

RESOLUTION NO. R-2001- 0608

RESOLUTION APPROVING ZONING PETITION PDD2000-113
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF DONALD DORINI AND JAMES KEEN
BY LAND DESIGN SOUTH, AGENT
(MILITARY PLAZA)

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 PDD2000-113 was presented to the Board of County Commissioners at a public hearing conducted on April 26, 2001; 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; contingent upon the approval of Small Scale Development Amendment No. 01-SCA 86 COM 1;
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 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 PDD2000-113, the petition of Donald Dorini and James Keen by Land Design South, agent, for an Official Zoning Map Amendment (PDD) from Agricultural Residential (AR) to Multiple Use Planned Development (MUPD) on a parcel of land legally described in EXHIBITA, 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 April 26, 2001, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti 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:

Warren H. Newell, Chair	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Aye

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. OI-SCA 86 COM 1 (DORINI) is effective.

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

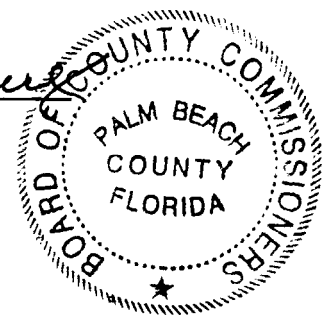


EXHIBIT A

LEGAL DESCRIPTION

THAT PART OF THE WEST HALF (W. 1/2) OF THE SOUTHWEST QUARTER (S.W. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (N.W. 1/4) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. 1/4) OF SAID SECTION 13, A DISTANCE OF 659.63 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF (W. 1/2) OF THE SOUTHWEST QUARTER (S.W. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF SAID SECTION 13; THENCE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 40.0 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. 1/4) OF SAID SECTION 13 AND THE POINT OF BEGINNING; THENCE CONTINUE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 852.60 FEET TO A POINT ON THE SOUTH-EASTERLY RIGHT OF WAY LINE OF MILITARY TRAIL (STATE ROAD 809); THENCE S.44°29'36"W., ALONG SAID SOUTH-EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 72.75 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A CENTRAL ANGLE OF 29°03'58" AND A RADIUS OF 1850.08 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 938.54 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. 1/4) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 528.26 FEET TO THE POINT OF BEGINNING.
CONTAINING 6.21 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

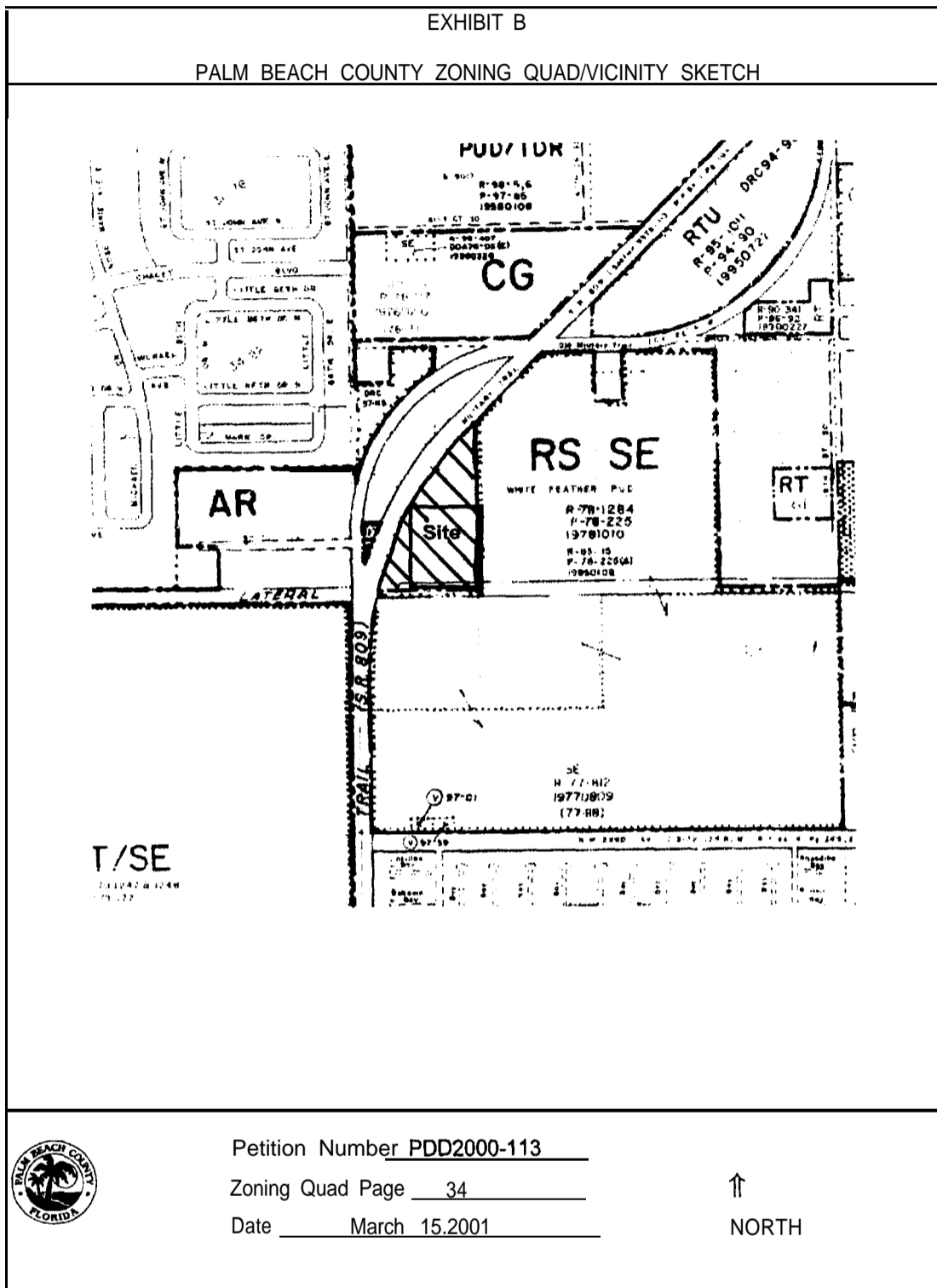


EXHIBIT C

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 March 1, 2001. 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. ARCHITECTURAL CONTROL

1. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. The proposed architectural elevations shall comply to the Architectural Design Guidelines presented to the Board of County Commissioners on April 24, 2001, as amended. If there is a conflict between Conditions B.1 and L.4 and L.5, then the more restrictive of the conditions shall be applied. (BLDG PERMIT: BLDG - Zoning)
2. Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Zoning Division for review. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT - Zoning)

C. BUILDING AND SITE DESIGN

1. Total gross floor area shall be limited to a maximum of 50,000 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. (DRC: ZONING)
2. The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes shall not exceed thirty-five (35) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
3. All ground or roof mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)

D. LANDSCAPING - STANDARD

1. Fifty percent (50%) of canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,

- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval 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. (CO: LANDSCAPE - Zoning)
3. A group of three (3) or more palm or pine trees may not supersede the requirement for any canopy trees in that location, unless specified herein. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

1. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROAD

- A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department Permit Section for a permit to landscape the adjacent median of Military Trail Right-of-Way. This permit, to be completed by the property owner, shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. When permitted by the Land Development Division of the 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 landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (TC: ENGINEERING)
- B. All required median landscaping, including an irrigation system if required, shall be installed 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. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of a certificate of occupancy. (ENGINEERING)

- C) If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate 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 the first building permit. (BLDG PERMIT:MONITORING-Eng)
2. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF
- 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 landscape cutouts within the concrete median of Military Trail right-of-way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way, concrete median cutout, Landscape Installation and Maintenance, Removal, and Indemnification Agreements. 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 Palm Beach County Standards. Alternative plant and paver block material other than those listed in the County standards may be permitted subject to approval by the County Engineer. (BLDG PERMIT:MONITORING - Eng.)
 - B. All required median landscaping, including an irrigation system, the cost of the removal or cutting out the existing concrete median as well as the installation of all landscape material, paver block or similar materials shall be funded at the property owners expense. When landscape cutouts are permitted the, landscaping shall consist of Landscape Material approved by the County Engineer. All new and existing 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. The 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. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owners Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, and the irrigation system. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
 - C. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate 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 the first building permit. (BLDG PERMIT:MONITORING-Eng)
3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
- A) Building Permits for more than 20,470 square foot of Office Use shall not be issued until construction has begun for Gateway Boulevard as a 4 lane section from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT:MONITORING-Eng)

F. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING WHITE FEATHER PUD)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip; and
 - b. a six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (CO: LANDSCAPE)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. one (1) canopy tree planted every twenty (20) feet on center;
 - b. 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; and,
 - c. twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)
3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

G. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING WHITE FEATHER PUD - COMMERCIAL POD)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip. Width reductions may be permitted subject to ULDC requirements; and
 - b. one (1) canopy tree planted every twenty (20) feet on center;
 - 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; and,
 - d. twenty-four (24) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

H. LANDSCAPING ALONG THE WEST PROPERTY LINE (MILITARY TRAIL FRONTAGE)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. 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.
 - c. one (1) canopy tree planted every thirty (30) feet on center;
 - d. 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; and,

- e. twenty-four (24) inch high shrub or hedge material installed on the plateau of the berm, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. Fifty (50) percent of the shrub or hedge materials shall be planted on the plateau of the berm. (CO: LANDSCAPE)

I. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point and shall be setback thirty (30) feet from the east residential property line. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. excluding security lighting only. (ONGOING: CODE ENF)
4. The lighting conditions above shall not **apply to** proposed security or lowvoltage landscape/accent type lights used to emphasize plant material. (ONGOING:)

J. MASS TRANSIT

1. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRC: ZONING)
2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO)]. The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (BLDG PERMIT: MONITORING - Eng)

K. MUPD

1. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, **signage** and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

2. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)
3. The focal points shall be in the form of a plaza, fountain, arcade or any other site element or similar pedestrian oriented public areas as shown on the site plan dated March 1, 2001. (DRC: ZONING)

L. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the site plan shall be revised to include cross section details depicting a shaded landscaped pathway/sidewalk system along all internal pathways/sidewalks as well as along the sidewalk fronting Military Trail. (DRC: LANDSCAPE-Planning)
2. Prior to final site plan approval by the Development Review Committee, the site plan shall be revised to include the extension of the pedestrian pathway, located to the immediate south of the 25,000sf. office building, westward, out to the existing sidewalk along Military Trail. (DRC: PLANNING)
3. The following uses shall be prohibited:
 1. cell towers;
 2. communication cell sites on wheels (COWs);
 3. Bed & breakfasts;
 4. laundry services;
 5. repair services - limited;
 6. restaurants greater than 2,500 square feet in size;
 7. retail sales - mobile, temporary or transit.
 (BLDG PERMIT/ ONGOING: ZONING/BUILDING-Planning)
4. Prior to final site plan approval by the Development Review Committee, architectural elevations, consistent with Section 4 - "Architectural Design Guidelines" of the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, dated November 12, 1996, for all structures shall be submitted for review. (DRC: PLANNING/ZONING)
5. Per the requirements of the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, the architectural style of all structures shall be of the Spanish Mission or Mediterranean type. (ONGOING: PLANNING/ZONING)
6. Prior to the issuance of each building permit for a primary structure, the architectural elevations for all structures shall be subject to the Planning Division's review for consistency with the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, dated November 12, 1996. (BLDG PERMIT: MONITORING- PLANNING)

7. Although this project is not of a commercial retail nature, **signage** proposed at the entrance to the project from Military Trail shall be designed and constructed in accordance with Section 5 - "**Signage Guidelines**" of the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, dated November 12, 1996 (BLDG PERMIT: BLDG - Planning)
8. Prior to final site plan approval by the Development Review Committee, the site plan and regulating plan shall be revised to adhere to Sections **2., 3., 6., and 7.** of the Boynton Beach Turnpike Interchange Corridor- Design Guidelines and Standards Manual, dated November 12, 1996 (DRC:PLANNING)

M. 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)