

RESOLUTION NO. R-94- 1315

RESOLUTION APPROVING ZONING PETITION **PDD94-24**
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF WILLIAM GUNDLACH, JR., ABSOLUTE, INC.

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 Land Development Code (Ordinance **92-20**), have been satisfied; and

WHEREAS, Zoning Petition **PDD94-24** was presented to the Board of County Commissioners at a public hearing conducted on September 29, 1994; 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 Land Development Code;
3. This official zoning **map** amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County 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) 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) 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 Land Development Code, Ordinance 92-20; 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 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 PDD94-24, the petition of William Gundlach, Jr., for an OFFICIAL ZONING NAP AMENDMENT (REZONING) from the Agricultural Residential (AR) ZONING DISTRICT to the Planned Unit Development (PUD) ZONING DISTRICT, 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 September 29, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 29th day of September, 1994.

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

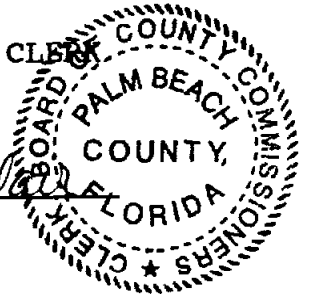


EXHIBIT A

LEGAL DESCRIPTION

Description for:
INDIAN HILLS CITRUS GROVE

LEGAL DESCRIPTION:

Tracts 49 to 54 inclusive and Tracts 75 to 80 inclusive, Block **49, The Palm Beach Farms Co. Plat No. 3**, according to the **plat** thereof recorded in Plat Book 2, Pages 45 to 54 of the Public Records of Palm Beach County, Florida.

LESS and EXCEPT the North 40 feet and the West 25 feet thereof.

Together with:

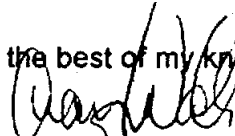
A portion of Tracts 81 to 86 inclusive and Tracts 107 to 109 inclusive, Block 49 and a portion of the 30 foot wide platted road right of way, **The Palm Beach Farms Plat No. 3**, according to the plat thereof recorded in Plat Book 2, Pages 45 to 54 of the Public Records of Palm Beach County, Florida, being more particularly described as follows:

Begin at the Southeast corner of Tract 75, Block 49, The Palm Beach Farms Company Plat No. 3; thence South 0° 56' 17" East along the Southerly prolongation of **the East** line of said Tract 75 and the East lines of Tracts 86 and 107 (the East line of said Tract 75 is assumed to bear South 0° 56' 17" East and all other bearings are relative thereto) a distance of 1255.17 feet to a point on the North right of way line of Boynton West Road (S.R. 804) according to the Florida Department of Transportation Right of **Way** Map Section No. **97930-2301**, dated November 29, 1988; thence South 89° 03' 17" West, along said right of way line, a distance of 394.46 feet to a point; thence North 0° 56' 43" West a distance of 200.00 feet to **a point**; thence radially North 89° 03' 17" East a distance of 20.00 feet to a point on a nontangent curve, concave to the West, having a radius of 240.00 feet and a **central** angle of 50° 31' 01"; thence Northerly along the arc of said curve a distance of 211.61 feet to a point; thence North **51° 27' 44"** West a distance of 452.93 feet to the beginning of a curve concave to the East having a radius of 490.00 feet and a central angle of 43° 45' 31"; thence Northerly along the arc of said curve a distance of 374.23 feet to a point; thence South 89° 03' 17" West a distance of 968.41 feet to a point on a line 25.00 feet East of and parallel with the West line of said Tract 81; thence North 0° 56' 17" West along said parallel line a distance of 261.54 feet to a point in the North line of said 30 foot wide platted road right of way; thence North 89° 03' **30"** East along said North right of way line a distance of 1955.00 feet to the Point of Beginning.

Containing in all 83.7334 acres, more or less.

I hereby certify the above description is accurate to ~~the best of my knowledge and belief.~~

Dated: 4/19/94



Craig L. Wallace
Professional Land Surveyor
Florida Certificate No. 3357

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EXHIBIT B
VICINITY SKETCH

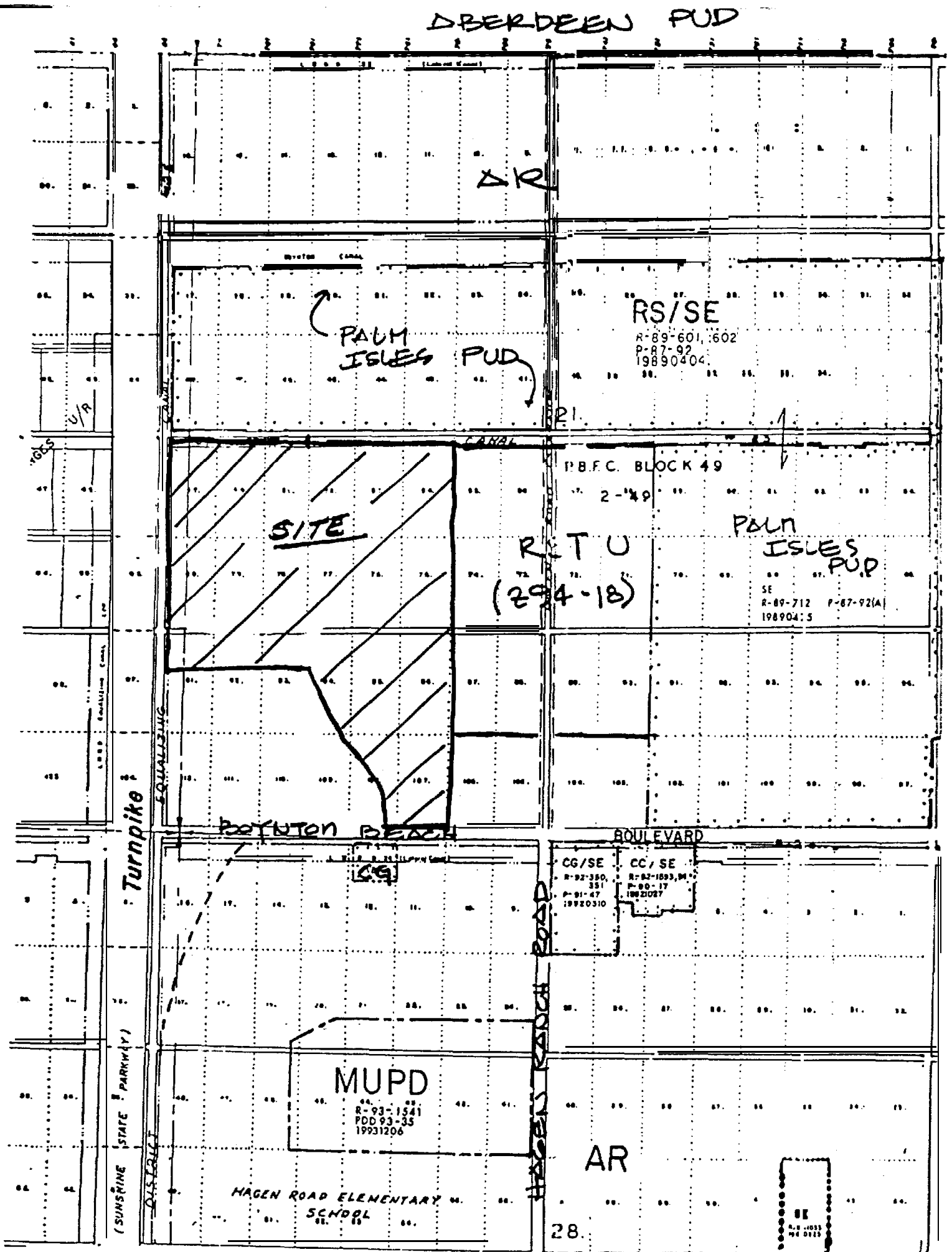


EXHIBIT C

CONDITIONS OF APPROVAL

A. SITE DESIGN

1. Internal median landscaping, subject to permitting by the County Engineer, shall be provided within all internal right-of-ways with medians. Median landscaping shall, at a minimum, include:
 - a. One tree for every thirty (30) feet of median;
 - b. One (1) shrub for every one hundred fifty (150) square feet or one ground cover for every seventy-five (75) feet of median area;
 - c. Lawn area planted by sod; and,
 - a. Detailed median landscaping plans shall be submitted, installed and maintained pursuant to the standards set forth in Article 6.8.23d(2)(a) of the Palm Beach County Unified Land Development Code. (ENGINEERING/BUILDING)
2. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC. (ZONING/ENGINEERING)
3. Street trees shall be planted pursuant to Section 6.8.A.23.d(3) of the ULDC. (ENGINEERING - Building)
4. All utilities shall be underground pursuant to Article 6.8.23.d(5) of the Palm Beach County Unified Land Development Code. (ENGINEERING/BUILDING)

B. LIGHTING

1. Street lights a maximum of twenty-five (25) feet in height shall be installed along all platted access tracts, easements, and privately dedicated right-of-ways. Light fixtures shall be directed away from residences. (Building/ Zoning • Engineering)

C. LANDSCAPING - GENERAL

1. All trees required to be planted on site, except residential lots, by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.0 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BUILDING/ZONING)

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, PAC., and Palm Beach County ECR-I. (HEALTH)

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

E. ENGINEERING

1. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project presently at the time of the Building Permit is \$1650 per approved single family dwelling unit (10 trips X \$165.00 per trip); and \$1155 per approved multi family dwelling unit (7 trips X \$165.00 per trip) (IMPACT FEE COORDINATOR).
2. a. The Property owner shall lengthen the existing northbound left turn lane on El Clair Ranch Road at Boynton Beach Boulevard. Length of this turn lane shall be a minimum of 390 feet in length. Construction of this turn lane shall begin prior to the issuance of Building Permits for more than 48 dwelling units 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. (ENGINEERING - Engineering).
- b. Acceptable surety for this construction shall be posted with the office of the County Engineer prior to March 1, 1995 based upon 110% of a certified cost estimate by the developers engineer. No time extensions may be granted by staff for posting of this surety, as this condition is required in order to meet Mandatory Traffic Performance Standards. (MONITORING/ENGINEERING - Engineering).
3. a. The Property owner shall construct a second eastbound left turn lane on Boynton Beach Boulevard at Jog Road. Length of this turn lane shall be a minimum of 175 feet in length. Construction of this turn lane shall begin prior to the issuance of Building Permits for more than 343 single family dwelling units and 78 multi family dwelling units for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not limited to, utility relocations and acquisition of any additional required right-of-way. (ENGINEERING - Engineering).
- b. Acceptable surety for this construction shall be posted with the office of the County Engineer prior to March 1, 1995 based upon 110% of a certified cost estimate by the developers engineer. No time extensions may be granted by staff for posting of this surety, as this condition is required in order to meet Mandatory Traffic Performance Standards. (MONITORING/ENGINEERING - Engineering).

4. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:

- a. Building Permits for no more than 205 single family and 62 multi family housing units shall be **issued** until the contract for construction of Jog Road as a 4 lane median divided section from Boynton Beach Boulevard to Le Chalet Boulevard has been let.

The mix of the proposed single family and multi family dwelling units may be adjusted by the County Engineer if an approved traffic study is submitted which **demonstrates** compliance with the Mandatory Traffic Performance Standards. (ENGINEERING - Engineering).

5. Concurrent with the submittal of the first plat the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way to provide for the **construction** of a right turn lane on Boynton Beach Boulevard at the project's entrance road. This right-of-way shall be a minimum of 150 feet in storage length, twelve feet in width and a taper length of 180 feet. 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 **"Safe Sight Corners"** where appropriate at intersections as determined by the County Engineer (ENGINEERING - Engineering).

6. Prior to certification of the master plan the property owner shall grant an access easement to the not included property in the northeast corner of Boynton Beach Boulevard and Florida Turnpike. The master plan shall also be amended to reflect this condition. (ENGINEERING - County Attorney)

7. The Property owner shall construct on Boynton Beach Boulevard at the project's entrance road:

- a) Dual left turn lanes north approach
- b) Left turn lane west approach
- c) Right turn lane east approach
- d) If required by the County Engineer, a right turn lane north approach.

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 **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. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).

8. Design of the proposed rotary as shown on the Master Plan shall be approved the County Engineer prior to certification of master plan. (ENGINEERING - Engineering)

9. The Developer shall modify the existing **signalization**, as warranted as determined by the County Engineer and the Florida Department of Transportation at Boynton Beach Boulevard and the project's entrance road (Florida Turnpike Entrance). (ENGINEERING - Building).

10. LANDSCAPE WITHIN MEDIAN

A. Prior to recordation of the first **plat**, the petitioner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a **minimum** of one (1) fourteen (14) foot tall native tree for each thirty (30) linear feet of the adjacent **median** to be planted and appropriate ground cover. **Trees** may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

Trees:

Laurel Oak
Live Oak
Slash Pine
Sabal Palmetto

Ground cover:

Wedilia
Bahia Grass

Alternative species may be allowed subject to approval by the County Engineer. All **plant** material shall be installed and selected **according** to xeriscape principles and shall conform with the following:

- 1) All plants shall be container grown or **field** collected and transplanted from the **project** site.
- 2) All plantings shall be done in accordance with detailed planting plans and specification;; to be submitted and approved by the **County** Engineer concurrent with Site **Plan** certification. (BUILDING/ENGINEERING)

11. All required median landscaping, including **watering**, shall be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property **Owner's** Association and/or Homeowners's Association, and shall be **installed** concurrent with the improvements for the first **plat**. (ENGINEERING - Engineering)

12. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat, to reflect **this** obligation. Maintenance shall be in accordance with the issued permits (BUILDING/ENGINEERING - **County Attorney**)

13. The property owner shall convey to the Lake Worth Drainage District the North **55'** of Tracts 49 to 54, **Block** 49, PALM BEACH FARMS CO. **PLAT** NO. 3, for the **right-of-way** for Lateral Canal No. 23 by Quit Claim Deed or an Easement Deed in the form provided by said District, at the time of recording of the first plat. (ENGINEERING-LWDD)

14. **The property owner shall convey to the Lake Worth drainage District the West 55' of Tracts 49, 80 and 91, Block 49, PALM BEACH FARMS CO. PLAT NO. 3 for the right-of-Way for Equalizing Canal No. 2E (E-2-E) by Quit Claim Deed or an Easement Deed in the form provided by said District, at the time of recording of the first plat. (ENGINEERING-LWDD)**

F. WATER UTILITIES

1. a. The developer shall identify on the master plan prior to approval by the Development Review Committee one raw water well site and all appropriate easements per TAP-O District Ordinance. (WATER UTILITIES - Water Utilities)
- b. Dedication of the well site shall be identified on the Plat of Record for the site. (WATER UTILITIES/ENGINEERING - Engineering)

G. RECYCLE SOLID WASTE

1. All property owners shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

H. PREM

1. Convey by Statutory Warranty Deed to the Palm Beach County Board of County Commissioners 2% of the gross area of the Planned Unit Development (2.07 acres) and shall have satisfied each of the following conditions prior to deed conveyance: (PREM)
2. Developer to provide Palm Beach County Board of County Commissioners with a Warranty Deed for the Civic site, in a location and form acceptable to Facilities, Planning, Design & Construction Department (FPD&C) and the County Attorney's office. Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed. (Monitoring/PREM)
3. Developer to provide a title policy insuring marketable title to Palm Beach County for the Civic site. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed Civic site. The appraisal to be obtained by the Developer. The County to have the option, at their discretion to release all or part of the Declarations of Covenants and Conditions of the P.U.D. as it would apply to the Civic site. (PREM)
4. All ad valorem real estate taxes and assessments for the year of closing shall be pro-rated to the day of plat recording for the Civic site; acceptance date to be determined by PREM and the County Attorney's Office after receiving Board approval. (PREM)
5. Developer to provide the County with a certified survey of the proposed Civic site; survey to reflect the boundary and topographical areas of the site. Surveyor to use the following criteria:
 - a. The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH. 6.
 - b. If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.

- C. The survey should include location of any proposed water retention areas that will border the Civic site.

Survey is also subject to the County's approval of the location of any proposed or existing easements within the proposed Civic site. (PREM)

6. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed. (PREM)
7. Developer shall provide all retention, detention and drainage required for any future development of the proposed Civic site by the County. The Developer agrees to:
 - a. The discharge of surface water from the Civic site into the Developer's water retention basins.
 - b. An easement across Developer's property from the proposed Civic site to the retention basins, if required. (PREM)
8. By acceptance of these conditions developer agree;; to allow the County to perform any on site inspections deemed appropriate to support the acquisition of the Civic Site. (PREM)
9. The Petitioner shall provide PREM with an Environmental Assessment of the proposed Civic site. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the following:

 - a. Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed Civic site.
 - b. Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination, if any, of the proposed Civic Site. Also, the review of the neighboring property that borders the proposed Civic Site. Records to review but not limited to are: Palm Beach County Environmental Resources Management Department. (PBCERM) and the Florida Department of Environmental Regulation (FDER). The assessment to reflect if the proposed Civic Site or any bordering property is on any of the following lists: EPA's National Priorities List (NPL), Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA), Hazardous Waste Data Management System List (HWDMS).
 - c. Review of current and historical aerial photographs of the proposed Civic site. Provide a recent aerial showing site and surrounding properties.
 - d. Perform on-site survey to describe site conditions and to identify potential areas of contamination.
 - e. Review of Wellfield Protection Zone maps to determine if property is located in a wellfield zone. (Monitoring/PREM)
10. Developer to prepare civic site to buildable grade, under the direction of Facilities, Planning & Design Department. (PREM)
11. Developer to provide water and sewer stubbed out to the property line. (PREM)

12. At the County's option, exchange the required **on-site** dedication of land (by fee simple title) for cash of equal value or land off-site equal in acreage. In addition, should the off-site land option be chosen each condition listed in (1-11) above will also apply, and should the land off-site be of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent to Zoning Code Section 500.21.H. or ULDC article 6.8-B6a(2)(a)(i). (PREM)

I. COMPLIANCE

1. Failure to comply with any of these conditions of approval at any time may result in:
 - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - c. A requirement of the development to conform with updated standards of development, applicable 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;
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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