

RESOLUTION NO. R-2005- 1040

RESOLUTION APPROVING ZONING APPLICATION PDD2005-016  
(CONTROL NO. 20058)  
OFFICIAL ZONING MAP AMENDMENT  
TO A PLANNED DEVELOPMENT DISTRICT (PDD)  
APPLICATION OF BOYNTON BEACH XXI LLP  
BY KILDAY & ASSOCIATES, INC, AGENT  
(MINI-ASSEMBLAGE 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Application PDD2005-016 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2005; 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 has considered the findings in the staff report and 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) with approved conditions 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) with approved conditions 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) with approved conditions 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) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (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 Application PDD2005-016, the application of Boynton Beach XXI LLP by Kilday & Associates, Inc. agent, for an Official Zoning Map Amendment to a Planned Development District from the Agricultural Residential Zoning District to the Residential Planned Unit Development 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 May 26, 2005, 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 KOONS and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	- <b>AYE</b>
Addie L. Greene, Vice Chairperson	- <b>AYE</b>
Karen T. Marcus	- <b>AYE</b>
Jeff Koons	- <b>AYE</b>
Warren H. Newell	- <b>ABSENT</b>
Mary McCarty	- <b>ABSENT</b>
Burt Aaronson	- <b>AYE</b>

The Chairman thereupon declared that the resolution was duly passed and adopted on May 26, 2005.

Filed with the Clerk of the Board of County Commissioners on 22nd day of JUNE, 2005.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
\_\_\_\_\_  
COUNTY ATTORNEY

BY:

  
\_\_\_\_\_  
DEPUTY CLERK



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'BOARD OF COUNTY COMMISSIONERS' at the bottom, separated by a star. The inner circle contains the text 'PALM BEACH COUNTY FLORIDA'.

EXHIBIT A

LEGAL DESCRIPTION

ALL OF TRACTS 73 THROUGH TRACT 76, INCLUSIVE, TRACTS 85 THROUGH 88, INCLUSIVE, TRACTS 105 THROUGH 120, AND THE SOUTH 15.00 FEET OF THAT PORTION OF ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING NORTH OF AND ADJACENT TO SAID TRACTS 109 THROUGH 112 BOUNDED ON THE WEST BY THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID TRACT 112 AND ON THE EAST BY THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT 109, AND THAT PORTION OF ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING BETWEEN SAID TRACTS 105 THROUGH 108 AND SAID TRACTS 85 THROUGH 88, ALL LYING WITHIN BLOCK 55, PALM BEACH FARMS CO. PLAT NO. 3 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT 2, PAGES 45 THROUGH 54, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

LESS THE NORTH 48 FEET OF SAID TRACTS 75 AND 76, AND LESS THE NORTH 48 FEET OF SAID TRACT 74 LESS THE EAST 52.00 FEET THEREOF.

LESS THE NORTH 47.52 FEET OF SAID TRACT 73 AND LESS THE NORTH 47.52 FEET OF THE EAST 52.00 FEET OF SAID TRACT 74 AS DESCRIBED IN OFFICIAL RECORDS BOOK 6495, PAGE 761.

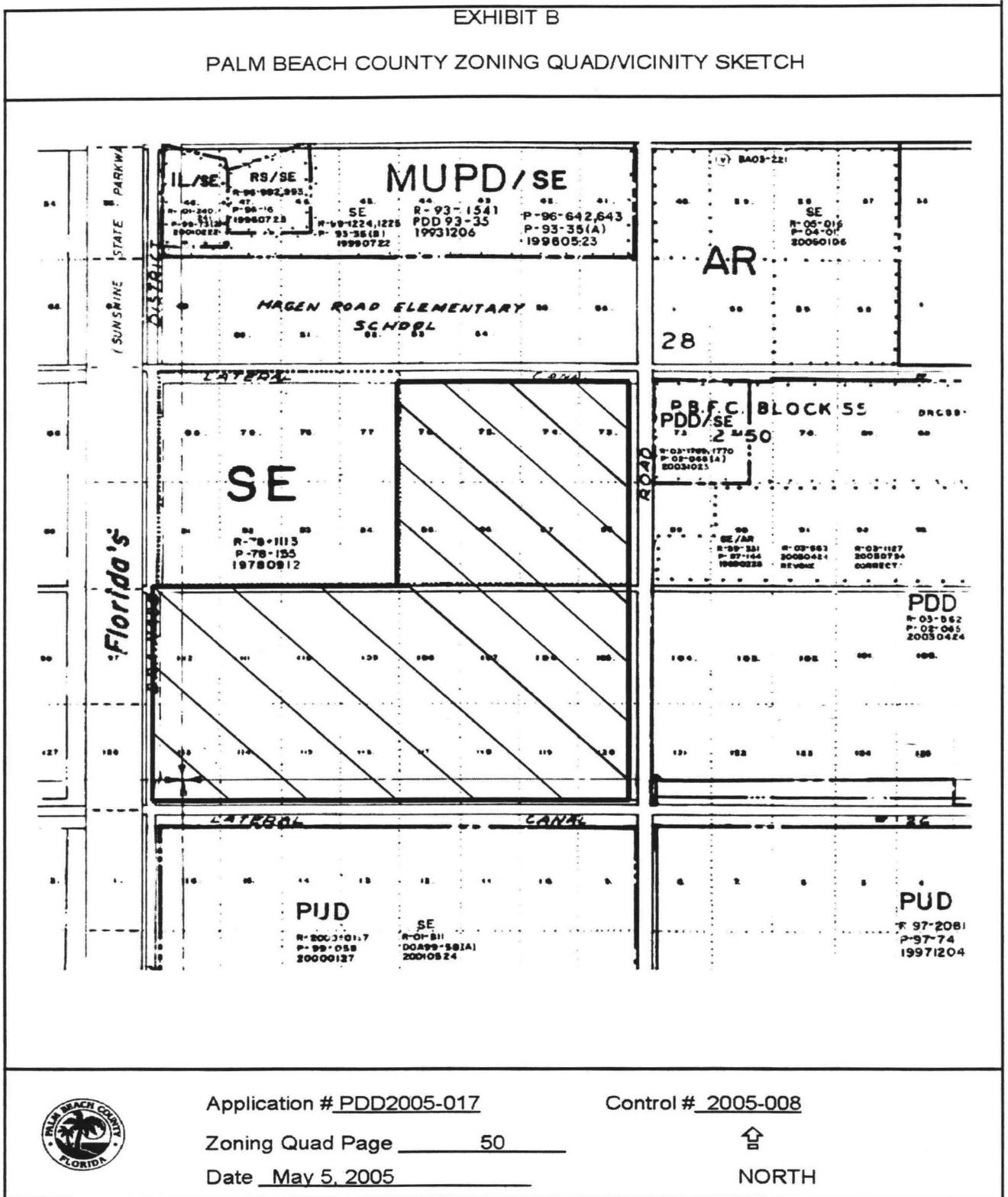
LESS THE EAST 25 FEET OF SAID TRACTS 73, 88, 105, 120 AND SAID ROAD, DYKE AND DITCH RESERVATION, 30.00 FEET IN WIDTH, LYING BETWEEN SAID TRACTS 105 THROUGH 108 AND SAID TRACTS 85 THROUGH 88 AS DESCRIBED IN DEED BOOK 1135, PAGE 92 AND DEED BOOK 1129, PAGE 412, SAID PUBLIC RECORDS.

LESS PARCEL 122, BEING THAT PORTION OF HAGEN RANCH ROAD RIGHT-OF-WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 12744, PAGE 1840 SAID PUBLIC RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND IN SECTION 28, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF TRACT 120, BLOCK 55, PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT 120; THENCE ALONG THE SOUTH LINE OF SAID TRACT 120, SOUTH 89°36'54" WEST FOR 25.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF HAGEN RANCH ROAD AS RECORDED IN DEED BOOK 1129, PAGE 412 OF SAID PUBLIC RECORDS, AND THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID SOUTH LINE, SOUTH 89°36'54" WEST FOR 6.92 FEET; THENCE NORTH 00°30'03" WEST FOR 33.82 FEET; THENCE NORTH 02°05'02" EAST 162.21 FEET TO SAID WEST RIGHT-OF-WAY LINE; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, SOUTH 00°23'06" EAST FOR 195.88 FEET TO THE POINT OF BEGINNING.

CONTAINING 118.48 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### 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 master plan is dated April 29, 2005. 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 – Zoning)

#### BUILDING AND SITE DESIGN

1. Decorative paving treatment (stamped concrete or pavers) shall be provided at the following locations:
  - a. the main entrance of to the subject site with a minimum of 10,000 square feet; and,
  - b. the main entry into each pod within the PUD with a minimum of 1,000 square feet. (DRO/BLDG PERMIT: DRO Zoning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the master/site plans shall indicate a minimum of one (1) fountain in each lake adjacent to the entry road. (DRO: DRO – Zoning)
3. Street trees shall be required within the street tracts or right-of-ways of the subject development consistent with the requirements of the Engineering Department, and the following criteria:
  - a. Along both sides of all internal PUD street, fifty (50) feet in width or greater; and,
  - b. all final subdivision applications shall include roadway cross-section sketches showing street trees. (DRO: DRO – ENG/Zoning)
4. Street bike lanes shall be provided in or adjacent to all streets eighty (80) feet in width or greater, pursuant to Article 3.E.1.C.2.e of the ULDC and subject to approval by the County Engineer. (DRO: DRO – ENG/Zoning)
5. Zero-lot line lots (units) with a side yard that abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (BLDG PERMIT: BLDG – Zoning)
6. Window openings located on the 2<sup>nd</sup> story of the units abutting the south property line shall not exceed twenty (20) feet in height from finished grade to the top of the window. (BLDG PERMIT: BLDG – Zoning)
7. Prior to the issuance of a Certificate of Occupancy (CO) for the clubhouse, the facility shall be equipped with a generator that complies with the following requirements:
  - a. a minimum load capacity of .02 kw per building square foot;
  - b. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
  - c. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;

- d. setback in accordance with the Property Development Regulations for a (Recreation or Civic) Pod in accordance with ULDC Table 3.E.2.D-16;
- e. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
- f. subject to review and approval by the Building Division; and,
- g. deviation from these requirements shall be permitted if consistent with future ULDC regulations. (CO: MONITORING - Zoning)

## ENGINEERING

### 1. SIGNALIZATION

The property owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Woolbright Road and Hagen Ranch Road. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. (ONGOING)

- a. Building Permits for more than 300 dwelling units shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).
- b. In order to request release of the surety for the traffic signal for this intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at Woolbright Road and Hagen Ranch Road.. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENG – Eng)

### 2. NOISE MITIGATION

- a. The required mitigation as outlined in the approved noise study such as sound walls and landscape buffers shall be shown on the master/site plans and Final Subdivision Plans for this site subject to the approval of the County Engineer and Zoning Division. (DRO: DRO – Zoning/Eng)
- b. Construction of the required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy for any lot within Pod A. The property owner shall provide Land Development a listing of the applicable PCN numbers for all lots within Pod A prior to receipt of the first building permit within Pod A. (CO:MONITORING-Eng)

- 3. a. The property owner shall notify future home buyers by providing that all homeowners documents, sales contracts, as well as all sales brochures, Master Plans and related Site Plans contain a disclosure statement identifying that: (i) this site is adjacent to the Florida Turnpike, (ii) the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike, and (iii) the Developer has installed noise abatement improvements determined by the Florida Turnpike Enterprise to be effective in keeping noise levels from the Florida Turnpike below the State noise abatement criteria in effect as of the date of issuance of

this Development Order. All sales contracts and homeowner documents shall also include a statement that any additional noise mitigation measures requested in the future by the Residents will not be funded or constructed by Palm Beach County.

- b. The property owner shall submit documentation of compliance with item "a" above on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before January 15, 2007 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (DATE: MONITORING-Eng)
4. Prior to issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Hagen Ranch Road at the project's entrance road. This right of way shall be a minimum of 280 feet in 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. (DATE: MONITORING-Eng)
  5. The property owner shall construct:
    - a. right turn lane north approach on Hagen Ranch Road at Project's Entrance Road.
    - b. left turn lane south approach on Hagen Ranch Road at Project's Entrance Road

Construction in items 5.a and 5.b shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

- 1) Permits required by Palm Beach County for the construction in 5.a and 5.b shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- 2) Construction for the improvements in E.5.a and E.5.b shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

## PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the master/site plan shall be revised to include all mulch pathways, consistent with the certified site plan dated April 29, 2005. (DRO:PLANNING-Planning)

## PLANNED UNIT DEVELOPMENT

1. Prior to the recordation of the first plat, 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 include the following:
  - a. 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.

- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
  - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG – Eng/Cty Atty)
2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying of the existence of agricultural uses in the vicinity of the development. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on January 1, 2006 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowners association. (DATE: MONITORING – Zoning)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

“NOTICE TO PARENTS OF SCHOOL AGE CHILDREN”

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD – School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING – School Board/Eng)

#### ZONING      LANDSCAPE STANDARD

1. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
  - a. Tree height: Fourteen (14) feet;
  - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
  - c. Canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,

- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE – Zoning)
2. All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:
    - a. palm heights: twelve (12) feet clear trunk;
    - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
    - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE –Zoning)
  3. Field adjustment of locations of berms, walls and plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: ZONING – Landscape)

ZONING      LANDSCAPING ABUTTING THE EAST PROPERTY LINE (FRONTAGE OF HAGEN RANCH ROAD)

4. In addition to ULDC requirements, landscaping and buffering along the east property line shall be upgraded to include one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING – Landscape)

ZONING      LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

5. Landscape width and berm requirements along the south property line shall be upgraded to include:
  - a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
  - b. a minimum one (1) foot high berm, berm height shall be measured from the nearest top of curb or the nearest finished floor elevation, whichever is higher. Field adjustment of berm location may be permitted for transverse of utility easement or pedestrian walkways or to accommodate existing vegetation;
  - c. a minimum of six (6) foot high concrete panel wall to be located on the plateau of the berm. The finished architectural treatment shall be consistent with the color and style of the principal structure;
  - d. one (1) native canopy tree twenty (20) feet on center on each side of the panel wall to create a double row of canopy trees. The location of the canopy trees shall be staggered to create a continuous canopy. The canopy trees shall be a minimum of eighteen (18) feet in height at installation; and,
  - e. prior to the issuance of a building permit for any lot adjacent to the south property line, the above landscaping requirements 5.a through 5.d shall be installed for the wall and the landscaping along the south side of the wall. (BLDG PERMIT: ZONING – Landscape)

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; revocation of any concurrency; 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 Code Enforcement Special Master 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 Article 2.E 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. (ONGOING: MONITORING – Zoning)