

RESOLUTION NO. R-95-1111

RESOLUTION APPROVING ZONING PETITION PDD95-40
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF JOHN WHITWORTH & FOUR WB LAND, INC.

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 PDD95-40 was presented to the Board of County Commissioners at a public hearing conducted on August 24, 1995; and,

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and **is** the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3 .D.9 (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition PDD95-40, the petition of John Whitworth & Four WB Land, Inc., for an Official Zoning Map Amendment from the Agricultural Residential (AR) to the Residential Planned Unit Development (PUD) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on August 24, 1995, 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 Newell and, upon being put to a vote, the vote was as follows:

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


The Chair thereupon declared that the resolution was duly passed and adopted this 24th day of August, 1995.

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

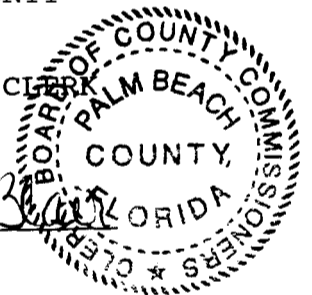


EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION

Tracts 41 through 56, inclusive, and Tracts 73 through 88, inclusive, and Tracts 105 through 120, inclusive;

TOGETHER WITH the South 15 feet of Tracts 17 through 24, inclusive, and;

LESS

The East 25 feet of Tracts 24, 41, 56, 73, 88, 105, and 120 for road right-of-way of Hagen Ranch Road (per Official Record Book 654, Page 171;

AND LESS

The West 20 feet of Tracts 17, 48 and 49 for drainage purposes (per Deed Book 148, Pages 425 and 426);

AND LESS

The West 20 feet of Tracts 80, 81 and 112 for drainage purposes (per Deed Book 113, Pages 239, 241 and 335);

AND LESS

The North 40 feet of Tracts 73, 74, 76, 77, 78, 79 and 80 for drainage purposes (per Deed Book 129, Page 256, and Deed Book 113, Pages 159, 202 and 239;

AND LESS

The North 40 feet of Tract 75 (per Chancery Case No. 407);

Said lands lying and situated within, Palm Beach County, Florida.

CONTAINING 234.92 Acres.

TOGETHER WITH that certain 30 feet reservation for road, dyke and ditch purposes lying adjacent to and South of Lots 81 through 88 inclusive, and North of Lots 105 through 112 inclusive, and South of Tract 8 17 through 24 inclusive, and North of Tracts 41 through 48, inclusive, and lying between the West right-of-way line of Hagen Ranch Road and the East right-of-way line of Lake Worth Drainage District Lateral No. E-2-E, Block 58, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the Plat thereof recorded in Plat Book 2, Pages 45 through 54, inclusive, of the Public Records of Palm Beach County, Florida.

CONTAINING 3.51 Acres.

ALL CONTAINING 238.43 ACRES, MORE OR LESS

VICINITY SKETCH

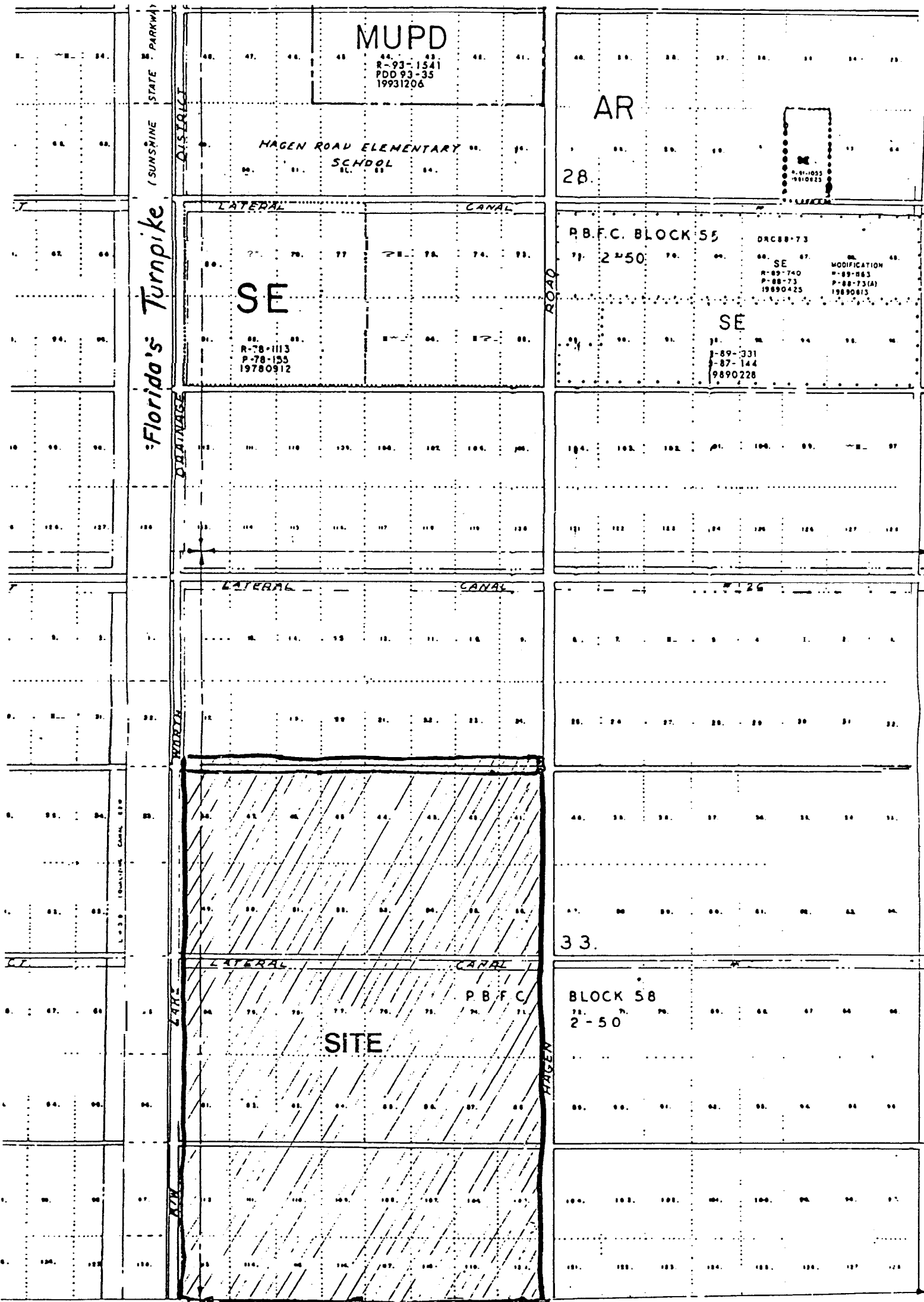


EXHIBIT C

CONDITIONS OF APPROVAL

A. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Closure Assessment Report for all Pollution storage tanks on the property shall be performed according to the Florida Department of Environmental Protection "Pollution Storage Tank Closure Assessment Requirementsⁿ, June 1994. All Assessments reports shall be submitted to and receive approval from the Department of Environmental Resources Management prior to DRC Master, Site or Subdivision Plan certification. (ERM)

B. HEALTH

1. Reasonable precautions shall be taken during development to insure that unconfined particulates (dust particles) **from** the property do not become a nuisance to neighboring properties. (HEALTH)
2. Prior agriculture use of this property may have produced the potential to contaminate the soil and ground water with such chemicals as pesticides, fertilizers and herbicides. In order to assure no health or safety hazards exist on this property the Palm Beach County Public Health Unit requires that a Phase I and Phase II Environmental audit be conducted prior to final site plan approval. The Phase I and Phase II audit will be signed and sealed by a registered professional engineer **or** geologist. (HEALTH)

C. LAKE WORTH DRAINAGE DISTRICT

1. The following rights-of-way shall be required:

E-2-E The east 40' of the west 60' of Tracts 48, 49, 80, 81 and 112, Block 58 **and** the west 60' of Tract 113, Block 58 and those portions of the rights-of-way shown on the receded plat lying between the above.

L-27 The north 70' of Tracts 73-80 inclusive, Block 58, less existing rights-of-way or north 50' of Tracts 73-80 inclusive and narrow or fill in the physical canal by 20' or petition the LWDD Board **of** Supervisors to abandon the canal. The second or third options will require approval by the Board of Supervisors.

All **of** the above tracts in Block 58 are as shown on the Palm Beach Farms Company Plat **No.** 3 as recorded in Plat Book 2, Pages 45-54 inclusive, public records of Palm Beach County, Florida. All additional required rights-of-way may be conveyed by easement or quit claim deed. (LWDD)

D. PLANNING

1. A letter of identification and dedication from Palm Beach County Water Utilities Department (PBCWUD) **of** water supply sites shall be submitted to the Planning Division prior to certification of the master plan by the Development Review Committee (DRC). (PLANNING/PBCWUD)

E. ENGINEERING

1. Prior to recordation of the first plat 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. (BUILDING - Engineering)
2. The Property owner shall construct a separate right turn lane, north approach and a left turn lane, south approach on Hagen Ranch Road at the project's entrance road. This construction shall be concurrent with the paving and drainage improvements with the first plat. 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. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).
3. On or before **October 1, 1996**, the property owner shall convey to Palm Beach County adequate road drainage easement(s) through the project's internal drainage system to provide legal positive outfall for runoff from those segments of Hagen Ranch Road along the property frontage and for a maximum **400** ft. distance each side of the property boundary lines along Hagen Ranch Road. Said easements shall be no less than **20** feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of 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. Elevation and location of all construction 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 (MONITORING - Engineering).
4. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project, Zoning Petition Number 95-40, to be paid at the time of issuance of the Building Permit presently is:
 - a. **\$1,650.00** per approved single family dwelling unit

- b. \$1,155.00 per approved multi family dwelling.

Credit shall also be given for the previous farm uses which existed onsite in accordance with Palm Beach County Fair Share Ordinance. (IMPACT FEE COORDINATOR).

- 5. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

- a. PHASE ONE: Phase One of the project is limited to 152 single-family units (the equivalent of 1,520 net trips) until construction commences for an additional left turn lane west approach (for dual lefts of appropriate length) on Boynton Beach Boulevard, at Jog Road. The design and construction of this improvement shall be funded by the Developer.

- b. PHASE TWO: Phase Two of the project is limited to 152 single-family units (the equivalent of 1,520 net trips) until construction commences for an additional left turn lane south approach (for dual lefts of appropriate length) on El Clair Ranch Road, at Boynton Beach Boulevard. The design and construction of this improvement shall be funded by the Developer.

- c. PHASE THREE: Phase Three the project is limited to 47 multi-family units and 164 single-family units (the equivalent of 1974 tpd) until construction commences on Jog Road from Boynton Beach Boulevard to Gateway Boulevard.

- d. PHASE FOUR: Phase Four of the project is limited to 47 multi-family units and 250 single-family units (the equivalent of 2,829 net trips) until construction commences on an additional left turn lane, east approach, on Boynton Beach Boulevard at Hagen Ranch Road and a second departure lane on Hagen Ranch Road to accept the dual left turn movement. The design and construction of this improvement shall be funded by the Developer.

- e. PHASE FIVE: Phase Five of the project is limited to 47 multi-family units and 550 single-family units (the equivalent of 5,829 net trips through 1999) until construction commences on an additional right turn lane, south approach, on Hagen Ranch Road on Boynton Beach Boulevard. The design and construction of this improvement shall be funded by the Developer.

The mix of building permits, phasing, and/or roadway improvements specified herein, listed above may be adjusted, modified, and/or deleted 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. (BUILDING - Engineering)

- 6. The property owner shall provide for the acquisition by funding the right-of-way required for condition numbers E5D & E5E above and shall provide surety acceptable to the Office of the County Engineer and County Attorney. This developer shall enter into a written agreement with the Right of Way Acquisition Section on or before February 24, 1996. Notification shall be given to **Land Development Division.** (MONITORING/ENGINEERING - Engineering).

7. If any of the roadway improvements listed in condition E5 or E6 above are not classified as assured construction as defined in the Traffic Performance Standards Ordinance, then this property owner shall post the required acceptable surety to guarantee the construction. This surety shall be posted with the Office of the **Land Development Division** on or before February 24, 1996 in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. (MONITORING - Engineering)
8. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the project's entrance and Hagen Ranch Road. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (ENGINEERING - Building).
9. Prior to issuance of the technical compliance for the proposed 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. (ENGINEERING - Engineering).
10. The Property owner shall fund the construction of a pedestrian bike path on Hagen Ranch Road. The limits of this funding shall be from the project's south property line north to the entrance road to the existing Elementary school on Hagen Ranch Road south of Boynton Beach Boulevard. Funding for this bike path shall be completed prior to January 1, 1996. Funding shall be based upon **100%** of the Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. If other developments request rezoning and/or conditional uses for planned developments prior to September 1, 2000, then the County Engineer shall consider a shared payment refund for monies paid toward this improvement. (MONITORING - Engineering)

F. PLANNED DEVELOPMENT

1. Street lights shall be provided pursuant to Section **6.8.A.23.d(1)** of the ULDC, subject to approval by the County Engineer. (ENGINEERING)
2. Street trees shall be planted within or adjacent to all rights-of-way pursuant to Section **6.8.A.23.d(3)** of the ULDC, subject to approval by the County Engineer. (ENGINEERING-Zoning)
3. Street bike lanes shall be provided pursuant to Section **6.8.A.23.d(4)** of the ULDC, subject to approval by the County Engineer. (ENGINEERING)
4. All utilities shall be underground pursuant to Section **6.8.A.23.d(5)** of the ULDC. (ENGINEERING)

G. PREM

The petitioner shall:

1. Deed **to** Palm Beach County Board of County Commissioners a 4.8 acre civic site, and shall have satisfied each of the following conditions prior to deed conveyance:

- a. Developer to provide Palm Beach County Board of County Commissioners with a warranty deed by February 1, 1997, a 4.8 acre civic site, in a location and form acceptable to Facilities, Development & Operations Department (FDO), and the County Attorney's office. Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed. (MONITORING-PREM)
- b. Developer to provide a title policy insuring marketable title to Palm Beach County for the civic site. 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. The appraisal to be obtained by the Developer. The County to have the option, at their discretion, to release all or part of the Declarations of Covenants and Conditions of the P.U.D., as it would apply to the civic site. (PREM)
- c. All ad valorem real estate taxes and assessments for the year of closing shall be pro-rated at the day of acceptance of the deed for the civic site; acceptance date to be determined by PREM and the County Attorney's Office after receiving Board approval. (PREM/COUNTY ATTORNEY)
- d. Developer to provide the County with a certified survey of the proposed civic site by November 1, 1996. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:
 1. The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21HH.6.
 2. If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
 3. 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. (MONITORING-PREM)
- e. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed. (PREM)
- f. Developer shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Developer shall specifically address the following issues:
 1. The discharge of surface water from the proposed civic site into the Developer's water retention basins.
 2. As easement across Developer's property from the proposed civic site to the retention basins, if required. (PREM)
- g. By acceptance of these conditions developer agrees to allow the County to perform any on site inspections deemed appropriate to support the acquisition of the civic site. (PREM)

- h. The Petitioner shall provide PREM with an Environmental Assessment of the proposed civic site by November 1, 1996. 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:

1. Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
 2. 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. Records to review but shall not be limited to are:
 - a. Palm Beach County Environmental Resources Management Department Records.
 - b. Florida Department of Regulation Records.
 - c. EPA's National Priorities list (NPL)
 - d. Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - e. Hazardous Waste Data Management System List (HWDMS).
 3. Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
 4. Perform on-site survey to describe site conditions and to identify potential area of contamination.
 5. Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone. (MONITORING-PREM)
- i. Developer to prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. (PREM)
 - j. Developer to provide water and sewer stubbed out to the property line. (PREM)
- 2) At the County's option, exchange the required on-site dedication of land (by fee simple title) for cash of equal value or land off-site equal in acreage. In addition, should the off-site land option be chosen, each condition listed in (1) above will also apply. If the land off-site is of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of ULDC 6.8B.6a (2). (PREM)

H. WATER UTILITIES

1. The Developer shall be required to dedicate three (3) public water supply well sites and necessary utility and access easements as stated in the TAP-0 District Ordinance. The sites shall be located as close as possible to Hagen Ranch Road. (PBCWUD)
2. The well sites shall be identified as "public water supply well sites" on the Master Plan. (PBCWUD)
3. The location of the required well sites must be approved by Palm Beach County Water Utilities Department prior to final master plan certification. (PBCWUD)

I. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of conditions 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)