

RESOLUTION NO. R-96- 994

RESOLUTION APPROVING ZONING PETITION PDD96-31
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF Z.E. TAHERI & MDL REALTY CO.
BY KIERAN J. KILDAY, AGENT
TAHERI 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 PDD96-31 was presented to the Board of County Commissioners at a public hearing conducted on June 24, 1996; 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 PDD96-31, the petition of Z.E. Taheri & MDL Realty Co. by Kieran J. Kilday, agent, for an Official Zoning Map Amendment to Planned Development District (PDD) from the Agricultural Residential (AR) Zoning District 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 June 24, 1996, 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 Marcus and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on July 25, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Babara Allen*
COUNTY ATTORNEY

BY: *Deborah A. Moore*
DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT "A"

DESCRIPTION FOR Z.E. TAHERI

LEGAL DESCRIPTION:

PARCEL I

That part of Tract 16, lying East of the parcel conveyed for Jog Road in Official Record Book 7188, Page 378, Public Records of Palm Beach County, Florida; Tracts 17 through 24 and Tract 38, Less that part of Tracts 17 and 24 conveyed for Jog Road in said Official Record Book 7188, Page 378, all in Block 5, THE PALM BEACH FARMS CO. PLAT NO. 3, Plat Book 2, Pages 45-54, Public Records of Palm Beach County, Florida.

PARCEL II

The following described parcels being road rights-of way as shown on the THE PALM BEACH FARMS CO. PLAT NO. 3, recorded in Plat Book 2, page 45, of the Public Records of Palm Beach County, Florida.

The 30 feet lying between Tracts 17 and 24, 18 and 23, 19 and 22, and 20 and 21 of Block 5.

ALSO

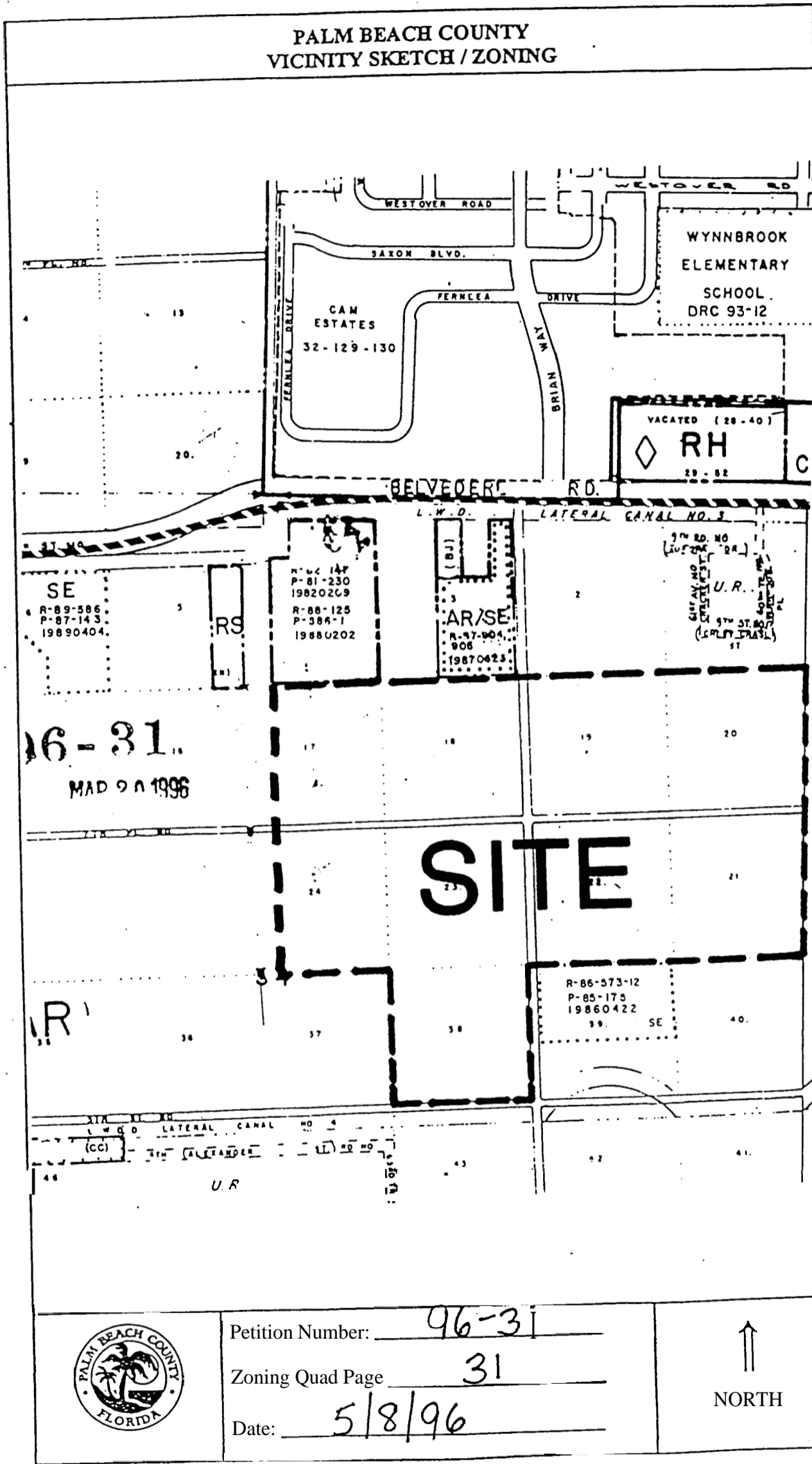
Beginning at the Northeast corner of Tract 18, Block 5; thence South to the Southeast corner of Tract 23; thence East to the Southwest corner of Tract 22; thence North to the Northwest corner of Tract 19; thence West to the Northeast corner of Tract 18 and the Point of Beginning.

LESS and EXCEPT the Right -of -Way for Jog Road.

Containing in all 93.3751 acres, more or less.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number: 96-31
 Zoning Quad Page 31
 Date: 5/8/96



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EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated June 11, 1996). 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. 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. (ONGOING: HEALTH/CODE ENF)

C. MASS TRANSIT

1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer.

The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use,,and bicycle rack. (DRC: ZONING - School Board / Eng / Planning)

2. The property owner shall negotiate, in good faith, a contract for a proportionate share of the cost of operation and maintenance of mass transit generated by this projects identifiable impacts. This condition shall remain in effect until June 24, 1997. (DATE: MONITORING - Eng)

D. SCHOOL BOARD

1. The petitioner shall post in a clear and visible location in all sales offices and model homes a sign provided by the School Board of Palm Beach County which indicates that school age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

E. ENGINEERING

1. Prior to the issuance of a building permit 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 Jog Rd. 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)

2. 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. (PLAT: ENG)
3. The Property owner shall construct:
 - a) relocate the existing median opening and the associated left turn lane north approach on Jog Road to align with the proposed entrance to this project as referenced in the condition of approval above.
 - b) construct a right turn lane, south approach on Jog Road, at the project's entrance road prior to the issuance of the first Certificate of Occupancy for this project.

This construction shall be concurrent with the construction of the projects entrance road onto Jog Road. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to any utility relocations. 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. (CO: MONITORING - Eng)

4. The property owner shall provide funding for the acquisition of any offsite right-of-way and all the associated costs to obtain the right of way required for the construction of the right turn lane as referenced in the condition above (E.3.b). Surety acceptable to the Office of the County Engineer and County Attorney shall be posted and then the property owner shall enter into a written agreement with the Right-of-Way Acquisition Section prior to submittal of the first plat. Notification by the developer shall be given to the Land Development Division. (PLAT SUBMITTAL: ENG)
5. LANDSCAPE WITHIN MEDIAN

A. Prior to technical compliance by the Land Development Division, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the

plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (TC: ENG)

B. All required median landscaping including an irrigation system, if required, shall be at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the property owner 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 concurrent with the improvements with the first plat. (PLAT: ENG)

C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat to reflect this obligation. (PLAT: ENG)

6. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Project entrance and Jog Road. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (ENG)

F. LANDSCAPING - STANDARD

1. All trees required to be planted on site by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (CO: LANDSCAPE - Zoning)

2. Palms shall be required along the entire Jog Road frontage, and meet the following minimum standards at time of installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. clustering: three (3) palms every 75 feet with staggered heights twelve (12) to eighteen (18) feet.;and
- c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.(CO: LANDSCAPE - Zoning)

3. A continuous **three** (3) foot high berm with the height of the berm measured from the top of curb shall be required along the entire Jog Road frontage. (CO: LANDSCAPE - Zoning)

4. A continuous two (2) foot high berm with the height of the berm measured from toe to top of berm shall be required within all 15 foot wide perimeter P.U.D. buffers. (CO: LANDSCAPE - Zoning)
5. With the exception of the Jog Road frontage, the property owner shall install a six (6) foot high vinyl chain link fence on the two (2) foot berm perimeter PUD buffers. (CO: LANDSCAPE - Zoning)

C. PLANNED UNIT DEVELOPMENT

1. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
2. Street trees shall be planted in or adjacent to all rights-of-way, pursuant to Section 6.8.A.23.d(3) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Street bike lanes shall be provided in or adjacent to all rights-of-way over fifty (50) feet in width, pursuant to Section 6.8.A.23.d(4) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (PLAT: ENG - Zoning)
5. All property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall, among other things, provide for: formation of a single "master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

The property shall not be subjected to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the issuance of the first building permit, or recordation of the first plat for any portion of the planned development, whichever occurs first. (BLDG PERMIT / PLAT: BLDG / ENG - Co Attorney)

6. Prior to final site plan certification, the site plan shall be revised to reflect a minimum 50 foot setback from the P.U.D. property line to the inside edge of all lake maintenance easements. (DRC: ZONING)
7. Prior to Final Site Plan certification, the property owner shall relocate the controlled access at the main entrance of the PUD, in accordance with the Unified Land Development Code. (DRC: ZONING)
8. The controlled access shall be installed prior to issuance of the first Certificate of Occupancy for the project. (CO: BLDG - Zoning)

H. LAKE WORTH DRAINAGE DISTRICT

1. Prior to final site plan certification, the Developer shall record an Easement or Quit Claim Deed, whichever the owner prefers, for the South 20 feet of Tract 38, Block 5, Palm Beach Farms Company Plat No. 3 as recorded in P.B. 2 Pages 45 to 54 inclusive, since the Lake Worth Drainage District holds a reservation for canal purposes over the aforementioned area. (DRC: LWDD)

I. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by July 1, 1997, for a 1.87 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, and shall have satisfied each of the following conditions prior to deed conveyance.
 - a. 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.
 - b. 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.
 - c. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed.
 - d. 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.
 - e) 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.
 - f) Developer to prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department.

- g) Developer to provide water and sewer stubbed out to the property line. (DATE: MONITORING - PREM)
2. The property owner shall provide the County with a certified survey of the proposed civic site by July 1, 1997. 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. (DATE: MONITORING - PREM)

3. The property owner shall provide PREM with an Environmental Assessment of the proposed civic site by July 1, 1997. 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. 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:

- a) EPA's National Priorities list (NPL)
 - b) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - c) 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) The results of an 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. (DATE: MONITORING - PREM)
4. Prior to July 1, 1997, the Petitioner 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. 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 petitioner shall contribute cash equal to the difference in values. Valuation of the civic site contribution shall be subject to the County appraisal process, appraised as a civic site 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). (DATE: MONITORING - PREM)

J. CONCURRENCY

1. Prior to final DRC approval, the applicant shall revise concurrency to match site plan unit count. (DRC: CONCURRENCY / ZONING)

K. AIRPORT

1. Prior to the issuance of any building permits, the developer of the site shall comply with noise reduction construction standards recommended by EPA and FAA as contained in document DOT/FAA/PP-92-5 "Guidelines for the Sound Insulation of Residences Exposed to Aircraft Operations", for all residences and buildings within the P.U.D. and shall be consistent with the FAA land use compatibility guidelines given in Table 6.7-1 of the ULDC. (BLDG PERMIT: BLDG - Airport)
2. Prior to final DRC certification, the master plan, and all site plans shall be amended to indicate:
 - a) Table 6.7-1 of the ULDC. (DRC: ZONING - Airport)
3. Prior to the recordation of the first plat, the petitioner shall include in the homeowners documents, sales contracts, sales brochures, Master Plans and related Site Plans, a disclosure statement identifying:
 - a) The project is located under the Palm Beach International Airport (PBIA) flight path. (PLAT: ZONING - Airport)

L. 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.

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)