

RESOLUTION NO. R-97- 2

RESOLUTION APPROVING ZONING PETITION PDD96-74
OFFICIAL ZONING *MAP* AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF OLEN DEVELOPMENT CORP.
BY CHARLES MILLAR, AGENT
(GATEWAY PUD)

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 PDD96-74 was presented to the Board of County Commissioners at a public hearing conducted on December 2, 1996; 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) 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) 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 Unified 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 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 PDD96-74, ~~the~~ petition of Olen Development Corp. by Charles Millar, agent, for an Official Zoning Map **Amendment from the Residential Single Family (RS) to Residential 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~~ December 2, 1996, subject to the conditions of approval described in **EXHIBIT C**, attached hereto **and** made a part hereof.

Commissioner Newell 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 1997.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Altman*
COUNTY ATTORNEY

BY: *Joan Haverly*
DEPUTY CLERK

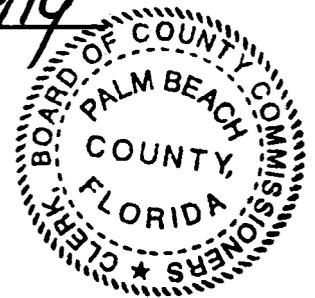


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTH ONE-HALF (S.1/2) OF SECTION 18, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS :

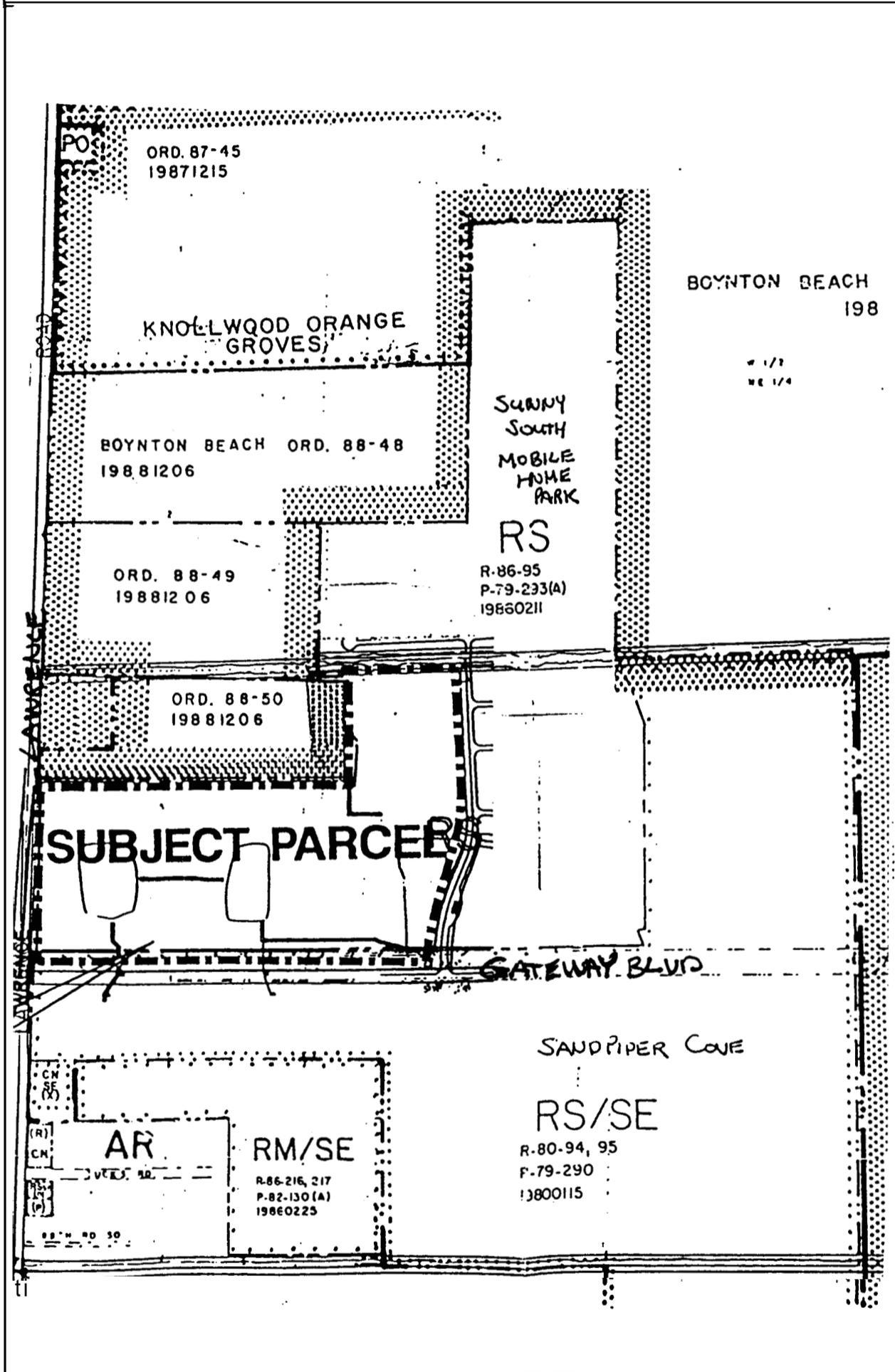
COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 18; THENCE NORTH 89 DEGREES 05 MINUTES 09 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 18, A DISTANCE OF 1267.61 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE WEST ONE-QUARTER (W. 1/4) OF NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 18; THENCE CONTINUE NORTH 89 DEGREES 05 MINUTES 09 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 132.30 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89 DEGREES 05 MINUTES 09 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 501.96 FEET; THENCE SOUTH 00 DEGREES 54 MINUTES 51 SECONDS EAST, A DISTANCE OF 631.28 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 432.30 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 25 DEGREES 28 MINUTES 48 SECONDS, A DISTANCE OF 192.25 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 24 DEGREES 33 MINUTES 57 SECONDS WEST, A DISTANCE OF 72.71 FEET TO A POINT ON A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 1061.79 FEET AND WHOSE RADIUS POINT BEARS SOUTH 65 DEGREES 14 MINUTES 54 SECONDS EAST; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11 DEGREES 13 MINUTES 34 SECONDS, A DISTANCE OF 208.04 FEET TO THE POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 605.12 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 12 DEGREES 15 MINUTES 56 SECONDS, A DISTANCE OF 129.54 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 01 DEGREES 15 MINUTES 37 SECONDS WEST, A DISTANCE OF 61.87 FEET TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF N.W. 22ND AVENUE AS RECORDED IN ROAD PLAT BOOK 4, PAGES 249 AND 250 AND AS RECORDED IN OFFICIAL RECORD BOOK 3283, PAGES 1107 AND 1108 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 88 DEGREES 59 MINUTES 56 SECONDS WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 1788.10 FEET TO AN INTERSECTION WITH A LINE 40.00 FEET EAST OF AND PARALLEL WITH AS MEASURED AT RIGHT ANGLES TO THE WEST LINE OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 18 AND THE EAST RIGHT-OF-WAY LINE (AS LAID OUT AND NOW IN USE) OF LAWRENCE ROAD; THENCE NORTH 03 DEGREES 13 MINUTES 23 SECONDS EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 775.82 FEET TO AN INTERSECTION WITH THE NORTH LINE OF THE SOUTH ONE-QUARTER (S. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE SOUTHWEST QUARTER (S.W. 1/4) OF SAID SECTION 18; THENCE NORTH 89 DEGREES 03 MINUTES 12 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 594.87 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE EAST ONE-HALF (E. 1/2) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 18; THENCE NORTH 03 DEGREES 05 MINUTES 28 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 1.35 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID EAST ONE-HALF (E. 1/2) OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SECTION 18, LESS THE NORTH 495.00 FEET THEREOF; THENCE NORTH 89 DEGREES 05 MINUTES 09 SECONDS EAST ALONG SAID NORTH LINE, A DISTANCE OF 767.26 FEET TO AN INTERSECTION WITH THE WEST LINE OF THE WEST ONE-QUARTER (W. 1/4) OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHWEST QUARTER (S.W. 1/4) OF SAID SECTION 18, LESS THE WEST 132.00 FEET THEREOF; THENCE NORTH 02 DEGREES 57 MINUTES 32 SECONDS EAST ALONG SAID WEST LINE, A DISTANCE OF 496.13 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,687,819 SQUARE FEET OR 38.747 ACRES MORE OR LESS.

ZONING FILE COPY

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: 96-74
 Zoning Quad Page _____
 Date: 9/26/96



EXHIBIT C

CONDITIONS OF APPROVAL

A. BUILDING AND SITE DESIGN

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 August **19, 1996**. 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**)
2. **All** residential structures within fifty **(50)**feet of the north and northwest property line shall be limited to a maximum height of two **(2)**stories. (DRC: BLDG - Zoning)
3. The **entrance** to ~~the~~ recreational area shall **be** provided **north** of the gated access. (DRC: BLDG - Zoning)
4. Prior to **DRC** approval, the master plan shall **be** amended to show a detail of the northeast corner of Lawrence Road and Gateway Boulevard. The ~~detail~~ shall indicate landscaping **and** signage subsequent to the right-of-way expansion. (DRC:ZONING - Eng)

B. HEALTH

1. Reasonable precautions will **be** taken during development to insure that **unconfined** particulates (dust particles) from ~~the~~ property do not **become** a nuisance to neighboring properties. (ONGOING: HEALTH)

C. LANDSCAPING - STANDARD

1. **All** canopy trees required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
 - a. Tree height: fourteen **(14)** feet.
 - b. Trunk diameter: **3.5** 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.
 - d. Credit may **be** given for **existing or** relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms planted on site in compliance with this approval, **except** on individual residential lots, shall meet ~~the~~ following minimum standards at **time of** installation:
 - a. Palm heights: twelve **(12)** feet clear trunk or grey **wood**, whichever is greater;
 - b. Clusters: staggered heights twelve **(12)** to **eighteen (18)** feet; and
 - c. Pruning: minimum six **(6)** fronds, no clipped or spiked cuts.

- d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG NORTH AND NORTHWEST PROPERTY LINES
(ABUTTING LAWRENCE LAKE PUD)

1. Landscaping and buffering along the north (excluding adjacent to the 85 foot L-28 easement) and northwest property lines shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide Type C landscape buffer strip; and,
 - b. Six (6) foot high hedge and berm combination. (DRC / CO: ZONING / LANDSCAPE)

E. ENGINEERING

1. Prior to April 14, 1997 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 an expanded intersection at NW 22nd Avenue and Lawrence Road. Lawrence Road shall be 60 feet from centerline and NW 22nd Avenue shall be 71 1/2 feet from centerline 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)
2. On or before April 14, 1997, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Lawrence Road along the property frontage; and a maximum 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING - Eng)

3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. No more than 148 multi family dwelling units shall be issued until construction has begun for the widening of Gateway Boulevard as a **6** lane section from Military Trail to Congress Avenue plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)
4. Prior to DRC approval of the Master Plan, the Master Plan shall be amended to:
 - a. Reflect the project entrance as an 80 foot right of way and setbacks for ~~the~~ gates a minimum of **150** foot from the right of way of Gateway Boulevard. (DRC: ENG)
5. LANDSCAPE WITHIN MEDIAN
 - a. Prior to technical ~~compliance~~ by the Land Development Division, ~~the~~ property owner 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, at a minimum, consist of the "Low Cost Planting Concept" outlined in ~~the~~ Palm Beach County Engineering and Public Works Department March **1994** Streetscape Standards and shall **be** consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall **be** subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall **be** the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (TC: ENG)
 - b. All required median landscaping including an irrigation system, if required, shall be at the property owners expense. **All** landscape material shall also be the perpetual maintenance obligation of the property **owner** its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed concurrent with the improvements with the first plat. (PLAT/ONGOING: ENG)
 - c. Declaration of Covenants and Restriction Documents shall **be** established ~~or~~ amended as required, prior to recordation of the first plat to reflect this obligation. (PLAT: ENG)

- F. LANDSCAPING ALONG **EAST** PROPERTY LINE (ABUTTING SUNNY AVENUE SOUTH AND 2.85 ACRE WATER MANAGEMENT TRACT)
 1. Landscaping ~~and~~ buffering along the east property line abutting the existing water management tract shall **be** upgraded to include:

- a. A minimum twenty (10) foot wide Type D landscape buffer strip. No further reductions of the buffer shall be permitted. (DRC/CO: LANDSCAPE - Zoning)

G. LANDSCAPING ALONG EAST PROPERTY LINE (NORTH OF THE WATER MANAGEMENT TRACT)

1. The **petitioner shall** provide a 15 foot Type C compatibility **landscape buffer along the east property line**. (CO: LANDSCAPE)(DRC / CO: ZONING / LANDSCAPE)
2. Credit for existing native vegetation shall be approved by the DRC, **subject** to the Landscape and Buffering Standards of the ULDC. (DRC / CO: ZONING / LANDSCAPE)

H. LWDD

1. **Prior to final master plan** certification by the DRC the petitioner shall provide the LWDD a Quit Claim deed **for the north 56.1 feet of the NE 1/4 of the SW1/4 of S18, T45S R42E and** provide a survey and master plan indicating the revised north boundary line. (DRC:CO ATT / LWDD - Eng)

I. MASS TRANSIT

1. **A. Prior to final certification of the master plan or site plan** by the Development Review Committee, whichever occurs first, the petitioner shall amend **the plan** to indicate mass transit access, mass transit **shelter(s) and/or a bus stop(s) on or adjacent** to the subject property, if required by the Palm Beach County School Board or Palm Tran. (DRC: ZONING)

B. Mass transit access, shelters and/or bus stops, if required, shall be located and constructed by the petitioner within three (3) years (November 1, 1999) in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to accommodate the requirement for mass transit access **and/or bus shelters**, if requested by the County Engineer. Mass transit access shall include, at a minimum, a covered shelter, continuous paved pedestrian and **bicycle access from** the subject property **or** use to the shelter, and a bicycle rack. (DATE: MONITORING - Eng)

J. PLANNED UNIT DEVELOPMENT

1. Street lights shall be provided pursuant to Section **6.8.A.23.d(1)** of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
2. Street trees shall **be** planted in or adjacent to all rights-of-way, pursuant to Section **6.8.A.23.d(3)** of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Street bike lanes shall **be** provided **in or** adjacent to all rights-of-way over fifty (50) feet **in width**, pursuant to Section **6.8.A.23.d(4)** of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section **6.8.A.23.d(5)** of the ULDC. (PLAT: ENG - Zoning)

5. All property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County **Attorney's** office ~~which~~ shall, among other things, provide for: formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

The property ~~shall~~ not be subjected to the Declaration ~~of~~ **Restrictions** in phases. Approval of the Declaration must be obtained from the County Attorney's ~~office~~ prior to the issuance of the first building permit, or recordation ~~of the~~ first plat for any portion ~~of the~~ planned development, whichever occurs first. (BLDG PERMIT / PLAT: MONITORING/ ENG - Co Att)

6. Prior to final **DRC** approval ~~of~~ the master plan the petitioner shall indicate a **cross** section of the existing lake tract adjacent to Sunny Avenue South **entrance** road showing proper recovery area **between** edge of pavement and edge ~~of~~ water. (DRC: ZONING)

K SCHOOL BOARD

1. The petitioner shall post in a clear and visible location in all sales **offices** and model homes a sign provided by the School Board ~~of~~ Palm Beach County which indicates that school age children in the development may not **be** assigned to the most proximate public **school** because ~~of~~ overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

L 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; 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.

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)