

RESOLUTION NO. R-2000-0002

RESOLUTION APPROVING ZONING PETITION PDD99-059
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF SCHMIER AND FEURRING PROPERTIES INC
BY MARVIN SANDERS, AGENT
(LE RIVAGE 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 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD99-059 was presented to the Board of County Commissioners at a public hearing conducted on January 6, 2000; 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 made 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 S2-20, 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 5, Section 5.3.D.9 (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 Petition PDD99-059, the petition of Schmier and Feuring Properties Inc. by Marvin Sanders, agent, for an Official Zoning Map Amendment to a Planned Development District (PDD) from Agricultural Reserve (AGR) to Agricultural Reserve Planned Unit Development (AGR-PUD) 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 January 6, 2000, 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 Newell and, upon being put to a vote, the vote was as follows:

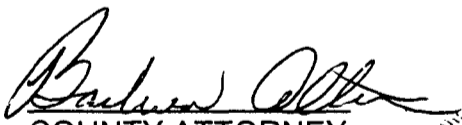
Maude Ford Lee, Chair	-	Aye
Warren Newell, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Carol A. Roberts	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 2000.

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

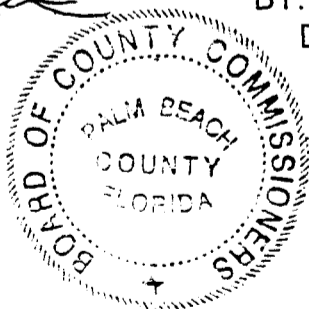


EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

Tracts 102 through 109, Block 71, of THE PALM BEACH FARMS COMPANY PLAT NO. 3, according to the Plat thereof, recorded in Plat Book 2, Pages 45 through 54 of the Public Records of Palm Beach County, Florida.

TOGETHER WITH the east 25.00 feet of a 50.00 foot right-of-way lying between Tracts 105 and 106, Block 71 and Tracts 97 and 127, Block 70, bounded on the north by the centerline of a 30.00 foot wide platted right-of-way as shown on said PALM BEACH FARMS COMPANY PLAT NO. 3,

and

TOGETHER WITH the south 15.00 feet of a 30.00 foot road right-of-way lying between Tracts 76 through 79, Block 71 and Tracts 102 through 105, Block 71 as shown on said PALM BEACH FARMS COMPANY PLAT NO. 3, and in Official Records Book 9116, Page 1601 of the Public Records of Palm Beach County, Florida.

Said lands lying and situate in Palm Beach County, Florida, containing 1,773,336 square feet, 40.710 acres, more or less.

PARCEL 2:

Rights of ingress and egress as set forth in Easement Agreement recorded in Official Records Book 5717, Page 1717, Public Records of Palm Beach County, Florida.

EXHIBIT B

VICINITY SKETCH

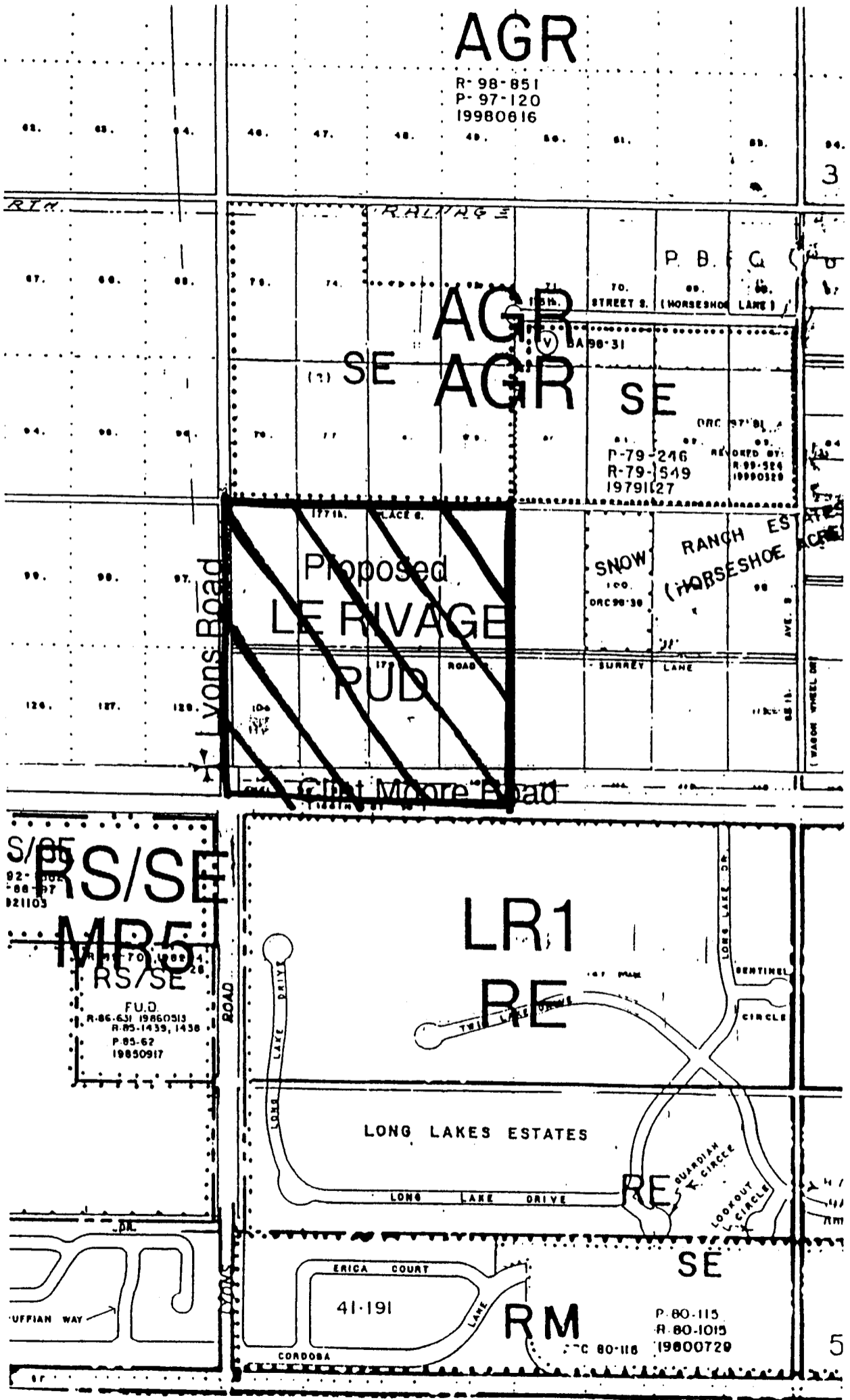


EXHIBIT C

CONDITIONS OF APPROVAL

A. 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 **site plan** is dated October 28, 1999. 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)

B. LANDSCAPE - ALTERNATIVE LANDSCAPE PLAN

1. Prior to final Development Review Committee certification, the petitioner shall submit an Alternative Landscape Plan in accordance with regulating plan dated October 28, 1999. (DRC: LANDSCAPE-Zoning)

C. PLANNED UNIT DEVELOPMENTS

1. 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 recordation of the first plat for any portion of the planned development. (PLAT: ENG - Co Att)

2. **Prior to final site plan approval of the Preliminary Development Plan by the Development Review Committee, a document giving notice of the existence of agricultural uses acceptable to the County Attorney shall be submitted to the Zoning Division. The document shall describe the uses in separate paragraphs, shall include a place for the purchaser's signature acknowledging the notice, and shall be made a part of the closing documents and purchase contracts for each residential unit sold in the developable areas. (ONGOING DRC: CODE ENF/ZONING - Cty Att)**

There are no conditions for D.

E. ENGINEERING

1. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:
 - a. Lyons Road, 55 feet from centerline
 - b. Clint Moore Road, 121 feet north of the existing south right of way line,
 - c. an expanded intersection, 60.5 feet from centerline for Lyons Road plus the appropriate taper

All right of way shall be conveyed prior to June 1, 2000 or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The dedication of right-of-way along Lyons Road shall be in accordance with the criteria set forth in the Stipulation for order of Taking dated October 4, 1999 between Palm Beach County and Charles and Helga Marqusee, entered into in the eminent domain case. 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

2. Prior to June 1, 2000 the property owner shall convey a temporary roadway construction easement along Lyons Road to Palm Beach County. The dedication of right-of-way along Lyons Road shall be in accordance with the criteria set forth in the Stipulation for Order of Taking dated October 4, 1999 between Palm Beach County and Charles and Helga Marqusee, entered into in the eminent domain case. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (DATE: MONITORING-Eng)
3. On or before **January 1, 2001**, 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 Clint Moore Road along the property frontage; and a maximum 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. 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. (DATE: MONITORING-Eng)
4. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS
 - a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape the adjacent median of Clint Moore Road right-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. 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 latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner shall also be responsible to supplement any existing

landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards 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 County Engineer. (BLDG PERMIT: MONITORING - Eng.)

- b. The property owner shall be responsible for planting the required landscape material if the property owners Land Development Permit has not been released prior to the letting of the contract for the widening of Clint Moore Road. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscape material shall be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Associate and/or Homeowners's Association, or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. 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 within 90 days of receipt of notice to the property owner by the County Engineer that the Clint Moore Road widening has been completed. Should the construction for the widening of Clint Moore Road not commence prior to the project's Land Development Permit being acknowledged as complete then the property owner shall be relieved of this obligation. (ENGINEERING)
- c. If the County does not assume maintenance responsibility, property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (ONGOING: MONITORING-Eng)

5. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF LYONS ROAD AND CLINT MOORE ROAD

- a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to provide cutouts within the concrete median of Clint Moore Road and Lyons Road right-of-way contiguous to the frontage. This permit, to be completed by the property owner, shall name Palm Beach County as the applicant. As part of this permit process, the property owner shall enter into a Right of Way Concrete Median Cutout; Landscape and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks are permitted by the Florida Department of Transportation, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject

to approval by the Florida Department of Transportation. (BLDG PERMIT:MONITORING - Eng.)

- b. The property owner shall be responsible for planting the required landscape material if the property owners Land Development Permit has not been released prior to the letting of the contract for the widening of Clint Moore Road. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out area. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out areas. All landscape material shall be installed within 90 days of receipt of notice to the property owner by the County Engineer that the Clint Moore Road widening has been completed. Should the construction for the widening of Clint Moore Road not commence prior to the project's Land Development Permit being acknowledged as complete then the property owner shall be relieved of this obligation. (ONGOING:ENGINEERING)
 - c. If the County does not assume maintenance responsibility, property owners documents or other restrictive covenant documents, evidencing the maintenance obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a Building Permit. (BLDG PERMIT: MONITORING-Eng)
6. Prior to **Technical Compliance** approval, the Planning Division shall approve the lot layout and configuration of the plat and review all applicable documents as referenced in Conditions F.1.-F.5. (PLAT:ENGINEERING-PLANNING)

F. PLANNING

1. Prior to the recordation of the first plat, the Planning Division shall review and approve the plat, its final calculations, and related documents. In order to determine compliance, the petitioner shall provide a sketch of survey with lot dimensions of each buildable lot including acreages, the lot dimensions of each preservation area including the total area/acreage of all combined preservation areas, and the acreages of all canal and road easements and internal street right-of-ways including the length and widths of all road/canal easements and internal street right-of-ways.

Planning staff shall determine if the results of this survey conform with the calculations on the site plan/preliminary development plan dated October 28, 1999 and survey dated July 21, 1999 and the development requirements for an 80/20 PUD. (PLAT:PLANNING)
2. Prior to the recordation of the first plat, the Planning Division shall review and approve the plat, its final calculations, and related documents. In order to determine compliance, the final subdivision plan shall include lot dimensions for each individual preservation area lot and for each individual lot of the eighteen (18) approved buildable lots. (PLAT:PLANNING)

3. Prior to the recordation of the first plat, the petitioner shall record a conservation easement for all the preservation areas on the site in conformance with the acreage totals and lot dimensions shown on a revised survey and preliminary development plan/site plan. The conservation easement shall be in a form acceptable to the County Attorney. (PLAT:PLANNING-COUNTY ATTORNEY)
4. Prior to the recordation of the first plat, the petitioner shall record a maintenance agreement with Palm Beach County ensuring the continual maintenance of the preservation areas. The maintenance agreement shall be in a form acceptable to the County Attorney. (PLAT:PLANNING-COUNTY ATTORNEY/CODE ENFORCEMENT)
5. Prior to the recordation of the first plat, the petitioner shall record a covenant, or an agreement with Palm Beach County in a form acceptable to the County Attorney indicating that the water preserve areas shown on the preliminary development plan/site plan will be connected to or be interconnected with any integrated water management system developed for the Agricultural Reserve. (PLAT:PLANNING-COUNTY ATTORNEY)
6. The PUD shall be limited to a maximum of eighteen (18) single family units. Prior to final **Master Plan** Certification by the Development Review Committee (DRC), the applicant shall provide a notation on the **Master Plan** indicating that the balance of unused units (22) shall not be utilized either within the boundary of the LeRivage PUD site as identified in Petition Number PDD 99-59 or within other areas of the County. (DRC: PLANNING)
7. Prior to final Master Plan certification by the Development Review Committee (DRC), the developer shall add a notation to the "Statistics" notes depicted on the 80/20 PUD Preliminary Development Plan to indicate the following:

The preservation area approved as part of Petition 99-59 shall be restricted to preservation uses as follows:

PERMITTED USES

- a) crop production, pasture, or equestrian purposes or may be retained as fallow land;
- b) accessory structures such as barns and pump structures are permitted;
- c) wetlands or other water preserve areas;
- d) uplands including gazebo and pathway with pedestrian lighting as depicted on the Preliminary Development Plan; bona fide agricultural uses per the ULDC;
- e) entry features, walls, lighting, and planting at or near the project entrance on Clint Moore Road and perimeter walls/fences in buffers; and
- f) other uses as may be permitted within the preservation area of an Agr-PDD consistent with the Comprehensive Plan and the Unified Land Development Code;

8. In order to ensure agricultural preservation on the preservation parcels, no fences or other structures will be allowed within the preservation parcels unless they can be justified as being *bona fide* agricultural in purpose with the exception of perimeter walls located within the perimeter landscape buffers and the entry wall features/lighting located at or near the project entrance on Clint Moore Road. (DRC/ONGOING: PLANNING-BUILDING-CODE ENFORCEMENT)

G. SCHOOL

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

“Notice to Home Buyers/Tenants”

“School age children may not be assigned to the public school closest to their residences. School Board policies regarding overcrowding, racial balance or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 4-34-8100 for the most current school assignment(s).”

2. Since this is to be a gated community, the bus stop/pull off area must be provided before the gates **of either of the two entrances**. A detail drawing of the bus stop/pull off area must be provided so that the School District can adequately review for compliance with School District’s standards. (ONGOING: SCHOOL BOARD)

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

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)