

RESOLUTION NO. R-96-1944

RESOLUTION APPROVING ZONING PETITION PDD96-84
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF JEFFERY ROESENBERG, TRUSTEE
BY KIERAN KILDAY, AGENT
(WELLINGTON GLEN LAKES ESTATES)

7/14/96

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 PDD96-84 was presented to the Board of County Commissioners at a public hearing conducted on October 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 PDD96-84, the petition of Jeffery Roesenberg, Trustee by Kieran Kilday, agent, for an Official Zoning Map Amendment to Planned Development District (PDD) from Residential Estates (RE) to 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 October 24, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Foster 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:

Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	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 December 2, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Allen*
COUNTY ATTORNEY

BY: *Joan Hawley*
DEPUTY CLERK

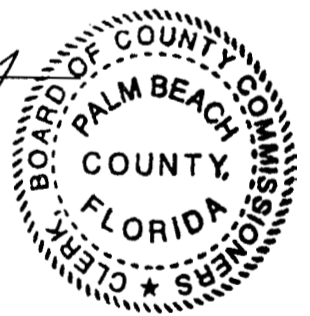


EXHIBIT A
LEGAL DESCRIPTION

PROPERTY DESCRIPTION

TRACTS 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20 AND 21, BLOCK 17 OF PALM BEACH FARMS COMPANY PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, AT PAGES 46 AND 47, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCELS

PARCEL 1

A PARCEL OF LAND LYING IN BLOCK 17 OF THE PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BOUNDED AS FOLLOWS:

30' ,LYING EAST OF AND ADJACENT TO TRACTS 5, 8, 17 AND 20, AND WEST OF AND ADJACENT TO TRACTS 4, 9, 16 AND 21, WITH THE SOUTH BOUNDARY AT THE LAKE WORTH DRAINAGE DISTRICT REQUIRED RIGHT-OF-WAY FOR LATERAL NO. 7, LESS AND EXCEPTING THEREFROM SAID LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY.

PARCEL 2

A PARCEL OF LAND LYING IN BLOCK 17 OF THE PALM BEACH FARMS COMPANY PLAT NO. 3 RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BOUNDED AS FOLLOWS:

30' LYING SOUTH OF AND ADJACENT TO TRACTS 7, 8 AND 9, AND NORTH OF AND ADJACENT TO TRACTS 16, 17 AND 18, WITH THE WEST BOUNDARY AT THE LAKE WORTH DRAINAGE DISTRICT CANAL E-1 RIGHT-OF-WAY.

CONTAINING: 5,565,846.094 SQUARE FEET OR 127.774 ACRES MORE OR LESS.

EXHIBIT B

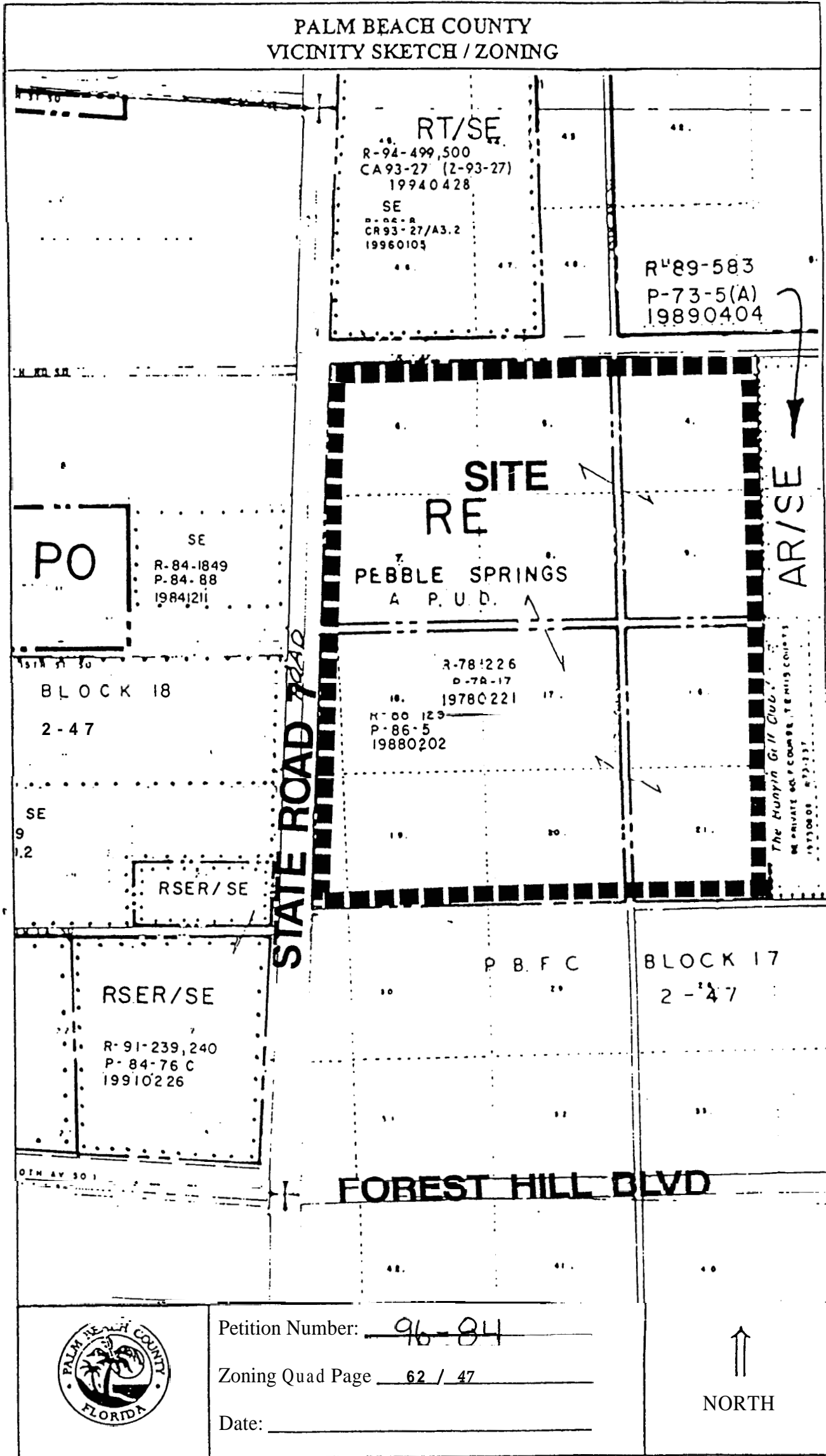


EXHIBIT C

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 August 30, 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)
2. The approvals granted in Resolution R-78-226, Petition 78-17, and Resolution R-88-129, Petition 86-5, are hereby revoked. (MONITORING)

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. LANDSCAPING ALONG THE EAST PROPERTY LINE (EXCLUDING THE ADJACENT REQUIRED PRESERVE AREA)

1. Landscaping and buffering along the east property line excluding the preserve area shall be upgraded to include:
 - a. One (1) canopy tree for each thirty (30) linear feet of frontage.
 - b. One (1) shrub for each fifty (50) square feet. (DRC: LANDSCAPE - Zoning)

D. MASS TRANSIT

1. A. 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 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 or Palm Tran. (DRC: ZONING)

B. Mass transit access, shelters and/or bus stops, if required, shall be located and constructed by the petitioner within three (3) years (November 1, 1999) 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 the requirement for mass transit access and/or bus shelters, if requested by the County Engineer. Mass transit access shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, and a bicycle rack. (DATE: MONITORING - Eng)

E. ENGINEERING

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

- a) No Building Permits may be issued until construction has begun for State Road 7 as a 6 lane section from Belvedere Road to Forest Hill Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)

2. 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 or within 6 months of receipt of notice to proceed from the County Engineer. (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)

3. The developer, the Property Owner's Association and/or Homeowners Association may add an access onto Dillman Road. The cost for this access which includes, but not limited to, Permitting and Design costs, bridge construction costs, and roadway construction costs shall be provided by the:

- a. PUD Developer, if any dwelling unit lots are still owned by the developer at the time of the request. (or)
- b. Property Owner's Association and/or Homeowners Association of the PUD should there be no remaining lots owned by the developer at the time of the request of the additional access.

If a connection to Dillman Road is provided, a physical barrier with landscaping at the eastern terminus of Dillman Road at the project's entrance, shall be provided limiting vehicular traffic to the improved portion of Dillman Road only. The landscaping material shall consist of canopy trees and understory planting as permitted by the County Engineer. (ONGOING: ENG)

4. Prior to the recordation of the first plat, the property owner shall include in the homeowners documents, sales contracts, all sales brochures, Master Plans and related Site Plans a disclosure statement identifying that the Property Owner's Association and/or Homeowners Association will be responsible for the cost of the access onto Dillman Road Extension, if it is requested, and there is no Developer as outlined in the condition above. The Information which appears in written form shall appear in **bold print**. (PLAT: ENG)
5. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before July 1, 1998 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the Homeowners Association. (DATE: MONITORING - Eng)

F. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by October 1, 1997 for a 2.56 acre civic site, in a location and form acceptable to Facilities, Development & Operations Department (FD&O), and the County Attorney's office. Direct access over canals to either SR 7 or Dillman Road shall be provided by the Petitioner. 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 issue:

- 1) The discharge of surface water from the proposed civic site into the Developer's water retention basins.
 - 2) An 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 August 1, 1997. 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. (DATE: MONITORING - PREM)

3. The property owner shall provide PREM with an Environmental Assessment of the proposed civic site by August 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:

- 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. (DATE: MONITORING - PREM)
4. Prior to **October 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 on-site and off-site 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). (DATE: MONITORING - PREM)

G. 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: MONITORING / ENG - Co Att)

H. 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)