

RESOLUTION NO. R-2006-1544

RESOLUTION APPROVING ZONING APPLICATION Z2005-1330  
(CONTROL NO. 2005-454)  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
WITH A CONDITIONAL OVERLAY ZONE (COZ)  
APPLICATION OF DENNIS AND GRACE GARTNER  
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT  
(GARTNER PROPERTY)

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), as amended, have been satisfied; and

WHEREAS, Zoning Application Z2005-1330 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2006; 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 2.F (CONCURRENCY - Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; and,
7. This official zoning map amendment (rezoning) 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 Z2005-1330 the application of Dennis and Grace Gartner by Miller Land Planning Consultants, Inc., agent, for an Official Zoning Map Amendment from the Agricultural Residential and the General Commercial Zoning Districts to the Residential Transitional Zoning District with a CONDITIONAL OVERLAY ZONE (COZ) 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 August 23, 2006, subject to the conditions of the CONDITIONAL OVERLAY ZONE (COZ) described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	¥	Aye
Addie L. Greene, Vice Chairperson	¥	Aye
Karen T. Marcus	¥	Aye
Jeff Koons	¥	Aye
Warren H. Newell	¥	Absent
Mary McCarty	¥	Aye
Burt Aaronson	¥	Aye

The Chairman thereupon declared that the resolution was duly passed and adopted on August 23, 2006.

Filed with the Clerk of the Board of County Commissioners on 23rd day of August, 2006.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

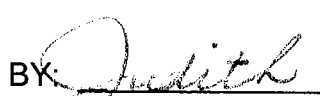
PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK

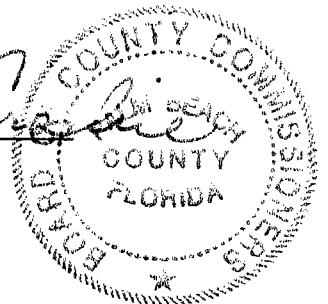


EXHIBIT A

LEGAL DESCRIPTION

PARCEL "A"

TRACTS 17 AND 18, BLOCK 35 PALM BEACH FARMS COMPANY, PLAT NO. 3 ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2 PAGES 45-54, INCLUSIVE, EXCEPTING THEREFROM THE NORTH 97.00 FEET OF TRACTS 17 AND 18; AND EXCEPTING THEREFROM THE RIGHT-OF-WAY FOR STATE ROAD NO. 7 THROUGH TRACT 17 AND LYING WITHIN 75 FEET OF SURVEY BASELINE AS SHOWN IN ROAD PLAT BOOK 1, PAGE 40 PALM BEACH COUNTY RECORDS; LESS THAT PART OF SAID TRACT 17 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7, SAID RIGHT-OF-WAY LINE SHOWN IN ROAD PLAT BOOK, PAGES 35 TO 41 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID POINT BEING THE INTERSECTION OF SAID RIGHT-OF-WAY LINE AND THE SOUTH LINE OF SAID TRACT 17; THENCE SOUTH 87 DEGREES 31 MINUTES 38 SECONDS WEST, ALONG SAID SOUTH LINE OF SAID TRACT 17, A DISTANCE OF 423.11 FEET TO A POINT IN THE WEST LINE OF SAID TRACT 17; THENCE NORTH PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 7, A DISTANCE OF 563.25 FEET TO AN INTERSECTION WITH A LINE 97.00 FEET SOUTHERLY OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 17; THENCE NORTH 87 DEGREES 31 MINUTES 38 SECONDS EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 423.11 FEET TO A POINT IN SAID WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTH ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 563.25 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:  
PARCEL "C"

A PORTION OF TRACT 17, BLOCK 35, PALM BEACH FARMS COMPANY, PLAT NO. 3 ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2 PAGES 45-54, INCLUSIVE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7, SAID RIGHT-OF-WAY LINE SHOWN IN ROAD PLAT BOOK 1, PAGES 35 TO 41 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WITH THE SOUTH LINE OF SAID TRACT 17, BEAR NORTH, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 310.29 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 31 MINUTES 38 SECONDS WEST ALONG A LINE 310 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID TRACT 17, A DISTANCE OF 423.11 FEET; THENCE NORTH, PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 7, A DISTANCE OF 56.71 FEET; THENCE SOUTH 86 DEGREES 01 MINUTES 00 SECONDS EAST, A DISTANCE OF 122.17 FEET; THENCE NORTH 87 DEGREES 31 MINUTES 38 SECONDS EAST ALONG A LINE 306.80 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 17, A DISTANCE OF 301.11 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE; THENCE SOUTH ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 42.96 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE EAST 158.54 FEET THEREOF.

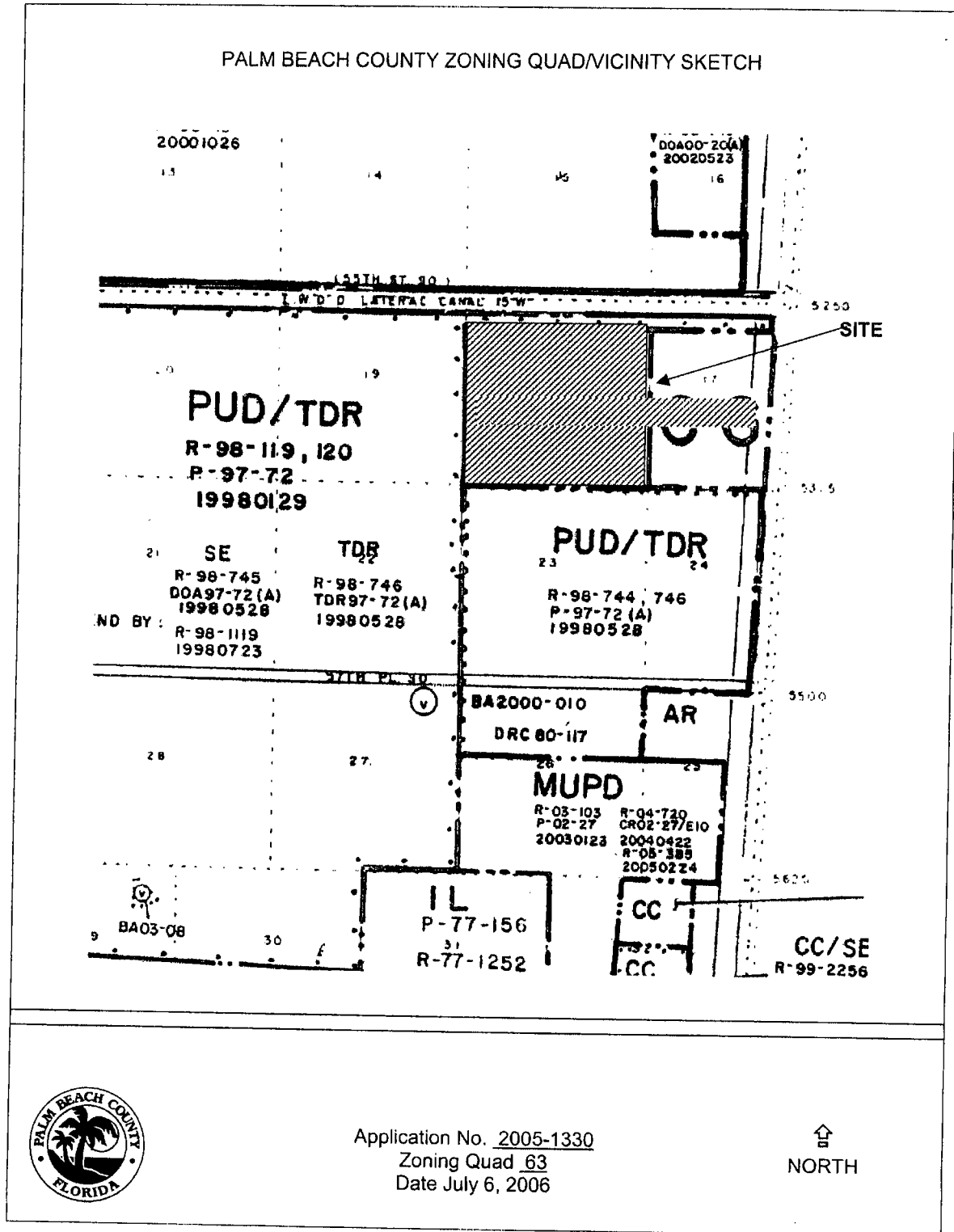
TOGETHER WITH  
(P/O PARCEL "B")

A PORTION OF TRACT 17, BLOCK 35, PALM BEACH FARMS COMPANY, PLAT NO. 3 ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2 PAGES 45-54, INCLUSIVE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7, SAID RIGHT-OF-WAY LINE SHOWN IN ROAD PLAT BOOK 1, PAGES 35 TO 41 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WITH THE SOUTH LINE OF SAID TRACT 17; BEAR NORTH, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 353.25 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 87 DEGREES 31 MINUTES 38 SECONDS WEST, ALONG A LINE OF 306.80 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 17, A DISTANCE OF 301.11 FEET; THENCE NORTH 86 DEGREES 01 MINUTES 00 SECONDS WEST, A DISTANCE OF 122.17 FEET; THENCE NORTH, PARALLEL WITH THE WESTERLY RIGHT-OF-WAY LINE OF SAID STATE ROAD 7, DA DISTANCE OF 22.49 FEET TO A POINT ON A LINE 390 FEET NORTH OF AND PARALLEL WITH SAID SOUTH LINE OF TRACT 17; THENCE N89°03'00"E, ALONG SAID PARALLEL LINE, 421.64 FEET TOA POINT AFORESAID WESTERLY RIGHT-OF-WAY LINE; THENCE S01°28'20"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, 35.97 FEET TO THE POINT OF BEGINNING, LESS AND EXCEPT THE EAST 158 FEET THEREOF.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 399,619 SQUARE FEET (9.17 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 approved by the Board of County Commissioners. The approved site plan is dated March 28, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING – Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the access driveway off SR7/US441 shall be revised to reflect the approval by the Board of Adjustment BA2006-00717, June 15, 2006. (ONGOING: ZONING – Zoning)

#### ENGINEERING

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

No Building Permits for the site may be issued after June 22, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study, which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING - Eng)

The date shown which indicates when the final building permit will be issued may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DATE: MONITORING-Eng)

2. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING-Eng)

#### HEALTH

1. Prior to the final site plan approval by the Development Review Officer, the property owner must provide documentation that clearly and accurately shows the location of all buildings, septic tank systems, and wells on the site. (DRO: HEALTH-Health)
2. Prior to the issuance of a building permit, the property owner must submit the results of a pre-demolition asbestos containing materials (ACM) survey of the structures on the site to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING- Health)
3. Prior to final approval by the Development Review Officer, the property owner must submit the results of a Phase I Environmental Site Assessment (ESA) and if necessary, a Phase II ESA to the Palm Beach County Health Department. (DRO: HEALTH -Health)

## ZONING - LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. 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)
3. 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)
4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)

## PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate locations, on the portion of the property forming the access road to State Road 7, for vehicular and pedestrian cross access points to the properties to both the north and south of this access road, and include notations on the plan which shall read proposed vehicular and pedestrian cross access to be paved to the property line." The locations of these cross-access points shall be generally consistent with the certified plan dated March 10, 2006. (DRO: PLANNING - Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the portion of the subject property forming the access road to State Road 7 to the adjacent property to the north of that access road in a form acceptable to the County Attorney. (DRO:COUNTY ATTY - Planning)
3. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the portion of the subject property forming the access road to State Road 7 to the adjacent property to the south of that access road in a form acceptable to the County Attorney. (DRO:COUNTY ATTY - Planning)
4. Prior to final approval by the Development Review Officer (DRO), if additional units are requested through the County's TDR Program, the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:

- a. Guarantees the attainability of 30% of the requested TDR units (the number of units calculated shall be rounded up to the nearest dwelling unit) for a period of ten years (ownership) twenty years (rental), to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and
  - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY - Planning)
5. The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of this development, that the project has a minimum of 30% of the requested TDR units earmarked as attainable housing units and any residents wishing to reside in a unit that has been earmarked as an attainable housing unit shall qualify for eligibility. Every deed of sale for each of the attainable units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). The property owner is responsible for disclosure of the location of these attainable units prior to the sale of any units. On an annual basis, beginning July 1, 2007, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Attainable Housing declaration of restrictive covenants, the sales document disclosure, and the deed of sale restriction. (DATE: MONITORING - Planning)

#### 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)

#### SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to:
  - a. provide a fountain within the lake tract. (DRO: ZONING – Zoning)

#### UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: WUD –WUD)

#### COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the applicant 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)