

RESOLUTION NO. R-2008- 2260

RESOLUTION APPROVING ZONING APPLICATION DOA/EAC-2008-00464  
(CONTROL NUMBER 2003-00045)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF Tousa Homes, Inc - Paul Hillhouse  
BY Tousa Homes, Inc, AGENT  
(Capistara PUD (fka: Colony Lakes at Boynton Beach))

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA/EAC-2008-00464 was presented to the Board of County Commissioners at a public hearing conducted on December 4, 2008; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.



7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 DOA/EAC-2008-00464, the application of Touse Homes, Inc - Paul Hillhouse, by Touse Homes, Inc, agent, for a Development Order Amendment to delete a condition of approval (Planned Unit Development) 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 December 4, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	-	Absent
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Mary McCarty	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on December 4, 2008.

Filed with the Clerk of the Board of County Commissioners on 4th day of December, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on December 8, 2008.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON BOCK, CLERK &  
COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



## EXHIBIT A

### LEGAL DESCRIPTION

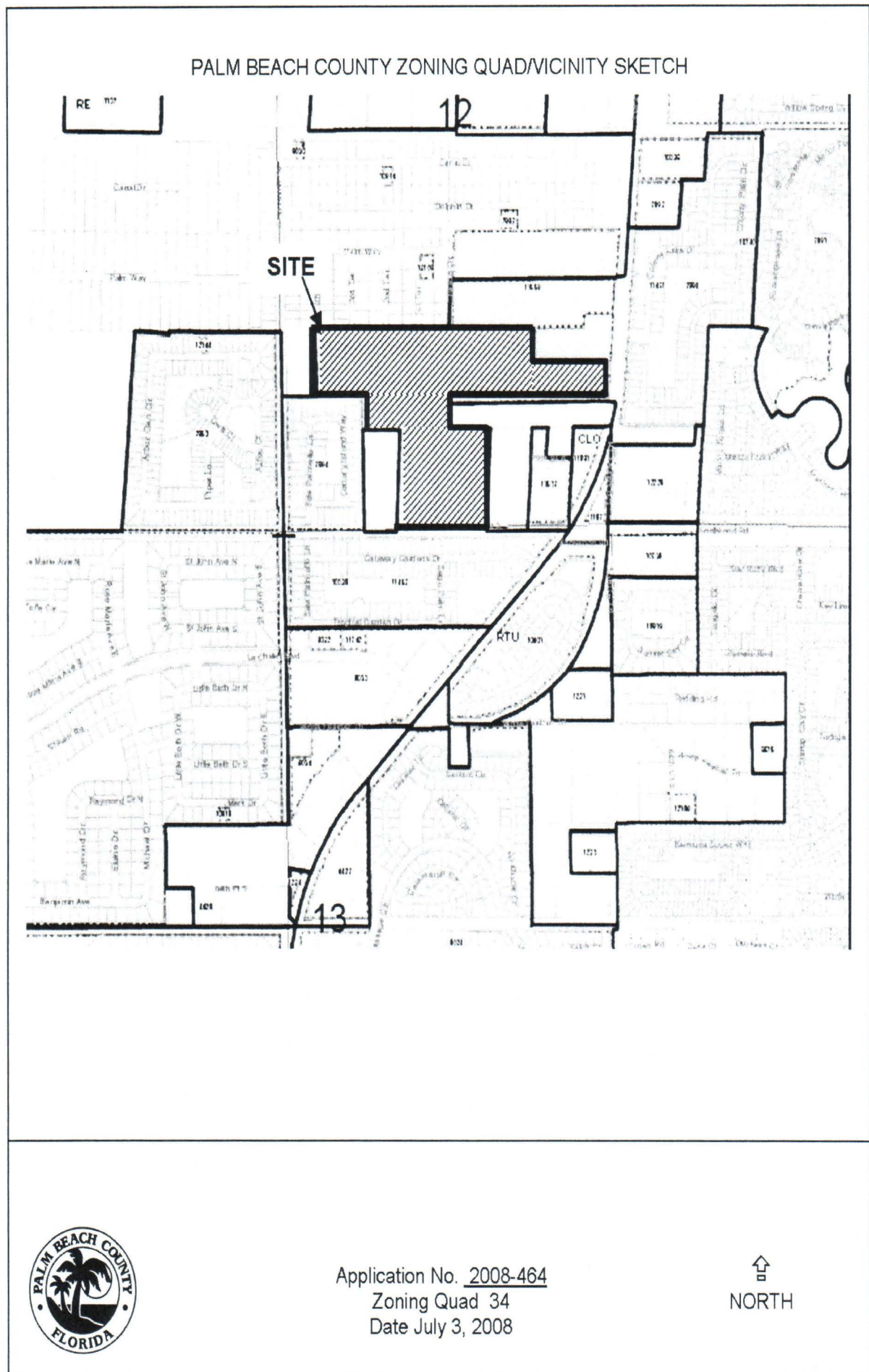
Know all men by these presents that Touse Homes, Inc., a Florida Corporation, owner of the lands shown hereon, being a replat of a portion of the Southwest One-Quarter (including portions of Tracts 9, 10 and 11) of "Amended Plat of Sec. 12 Twp. 45s R. 42e, Mary A. Lyman Et Al", according to the Plat thereof, as recorded in Plat Book 9 at Page 74 of the Public Records of Palm Beach County, Florida, shown hereon as Colony Lakes P.U.D., being more particularly described as follows:

Commencing at the Southeast Corner of said Southwest One-Quarter, as shown on said plat; thence South 88°57'24" West, along the South line of said Southwest One-Quarter, a distance of 990.08 feet; thence North 02°33'24" East, along the East line and Southerly extension thereof of said Tract 11, a distance of 40.07 feet to the Point of Beginning; thence South 88°57'24" West, along a line 40.00 feet North of and parallel with said South line, a distance of 330.19 feet; thence South 01°50'44" West, along the West line of said Tract 11, a distance of 5.00 feet; thence South 88°57'24" West, along a line 35.00 feet North of and parallel with said South line, a distance of 401.76 feet; thence North 01°50'44" East, a distance of 632.14 feet; thence South 89°17'44" West, a distance of 298.13 feet; thence North 00°55'13" West, along the East line of "Little River Glen, P.U.D.", according to the Plat thereof, as recorded in Plat Book 94 at Pages 130 and 131 of said Public Records, a distance of 234.74 feet; thence South 89°04'47" West, along the North line of said "Little River Glen", a distance of 381.06 feet; thence North 00°31'27" West, a distance of 432.85 feet; thence North 89°19'17" East, a distance of 413.77 feet; thence North 00°47'05" West, a distance of 0.73 feet; thence North 89°17'44" East, along the South line of Pinetree Drive, as shown on "Biltmore Terrace", according to the Plat thereof, as recorded in Plat Book 24 at Page 145 of said Public Records, a distance of 696.28 feet; thence North 89°17'59" East, along the North line of said Tracts 10 and 11, a distance of 692.27 feet; thence South 03°16'09" West, along the East line of said Tract 10, a distance of 233.27 feet; thence North 89°13'01" East, a distance of 626.44 feet; thence South 04°39'12" West, along the West Right-of-Way line of Military Trail, as recorded in Official Records Book 6144 at Page 562 of said Public Records, a distance of 98.89 feet to the point of curvature of a circular curve to the right; thence Southerly along the arc of said curve, also being the West Right-of-Way line of Military Trail, as recorded in Official Records Book 6090 at Page 385 of said Public Records, having a radius of 1850.08 feet and a central angle of 05°12'15", a distance of 168.03 feet; thence South 89°07'56" West, along a line 165.00 feet North of and parallel with the South line of said Tract 9, a distance of 612.40 feet; thence South 89°07'57" West, along a line 165.00 feet North of and parallel with the South line of the North One-Half of said Tracts 10 and 11, a distance of 679.94 feet; thence South 01°50'44" West, along the West line of said Tract 11, a distance of 165.19 feet; thence North 89°07'57" East, along the North line of the South One-Half of said Tract 11, a distance of 337.91 feet; thence South 02°33'24" West, along the East line of said Tract 11, a distance of 625.43 feet to the Point of Beginning.

Said Lands Situate In Palm Beach County, Florida, and contain 36.974 acres, more or less.



EXHIBIT B  
VICINITY SKETCH





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2004-1653 (Control 2003-045), have been consolidated as contained herein.

The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. 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 16, 2004. 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) (Previous Condition A.1 of Resolution R-2004-1653, Control 2003-045)

#### ENGINEERING

1. Prior to final site plan approval by the DRO, the property owner shall receive approval of a drainage study by the County Engineer for this site. This drainage study shall incorporate any existing storm water drainage onto this site from any of the adjacent properties. The recommendation contained within this study shall be incorporated into the final site plan. (DRO: ENGINEERING - Eng)

(Previous Condition E6 of Resolution R-2004-1653, Control 2003-045)

[Note: Complete]

2. Condition E.2 of Resolution R-2004-1653, Control 2003-045, which currently states: In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after January 1, 2007. 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)  
Is hereby amended to read:

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

a. No Building Permits for the site may be issued after December 31, 2010. 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)

3. The Property owner shall construct a left turn lane south approach on Military Trail at the existing median opening for Colony Lake Drive. This construction 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.

a. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

b. Construction for this improvement shall be completed prior to the issuance of the first



Certificate of Occupancy. (CO: MONITORING -Eng)  
(Previous Condition E2 of Resolution R-2004-1653, Control 2003-045)  
[Note: Complete]

#### 4.LANDSCAPE WITHIN THE MEDIAN OF MILITARY TRAIL

- a. The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below. (ONGOING: MONITORING - Eng)
- b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)
- c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
- d. At petitioners option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: MONITORING - Eng)
- e. Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod (OTIS) program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: MONITORING - Eng)

(Previous Condition E3 of Resolution R-2004-1653, Control 2003-045)

[Note: Complete]

5.The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING - Eng)  
(Previous Condition E4 of Resolution R-2004-1653, Control 2003-045)

6.Prior to the issuance of the first Building Permit, the property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for:

a. Miner Road Extension 60 feet north of the ultimate north right of way line of the Lake Worth Drainage District L-20 Canal of way. This right of way conveyance shall be along the projects entire south property line abutting the LWDD L-20 Canal.

[Note: Complete]

b. 30 feet additional right of way for Pine Tree Drive. This additional right of way shall be along the existing portions of Pine Tree Drive along the projects north property line.

[Note: Complete]

c. All right of way shall be free of all encumbrances and encroachments. The Developer



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.

d. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. (BLDG PERMIT: MONITORING - Eng)

(Previous Condition E5 of Resolution R-2004-1653, Control 2003-045)

#### ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation has been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (DRO:ERM-ERM) Previous ERM Condition No. B-1 of resolution R-2004-1653, Control No. 2003-045)

#### ZONING - LANDSCAPING-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) (Previous Condition C.1 of Resolution R-2004-1653, Control 2003-045)

2. Field adjustment 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: LANDSCAPE - Zoning) (Previous Condition C.2 of Resolution R-2004-1653, Control 2003-045)

3. All landscaping and plant materials shall comply with the recommendations of the West Boynton Area Community Plan. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition C.3 of Resolution R-2004-1653, Control 2003-045)

#### ZONING - LANDSCAPING-ALONG THE SOUTH 265 FEET OF THE NORTH 499 FEET OF THE EAST PROPERTY LINE (FRONTAGE OF MILITARY TRAIL)

4. In addition to code requirements, landscaping and buffering along the east property line fronting Military Trail shall be upgraded to include:

- a. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb; and,
- b. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition D.1 of Resolution R-2004-1653, Control 2003-045)

#### ZONING - LANDSCAPING-LANDSCAPING ALONG THE EAST 731 FEET OF THE WEST 1,411 FEET OF THE SOUTH PROPERTY LINE (ABUTTING MINER ROAD)

5. In addition to code requirements, landscaping and buffering along the south property line abutting Miner Road shall be upgraded to include:



- a. a minimum one and one-half (1.5) to two and one-half (2.5) foot high undulating berm with an average height of two (2) feet measured from top of curb; and,
- b. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition F.1 of Resolution R-2004-1653, Control 2003-045)

ZONING - LANDSCAPING-N. 432 FT OF THE W. PROPERTY LINE, E. 1,292 FT OF THE S. PROPERTY LINE, N. 165 FT OF THE S. 790 FT OF THE E. PROPERTY LINE, AND 337 FT SEGMENT OF THE N. PROPERTY LINE (ABUTTING RESIDENTIAL PROPERTIES)

6.In addition to code requirements, landscaping and buffering along the north 432 feet of the west property line, the east 1,292 feet of the south property line, the north 165 feet of the south 790 feet of the east property line, and the 337 foot segment of the north property line shall be upgraded to include:

- a. a continuous three (3) foot high berm measured from finished grade;
- b. a six (6) foot high opaque concrete screen panel wall shall be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is harmonious and compatible with abutting development; and,
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition G.1 of Resolution R-2004-1653, Control 2003-045)

ZONING - LANDSCAPING-N. PROPERTY LINE, N. 233 FT OF E. PROPERTY LINE, S. 625 FT OF E. PROPERTY LINE, SOUTH 871 FT OF W. PROPERTY LINE, AND W. 679 FT OF S. PROPERTY LINE (ABUTTING RESIDENTIAL AND UNDEVELOPED PROPERTIES)

7.In addition to code requirements, landscaping and buffering along the north property line, the north 233 feet of the east property line, the south 625 feet of the east property line, the south 871 feet of the west property line, and the west 679 feet of the south property line shall be upgraded to include:

- a. a minimum two (2) to four (4) foot high undulating berm with an average height of three (3) feet measured from finished grade; and,
- b. a minimum of one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition H.1 of Resolution R-2004-1653, Control 2003-045)

LIGHTING-(PRIVATE CIVIC TRACT, RECREATION AREA, AND NEIGHBORHOOD PARKS)

1.All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (ONGOING: BLDG - Zoning) (Previous Condition I.1 of Resolution R-2004-1653, Control 2003-045)

#### LIGHTING

2.All outdoor, freestanding lighting fixtures shall be setback a minimum distance of forty (40) feet from a perimeter property line. (ONGOING: BLDG - Zoning) (Previous Condition I.2 of Resolution R-2004-1653, Control 2003-045)

3.All outdoor lighting shall be extinguished no later than 10:00 p.m. daily excluding security lighting and low voltage lighting use to emphasize plant materials only. (ONGOING: CODE ENF - Zoning) (Previous Condition I.3 of Resolution R-2004-1653, Control 2003-045)

#### PALM TRAN

1.Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with



terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT:ENG -Palm Tran)

#### PLANNING

1.(Previous Condition Planning 1. of Resolution R-2004-1653, Control No. 2003-045)

Prior to final approval by the Development Review Officer (DRO), the Master Plan/Site Plan shall contain:

- a. notations providing for vehicular and/or pedestrian connections to adjacent roadways and properties, as shown on the certified site plan dated April 16, 2004, excluding the pedestrian connection to the Biltmore Terrace subdivision;
- b. five (5) foot mulch pathways around lake tracts, as shown on the certified site plan dated April 16, 2004;
- c. a pedestrian connection to the school site to the north, as approved by the Planning Division and the School Board; and,
- d. street cross-section details depicting landscaped and shaded sidewalks for pedestrian circulation for the sidewalks along Military Trail and 80th Road South (Miner Road) and for all internal sidewalks within this project. (DRO: PLANNING/SCHOOL BOARD - Planning)

Is hereby deleted. [REASON: Complete.]

2.Prior to the issuance of a Certificate of Occupancy (CO), the property owner shall pave the vehicular and/or pedestrian cross access pathways shown on the Master Plan to the edge of their respective property lines with a break in any buffering or walls at the locations shown on the Master Plan that read potential future vehicular and pedestrian connection (paved to property line)". The pedestrian connection to the school site to the north, location to be finalized by the School Board and Planning Division, shall also be paved to the property line. These access points can be controlled by gates or other security devices that will be controlled by the residents of the PUD. (Previous Condition Planning 2. of Resolution R-2004-1653, Control No. 2003-045) (CO: MONITORING/PLANNING - Planning)

#### PLANNED UNIT DEVELOPMENT

1.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 one side of all internal PUD streets, forty (40) feet in width or greater;
- b. along both sides of all internal PUD streets, fifty (50) feet in width or greater; and,
- c. all Final Subdivision Applications shall include roadway cross-section sketches showing street trees. (DRO: ZONING/ENG - Zoning) (Previous Condition J.1 of Resolution R-2004-1653, Control 2003-045)

2.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/COUNTY ATTY - Zoning) (Previous Condition J.2 of Resolution R-2004-1653, Control 2003-045)

3. Prior to final approval by the DRO, the Master Plan/Site Plan shall be amended to indicate a pedestrian amenity between lots 58 and 59, as shown on the Site Plan dated April 16, 2004. This amenity shall:

- a. not be located, in whole or in part, on a private residential lot; and,
- b. be subject to review and approval by the Architectural Review Section. (DRO: ZONING - Zoning) (Previous Condition J.3 of Resolution R-2004-1653, Control 2003-045)

4. Prior to final approval by the DRO, the Master Plan/Site Plan shall be amended to indicate a fountain as a focal feature within the 1.68-acre lake tract. This fountain shall be located in the western portion of the lake to enhance exposure from the .68-acre private recreation area. (DRO: ZONING - Zoning) (Previous Condition J.4 of Resolution R-2004-1653, Control 2003-045)

5. Prior to final approval by the DRO, the Master Plan/Site Plan shall be amended to indicate additional recreation amenities within the 0.13- and 0.21-acre neighborhood parks. These additional amenities shall include a trash receptacles and a minimum of one (1) of the following: tot lot; gazebo; fitness station; rest station; or a similar amenity, subject to approval by the Zoning Division. Each amenity shall have a direct connection to the pedestrian system on the property and shall not be located within land areas designated for drainage, storm-water management or other utility purposes. (DRO: ZONING - Zoning) (Previous Condition J.5 of Resolution R-2004-1653, Control 2003-045)

6. All focal points shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Condition J.6 of Resolution R-2004-1653, Control 2003-045)

7. Previous Condition J.7 of Resolution R-2004-1653, Control 2003-045), which currently states:

A maximum of sixty-six (66) percent of all residential units shall have a front loading garage. (BLDG PERMIT: BLDG - Zoning)

Is hereby deleted. Reason: BCC approval of Application DOA/EAC-2008-464 to delete condition J.7.

8. No deviation from typical property development regulations (PDRs) shall be permitted. (DRO/BLDG PERMIT: ZONING/BLDG - Zoning) (Previous Condition J.8 of Resolution R-2004-1653, Control 2003-045)

9. Prior to final approval by the DRO, the Master Plan/Site Plan shall be amended to indicate a minimum five (5) foot wide pedestrian pathway surrounding each lake tract. (DRO: ZONING - Zoning) (Previous Condition J.9 of Resolution R-2004-1653, Control 2003-045)

10. Prior to final approval by the DRO, the Master Plan/Site Plan shall be amended to indicate an open space corridor immediately to the south of lots 75 through 82 as shown on the Site Plan dated April 16, 2004. This corridor shall:

- a. commence at the southwest corner of lot 82 and terminate at the southwest corner of lot 74;
- b. gradually expand in width from the point of commencement to the point of termination; and,
- c. include a minimum five (5) foot wide pedestrian pathway that has a direct connection to the pathway surrounding the 2.19-acre lake tract. (DRO: ZONING - Zoning) (Previous Condition J.10 of Resolution R-2004-1653, Control 2003-045)



11. Prior to final approval by the DRO, the Master Plan/Site Plan shall include a notation indicating that homes located on lots 82 and 83, as shown on the Site Plan dated April 16, 2004, shall be limited to one (1) story. This notation shall also be reflected on the recorded plat. (DRO/PLAT/ONGOING: ZONING/ENG/BLDG PERMIT - Zoning) (Previous Condition J.11 of Resolution R-2004-1653, Control 2003-045)

#### SCHOOL BOARD

1. Previous Condition L.1 of Resolution R-2004-1653 (PDD2003-045) which currently states:

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 HOME BUYERS AND 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)

Is hereby amended to read:

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)

2. Previous Condition L.2 of Resolution R-2004-1653 (PDD2003-045) which currently states:

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: SCHOOL BOARD/ENG - School Board.)

Is hereby amended to read:

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. 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.)



## 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)