAL OVERLAY ZONE on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on February 27, 2003, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) 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 McCarty and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on February 27, 2003.

Filed with the Clerk of the Board of County Commissioners on 31 day of March, 2003.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

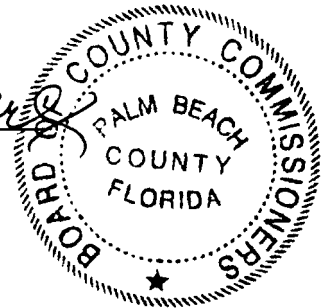


EXHIBIT A

LEGAL DESCRIPTION

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 42 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, PROCEED NORTH 88°33'46" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 658.30 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER; THENCE, NORTH 01'44'55" EAST, ALONG SAID LINE, A DISTANCE OF 35.68 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF NORTHLAKE BOULEVARD (WEST LAKE PARK ROAD) ALSO KNOWN AS STATE ROAD 809A ACCORDING TO THE STATE ROAD DEPARTMENT RIGHT-OF-WAY MAP, SECTION NO. 9368-150, DATED MARCH 31, 1952, AND THE POINT OF BEGINNING; THENCE, CONTINUE ALONG SAID EAST LINE OF THE WEST HALF, A DISTANCE OF 314.32 FEET TO A POINT 350.00 FEET NORTH OF, AS MEASURED AT RIGHT ANGLE TO SAID SOUTH LINE OF THE SOUTHWEST QUARTER; THENCE, SOUTH 88°33'46" EAST, PARALLEL WITH SAID SOUTH LINE, A DISTANCE OF 328.96 FEET TO A POINT ON THE EAST LINE OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SAID SOUTHWEST QUARTER; THENCE, SOUTH 01°45'06" WEST, ALONG SAID EAST LINE, A DISTANCE OF 300.01 FEET TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE OF NORTHLAKE BOULEVARD; SAID POINT BEING ALSO ON A CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 5779.65 FEET AND A RADIAL BEARING OF SOUTH 00°34'42" WEST; THENCE, WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°15'55", AN ARC DISTANCE OF 329.38 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 2.308 ACRES MORE OR LESS.

TOGETHER WITH:

AN INGRESS AND EGRESS EASEMENT 65.00 FEET IN WIDTH, LYING IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 42 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

SAID EASEMENT BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD 809A, ALSO KNOWN AS NORTHLAKE BOULEVARD; BOUNDED ON THE NORTH BY A LINE 196.26 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 13; BOUNDED ON THE EAST LINE OF THE WEST HALF OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 13; BOUNDED ON THE WEST BY A LINE 65 FEET WEST OF SAID EAST LINE. SAID EASEMENT CONTAINING 10591.2 SQUARE FEET MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

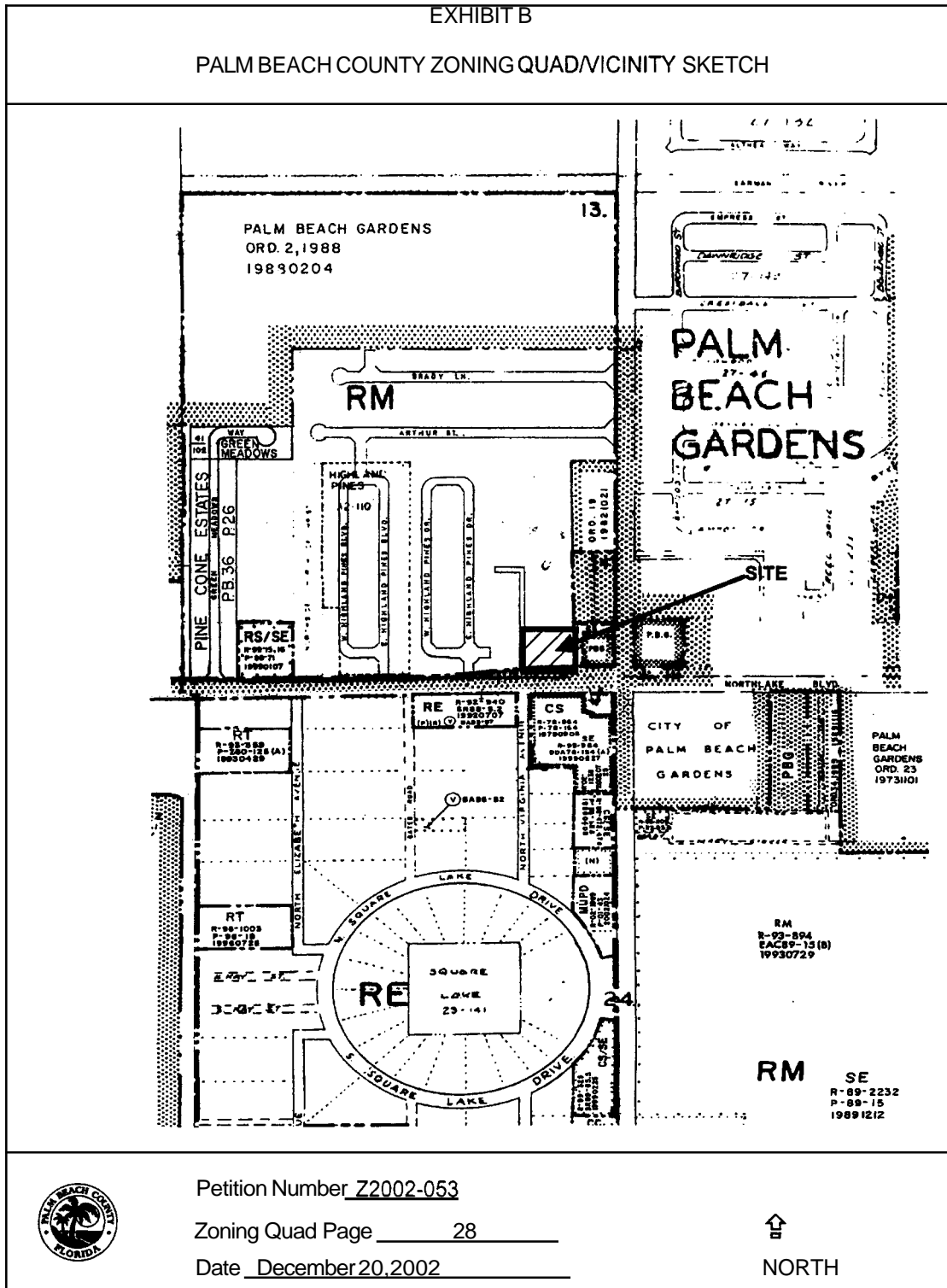


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. 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 November 15, 2002. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

B. ARCHITECTURAL REVIEW

1. At the time of submittal for final DRC certification of the site plan, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval. Development shall be consistent with the approved architectural elevations. (DRC: ZONING / BLDG PERMIT- Zoning)

C. ENVIRONMENTAL

1. All existing native vegetation depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM)

D. There is no Condition D.

E. ENGINEERING

1. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Northlake Boulevard at Villa Palma Lane. 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. (BLDG PERMIT: MONITORING- Eng)
2. The Property owner shall construct:
 - a. Right turn lane East Approach on Northlake Boulevard at Villa Palma Lane.
 - b. Extend the existing left turn/ U turn lane on Northlake Boulevard at the next median opening west of Villa Palma Lane to provide for a minimum 390 foot left turn lane east approach.
 - c. Villa Palma Lane.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

3. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)
4. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. No Building Permits for the site may be issued after December 31, 2004. 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 Section 5.8 of the Unified Land Development Code. (DATE: MONITORING - Eng)
5. LANDSCAPE WITHIN THE MEDIAN OF NORTHMKE BOULEVARD
 - a. The petitioner shall design, install and perpetually maintain the median landscaping within the Median of Northlake Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Exceptions for additional landscaping beyond OTIS require Board of County Commissioners approval. Sites with additional landscaping shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County.
 - 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 the petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner-installed landscaping, payment for the maintenance may be provided to the County. 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 petitioner. The Developer shall first be required to correct any deficiencies in the landscaping and irrigation. (BLDG PERMIT: MONITORING - Eng)
 - e. In the event that the County installs trees, irrigation, and sod under its OTIS program along this project's frontage prior to the petitioner installing this landscaping and irrigation, then the option for the petitioner to install and maintain shall no longer be available without Board of County commissioners approval, and the petitioner shall contribute to the County's beautification program, as outlined in the second part of this condition, as follows:
 - f. Alternately, at the option of the petitioner, prior to the issuance of a Building Permit, the petitioner shall make a contribution to the County's Only Trees, Irrigation and Sod (OTIS) unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares

shall be based on the project's front footage length along Northlake Boulevard. The payment shall be in the amount and manner that complies with the schedule for such payments, as it currently exists, or from time to time may be amended. (BLDG PERMIT: MONITORING - Eng)

6. Prior to the issuance of a building permit, the property owner shall record a subdivision plat in order to establish this subject parcel of land. The subject plat shall also include Villa Palma Lane as the access to the parcel. (BLDG PERMIT: MONITORING - Eng)

F. LANDSCAPING- STANDARD

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall be native canopy trees and meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: 3.5 inches measured at 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 3.5 feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval 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. (CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of a wall. (CO: LANDSCAPE - Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for perimeter canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
6. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (CO: LANDSCAPE - Zoning)

7. Prior to final DRC certification, the applicant shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRC: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF NORTHLAKE BOULEVARD)

1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum twenty (20) 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 measured from top of curb. Field adjustment of the berm location may be permitted to accommodate existing vegetation;
 - c. one (1) native canopy tree for each thirty (30) feet of the property line;
 - d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - f. one (1) medium shrub for each four (4) linear feet of the property line, Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING ALONG THE WEST PROPERTY LINE (FRONTAGE OF VILLA PALMA LANE)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. Width reduction shall be permitted in the area adjacent to an existing buffer pursuant to ULDC width reduction requirements;
 - b. one (1) native canopy tree for each thirty (30) feet of the property line;
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - f. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning)

I. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. Width reductions shall be permitted in the area adjacent to an existing buffer pursuant to ULDC width reduction requirements;

- b. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- d. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of sixty (60) inches at installation and shall be maintained at seventy-two (72) inches at maturity. (CO: LANDSCAPE - Zoning)

J. LANDSCAPING - INTERIOR

- 1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING - Zoning)
- 2. Foundation planting or grade level planters shall be provided along all sides of the building to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE - Zoning)

K. LIGHTING

- 1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)
- 2. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
- 3. All outdoor, freestanding lighting fixtures shall be setback fifteen (15) feet from the north property line. (CO: BLDG - Zoning)
- 4. All outdoor lighting shall be extinguished no later than 10:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)
- 5. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

L. PLANNING

- 1. Prior to final site plan certification by the Development Review Committee (DRC), the notation on the site plan showing a possible future cross access point to the parcel to the east of the site shall be amended to read "potential vehicular and pedestrian cross access to be paved to the property line". (DRC: PLANNING - Planning)

2. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record a cross access easement from the subject property to the parcel to the east in a form acceptable to the County Attorney. (DRC: COUNTY ATTY - Planning)
3. Prior to the issuance of a certificate of occupancy, the petitioner shall pave a vehicular and pedestrian cross access point to include shade trees to the edge of the eastern property line at the location shown on the final certified site plan that will read "potential vehicular and pedestrian cross access to be paved to the property line." (CO: MONITORING - Planning)

M. SIGNS

1. Freestanding point of purchase signs fronting on Northlake Boulevard shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. maximum sign face area per side – fifty (50) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only;
 - e. location – along the Northlake Boulevard frontage, within fifty (50) feet of the west property line; and,
 - f. Signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)
2. Wall signs shall be limited to the south facade of the building and individual lettering size shall be limited to thirty-six (36) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG - Zoning)

N. USE LIMITATIONS

1. Business activity shall not be allowed on the property, including deliveries, prior to 8:00 a.m. nor continue later than 9:00p.m. daily. (ONGOING: CODE ENF - Zoning)
2. The property shall be limited to Retail sales, general pursuant to ULDC Sec. 6.4.D.82.; Restaurant, specialty pursuant to ULDC Sec. 6.4.D.81; and Office, business or professional pursuant to ULDC Sec. 6.4.D.68. (ONGOING: CODE ENF - Zoning)
3. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
4. Repair or maintenance of vehicles shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
5. Outdoor retail business activities shall not be allowed on the property, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
6. Parking of delivery vehicles or trucks shall not be permitted on the property except within the designated loading space located on the east side of the property. (ONGOING: CODE ENF - Zoning)
7. The storage of rental trucks/trailers shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

O. COMPLIANCE

1. 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 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

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

2. 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)