

RESOLUTION NO. R-2000- 0117

RESOLUTION APPROVING ZONING PETITION PDD99-058  
OFFICIAL ZONING MAP AMENDMENT  
TO A PLANNED DEVELOPMENT DISTRICT(PDD)  
PETITION OF TIVOLI RESERVE AT BOYNTON BEACH, LTD.  
BY BRADLEY MILLER, AGENT  
(TIVOLI RESERVE PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD99-058 was presented to the Board of County Commissioners at a public hearing conducted on January 27, 2000; and,

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) 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 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; 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 5, Section 5.3.D.9 (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition PDD99-058, the petition of Tivoli Reserve at Boynton Beach, Ltd. by Bradley Miller, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from Agricultural Residential (AR) to Planned Unit Development (PUD) 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 January 27, 2000, 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	-	Aye
Tony Masilotti	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on January 27, 2000.

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

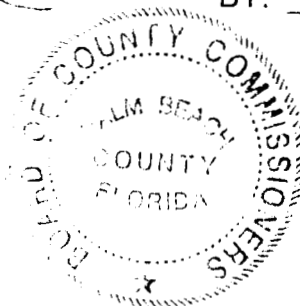
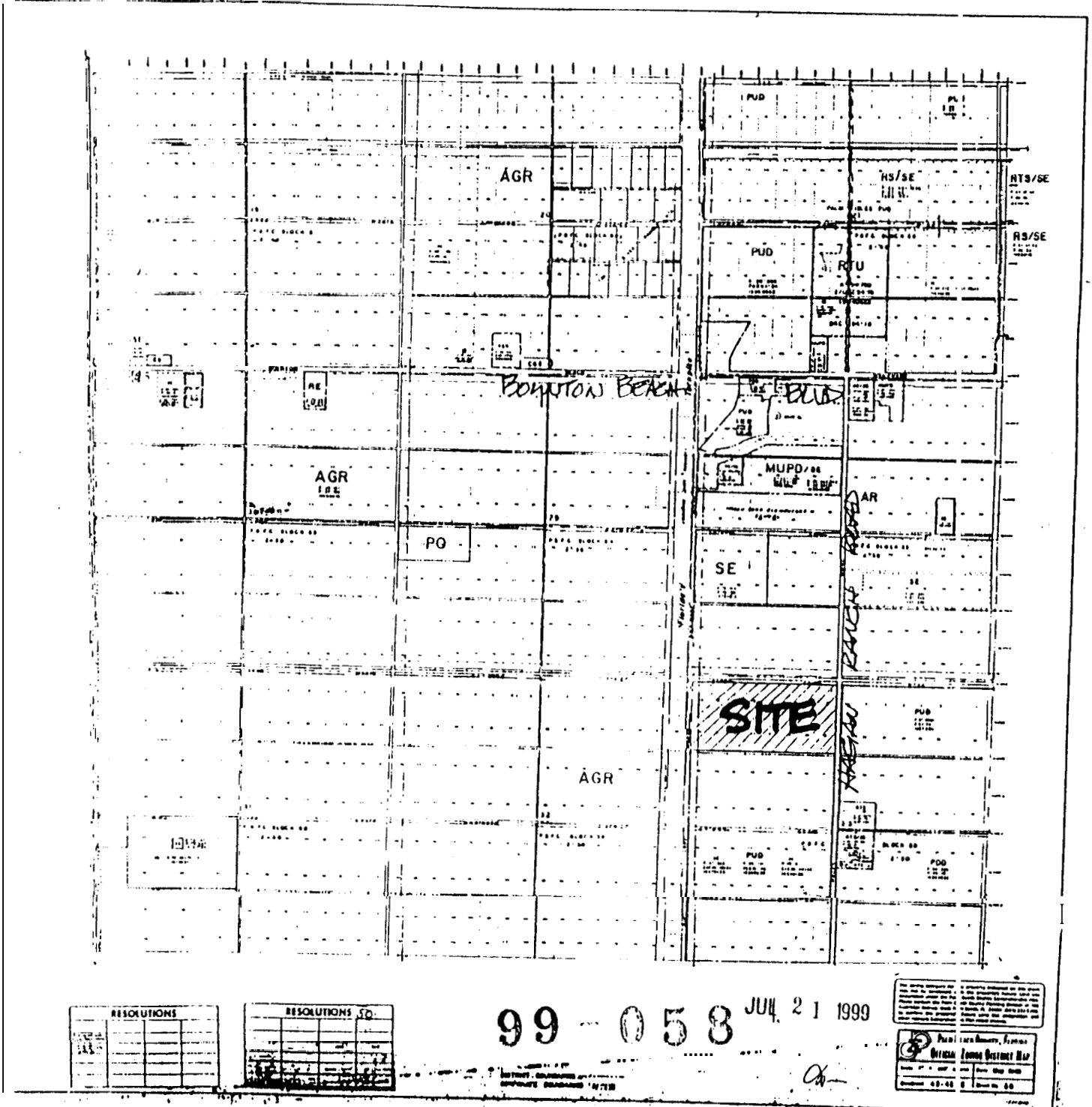


EXHIBIT A  
LEGAL DESCRIPTION

TRACTS **9** THROUGH **24**, INCLUSIVE. BLOCK **58**, PALM BEACH **FARMS COMPANY** PLAT NO. **3**, ACCORDING TO THE PLAT THEREOF, RECORDED **IN** PLAT BOOK **2** AT **PAGES 45** THROUGH **54**, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE EAST **25** FEET OF TRACTS **9** AND **24** FOR ROAD RIGHT-OF-WAY AND LESS THE WEST **20** FEET OF TRACTS **16** AND **17** FOR DRAINAGE PURPOSES **AND** LESS THE NORTH **30** FEET OF TRACTS **15** AND **16** FOR DRAINAGE, PURPOSES, TOGETHER WITH THE NORTH **15** FEET OF THAT **30** FOOT ROAD, DITCH AND DYKE RESERVATION **AS** QUIT CLAIMED **IN** OFFICIAL RECORD BOOK **8777**, PAGE **1498**, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated November 12, 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. ARCHITECTURAL CONTROL

1. Diversity of architectural elevation and exterior color scheme shall be required by complying with the following:
  - a. No identical homes shall be placed next to one another (i.e. same elevation with same exterior color scheme); and,
  - b. A side loaded garage model shall be placed at a maximum of every fourth lot. This obligation shall be indicated on the affected lots of the approved DRC final subdivision plan.

This obligation shall be included in the Homeowners Association's documentation. (BLDG PERMIT/CO: BLDG - Zoning)

#### C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC: ERM)

#### D. 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: Twelve (12) feet
  - b. Trunk diameter: 2.5 inches measured 3 feet above grade;
  - c. Canopy diameter: Six (6) 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 feet in length; and,
  - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (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;
  - 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. (CO: LANDSCAPE - Zoning)

3. A group of three (3) or more palm or pine trees may not supersede the requirement for perimeter canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
4. All internal PUD buffers between pods shall be approved by the Development Review Committee (DRC) in accordance with the ULDC, unless otherwise stated herein. (DRC: ZONING)

E. ENGINEERING

1. Prior to March 1, 2000, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for Hagen Ranch Road, as referenced in Parcel 121, a proposed deed for a triangular shaped parcel with a maximum width of 6.5 feet, free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)
2. Prior to March 1, 2000 the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed additional right of way for the construction of a right turn lane on Hagen Ranch Road at the project's entrance road. This right-of-way shall be a minimum of 280 feet in storage 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. 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. (BLDG PERMIT: MONITORING-Eng)
3. Prior to March 1, 2000 the property owner shall convey a temporary roadway construction easement along Hagen Ranch 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 fund the construction of an exclusive left turn lane south approach and a Separate right turn lane north approach on Hagen Ranch Road at the projects entrance 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. All funding required for the construction of this right turn lane shall be completed prior to April 1, 2000.

5. DOT APPROVAL FOR PODS ADJACENT TO THE FLORIDA TURNPIKE  
Prior to site plan approval for any POD'S which contain dwelling units adjacent to the Turnpike, the property owner shall receive approval from the Florida Department of Transportation relative to the minimum noise standards for residential dwelling units constructed in this POD. Any noise mitigation required by the Florida Department of Transportation shall be funded by this property owner. (DRC: ENG)
  
6. In order to comply with the mandatory Traffic Performance Standard, the Developer shall be restricted to the following phasing schedule:
  - a. Building Permits for more than 109 dwelling units shall not be issued until construction has begun for the widening of Boynton Beach Blvd as a 6 lane section from Jog Road to Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
  
  - b. Building Permits for more than 178 dwelling units shall not be issued until construction has begun for the widening of Hagen Ranch Road as a 5 lane section from Simms Road to Boynton Beach Blvd plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
  
7. LANDSCAPE WITHIN MEDIAN OF COUNTY ROADS
  - a. If a landscape island is provided along Hagen Ranch Road, then 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 the Land Development Division, Permit Section, of the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Hagen Ranch Road. When permitted by the a permit the Land Development Division of the Palm Beach County Engineering and Public Works Department, 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. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscaping 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 standard may be allowed subject to approval by the County Engineer. ( DATE: MONITORING - Eng)
  
  - b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or as signs or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's

Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. If the widening of Hagen Ranch Road has not been completed prior to the issuance of the first Certificate of Occupancy then a Governmental Caused time extension may be applied for by the property owner. (CO: MONITORING-Eng)

- c. If the County does not assume maintenance responsibility, the property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)

G. LANDSCAPING ALONG NORTH PROPERTY LINE (ADJACENT TO LWDD -26 CANAL AND AGRICULTURAL USE)

- 1. Landscaping and buffering along the north property line shall be upgraded to include:
  - a. A minimum twenty (20) foot wide landscape buffer strip, no reductions or easement encroachments shall be permitted;
  - b. One (1) canopy tree planted every thirty (30) feet on center;
  - c. One (1) additional palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and
  - d. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE)

H. LANDSCAPING ALONG SOUTH PROPERTY LINE (ADJACENT TO VALEPICIA LAKES PUD)

- 1. Landscaping and buffering along the south property line shall be upgraded to include:
  - a. A minimum ten (10) foot wide landscape buffer strip, no reductions or easement encroachments shall be permitted;
  - b. One (1) canopy tree planted every thirty (30) feet on center;
  - c. One (1) additional palm or pine tree for each thirty (30) linear feet of property line, with a maximum spacing of sixty (60) feet between clusters; and,
  - d. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE)

I. LANDSCAPING ALONG EAST PROPERTY LINE (ADJACENT TO HAGEN RANCH ROAD)

- 1. Landscaping and buffering along the east property line shall be upgraded to include:
  - a. A minimum twenty five (25) foot wide landscape buffer strip, no reductions or easement encroachments shall be permitted;



- b. A minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. One (1) canopy tree planted every thirty (30) feet on center;
- d. One (1) additional palm or pine tree for each thirty (30) linear feet of frontage, with a maximum spacing of sixty (60) feet between clusters; and
- e. Twentyfour (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

J. LANDSCAPING ALONG WEST PROPERTY LINE (ADJACENT TO LWDD E 2-E CANAL AND FLORIDA TURNPIKE)

1. Landscaping and buffering along the west property line shall include:
  - a. A minimum thirty (30) foot wide landscape buffer strip, no reductions or easement encroachments shall be permitted;
  - b. A continuous four foot high berm measured from finished grade to top of berm;
  - c. A minimum six (6) foot high opaque wall or meet minimum requirements of FDOT which ever alternative is more restrictive. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (CO: LANDSCAPE)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
  - a. One (1) canopy tree planted every twenty (20) feet on center;
  - b. One (1) palm or pine tree for each twenty five (25) linear feet on the property line, with a maximum spacing of sixty (60) feet between clusters; and
  - c. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches. (CO: LANDSCAPE)
3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

K. MASS TRANSIT

1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, 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 the County Engineer. (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 the 100th unit. 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. (BLDG PERMIT: MONITORING - Eng)

L. PARKS

1. Prior to final Master Plan approval by the DRC the plan shall be revised to indicate how minimum Park and Recreation Standards are being satisfied. (DRC: PARKS)

M. PLANNED UNIT DEVELOPMENT

1. Decorative street lights shall be provided pursuant to Section 6.8.A of the ULDC, subject to approval by the County or City Engineer. (CO: BLDG - Eng)
2. Street trees shall be provided as follows:
  - a. Along a minimum of one side of all internal PUD right-of-ways forty (40) feet in width or greater;
  - b. Along both sides of all internal PUD right-of-ways, fifty (50) feet in width or greater; and,
  - c. One canopy tree for every forty (40) linear feet of street frontage with a maximum spacing of sixty (60) feet between clusters.

Root barriers and other alternatives acceptable to the Zoning Division, Utilities Departments and the County Engineer, if required, shall be used. CO: LANDSCAPE - Zoning)

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

The property shall not be subjected to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the 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: ENG - Co Att)

4. Flexible Regulations and Administrative Deviations from the required property development regulations for the residential units and their accessory structures shall be limited to the following:

Property Development Regulations	Administrative Deviation or Flexible Regulations	Pods
Front Setback	22.5' min.	All Pods

\*\* Pavers shall be provided for the driveways of all units (DRC: ZONING)

5. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to show a focal point at the terminus of internal roadway, access tract, residential street (including T-intersections), or

cul-de-sac consistent with the Focal Point Exhibit dated November 12, 1999. This focal point shall be pedestrian oriented public areas and shall be in the form of a plaza, fountain, arcade, accent landscaping with lighting or any other site element or architectural design acceptable to the Zoning Division. (DRC: ZONING)

6. No rear, side interior or side street setback reductions may be permitted. (DRC: ZONING)
7. Drainage easements shall not be permitted along the width and within the rear yards of the back-to-back units. (DRC: ZONING)
8. All zero-lot line lots (units) which side yard abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (DRC: ZONING)

N. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the Planning Division shall ensure that this site plan conforms with the plan presented to the BCC including those recommendations of the West Boynton Area Community Plan incorporated onto the conceptual site plan and the preliminary development plan and regulating plan dated November 12, 1999 (Rec.# 35, 37, and 40). In addition, the street cross sections shown on the regulating plan shall be revised to indicate the types of shade trees to be planted internal to the site and along Hagen Ranch Road. (DRC: PLANNING)

O. 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 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. (MONITORING)