

RESOLUTION NO. R-97-1087

RESOLUTION APPROVING ZONING PETITION EAC96-71(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF HOLIDAY ORGANIZATION, INC.
BY LEE STARKEY, AGENT
(THE COLONY 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*, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, ~~the~~ notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition EAC96-71(A) was presented to the Board of County Commissioners at a public hearing conducted on August 28, 1997; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development **Order** Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development **Order** Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands **and the** natural functioning of the environment.
10. This Development **Order Amendment**, with conditions as adopted, **will** result in logical, timely **and** orderly development patterns.

WHEREAS, Article 5 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 EAC96-71(A), ~~the~~ petition of Holiday Organization, Inc., by Lee Starkey, agent, for a Development Order Amendment (DOA) to revoke TDR approval and delete 19 TDR units (37 total writs), delete ~~land area~~ (9.86 acres), **and modify** conditions of approval ~~on~~ a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located ~~as shown on~~ a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved ~~on~~ August 28, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

The motion was seconded by Commissioner Lee 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		Absent
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

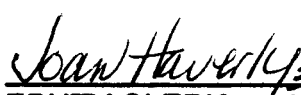
The Chair thereupon declared that the resolution was duly passed and adopted on August 28, 1997.

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

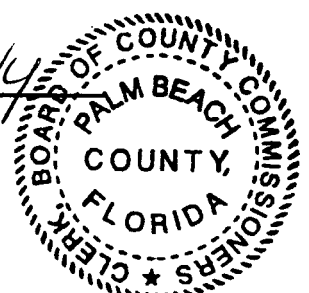


EXHIBIT A

LEGAL DESCRIPTION

THE COLONY PLANNED UNIT DEVELOPMENT LEGAL DESCRIPTION

The east 100 feet of the **N 1/2** of that part of Tract 6, in the **SE 1/4** of Section 12, Township **45** South, Range **42** East, lying south of the right-of-way line for Lake Worth Drainage District Canal Number **19**, Palm Beach County, Florida, **AND:**

That part of the south half of Tract **6** in the Southeast Quarter (**SE 114**) of Section 12, Township **45** South, Range 42 East, according to the amended plat thereof recorded in Plat **Book 9**, Page 74, of the Public Records of Palm Beach County, Florida, described as follows:

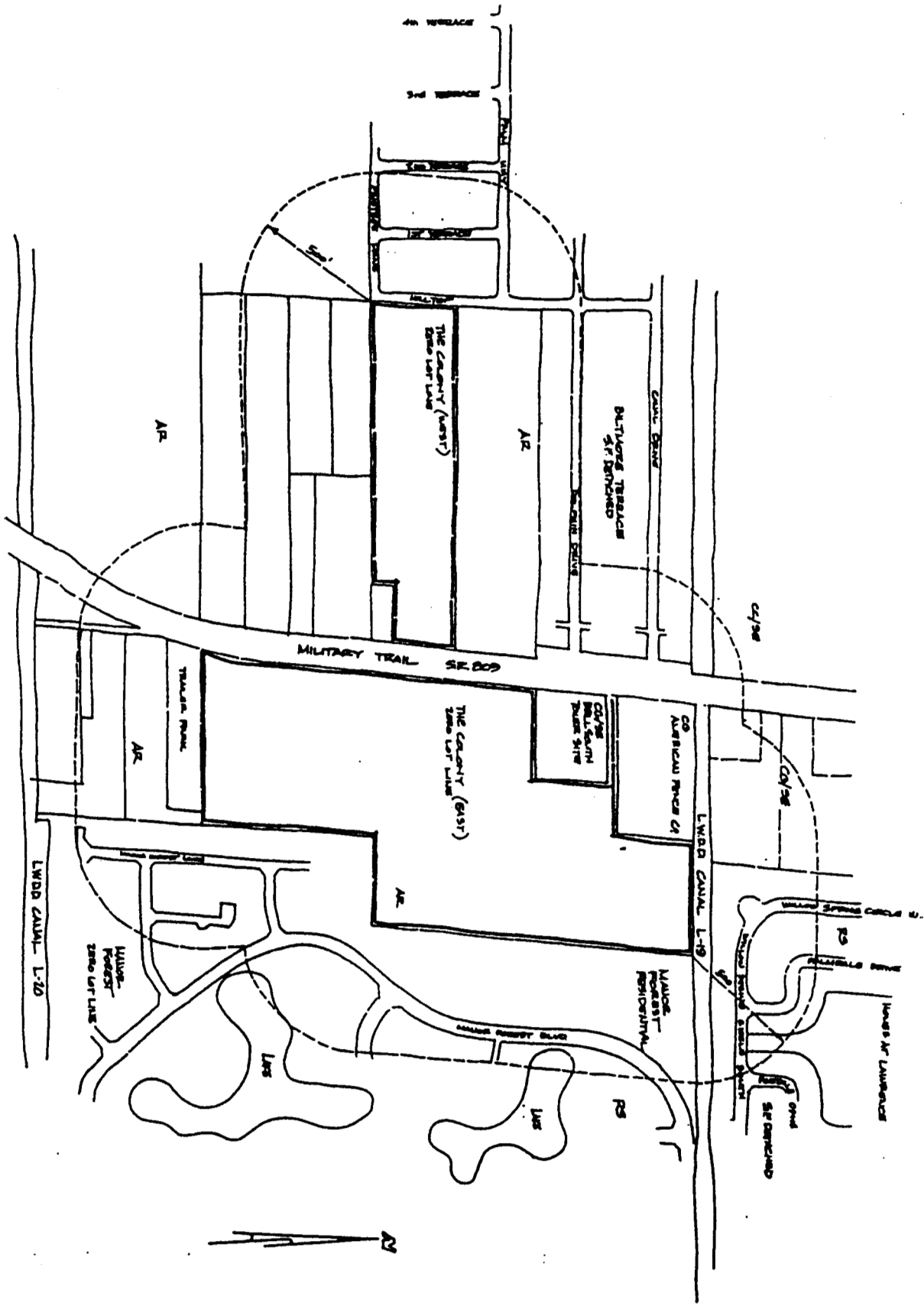
Beginning at a point on the south line of said Tract **6**, a distance of 400 feet easterly, measured along the south line of said Tract 6, from the southwest corner of said Tract 6, run north on a line parallel to the west line of said Tract 6, to the north line of the south half of said Tract 6; thence run easterly along the north line of the south half of said Tract 6 to the northeast corner of the south half of said Tract 6; thence run southerly along the east line of the south half of said Tract 6 to the southeast corner of said Tract 6; thence run westerly along the south line of said Tract 6 to the POINT ~~OF~~ BEGINNING, **AND:**

Tracts **5, 7** and **14**, Southeast Quarter of amended Plat of Section 12, Township **45** South, Range 42 East, Palm Beach County, Florida (**less** road right-of-way for Military Trail), **AND:**

Sub of **SE 1/4**. North 35 feet of westerly 400 feet of south 1/2 of Tract 6 (less road right-of-way Military Trail), **AND:**

The south one quarter of the northeast one quarter of the southwest one quarter of Section 12, Township **45** South, Range **42** East, LESS the south 85 feet of the east 300 feet thereof, and LESS the easterly 60 feet for the right-of-way of State Road 809.

EXHIBIT B
VICINITY SKETCH



96-71 A JUN 18 1997

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous ~~conditions of~~ approval ~~are~~ shown in **BOLD** and will ~~be~~ carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. ~~All previous conditions of approval applicable to the subject property, as contained in Resolutions R-97-250 (Petition 96-71), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the JLDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)~~
2. ~~Condition A.1 of Resolution R-97-250, Petition 96-71 which currently states:~~

~~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.~~

~~Is hereby amended to read:~~

~~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 July 24, 1997. 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)~~
3. Resolution R-97-251, granting approval of Petition TDR96-71, is hereby revoked. (MONITORING)

B. BUILDING AND SITE DESIGN

1. ~~Condition A.2 of Resolution R-97-250, Petition 96-71 which currently states:~~

~~Prior to DRC certification of the subdivision plan for Phase 3, the petitioner shall indicate a pool, with cabana and showers in the designated recreation tract of the Phase 3 parcel to the west.~~

~~Is hereby deleted. [REASON: Parcel to the west a.k.a. Phase 3 is deleted]~~
2. Prior to **DRC** certification of the subdivision plan for Phase 4, the petitioner shall indicate a pool, with cabana and showers and a minimum of five parking spaces, in the designated recreation tract of the Phase 1 parcel to the east. (Previously Condition A.3 of Resolution R-97-250, Petition 96-71) (DRC: ZONING - Building)

3. Condition **A4** of Resolution **R-97-250**, Petition 96-71 ~~which~~ currently states:

A vinyl coated chain link fence shall be placed in the twenty (20) foot Type D along the west property line of Phase 3 (Hilltop Drive).

Is hereby deleted. [REASON: Parcel to the west a.k.a. Phase 3 is deleted]

C. 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: 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.
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (Previously Condition E.1 of Resolution R-97-250, Petition 96-71) (CO: LANDSCAPE - Zoning)

2. All palms planted on site in compliance with this approval, except on individual residential lots, shall meet the following minimum standards at time of installation:

- a. Palm heights: twelve (12) feet clear trunk or grey wood, whichever is greater;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and
- c. Pruning: minimum six (6) fronds, no clipped or spiked cuts.
- d. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previously Condition B.2 of Resolution R-97-250, Petition 96-71) (CO: LANDSCAPE - Zoning)

D. Condition C of Resolution R-97-250, Petition 96-71 ~~which~~ currently states:

LANDSCAPING ALONG NORTH AND SOUTH SIDES OF PARCEL ON WEST SIDE OF MILITARY TRAIL (PHASE 3)

1. A minimum twenty (20) foot Type B perimeter buffer shall be required along the north and south sides of Phase 3. No reductions shall be permitted.

Is hereby deleted. [REASON: Parcel to the west a.k.a. Phase 3 is deleted]

E. ENGINEERING

1. LANDSCAPE WITHIN MEDIAN

- a. Prior to technical compliance by the Land Development Division, the property owner shall apply to the PBC 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 PBC 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 Co Eng. (Prev **Cond E.** **1.a** of **Reso. R-97-250, Pet 96-71**) (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 **is** 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. (Previously Condition **E.** **1.b** of Resolution R-97-250, Petition 96-71) (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. (Previously Condition **E.** **1.c** of Resolution R-97-250, Petition 96-71) (PLAT: ENG)

- 2. Condition E.2 of Resolution R-97-250, Petition 96-71 **which** currently states:

Prior to DRC approval, the Master Plan shall **be** amended to reflect the entrance into Phase **3** relocated a minimum of **300** feet north of the centerline for the entrance to the east portion of the PUD.

Is hereby deleted. [REASON: Parcel to the **west** a.k.a. Phase **3** is deleted]

- 3. Prior to Technical Compliance, the property owner shall convey to Palm Beach County sufficient road drainage **easement(s)** through the project's **internal** drainage system, as required by and approved by the County Engineer, to provide legal positive **outfall** for **runoff** from **those** segments of Military **Trail** along the property frontage; and a **maximum** **800** feet of these adjacent **roadway(s)**. The **limits** of this additional **800** feet of drainage shall be determined by **the** County Engineer. Said easements shall **be** no less than **20** feet in **width**. Portions of **such** system not included within roadways **or** waterways dedicated for **drainage** purposes **will be** specifically **encumbered** by said **minimum** **20** foot drainage easement from the point of origin, to the point of legal positive outfall. **The** drainage system within **the** project **shall have** **sufficient retention/detention** and conveyance capacity **to meet** the storm water discharge and treatment requirements of Palm **Beach** County and the applicable Drainage District, **as** well as the **South** Florida Water Management District, for the combined **runoff** from **the**

project to accommodate the ultimate Thoroughfare Plan Road **Section(s)** of the included segment. **If** required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of **24** inch closed piping system and appropriate **wingwall or other structures** as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. **Any** and all excess fill material from excavation by Palm Beach County **within said** easements shall become **the property of Palm Beach County** which **at** its discretion may use this fill material. (Previously Condition **fi.3** of Resolution R-97-250, Petition **96-71**) (TC: ENG).

4. **The** property owner shall install **signalization** (pedestrian **and/or** vehicles) **if and when warranted as** determined by the County Engineer at the intersection of Military Trail and the project's entrance road. (Prev Cond **E.4** of Resolution R-97-250, Petition 96-71) (ONGOING: IING)

F. Condition **D** of Resolution R-97-250, Petition 96-71 which currently states:

LANDSCAPING ALONG WEST SIDE OF PHASE 1, PHASE 2 AND EAST SIDE OF PHASE 3 (ABUTTING MILITARY TRAIL)

1. Landscaping and buffering **along** the property lines adjacent to Military Trail shall be upgraded to include:
 - a. A minimum twenty-five **(25)** foot wide landscape buffer **strip**;
 - b. **An** undulating berm having an average height of three **(3)** feet;
 - c. One **(1)** canopy tree for each twenty **(20)** linear feet of frontage, planted a maximum of sixty **(60)** feet on center;
 - d. One (1) palm or pine tree for each twenty **(20)** linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree; and
 - e. One **(1)** twenty four **(24)** inch high shrub, or equivalent **ground** cover approved by the Planning, Zoning and Building Department, for each four **(4)** linear feet, to be planted on **top** of the required berm and maintained at a minimum height of thirty six **(36)** inches.

Is hereby amended to read:

LANDSCAPING ALONG WEST SIDE OF PHASE 1, & PHASE 2 (ABUTTING MILITARY TRAIL)

1. Landscaping **and** buffering **along the** property lines adjacent to Military Trail shall be upgraded to include:
 - a. A minimum twenty-five **(25)** foot **wide** landscape buffer strip;
 - b. **An** undulating **berm** having an average **height of three** **(3)** feet;
 - c. **One (1) canopy tree for each** twenty **(20) linear** feet of frontage, planted a maximum **of sixty (60)** feet **on** center;
 - d. **One (1) palm or pine tree for each twenty (20) linear feet of frontage.** A group of **three or more palm or pine trees** may supersede **25% of the** requirement for **a canopy tree**; and
 - e. **One (1) twenty four (24) inch high shrub**, or equivalent **ground** cover approved by **PZ B** for **each four (4) linear** feet, to **be** planted on **top of the** required **berm and maintained** at a minimum height of thirty six **(36)** inches. **(CO: LANDSCAPE)**

G. 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 **PBCounty** School Board or Palm Tran. (Previously Condition **F.1.a** of Resolution **R-97-250**, Petition **96-71**) (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 (February **1,2000**) 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. (Prev. Cond. **F.1.b** of Reso **R-97-250**, Petition **96-71**) (DATE: MONITORING - Eng)

H. PARKS

1. Condition **G.1** of Resolution **R-97-250**, Petition **96-71** which currently states:

A recreation site with facilities shall be provided within the phase west of **Military Trail**. **Both** the land area and facilities for this recreation site shall be increased fifty (**50%**) percent above minimum requirements which shall be based on the number of dwelling units proposed for this phase at the time of final DRC Certification.

Is hereby deleted. [REASON: Parcel to the west a.k.a. Phase 3 is deleted]

I. 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. (Previously Condition **H.1** of Resolution **R-97-250**, Petition **96-71**) (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**. (Previously Condition **H.2** of Resolution **R-97-250**, Petition **96-71**) (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. (Previously Condition **H.3** of Resolution **R-97-250**, Petition **96-71**) (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section **6.8.A.23.d(5)** of the **ULDC**. (Previously Condition **H.4** of Resolution **R-97-250**, Petition **96-71**) (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. (Previously Condition **t 15 of** Resolution **R-97-250**, Petition 96-71) (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

J. 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. (Previously Condition **1.1 of** Resolution **R-97-250**, Petition **96-71**) (ONGOING: SCHOOL BOARD)
2. Prior to final master plan approval by the DRC the petitioner shall provide **a** bus access on the east side of Military Trail, if warranted, in **a** manner and location acceptable to the Palm Beach County **School** Board. (Previously Condition **12 of** Resolution **R-97-250**, Petition **96-71**) (DRC: School Board)
3. Prior to final master plan approval by the DRC the petitioner shall indicate **a** bus stop on the west side of Military Trail. (Previously Condition **13 of** Resolution **R-97-250**, Petition **96-71**) (DRC: School Board)

K. COMPLIANCE

1. Condition **J.1 of** Resolution **R-97-250**, Petition **96-71** which currently states:

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.

It is hereby amended to read:

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 noncompliance, 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)