

RESOLUTION NO. R-98- 729

RESOLUTION APPROVING ZONING PETITION EAC96-71(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF COLONY @ BOYNTON BEACH
BY LYNNE GILLIS, AGENT
(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(B) was presented to the Board of County Commissioners at a public hearing conducted on May 28, 1998; 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(B), the petition of Colony @ Boynton Beach, by Lynne Gillis, agent, for a Development Order Amendment (EAC) to Modify Condition D.I (Landscaping) of R-97-1087 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 May 28, 1998, 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 May 28, 1998.

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

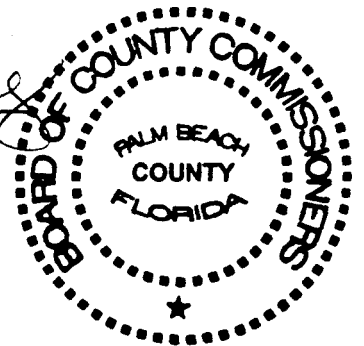


EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION

The east **100** feet of the N $\frac{1}{2}$ 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 1/4**) 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 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 $\frac{1}{2}$ of Tract **6** (less road right-of-way Military Trail).

EXHIBIT B

VICINITY SKETCH

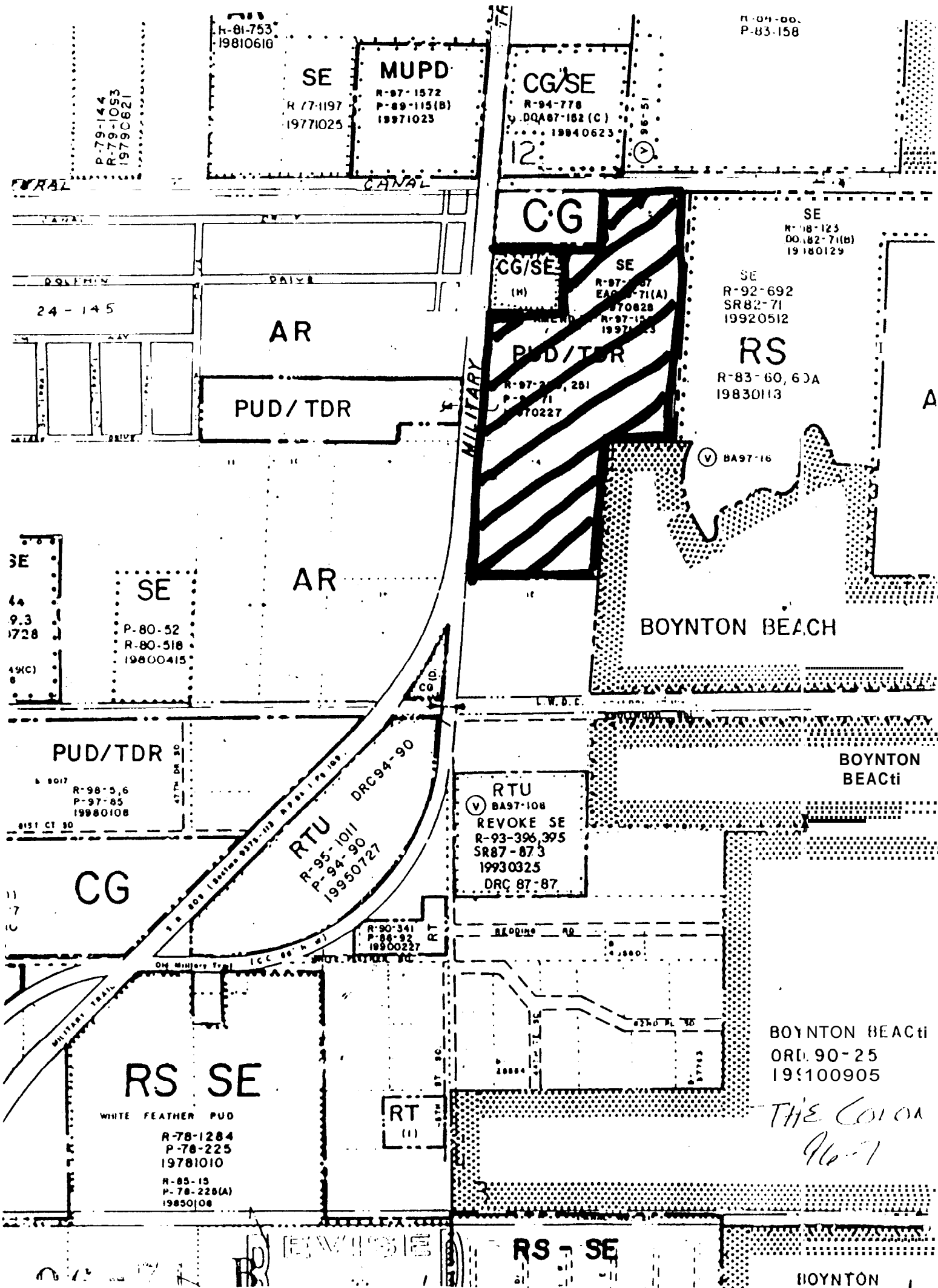


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Condition A.1 of R-97-1087, Petition EAC96-71(A) which currently states:

All previous conditions of approval applicable to the subject **property**, as contained in 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 ULDC** and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, **as** contained in Resolution R-97-1087 (Petition 96-71(A)), 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 ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Condition A.2 of R-97-1087, Petition EAC96-71(A) 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 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.

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 April 21, 1998. 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. (Previously Condition A.3 of Resolution R-97-1087, Petition EAC96-71(A) (MONITORING))

B. BUILDING AND SITE DESIGN

1. Prior to DRC certification of the subdivision plan for Phase 1, 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 B.2 of Resolution R-97-1087, Petition EAC96-71(A) (DRC: ZONING - Building))

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 C.1 of Resolution R-97-1087 Petition EAC96-71(A) (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 **spilled** cuts.
 - d. Credit may be given for existing **or** relocated palms provided they meet current ULDC requirements. (Previously Condition C.2 of Resolution R-97-1087, Petition EAC96-71(A) (CO: LANDSCAPE - Zoning))

Condition **F.1** of Resolution R-97-1087, Petition EAC96-71(A), which currently states:

D. 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)

Is hereby amended to read:

LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING MILITARY TRAIL)

Landscaping and buffering along the east property line 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 one and one half (1.5) feet and a privacy wall with a height of six (6) 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 on the outside of the privacy wall and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

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. (Previously Condition E.I.a of Resolution R-97-1087, Petition EAC96-71(A) (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. (Previously Condition E.I.b of Resolution R-97-1087, Petition EAC96-71(A) (ENG)

- c. Declaration of Covenants and Restriction Documents shall be established **or** amended as required, prior to recordation **on** the first plat to reflect this obligation. (Previously Condition E.1 c of Resolution R-97-1087, Petition EAC96-71(A) (PLAT: ENG)
- 2. Condition E.2 of Resolution R-97-250, Petition **EAC96-71(A)** 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 **300** 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 E.3 of Resolution R-97-1087, Petition EAC96-71(A) (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**. (Previously Condition **E.4** of Resolution R-97-1087, Petition **EAC6-71(A)** (**ONGOING**: ENG)

F. 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 PB County School Board **or** Palm Tran. (Previously Condition G.1.a R-97-1087, Petition EAC96-71(A) (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 requirements 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. (Previously Condition G.1.b of Resolution R-97-1087, Petition EAC96-71(A) (DPTE: MONITORING - Eng)

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. (Previously Condition 1.1 of Resolution R-97-1087, Petition EAC96-71(A) (CO: BLCG - 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 12 of Resolution R-97-1087, Petition EAC96-71(A) (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 13 of Resolution R-97-1087, Petition EAC96-71(A) (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (Previously Condition 14 of Resolution R-97-1087, Petition EAC96-71(A) (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 15 of Resolution R-97-1087, Petition EAC96-71(A) (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

H. 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 J.1 of Resolution R-97-1087, Petition EAC96-71(A) (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 J.2 of Resolution R-97-1087, Petition EAC96-71(A) (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 J.3 of R-97-1087, Petition EAC96-71(A) (DRC: School Board))

I. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING- Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment,

Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.
(Previously Condition K.I of R-97-1087, EAC96-71(A) (MONITORING))