

RESOLUTION NO. R-2005- 1051

RESOLUTION APPROVING ZONING APPLICATION DOA2004-657  
(CONTROL NUMBER 1999-035)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF DELRAY FUNERAL HOMES LTD, HERBERT KAHLERT  
BY LAND DESIGN SOUTH, INC. – JIM GIELDA, AGENT  
(WOOLBRIGHT & JOG 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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application DOA2004-657 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2005; and

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

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

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b 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 DOA2004-657, the petition of Delray Funeral Homes Ltd, Herbert Kahlert, by Land Design South, Inc. – Jim Gielda, agent, for a Development Order Amendment to reconfigure the site plan and add square footage for a Multiple Use Planned Development 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 May 26, 2005, 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 KOONS and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	- AYE
Addie L. Greene, Vice Chairperson	- AYE
Karen T. Marcus	- AYE
Jeff Koons	- AYE
Warren H. Newell	- ABSENT
Mary McCarty	- ABSENT
Burt Aaronson	- AYE

The Chairman thereupon declared that the resolution was duly passed and adopted on May 26, 2005.

Filed with the Clerk of the Board of County Commissioners on 22nd day of JUNE, 2005.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:   
COUNTY ATTORNEY

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK



EXHIBIT A

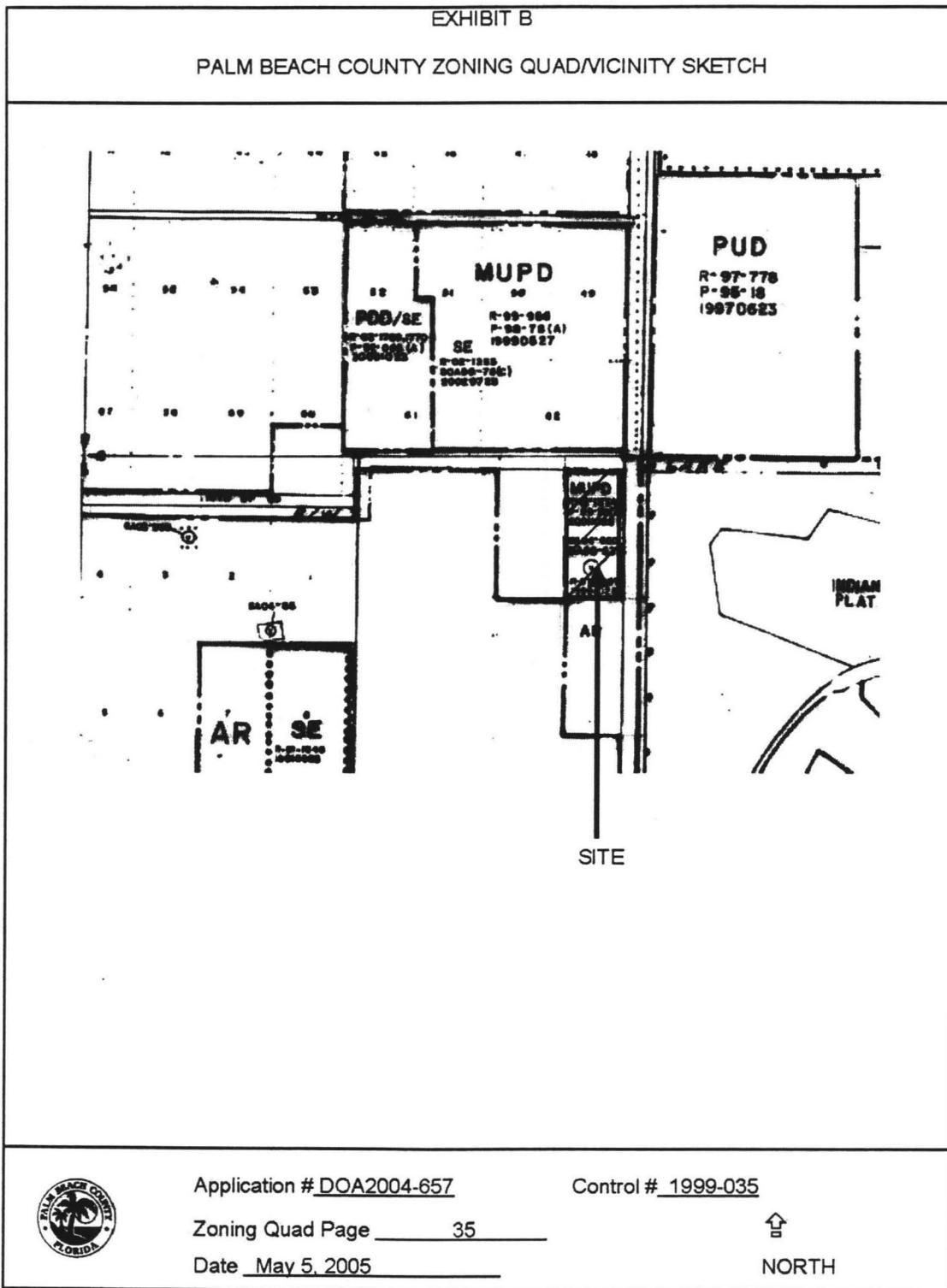
LEGAL DESCRIPTION

BEING A PORTION OF THE EAST ONE-HALF (E 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 34, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34; THENCE NORTH 89°25'00" WEST ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34, A DISTANCE OF 86.01 FEET TO THE POINT OF BEGINNING SAID POINT BEING ON THE WEST RIGHT OF WAY LINE OF WOOLBRIGHT ROAD ACCORDING TO OFFICIAL RECORD BOOK 10468, PAGE 1908, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE THE FOLLOWING SEVEN (7) COURSES ALONG THE WEST LINE OF SAID WOOLBRIGHT ROAD, (1) SOUTH 00°07'15" EAST, 1.12 FEET; (2) SOUTH 00°12'34" EAST, 27.47 FEET; (3) SOUTH 49°49'27" WEST, 52.19 FEET; (4) SOUTH 89°49'27" WEST, 5.77 FEET; (5) SOUTH 01°39'43" EAST, 140.05 FEET; (6) NORTH 89°49'27" EAST, 10.64 FEET; (7) SOUTH 40°12'34" EAST, 52.24 FEET TO THE WEST RIGHT OF WAY LINE OF JOG ROAD ACCORDING TO OFFICIAL RECORD BOOK 7542, PAGE 1212, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 00°12'34" EAST ALONG THE WEST RIGHT OF WAY LINE OF SAID JOG ROAD, 287.83 FEET; THENCE SOUTH 01°07'34" EAST ALONG THE WEST RIGHT OF WAY LINE OF SAID JOG ROAD, 135.54 FEET TO THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34, SAME BEING THE EASTERLY EXTENSION OF THE MOST SOUTHERLY NORTH LINE OF TRACT "P", VALENCIA ISLES-PLAT ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 84, PAGES 3-17, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°37'40" WEST ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34 AND THE EASTERLY EXTENSION OF THE MOST SOUTHERLY NORTH LINE OF SAID TRACT "P", 252.91 FEET TO THE MOST SOUTHERLY NORTH-EAST CORNER OF SAID TRACT "P"; THENCE NORTH 00°11'57" WEST ALONG THE WEST LINE OF THE EAST ONE-HALF (E 1/2) OF THE NORTHEAST ONE-QUARTER (NE 1/4) OF THE NORTH-EAST ONE-QUARTER (NE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34, SAME BEING THE NORTHERLY EXTENSION OF MOST EASTERLY EAST LINE OF SAID TRACT "P", 666.36 FEET TO THE NORTH LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 34; THENCE SOUTH 89°25'00" EAST ALONG THE NORTH LINE OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 34, A DISTANCE OF 248.63 FEET TO THE POINT OF BEGINNING; SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA,

CONTAINING 3.654 ACRES  
(159,159.59 SQUARE FEET) MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



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Control # 1999-035  
  
 NORTH

## EXHIBIT C

### CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

#### ALL PETITIONS

1. Condition A.1 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**All previous conditions of approval applicable to the subject property, as contained in Resolution R-99-1614 (Petition 99-035), 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 Resolutions R-2001-1854 (Petition 1999-035(A)) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING – Zoning)

2. Condition A.2 of Resolution R-2001-1854 of Petition 1999-035(A), 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 15, 2001. 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:

Development of the property is limited to the uses and site design approved by the Board of County Commissioners. The approved site plan is dated February 28, 2005. 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. (DRO: ZONING – Zoning)

#### ARCHITECTURAL REVIEW

1. **The maximum height for the funeral home, including air conditioning, mechanical equipment, satellite dishes, and rooftop equipment screening shall not exceed forty-one (41) feet. All heights shall be measured from finished grade to highest point. (DRO/BLDG PERMIT: ZONING/BLDG – Zoning) (Previous Condition C.3 of Resolution R-2001-1854 of Petition 1999-035(A))**
2. Condition C.4 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**The maximum height for the bank, including air conditioning, mechanical equipment, satellite dishes, and rooftop equipment**

**screening shall not exceed thirty-five (35) feet. All heights shall be measured from finished grade to highest point. (DRC/BLDG PERMIT: ZONING/BLDG)**

Is hereby amended to read:

The maximum height for the restaurant, including air conditioning, mechanical equipment, satellite dishes, and rooftop equipment screening shall not exceed thirty-five (35) feet. All heights shall be measured from finished grade to highest point. (DRO/BLDG PERMIT: DRO/BLDG – Zoning)

3. **The proposed funeral home shall be designed and constructed to be generally consistent with the facade elevations by LCA Architecture, Inc dated September 22, 2001. Deviations from these elevations may be permitted to comply with applicable architectural conditions of approval. (BLDG PERMIT: BLDG – Zoning) (Previous Condition C.1 of Resolution R-2001-1854 of Petition 1999-035(A))**
4. Condition C.2 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Prior to final DRC certification of the site plan, exterior elevations for buildings within the MUPD shall be revised and approved by the Architectural Review Section of the Zoning Division to include the following:**

- a. **All roof top mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure; and**
- b. **Similar architectural character and treatment shall be provided on all sides of the buildings. (DRC/BLDG PERMIT: ZONING)**

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), exterior elevations for restaurant building within the MUPD shall be revised and approved by the Architectural Review Section of the Zoning Division to include the following:

- a. All roof top mechanical and electrical equipment, including satellite dishes, shall be screened from view on all sides by the parapet or roof treatment, consistent with the color, character and architectural style of the principal structure; and,
- b. similar architectural character and treatment shall be provided on all sides of the buildings. (DRO/BLDG PERMIT: DRO/BLDG – Zoning)

## ENGINEERING

1. **Prior to January 15, 2001, or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Woolbright Road 140 feet as shown on the current site plan feet south of the existing south right of way line of the LWDD L26 Canal, along the project's entire frontage, free of all encumbrances and encroachments. 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. Right-of-way conveyances shall**

**also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING – Eng) [COMPLETED] (Previous Condition E.1 of Resolution R-2001-1854 of Petition 1999-035(A))**

2. **Prior to January 15, 2001, or prior to the issuance of a building permit whichever shall first occur the property owner shall convey a temporary roadway construction easement along Woolbright Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (DATE/BLDG PERMIT: MONITORING – Eng) [COMPLETED] (Previous Condition E.2 of Resolution R-2001-1854 of Petition 1999-035(A))**
3. **LANDSCAPING – MEDIAN CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF JOG ROAD**
  - a. **Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide for landscape cutouts within the concrete median of Jog Road Right-of-Way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way Concrete Median Cutout; Landscape and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks or similar materials are permitted by the County Engineer, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING – Eng) [COMPLETED] (Previous Condition E.3.a of Resolution R-2001-1854 of Petition 1999-035(A))**
  - b. **All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material, and paver block or similar materials shall be funded at the property owners expense. All landscape material, and paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and irrigation to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING – Eng) [COMPLETED] (Previous Condition E.3.b of Resolution R-2001-1854 of Petition 1999-035(A))**
  - c. **Property Owners Documents or other restrictive covenant documents, evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDG PERMIT: MONITORING – Eng) [COMPLETED] (Previous Condition E.3.c of Resolution R-2001-1854 of Petition 1999-035(A))**

4. **Concurrent with the issuance of a driveway permit onto Woolbright Road, Woolbright Road shall be constructed from the projects entrance to Jog Road. (ENG) [COMPLETED] (Previous Condition E.5 of Resolution R-2001-1854 of Petition 1999-035(A))**
5. **Prior to DRC approval the property owner shall record one cross access easement to the property owner to the west, and one cross access easement to the property owner to the south in accordance with the County Attorney's approval. Location and width of these access easements shall be approved by the County Engineer. (DRC APPROVAL – Eng) [COMPLETED] (Previous Condition E.4 of Resolution R-2001-1854 of Petition 1999-035(A))**

#### ENVIRONMENTAL

1. Excavation of a mined lake (water management tract) shall not be constructed within Zone 1 or 300 feet of a proposed or existing potable water supply. Separations shall be measured from the top of bank. No exfiltration trench is permitted in Wellfield Protection Zones 1 or 2. Regulated substances are prohibited in a Wellfield Zone 1. (ONGOING: ERM – ERM)

#### HEALTH

1. Owners or 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)
2. **Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: CODE ENF – Health) (Previous Condition D.1 of Resolution R-2001-1854 of Petition 1999-035(A))**
3. **Any toxic or hazardous waste, which may be generated at this site shall be properly handled and disposed of in accordance with Rule 62-730FAC. (ONGOING: CODE ENF – Health) (Previous Condition D.2 of Resolution R-2001-1854 of Petition 1999-035(A))**

#### PLANNING

1. Condition H.1 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Prior to final site plan approval by the Development Review Committee, the Planning Division shall ensure that this site plan conforms with the plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the site plan date stamped August 15, 2001 (Rec.# 42 and 47). In addition, the indication of pedestrian/vehicular cross access easements to the adjacent south and western parcels shall remain on the site plan. (DRC: PLANNING)**

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be prepared in conformance with the plan presented to the

BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the certified site plan dated February 28, 2005, (Rec.# 42 and 47). In addition, the indication of pedestrian/vehicular cross access easements to the adjacent south and western parcels shall remain on the site plan. (DRO: PLANNING – Planning)

2. Condition H.2 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Prior to final master plan certification by the Development Review Committee (DRC), in order to comply with Recommendations 42 and 47 from the West Boynton Area Community Plan, the applicant shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation along Woolbright Road and Jog Road and along the internal pathways/sidewalks shown on the site plan which includes the pathways that front the funeral home and bank buildings. Palm trees shall be excluded. (DRC: PLANNING)**

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), in order to comply with Recommendations 42 and 47 from the West Boynton Area Community Plan, the property owner shall provide street cross-section details depicting landscaped and shaded sidewalks for pedestrian and bicycle circulation along Woolbright Road and Jog Road and along the internal pathways/sidewalks shown on the site plan which includes the pathways that front the funeral home and bank buildings. Palm trees shall be excluded. (DRO: PLANNING – Planning)

3. Condition H.3 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Prior to the issuance of the certificate of occupancy, the petitioner shall pave the property to the edge of the western and southern property lines at the locations shown on the site plan labeled “future cross-access to adjacent parcel” and stub road pavement to extend to property line.” (CO: MONITORING-BUILDING-Planning)**

Is hereby amended to read:

Prior to the issuance of a certificate of completion (CC) or certificate of occupancy (CO), the property owner shall pave the property to the edge of the western and southern property lines at the locations shown on the site plan labeled “future cross-access to adjacent parcel” and accessible pedestrian connection.” (CC/CO: MONITORING – Planning)

## SIGNS

1. Condition I.1 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Freestanding sign fronting on Jog Road shall be limited as follows:**

- a. **Maximum sign height six (6) feet measured from the finished grade at the base of the sign with a two (2) foot hedge for four (4) feet of sign exposure;**
- b. **Maximum single face area per side - sixty (60) square feet;**
- c. **Maximum number of signs - one (1);**
- d. **Location - to be located on two foot berm;**
- e. **Monument style only. (CO: BLDG)**

Is hereby amended to read:

Freestanding signs fronting on Jog 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 - two (2);
- d. style - monument style only;
- e. location - to be located on the two foot berm as indicated on the site plan dated February 28, 2005; and,
- f. signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG – Zoning)

2. **Freestanding sign fronting on Woolbright Road at entrance to financial institution shall be limited as follows:**

- a. **Maximum sign height- six (6) feet; measured from the finished grade at base of sign with a two (2) foot hedge for four (4) feet of sign exposure**
- b. **Maximum single face area per side - sixty (60) square feet;**
- c. **Maximum number of signs - one (1);**
- d. **Location - to be located on two foot berm;**
- e. **Monument style only.** (BLDG PERMIT: BLDG – Zoning) (Previous Condition I.2 of Resolution R-2001-1854 of Petition 1999-035(A))

3. Condition I.3 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Wall signs shall be limited to the north and east facades of the buildings.** (CO: BLDG)

Is hereby amended to read:

Wall signs shall be limited to north and east facades of the building and individual lettering size shall be limited to twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (BLDG PERMIT: BLDG – Zoning)

4. All signage proposed for phase II shall be designed and constructed in accordance with Section 5 "Signage Guidelines" of the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual dated March 10, 2003. (DRO: DRO – Planning)

USE LIMITATIONS

1. **No cremation shall be permitted on site.** (ONGOING: CODE ENF – Zoning) (Previous Condition J.1 of Resolution R-2001-1854 of Petition 1999-035(A))
2. Hours of operation for the restaurant shall be limited to 4:00pm to 11:00pm seven (7) days a week. (ONGOING: CODE ENF – Zoning)
3. Hours of operation for the funeral home shall be limited to the following:
  - a. Sunday through Friday - 9:00 am to 5:00 pm; and,
  - b. no operation allowed on Saturday. (ONGOING: CODE ENF – Zoning)

## 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 property owner shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: UTILITIES – Utilities)

## ZONING      LANDSCAPE STANDARD

1. Fifty (50) 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: ZONING – Landscape)
2. All palms required to be planted on the property 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. (BLDG PERMIT: ZONING – Landscape)
3. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility, existing vegetation or drainage easements crossings. (CO: ZONING – Landscape)
4. Prior to the issuance of a certificate of completion (CO) or certificate of occupancy (CO) for the restaurant, the property owner shall replace all dead, missing plant materials on the entire subject property. (CC/CO: LANDSCAPE – Zoning)
5. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: ZONING – Landscape)
6. Berm height shall be measured from the nearest top of the curb, the crown of the road, or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustment may be permitted subject to the approval by the Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: ZONING – Landscape)
7. New landscaping to be installed with phase II with the exception of median landscaping, shall be designed and installed in accordance with Section 2-Boynton Beach Boulevard Buffers/Streetscape and Median” and Section 3 “Landscaping Guidelines” of the Boynton Beach Turnpike Interchange Corridor Design Guidelines and Standards Manual dated March 10, 2003. (BLDG PERMIT: PLANNING – Landscape)

## ZONING      LANDSCAPING - INTERIOR

1. Condition F.1 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**Foundation planter strip shall be provided along the facades of all structures. The minimum width of the required foundation planter strip shall be five (5) feet. The length of the required foundation planter strip shall be no less than 40% of the each facade of the structure. All required foundation planter strips shall be planted with a minimum of one (1) tree or palm every 20 feet and appropriate ground cover. (DRC/CO: ZONING /LANDSCAPE)**

Is hereby deleted. [REASON: Code requirement.]

ZONING      LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES  
(WOOLBRIGHT AND JOG ROADS)

1.      **Landscaping and buffering along the north property line shall include:**
  - a.      **a minimum twenty (20) foot wide buffer strip;**
  - b.      **one (1) canopy tree per thirty (30) linear feet on center ;**
  - c.      **a minimum two to three foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb; and**
  - d.      **twenty-four (24) inch high hedge or shrub material spaced no more than twenty-four (24) inches on center at time of installation, to be maintained at a height of thirty-six (36) inches. (BLDG PERMIT: LANDSCAPE – Zoning) (Previous Condition G.2 of Resolution R-2001-1854 of Petition 1999-035(A))**

ZONING      LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES  
(WOOLBRIGHT AND JOG RAODS)

1.      **Landscaping and buffering along the east property line shall include:**
  - a.      **a minimum twenty-five (25) foot wide buffer strip;**
  - b.      **one canopy tree per thirty (30) linear feet on center;**
  - c.      **a minimum two to three foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb; and**
  - d.      **twenty-four (24) inch high hedge or shrub material than twenty-four (24) inches on center at time of installation, to be maintained at a height of thirty-six (36) inches. (BLDG PERMIT: LANDSCAPE – Zoning) (Previous Condition G.1 of Resolution R-2001-1854 of Petition 1999-035(A))**

COMPLIANCE

1.      Condition K.1 of Resolution R-2001-1854 of Petition 1999-035(A), which currently states:

**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)**

Is hereby amended to read:

In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and

as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING – Zoning)

2. Condition K.2 of Resolution R-2001-1854 of Petition 1999-035(A), 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 Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.**

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

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.

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)