

RESOLUTION NO. R-2005- 2291

RESOLUTION APPROVING ZONING APPLICATION PDD2004-811
(CONTROL NO. 2004-525)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF M/I HOMES OF WEST PAM BEACH, LLC
BY JULIAN BRYAN & ASSOCIATES, AGENT
(ATLANTIC COMMONS 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 PDD2004-811 was presented to the Board of County Commissioners at a public hearing conducted on November 17, 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 Article 2.F, (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; 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 PDD2004-811, the application of M/I Homes of West Palm Beach, LLC, by Julian Bryan & Associates, 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 November 17, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCARTY moved for the approval of the Resolution.

The motion was seconded by Commissioner MARCUS 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	¥	AYE
Mary McCarty	¥	AYE
Burt Aaronson	¥	AYE

The Chairman thereupon declared that the resolution was duly passed and adopted on November 17, 2005.

Filed with the Clerk of the Board of County Commissioners on 8TH day of DECEMBER, 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



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

Tract 31, in Section 17, Township 46 South, Range 42 East, according to the Plat of Palm Beach Farms Co. Plat No. 1, recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida.

Together with all of those parts of Tracts 1, 2 and 3, in Section 17, Township 46 South, Range 42 East, lying East of the Sunshine State Parkway and West of the E-2 Canal, all being according to the Plat of Palm Beach Farms Co. Plat No. 1, recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida; LESS AND EXCLUDING the North 36 feet of Tract 3 as conveyed in favor of the Lake Worth Drainage District, recorded in Deed Book 129, Page 164, Palm Beach County, Florida and LESS AND EXCLUDING the North 39.66 feet of Tract 1 and the North 40.92 feet of Tracts 2 and 3 pursuant to Official Records Book 6495, Page 761 and LESS AND EXCLUDING that portion of Tract 1 lying West of the Section 17, Township 46 South, Range 42 East section line and East of the West line of the 15 foot platted reservation according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida.

PARCEL 2:

Tracts 30, 32, 33 and 35, in Section 17, Township 46 South, Range 42 East, according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida; LESS AND EXCLUDING those portions of Tracts 30 and 35 known as Right of Way Parcel Nos. 27 and 29, conveyed to the Florida State Turnpike Authority, pursuant to the Fifteenth Judicial Circuit Court, Case No. 15,304, as set forth in the Minutes of the Circuit Court in MCC Book 68, pages 520 and 523, Palm Beach County, Florida and LESS AND EXCLUDING that portion of Tracts 32 and 33 lying West of the Section 17, Township 46 South, Range 42 East section line and East of the West line of that 15 foot platted reservation according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida.

PARCEL 3:

Tracts 62, 63 and 64, in Section 17, Township 46 South, Range 42 East, lying East of the Sunshine State Parkway and West of the E-2 Canal, all being according to the Plat of Palm Beach Farms Co. Plat No. 1, recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida; LESS AND EXCLUDING that portion of Tract 64 lying West of the Section 17, Township 46 South, Range 42 East section line and East of the West line of the 15 foot platted reservation according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida, LESS THE SOUTH 15.00 FEET THEREOF.

PARCEL 4:

Tract 34, in Section 17, Township 46 South, Range 42 East, according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida.

PARCEL 5:

That portion of Tracts 65, 66, 67, 94, 95, 96, 97, 98, 127 and 128, in Section 17, Township 46 South, Range 42 East, lying East of the Sunshine State Parkway and North of Delray Road West (S.R. 806), all being according to the Plat of Palm Beach Farms Co. Plat No. 1, as recorded in Plat Book 2, pages 26-28, Public Records of Palm Beach County, Florida.

PARCEL 6:

The West 680 66 feet of the Southwest 1/4 of Section 16, Township 46 South, Range 42 East, LESS AND EXCLUDING the West 45.00 feet thereof and also LESS AND EXCLUDING the North 65.00 feet thereof and also LESS AND EXCLUDING right of way for State Road 806 (Atlantic Avenue), Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

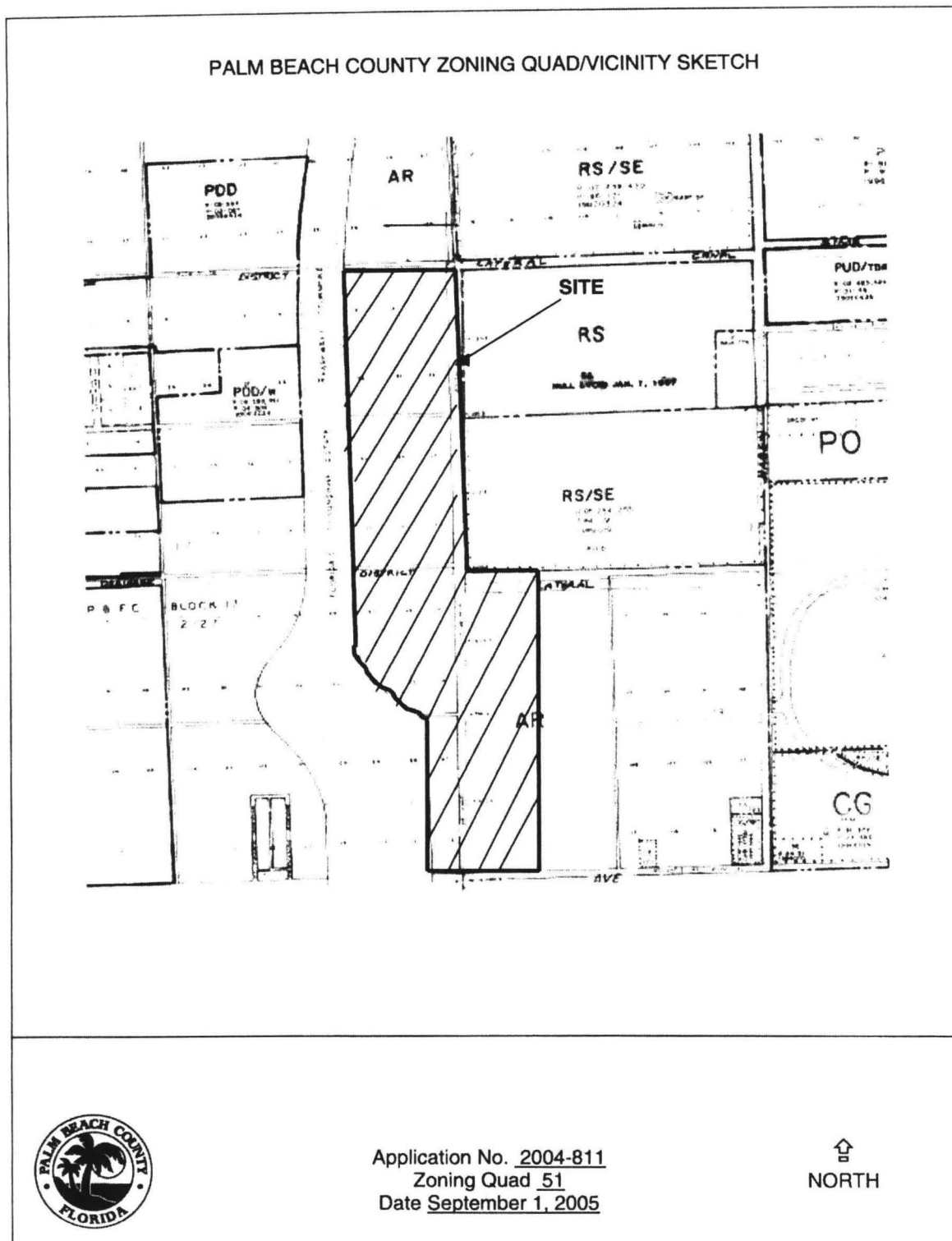


EXHIBIT C

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 master plan and regulating plan are dated July 14, 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)

ENGINEERING

1. TRAFFIC PERFORMANCE STANDARDS PHASING REQUIREMENTS

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 286 townhouse dwelling units (maximum 146 PM peak hour trips) shall not be issued until construction commences for the 4 lane median divided construction of West Atlantic Avenue from Lyons Road to Starkey Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - ENG)
- b. Building Permits for more than 286 townhouse dwelling units (maximum 146 PM peak hour trips) shall not be issued until the contract has been let for the 4 lane median divided construction of West Atlantic Avenue from Starkey Road to the Florida Turnpike. (BLDG PERMIT: MONITORING - ENG)
- c. Building Permits for more than 112 detached dwelling units and 149 townhouse dwelling units (maximum 207 PM peak hour trips) shall not be issued until the contract has been let for the 6 lane median divided construction of Jog Road from Lake Ida Road to Atlantic Avenue plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - ENG)
- d. Building Permits for more than 171 detached dwelling units (maximum 126 AM peak hour trips) shall not be issued until construction commences for the following improvements at the intersection of West Atlantic Avenue and Jog Road:
 - exclusive right turn lane north approach;
 - exclusive right turn lane south approach; and,
 - second right turn lane west approach.(BLDG PERMIT: MONITORING - ENG)
- e. No Building Permits for the site may be issued after January 1, 2008. A time extension for this condition may be approved by the County Engineer only if 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.E of the Unified Land Development Code. (DATE: MONITORING - ENG)

- f. The date shown which indicates when the final building permit will be issued may be adjusted 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. (REVISED TRAFFIC STUDY: MONITORING - ENG)
2. Prior to final approval by the DRO, the property owner shall provide access to the property to the north currently owned by the Florida Department of Transportation. Type of access, width, and location shall be approved by both the County Engineer and the Florida Department of Transportation. (DRO: ENG - ENG)
 3. Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on West Atlantic Avenue at the project's entrance road. This right of way 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. This additional right of way shall be free of all encumbrances and encroachments and shall include "corner clips" where appropriate as determined by the County Engineer. The 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. (DATE: MONITORING - ENG)
 4. INTERSECTION IMPROVEMENTS

The property owner shall construct:

- i. left turn lane west approach on West Atlantic Avenue at the project's entrance; and,
- ii. right turn lane east approach on West Atlantic Avenue at the project's 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. Prior to the issuance of the first building permit, permits shall be obtained from the Florida Department of Transportation for construction of these turn lanes. (BLDG PERMIT: MONITORING - ENG)
- b. Construction for these turn lanes shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - ENG)

5. FLORIDA TURNPIKE NOISE MITIGATION

- a. The master plan for this site shall be amended to reflect noise mitigation requirements for dwelling units adjacent to Florida's Turnpike as outlined in the applicants approved Noise Analysis. Requirements such as a sound wall and or landscape buffers shall be shown on the master plan for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENG - ENG)

- b. Construction of any required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy. (CO:MONITORING - ENG)
- c. The property owner shall notify future home buyers by providing that all homeowners documents, sales contracts, as well as all sales brochures, Master Plans and related Site Plans contain a disclosure statement identifying that this site is adjacent to Florida's Turnpike and that some of the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to Florida's Turnpike. Also, there shall be a statement included in the sales contracts and homeowner documents the noise levels residents may expect after any noise mitigation improvements are constructed by the property owner. In addition, there shall be a statement that any additional noise mitigation measures requested by property owners or the Home Owners Association in the future shall not be funded by Palm Beach County. (ONGOING: ENG - ENG)
- d. The property owner shall submit documentation of compliance with "c" above on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before June 15, 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 homeowner's association. (DATE: MONITORING - ENG)

6. WEST ATLANTIC AVENUE ROAD RIGHT OF WAY

The property owner shall convey to Palm Beach County Land Development Division by warranty deed for West Atlantic Avenue 126 feet north of the existing south right of way of West Atlantic Avenue. Right of way shall be conveyed prior to March 1, 2006, or prior to the issuance of the first building permit, whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The 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. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (DATE/BLDG PERMIT: MONITORING - ENG)

7. ROADWAY CONSTRUCTION EASEMENT

Prior to technical compliance for the first plat, the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of

way. Construction within this easement shall conform to Palm Beach County Standards. (TC: ENG – ENG)

8. TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along West Atlantic Avenue 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)

9. ROAD DRAINAGE EASEMENT

On or before July 1, 2006, 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 West Atlantic Avenue 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)

10. Prior to final approval by the DRO, the property owner shall obtain additional right of way from the adjacent property to the east to provide a non-plan collector road between this property and West Atlantic Avenue. This access shall align with Lexington Club Boulevard. Geometrics for this access road including right of way to provide for a right turn lane on West Atlantic Avenue at the project's entrance shall be approved by the County Engineer. Right of way for this access road if unable to be acquired by the property owner shall be obtained through condemnation procedures through Palm Beach County, subject to the approval of the County Attorney and the County Engineer. Any and all costs for any required condemnation shall be funded by this property owner. (DRO: ENG - ENG)

11. RIGHT-OF-WAY ACQUISITION

The property owner shall provide for the acquisition of the access road right of way outlined above by funding the cost of this right-of-way and all

associated costs. The property owner shall provide surety acceptable to the Office of the County Engineer and County Attorney. This property owner shall enter into a written agreement with the Right of Way Acquisition Section on or before June 1, 2006. Notification by the property owner shall be given to the Land Development Division. (DATE: MONITORING - ENG)

12. SIGNALIZATION REQUIRMENTS

The property owner shall fund the cost of signal installation if warranted as determined by the County Engineer and the Florida Department of Transportation at West Atlantic Avenue and the project's Entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

- a. Building permits for more than 300 dwelling units shall not be issued until the property owner provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING - ENG)
- b. In order to request release of the surety for the traffic signal at this intersection, the property owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at West Atlantic Avenue at the project's entrance. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENG - ENG)

13. Acceptable surety required for the West Atlantic Avenue improvements identified in Engineering Condition 1.a. and 1.d. above shall be posted with the Office of the Land Development Division on or before May 17, 2006. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the property owner's engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING - ENG)
14. Prior to September 15, 2006, the property owner shall complete construction plans for the West Atlantic Avenue improvements identified in Engineering Conditions 1.a and 1.d above. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING-ENG)
15. Prior to May 15, 2007, the property owner shall complete construction of the West Atlantic Avenue improvements identified in Engineering Conditions 1.a and 1.d above. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING-ENG)
16. Any changes to the Master Plan as a result of additional property obtained for a revised access location shall be approved by the Development Review Officer. The revised Master Plan will not require reapproval by the Board of County Commissioners. (DRO: ENG - ENG)

HEALTH

1. Prior to the issuance of the first building permit, the property owner shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of fugitive dust particulates on the site during all phases of site development. The property owner or the representative of the property owner shall be available to meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (BLDG PERMIT: MONITORING - Health)

ZONING – LANDSCAPING - STANDARD

1. A minimum of fifty (50) percent of all trees to be planted in the perimeter landscape buffers shall meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: Three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
2. 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)
3. 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)
4. 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)
5. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

ZONING – LANDSCAPING - LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING FLORIDA'S TURNPIKE)

1. In addition to code requirements and the proposed planting program, the landscape buffer along the west property line shall be upgraded to include:
 - a. a minimum of one (1) flowering tree for each fifty (50) linear feet of the property line, to be planted on both sides of the wall or FDOT sound barrier. Flowering trees shall be spaced a maximum distance of

seventy-five (75) feet on center on each side of the wall or FDOT sound barrier. (BLDG PERMIT: LANDSCAPE - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the plans shall include all pathways within and pedestrian access to the open space and recreation areas, and along lakes tracts generally consistent with the certified master plan. (DRO: PLANNING - Planning)
2. Prior to final approval by the Development Review Officer (DRO), the plans shall indicate a pedestrian pathway fronting the lakes within the passive park areas in POD "C". This pedestrian pathway shall provide continuous circulation to the sidewalks within the development. In addition, a minimum of one (1) bench shall be placed at each of these locations. (DRO: PLANNING - Planning)

PLANNED UNIT DEVELOPMENT

1. Prior to the recordation of the first plat, all property included in the legal description of the application 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: CO ATTY - Zoning)
2. All landscape focal points shall be:
 - a. subject to review and approval by the Landscape Section; and,
 - b. reflected on the regulating plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning)
3. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate a landscape focal point:
 - a. within a central island of all cul-de-sacs and roundabouts;
 - b. within each semi cul-de-sac/eyebrow island in Pod C; and,
 - c. at the terminus of all dead-end streets. (DRO: ZONING - Zoning)
4. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a minimum of one (1) fountain as a focal feature within each lake tract. The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning)

5. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to depict upgraded recreation amenities within each of neighborhood park. These additional amenities shall:
 - a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface. This pathway shall have a direct connection to the primary sidewalk system on the property;
 - b. include a minimum of two (2) 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, loggia, berceaux), tot lot, fitness station, rest station, or similar recreation amenity; and,
 - e. be subject to review and approval by the Architectural Review Section. (DRO: ZONING - Zoning)

6. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate the following amenities adjacent to the 8-foot wide asphalt bike path:
 - a. a minimum of one (1) pedestrian bench for each five hundred (500) linear feet of the bike path with a maximum spacing of six hundred sixty (660) feet between each bench;
 - b. a minimum of one (1) trash receptacle adjacent to each pedestrian bench; and,
 - c. a minimum of one (1) canopy tree spaced a maximum distance of fifty (50) feet on center, to be planted alternating on both sides of the path. These trees shall be provided in addition to required street trees. (DRO: ZONING - Zoning)

7. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate the following amenities adjacent to the 5-foot wide pedestrian pathways within Pod A and the .73-acre passive park:
 - a. a minimum of three (3) pedestrian bench with a maximum spacing of three hundred (300) feet between each bench;
 - b. a minimum of one (1) trash receptacle adjacent to each pedestrian bench; and,
 - c. a minimum of one (1) canopy tree spaced a maximum distance of forty (40) feet on center, to be planted alternating on both sides of the pathways. (DRO: ZONING - Zoning)

8. Each townhouse unit shall include a garage with interior dimensions that excess minimum ULDC requirements for a residential parking space or a separate storage closet for trash receptacles. (BLDG PERMIT: BLDG - Zoning)

9. Prior to final approval of a site plan for the 3.06-acre recreation pod, the Development Review Officer (DRO) shall apply and the property owner shall accept the following condition of approval:

Prior to the issuance of a building permit for the 190th unit, a Certificate of Occupancy (CO) or Certificate of Completion (CC), whichever shall first occur, shall be issued for a clubhouse or similar common building that is acceptable to the Parks and Recreation Department on the 3.06-acre

recreation pod. This facility shall be equipped with a generator that complies with the following requirements:

- a. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
 - b. 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;
 - c. setback in accordance with the Property Development Regulations for a Recreation Pod in accordance with ULDC Table 3.E.2.D-16;
 - d. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
 - e. subject to review and approval by the Building Division; and,
 - f. deviation from these requirements shall be permitted if consistent with future ULDC regulations. (DRO: ZONING - Zoning)
10. Prior to final approval by the Development Review Officer (DRO), the master and site/subdivision plan(s) shall provide for a minimum twenty (20) foot centerline offset in the general vicinity of the midpoint of each north-south roadway segment within Pod C. In the case of conflict with requirements of the County Engineer, the required offset distance may be reduced as deemed necessary by the County Engineer. (DRO: ZONING - Zoning)

PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 2.47-acre public civic site (net usable area minus any buffers), in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by November 1, 2006. The property owner shall plat and dedicate the civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.
 - a) The property owner shall provide a title policy insuring marketable title to Palm Beach County for the civic site and any easements that service the civic site as required by the County Attorney's office. All title exception documentation to be provided to County. 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 or the Contract purchase price on a per acre basis if the contract purchase was concluded within the previous 24 month period. If an appraisal is required it shall be obtained by the property owner. The property owner shall release the County from all Declarations of Covenants and Conditions of the P.U.D. or other restrictive covenants as they may apply to the civic site.
 - b) The property owner shall assign sufficient traffic trip capacity such that the traffic volume associated with a County facility shall be attached to the civic site and recorded on the concurrency reservation for the entire PUD. The property owner shall be provided with input as to the size of a structure (and proposed use) which the civic site would support and the corresponding amount of trips.

- c) All ad valorem real estate taxes and assessments for the year of acceptance shall be pro-rated to include the day of acceptance.
 - d) Civic site to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed.
 - e) The property owner shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. The property owner shall specifically address the following issues:
 - 1) The discharge of surface water from the proposed civic site into the property owner's water retention basins.
 - 2) As easement across the property owner's property from the proposed civic site to the retention basins, if required.
 - f) By acceptance of these conditions the property owner agrees to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the civic site.
 - g) The property owner shall perform a tree survey and obtain a vegetation clearing permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County.
 - h) Prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. Site shall be stabilized with
 - 1) sod and watered or,
 - 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations.
 - i) The property owner shall provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE: MONITORING - PREM)
2. The property owner shall provide the County with a survey certified to Palm Beach County of the proposed civic site by September 1, 2006. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall 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 a location of any proposed water retention area that will border the civic site. Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site and all title exceptions are to be shown on the survey. (DATE: MONITORING - PREM)
3. The property owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by September 1, 2006. 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. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records. The assessment shall reflect whether the civic site or any bordering property is on the following lists:
 - 1) EPA's National Priorities list (NPL)
 - 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - 3) 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) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
- e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.

If the Phase I audit indicates that a Phase II is necessary, then the property owner shall be required to provide that audit as well. (DATE: MONITORING - PREM)

4. The property owner may request to exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, this option shall be used only upon County approval when the County has established that the cash or offsite land enhances or supports a County property, facility or function in the general vicinity of the PUD. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply. If the land off-site is of less cash value than the on-site dedication the property owner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the property owner or if the property owner is a contract purchaser the per acre value used for the entire PUD may be used to determine the civic site value. If a cash-out is the method used, payment shall be made to the County prior to the first recorded plat for the PUD. If off-site land or cash contribution is accepted by Palm Beach County, the property owner shall be deemed to have satisfied the intent of ULDC. (ONGOING: PREM - PREM)

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 HOME 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 property owner 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 - Eng)

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 property owner, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any property owner, 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)