

RESOLUTION NO. R-2005- 1047

RESOLUTION APPROVING ZONING APPLICATION PDD2004-661
(CONTROL NO. 2004-458)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF ANSCA COMMUNITIES LLC
BY LAND DESIGN SOUTH, INC., AGENT
(NICOLA 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Application PDD2004-661 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, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

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

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

WHEREAS, Article 2.K.3.b (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 Application PDD2004-661, the application of ANSCA communities LLC by Land Design South, Inc., agent, for an Official Zoning Map Amendment from the Agricultural Residential Zoning District to the Residential Planned Unit Development 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 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 GREENE 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.

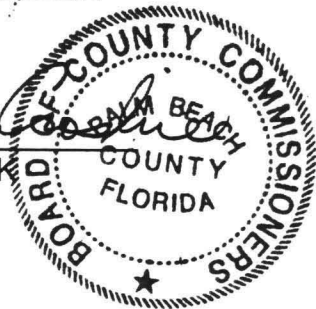
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



NORTH 56.77 FEET OF THE SOUTH 170.44 FEET OF THE NORTH HALF (1/2) OF TRACT 3, NORTHWEST QUARTER, ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 1: THE SOUTH 113.67 FEET OF THE NORTH HALF (N 1/2) OF THE WEST HALF (W 1/2) OF THE WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE SOUTH 113.67 FEET OF THE NORTH HALF (1/2) OF TRACT 3, NORTHWEST QUARTER (1/4), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2: THE NORTH 50.0 FEET OF THE SOUTH 688.6 FEET OF TRACT 3, NORTHWEST QUARTER (NW 1/4) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST; BEING ALSO KNOWN AS THE NORTH 50 FEET OF THE SOUTH HALF (1/2) TRACT 3, NORTHWEST QUARTER (1/4), ACCORDING TO THE AMENDED PLAT SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MARY A. LYMAN, ET AL., RECORDED IN PLAT BOOK 9, PAGE 74 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND

BEING MORE PARTICULARLY DESCRIBED AS THE NORTH 50.0 FEET OF THE SOUTH 688.6 FEET OF THE WEST HALF (W 1/2) OF THE WEST HALF (W 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION 12, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 2,338,501 SQUARE FEET OR 53.685 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

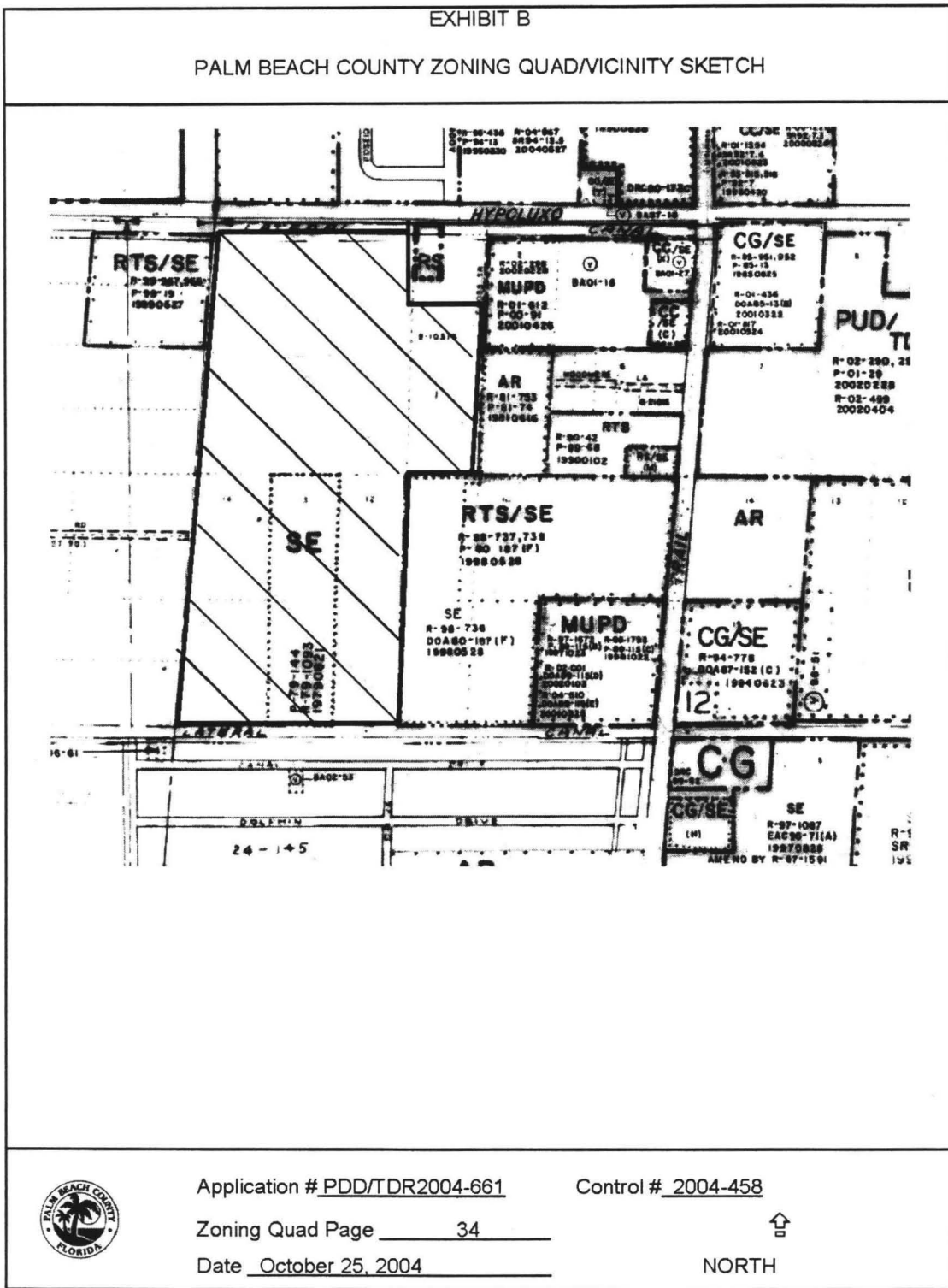


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated May 12, 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. (ONGOING: ZONING - Zoning)

DEPARTMENT OF AIRPORTS (DOA)

1. The property owner shall include in all homeowners documents as well as written sales brochures, sales contracts, Master Plans and related site plans a disclosure statement identifying and notifying prospective residents that the community is within the flight path of the Palm Beach County Park Airport. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on May 26, 2006 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowners association. (DATE: MONITORING - Department of Airports)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:
 - a) Building Permits for more than 141 single family dwelling units shall not be issued until construction has begun for 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
 - b) No Building Permits for the site may be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by the property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

- a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)
 - c. At the property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: ENG)
 - d. Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGONG-ENG)
3. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Hypoluxo 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. (BLDG PERMIT: MONITORING-Eng)
 4. The Property owner shall construct a right turn lane west approach on Hypoluxo Road at Project Entrance. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
 - a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)
 5. On or before December 1, 2005 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 Hypoluxo Road along the property frontage; and up to a maximum of an additional 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, Compensating storage within this projects retention system as required by all permitting agencies, 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)

6. Prior to plat recordation, the property owner shall obtain from the Lake Worth Drainage District additional right of way to provide for the construction of:
 - i. a right turn lane on Hypoluxo Road at the project's entrance road; and
 - ii. expanded intersection right of way at Haverhill Road and Hypoluxo Road.

Property obtained from the Lake Worth Drainage District shall be conveyed to Palm Beach County Land Development Division in the form of a road right of way warranty deed. Right of way for the propopsed right turn lane shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. All additional right of way obtained from the Lake Worth Drainage District shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (PLAT:ENG)

ENVIRONMENTAL

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

ZONING - LANDSCAPING-STANDARD

1. All palms required to be planted on the property by this approval, except on individual residential lots, 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: LANDSCAPE - Zoning)

2. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
3. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
4. Prior to final approval by the Development Review Officer (DRO), all landscape focal points shall be:
 - a. subject to review and approval by the Landscape Section; and,
 - b. reflected on the Regulating Plan. (DRO: LANDSCAPE - Zoning)

PLANNING

1. Prior to final subdivision plan approval by the Development Review Officer (DRO), the notation on the certified master plan, dated May 12, 2005, at the western portion of the site, (labeled as cross access to be paved to the property line with gated access") shall be revised to read proposed vehicular and pedestrian cross access to be paved to the property line." This access point may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO:PLANNING-Planning)
2. Prior to the issuance of the first certificate of occupancy, the property owner shall pave the property to the edge of the western property line with a break in any buffering or walls at the location shown on the final subdivision plan that will read "proposed vehicular and pedestrian cross access to be paved to the property line". (CO:PLANNING-Planning)
3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record cross access easements, in a form acceptable to the County Attorney, for any approved vehicular cross access connection. (DRO:COUNTY ATTY-Planning)
4. Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall include all pathways, benches, and pedestrian access to the open space area, lakes tracts, private civic area, and recreation area generally consistent with the certified master plan dated, May 12, 2005. (DRO: PLANNING-Planning)
5. Prior to final subdivision plan approval by the Development Review Officer (DRO), the final subdivision plan shall be revised to indicate a vehicular and pedestrian stub street connection to the adjacent property to the northeast. The note on the certified master plan, dated May 12, 2005, that reads "pedestrian & bike access to be paved to the property line" shall be revised to read "proposed vehicular and pedestrian cross access to be paved to the property line." This access point may be controlled by a gate or other security device that can be controlled by the residents of the PUD. (DRO:PLANING-Planning)
6. Prior to the issuance of the first certificate of occupancy, the property owner shall pave the property to the edge of the northeastern property line with a break in any buffering or walls at the locations shown on the master plan that will read "proposed vehicular and pedestrian cross access to be paved to the property line" (CO: MONITORING - Planning)

PLANNED UNIT DEVELOPMENT

1. Prior to the recordation of the first plat, 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 include the following:
 - a. 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.
 - b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
 - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: COUNTY ATTY - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate upgraded recreation amenities within both the .48-acre and .54-acre recreation areas. These additional amenities shall:
 - a. be accessible from a minimum five (5) foot wide paved pathway composed of stamped concrete, paver blocks, or other improved surface;
 - b. include a minimum of three (3) pedestrian benches;
 - c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
 - d. include a shade structure (eg. trellis, gazebo, pergola) and tot lot, fitness station, rest station, sport court, or similar recreation amenity; and,
 - e. details for all items indicated above shall be subject to review and approval by Architectural Review Section. (DRO: ZONING - Zoning)

3. Prior to final approval by the Development Review Officer (DRO), the Master/Site Plans shall be amended to consolidate the open spaces into a single open space containing no less than .81 gross acre. (DRO: ZONING - Zoning)

4. Prior to final approval by the Development Review Officer (DRO), the Site/Regulating Plans shall be amended to indicate the following additional amenities within the .49-acre recreation area:
 - a. a minimum of two (2) shade structures (gazebo, trellis, pergola, etc.);
 - b. a trash receptacle adjacent to each bench;
 - c. a pedestrian plaza containing a minimum of 2,000 square feet of decorative paving block or stamped concrete surface shall be located in the general vicinity of the adjacent 1.9-acre lake;
 - d. a minimum of four (4) pedestrian benches shall be located upon the pedestrian plaza and oriented toward the adjacent lake;

- e. all amenities shall include a direct connection to a minimum five (5) foot wide paved pathway composed of stamped concrete, paver blocks, or other improved surface; and,
 - f. details for all amenities shall be subject to review and approval by the Architectural Review Section. (DRO: ZONING - Zoning)
5. Prior to the issuance of a building permit for the 100th unit, a Certificate of Occupancy (CO) shall be issued for a clubhouse or similar common building exceeding 2,500 total square feet on the 1.07-acre private civic parcel. This facility shall be equipped with a generator that complies with the following requirements:
- a. a minimum load capacity of .02 kw per building square foot;
 - b. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
 - c. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
 - d. setback in accordance with the Property Development Regulations for a Civic Pod in accordance with ULDC Table 3.E.2.D-16;
 - e. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
 - f. subject to review and approval by the Building Division; and,
 - g. deviation from these requirements shall be permitted if consistent with future ULDC regulations. (BLDG PERMIT: MONITORING - Zoning)
6. Prior to final approval by the Development Review Officer (DRO), the Regulating Plan shall be amended to include the following detail for landscaping along the perimeter of the 150-foot wide FPL easement:
- a. a six (6) foot high vinyl coated chain link fence;
 - b. a minimum of one (1) canopy tree for each twenty (20) linear feet of fence. Trees shall be planted on the exterior side of the fence at a maximum spacing of thirty (30) feet on center;
 - c. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of fence, to be planted on the exterior side of the fence;
 - d. a continuous row of medium shrub shall be planted between all trees and palms on the exterior side of the fence; and,
 - e. all landscaping shall be subject to review and approval by FPL. (DRO:ZONING-Zoning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO NAME BUYERS/TENANTS AND PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service 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). (ONGOING: SCHOOL BOARD-School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO:MONITORING-School Board)

COMPLIANCE

1. 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. 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)

