

RESOLUTION NO. R-99-516

RESOLUTION APPROVING ZONING PETITION DOA96-107(C)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF CRISTAL - MIZNERS PRESERVE LTD. PARTNERSHIP & LECHATEAU  
- MIZNER'S PRESERVE LTD. PARTNERSHIP AND N. MARBURY EFIMENCO TR.  
BY ROBERT BENTZ, AGENT  
(WILLIAM'S TRACE PUD (AKA MIZNERS PRESERVE))

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 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA96-107(C) was presented to the Board of County Commissioners at a public hearing conducted on March 29, 1999; 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 5, Section 5.8 (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 made 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.
11. This PUD is part of and consolidated with PDD96-107(C).

WHEREAS, Article 5 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 DOA96-107(C), the petition of Cristal - Mizner's Preserve Ltd. Partnership & LeChateau - Mizner's Preserve Ltd. Partnership and N. Marbury Efimenco Tr., by Robert Bentz, agent, for a Development Order Amendment (DOA) to add land area, add units and delete Condition E.2 in Resolution R-97-2084 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 March 29, 1999, 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 McCarty and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on March 29, 1999.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

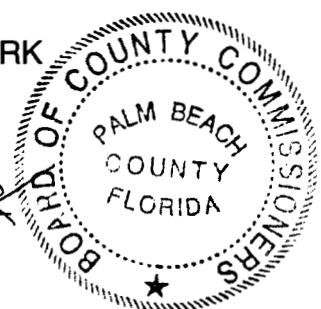
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



## EXHIBIT A

### LEGAL DESCRIPTION

ALL OF THE PLAT OF "MIZNER'S PRESERVE", AS RECORDED IN PLAT BOOK 82, PAGES 167 THROUGH 170 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND ALL OF THE PLAT OF "MIZNER'S PRESERVE PLAT TWO", AS RECORDED IN PLAT BOOK 83, PAGE 32 AND 33 OF SAID PUBLIC RECORDS AND A PORTION OF SECTION 27, TOWNSHIP 47 SOUTH, RANGE 42 EAST PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID "MIZNER'S PRESERVE" THENCE N89°21'24"E ALONG THE NORTH LINE THEREOF, A DISTANCE OF 2,616.90 FEET TO THE NORTHEAST CORNER OF SAID "MIZNER'S PRESERVE"; THENCE S00°22'33"E ALONG THE EAST LINE OF SAID "MIZNER'S PRESERVE", A DISTANCE OF 1362.29 FEET TO THE SOUTHEAST CORNER OF SAID "MIZNER'S PRESERVE"; THENCE S89°22'35"W ALONG THE SOUTH LINE OF SAID "MIZNER'S PRESERVE" AND "MIZNER'S PRESERVE PLAT TWO" AND THE WESTERLY PROJECTION OF SAID SOUTH LINE, A DISTANCE OF 2612.00 FEET TO A POINT OF INTERSECTION WITH THE EASTERLY RIGHT-OF-WAY LINE OF "JOG ROAD", AS RECORDED IN OFFICIAL RECORDS BOOK 5833, PAGE 999 OF SAID PUBLIC RECORDS; THENCE N00°34'55"W ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND THE WEST LINE OF SAID "MIZNER'S PRESERVE", A DISTANCE OF 1361.38 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 3,560,433 SQUARE FEET/81.7363 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

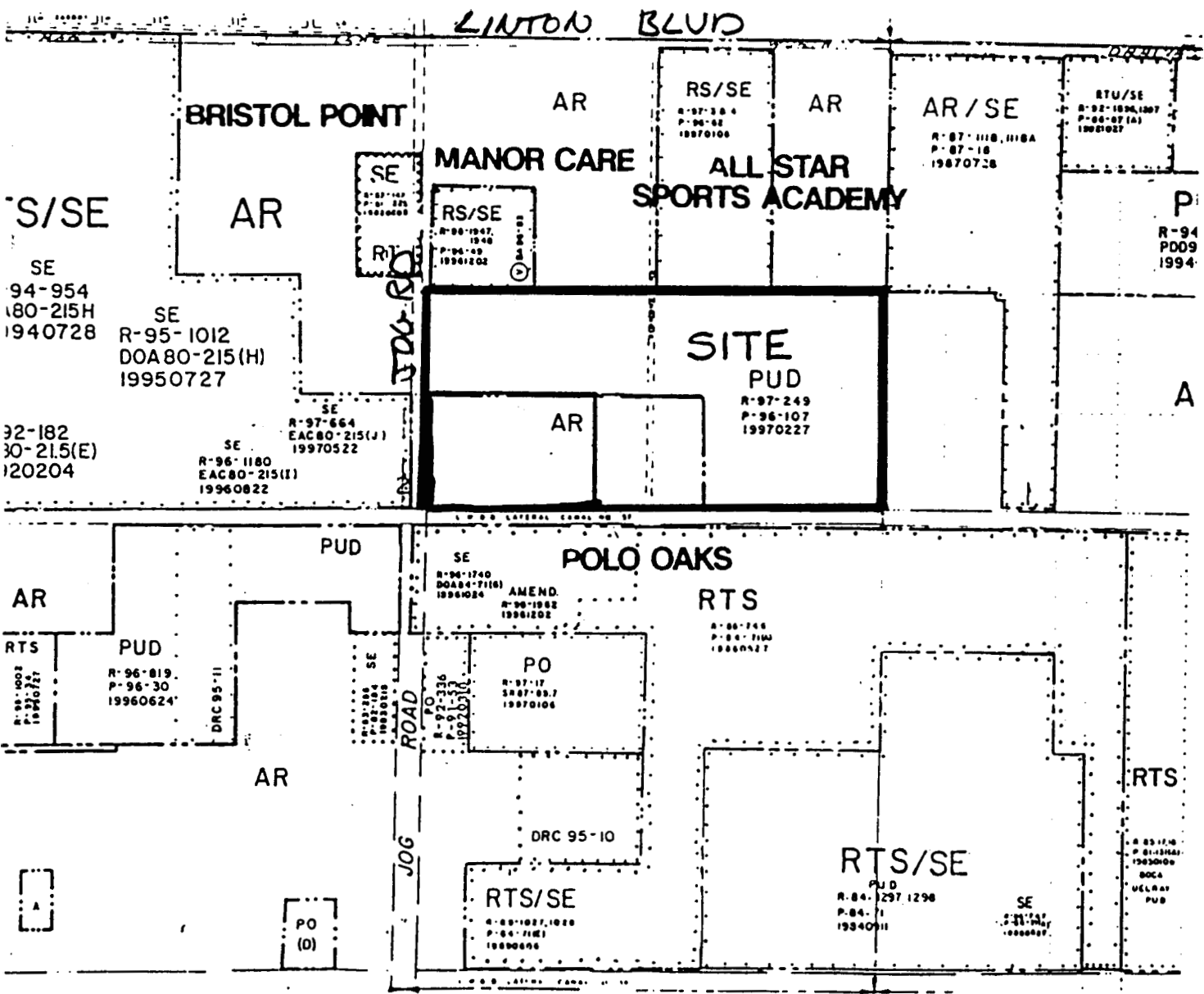


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-97-2084 (Petition 96-107(A) and R-97-249 (Petition 96-107) 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)
2. Condition A.2 of Resolution R-97-2084 Petition 96-107(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 September **26, 1997**. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to state:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan is dated January 27, 1999. 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)

B. 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. (Previously Condition B.1 of Resolution R-97-2084, Petition 96-107(A) (CO: LANDSCAPE-Zoning)
2. All palms required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- a. Palm heights: twelve **(12)** feet clear trunk or grey wood, whichever is greater;
- b. Clusters: staggered heightstwelve **(12)**toeighteen **(18)** feet; and
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previously Condition 8.2 of Resolution R-97-2084 , Petition 96-107(A) (CO: LANDSCAPE-Zoning)

C. LANDSCAPING ALONG NORTH AND EAST PROPERTY LINE

- 1. Landscaping and buffering along the north, and east property line shall include:
  - a. A minimum twenty (20) foot wide landscape buffer strip;
  - b. One (1) canopy tree for each fifteen (15) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center; and,
  - c. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)[CONDITION COMPLETE]

D. LANDSCAPING ALONG THE WEST 900 FEET OF THE SOUTH PROPERTY LINE

- 1. Landscaping and buffering along the west 900 feet of the south property line shall include:
  - a. A minimum ten (10) foot wide landscape buffer strip;
  - b. One (1) canopy tree for each twenty-five (25) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
  - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and,
  - c. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

E. ENGINEERING

- 1. Prior to DRC approval of the Master Plan, the Master Plan shall be amended to reflect the entrance to the project to align with the proposed median opening, currently under construction, intended to serve this site, or meet access management guidelines for median opening spacings as established by the County Engineer. (Previously Condition E.1 of Resolution R-97-2084, Petition 96-107(A) (DRC: ENG) [NOTE: Complete]

- 2. Condition E.2 of R-97-2084, Petition 96-107(A) which currently states:

The Property Owner shall reconstruct Tropical Way within the existing **15** foot easement as a shell rock road from Jog Road east approximately **400** feet subject to an approved cross section as approved by the County Engineer. The width and thickness of the shell rock roadway shall be comparable to the existing shell rock road.

- a. 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.
- b. 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.

Is hereby deleted. [REASON: no longer required Tropical Way is being deleted with this approval]

- 3. The development of this site shall not adversely impact the drainage of the existing lots to the south or Tropical Way. This project's drainage design shall incorporate any required drainage through this project's internal drainage system as required by the County Engineer. The Paving and drainage plans for the site shall incorporate these requirements. (Previously Condition E.3 of Resolution R-97-2084, Petition 96-107(A) (LAND DEVELOPMENT PERMIT: ENG)
- 4. The Developer shall also provide within this project's internal storm water management system an equivalent amount of storm water runoff for the road drainage of Jog Road. The amount of runoff required to be stored onsite shall be based upon the applicable County Water Control District, South Florida Water Management District and Palm Beach County Engineering Requirements. (Previously Condition E.4 of Resolution R-97-2084, Petition 96-107(A) (TC: ENG)
- 5. LANDSCAPE WITHIN MEDIAN
  - 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 landscape all adjacent median(s) a fall 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 landscape material, installation, and maintenance requirements shall be subject to the standards 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. (Previously Condition E.5.a of Resolution R-97-2084, Petition 96-107(A) (BLDG PERMIT: MONITORING- Eng)
  - b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns

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 landscaping material **shall** be installed on or before the issuance of a Certificate of **Occupancy**. (Previously Condition E.5.b of Resolution R-97-2084, Petition 96-107(A) (CO: MONITORING - Eng)

c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (Previously Condition E.5.c of R-97-2084, Petition 96-107(A) (CO: MONITORING - Eng)

6. 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 177 dwelling units for Mizner's Preserve PUD may be issued until the contract for the construction has commenced for improvements at the intersection of Jog Road and Yamato Road :
- (1) North approach, an additional through lane and dual left turn lanes;
  - (2) South approach, an additional through lane and dual left turn lanes;
  - (3) East approach, an additional through lane; and,
  - (4) West approach, an additional through lane. (BLDG PERMIT: MONITORING - Eng)

F. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING JOG ROAD)

1. Condition C.I of Resolution R-97-2084, Petition 96-107(A) which currently states:

Landscaping and buffering along the west property line shall be upgraded to include:

- a. A minimum twenty **(20)** foot wide landscape buffer strip;
- b. An undulating two **(2)** foot high berm measured from top of curb;
- c. One **(1)** canopy tree for each twenty-five **(25)** linear **feet** of frontage with a maximum spacing of thirty **(30)** feet on center;
- d. One **(1)** palm or pine tree for each twenty-five **(25)** linear feet, with a maximum spacing of sixty **(60)** feet on center between clusters. An additional group of three or more palm or pine trees **may** supersede the requirement for a canopy tree in that location; **and,**
- e. Twenty four **(24)** inch high shrub **or** hedge material installed on the plateau of the berm when feasible. Shrub or hedge material shall be spaced no more than twenty four **(24)** inches on center and maintained at a minimum height of thirty six **(36)** inches.

Is hereby amended to state:

Landscaping and buffering along the west property line shall be upgraded to include:



- a. A minimum twenty (20) foot wide landscape buffer strip;
- b. A minimum one and one half (1.5) to two and one half (2.5) foot high undulating berm with an average height of **two (2) feet** measured from top of curb;
- c. One (1) canopy tree for each twenty-five (25) linear feet of frontage with a maximum spacing of thirty (30) feet on center;
- d. One (1) palm or pine tree for each twenty-five (25) linear feet, with a maximum spacing of sixty (60) feet on center between clusters. An additional group of three or more palm or pine trees may supersede the requirement a canopy tree in that location; and,
- e. Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm when feasible. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (Previously (CO: LANDSCAPE)

G. MASS TRANSIT

1. Prior to final certification of the preliminary development plan by the Development Review Committee, the petitioner shall amend the plan to indicate one or more of the following: 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 and/or Palm Tran. (Previously Condition D.1 of Resolution R-97-2084, Petition 96-107(A) (CO: (DRC: ZONING)
2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of a building permit for more than **25% (51)** of the units. The petitioner shall accommodate the requirement for **mass** transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for **mass** transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. **Bus** shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (Previously Condition D.1 of Resolution R-97-2084, Petition 96-107(A) (CO: MONITORING - Eng)

H. PARKS

1. Prior to approval of the preliminary development plan by the Development Review Committee, the plan shall be revised to indicate deletion of the note stating "Total recreation area not to be less than **1.24 acre.**" (Previously Condition F.1 of R-97-2084 (Petition 96-107(A) (DRC: PARKS)
2. Any parcel of land used to satisfy minimum recreation requirements shall adhere to the following dimensions:
  - a. Minimum parcel size shall be seven thousand five hundred **(7,500)** square feet exclusive of easements;
  - b. Minimum parcel width shall average seventy five **(75)** feet with no dimension less than fifty **(50)** feet;

- c. Minimum parcel depth shall average one hundred (100) feet with no dimension less than seventy five **(75)**feet; and,
- d. The Parks and Recreation Department may waive this condition when considering location, abutting land uses, accessibility, recreation facilities offered and the recreation parcels' function in the overall development of the recreation and open **space** network. (Previously Condition F.2 of Resolution R-97-2084, Petition 96-107(A) (DRC: PARKS)

I. 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. (Previously Condition G.1 of Resolution R-97-2084, Petition 96-107(A) (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. (Previously Condition G.2 of Resolution R-97-2084, Petition 96-107(A) (CO: LANDSCAPE - Eng)
- 3. 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. (Previously Condition G.3 of Resolution R-97-2084, Petition 96-107(A) (CO: BLDG - Eng)
- 4. All utilities shall be underground, pursuant to Section **6.8.A.23.d(5)** of the ULDC. (Previously Condition G.4 of Resolution R-97-2084, Petition 96-107(A) (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 Restriction; 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. (Previously Condition G.5 of Resolution R-97-2084, Petition 96-107(A) (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

J. SCHOOL BOARD

- 1. Condition H.1 of Resolution R-97-2084, Petition 96-107(A) which currently states:

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.

Is hereby amended to read:

1. A notice of annual boundary school assignments for students from this development, provided by the School District on an 11" X 17" sign, **shall be** posted in a clear and visible location in all sales offices and models with the following:

**"NOTICE TO HOME BUYERS/TENANTS"**

"School age children may not be assigned to the public school closest to their residents. School Board policies regarding overcrowding, racial balance or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561)434-8100 for the most current school assignment(s)."

The School District will continue to actively pursue a policy of providing adequate school facilities for all children of Palm Beach County. (ONGOING: SCHOOL BOARD)

**K. 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.

Staff may be directed by the Executive Director of **PZ&B** or a majority vote of the Code Enforcement Board 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, (Previously Condition 1.1 of Resolution R-97-2084, Petition 96-10'(A) (MONITORING)