

RESOLUTION NO. R-2001- 0823

RESOLUTION APPROVING ZONING PETITION PDD2000-115
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF WESTBROOKE CO. INC
BY CAROLE TURK, AGENT
(HYPOLUXO HAVERHILL 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 PDD2000-115 was presented to the Board of County Commissioners at a public hearing conducted on May 24, 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;
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 PDD2000-115, the petition of Westbrooke Co. Inc by Carole Turk, agent, for an Official Zoning Map Amendment (PDD) from Agricultural Residential (AR) to Planned Unit Development (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 May 24, 2001, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Warren H. Newell, Chair	-	Nay
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 the resolution was duly passed and adopted on May 24, 2001.

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

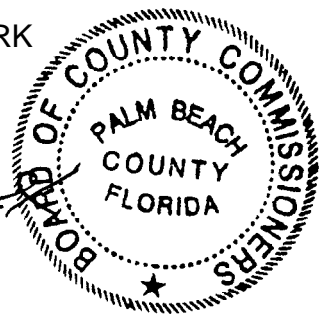


EXHIBIT A

LEGAL DESCRIPTION

PARCEL ONE:

THE SOUTH ½ OF THE WEST ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE QUARTER CORNER ON THE SOUTH LINE OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RUN THENCE EASTERLY ALONG THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 1,664.02 FEET, MORE OR LESS, TO THE SOUTHEAST CORNER OF THE WEST ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ AS THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE EAST LINE OF SAID WEST ¼ OF THE EAST ½ OF THE SOUTHEAST ¼, A DISTANCE OF 1,337.94 FEET, MORE OR LESS; THENCE WESTERLY A DISTANCE OF 333.05 FEET, MORE OR LESS, TO A POINT; THENCE SOUTHERLY, A DISTANCE OF 1,337.67 FEET, MORE OR LESS, TO THE SOUTH LINE OF SECTION 2; THENCE EASTERLY ALONG THE SOUTH LINE OF SECTION 2, A DISTANCE OF 332.85 FEET; MORE OR LESS, TO THE POINT BEGINNING.

LESS THE RIGHT OF WAY OF HYPOLUXO ROAD.

LESS THE SOUTH 110.00 FEET OF THE WEST ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST IN PALM BEACH COUNTY, FLORIDA.

PARCEL TWO:

THE EAST ½ OF THE WEST ½ OF THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE RIGHT OF WAY OF HYPOLUXO ROAD, AS CONVEYED TO THE COUNTY OF PALM BEACH BY THE RIGHT OF WAY DEEDS RECORDED IN DEED BOOK 1038, PAGE 383 AND OFFICIAL RECORDS BOOK 6324, PAGE 1902, AND AS DESCRIBED IN THE AGREED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6287, PAGE 1365.

ALSO LESS RIGHT OF WAY FOR THE LAKE WORTH DRAINAGE DISTRICT L-17 CANAL PER CHANCERY CASE NO. 407.

PARCEL THREE:

BEING A PART OF THE SOUTHEAST ¼ OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (FOR THE PURPOSES OF THIS DESCRIPTION, THE EAST LINE OF SECTION 2 IS ASSUMED TO BE DUE NORTH AND SOUTH, AND ALL BEARINGS ARE RELATIVE THERETO.) COMMENCING AT THE EAST ¼ CORNER OF SAID SECTION 2; THENCE RUNNING DUE SOUTH, ALONG THE EAST LINE OF SAID SECTION 2, A DISTANCE OF 135 FEET TO THE SOUTH RIGHT OF WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-17; THENCE RUNNING NORTH 89°22'00" WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 308.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89°22'00" WEST, A DISTANCE OF 357.93 FEET; THENCE RUNNING SOUTH 00°02'00" EAST, A DISTANCE OF 1,217 FEET; THENCE RUNNING SOUTH 89°22'00" EAST, A DISTANCE OF 357.93 FEET TO A POINT "A"; THENCE RUNNING NORTH 00°02'00" WEST, A DISTANCE OF 1,217 FEET TO THE POINT OF BEGINNING.

EXHIBIT A

LEGAL DESCRIPTION

TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED PARCEL: **BEGINNING AT A FOREMENTIONED POINT "A";** THENCE RUNNING SOUTH **89°22'00"** EAST, A DISTANCE OF 308 FEET, MORE OR LESS, TO THE EAST LINE OF SAID SECTION 2; THENCE RUNNING DUE NORTH ALONG THE EAST LINE OF SECTION 2, A DISTANCE OF 50 FEET; THENCE RUNNING NORTH **89°22'00"** WEST, A DISTANCE OF 308 FEET, MORE OR LESS, TO THE EAST LINE OF THE ABOVE MENTIONED PARCEL. THENCE RUNNING SOUTH **00°02'00"** EAST, A DISTANCE OF 50 FEET TO THE POINT OF BEGINNING. ALSO THE RIGHT OF INGRESS AND EGRESS OVER THE EAST 50 FEET OF THE EAST ½ OF THE EAST ¼ OF THE SOUTHEAST ¼ OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL FOUR:

A PARCEL OF LAND BEING DESCRIBED AS THE EAST HALF (E ½) OF THE EAST HALF (E ½) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, **LESS THE RIGHT OF WAY OF HYPOLUXO ROAD AS CONVEYED BY THE RIGHT OF WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 166, PAGE 602 AND AS DESCRIBED IN THE AGREED ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6307; PAGE 1803; AND LESS THE FOLLOWING DESCRIBED PARCEL OF LAND CONVEYED TO MARSHALL M. SHEPHARD, JR. AND DENISE DRIVER SHEPHARD BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2020, PAGE 609. BEING A PART OF THE SOUTHEAST ¼ OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:** (FOR THE PURPOSES OF THIS DESCRIPTION, THE EAST LINE OF SECTION 2 IS ASSUMED TO BE DUE NORTH AND SOUTH, AND ALL BEARINGS ARE RELATIVE THERETO.) COMMENCING AT THE EAST ¼ CORNER OF SAID SECTION 2; THENCE RUNNING DUE SOUTH, ALONG THE EAST LINE OF SAID SECTION 2, A DISTANCE OF 135 FEET TO THE SOUTH RIGHT OF WAY LINE OF LAKE WORTH DRAINAGE DISTRICT CANAL L-17; THENCE RUNNING NORTH **89°22'00"** WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 308.44 FEET TO THE POINT OF BEGINNING, THENCE CONTINUING NORTH **89°22'00"** WEST, A DISTANCE OF 357.93 FEET; THENCE RUNNING SOUTH **00°02'00"** EAST, A DISTANCE OF 1,217 FEET; THENCE RUNNING SOUTH **89°22'00"** EAST, A DISTANCE OF 357.93 FEET TO A POINT "A"; THENCE RUNNING NORTH **00°02'00"** WEST, A DISTANCE OF 1,217 FEET TO THE POINT OF BEGINNING.

ALSO LESS RIGHT OF WAY FOR THE LAKE WORTH DRAINAGE DISTRICT L-1 7 CANAL PER CHANCERY CASE NO. 407.

EXHIBIT B

VICINITY SKETCH

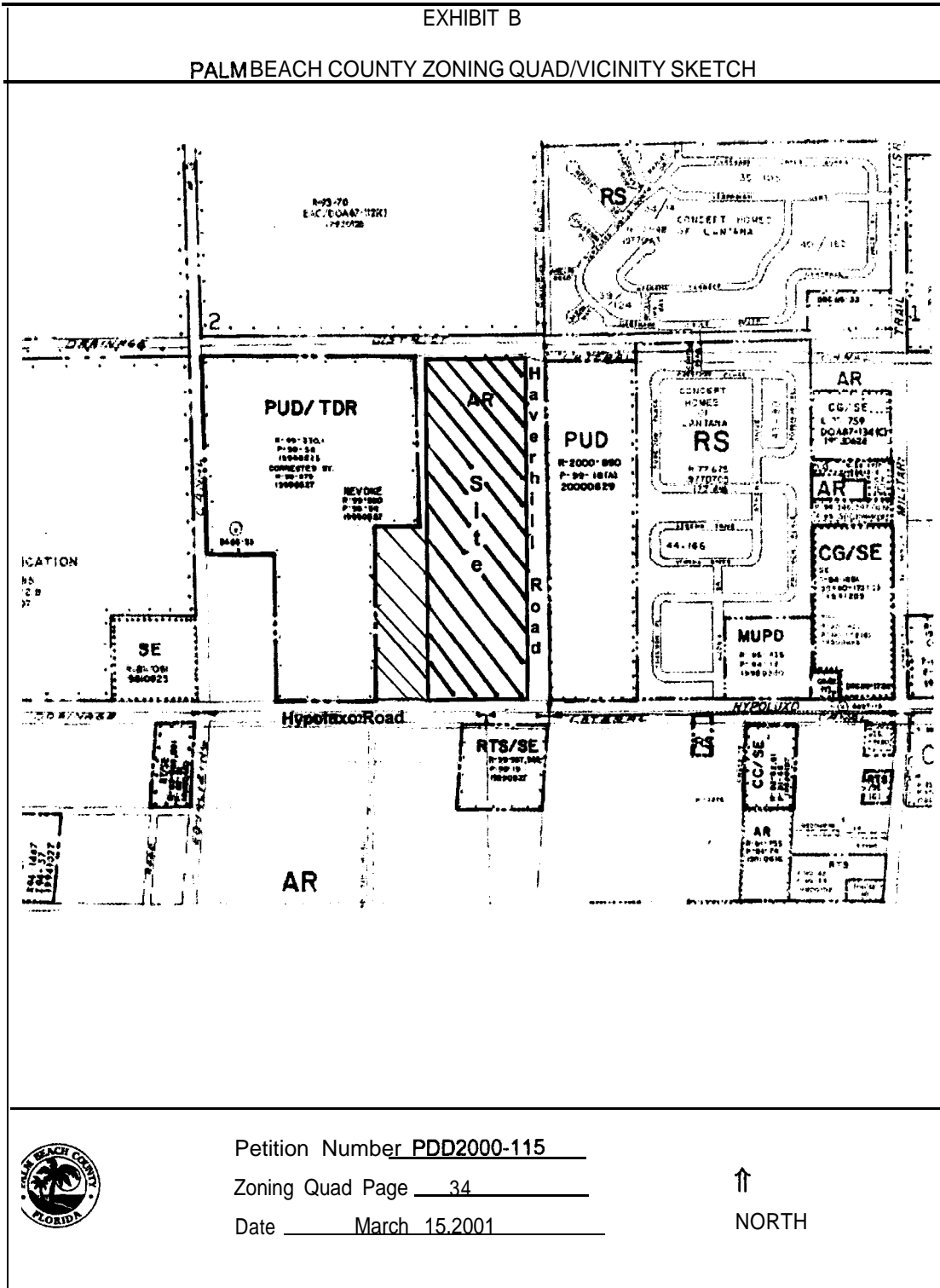


EXHIBIT C

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 February 13, 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. HEALTH

1. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENF)
2. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENF)
3. All necessary precautions will be taken to prevent any leaching into the soil or ground water of any toxic or hazardous materials that may be released from any stored vehicles. (ONGOING: HEALTH/CODE ENF)

C. LANDSCAPING

1. Fifty percent (50%) of the 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)

D. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (HYPOLUXO ROAD AND HAVERHILL ROAD FRONTAGE)

1. Landscaping and buffering along the south and east property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide right-of-way landscape buffer strip;
- b. one (1) canopy tree planted every thirty (30) 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.

E. ENGINEERING

1. Prior to November 1, 2001 the property owner shall convey a temporary roadway construction easement to Palm Beach County at the Projects Entrance Road(s). This roadway construction easement shall contain an **isosceles** trapezoid connecting the required corner clips across this property owners road right of way. Construction by the applicant within this easement shall conform to 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)
2. Prior to November 1, 2001 the property owner shall convey a temporary roadway construction easement along Haverhill Road to Palm Beach County. 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. Prior to November 1, 2001 the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed additional right of way for the construction of a right turn lane on Haverhill Rd at the project's entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (DATE: MONITORING-Eng)
4. Prior to November 1, 2001 the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:
 - a) Haverhill Road, 40 feet of right of way on an alignment approved by the County Engineer.
 - b) an expanded intersection plus the appropriate tapers at the intersection of Haverhill Road and Hypoluxo Road.

All right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. 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: MONITORING -Eng)

5. The Property owner shall fund the construction of:

- a) a Left turn lane south approach on Haverhill Road at the projects entrance road;
- b) a Right turn lane north approach on Haverhill Road at the projects entrance.

Funding shall be completed prior to November 24, 2001. Any and all costs associated with the 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. All Funding shall be based upon a certified cost estimate provided by the Developers Engineer and approved by the County Engineer. (DATE: MONITORING-Eng)

6. Property owner shall provide acceptable surety required for the design; right of way acquisition; and the Construction Engineering and Inspection Costs for an exclusive right turn lane south approach on Military Trail at Hypoluxo Road. This surety shall be provided to the Office of the **Land Development Division** on or before November **24, 2001**. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. At any time during the duration of the surety the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event such a determination is made Palm Beach County shall have the right to request funds be drawn for the surety (surety draw) and Palm Beach County may then complete all required work. (TPS) (DATE: MONITORING-Eng)
7. Property owner shall provide acceptable surety required for the design; right of way acquisition; and the Construction Engineering and Inspection Costs for the construction of Haverhill Road from the L 17 Canal to Hypoluxo Road. This surety shall be provided to the Office of the **Land Development Division** on or before November **24, 2001**. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. At any time during the duration of the surety the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event such a determination is made Palm Beach County shall have the right to request funds be drawn for the surety (surety draw) and Palm Beach County may then complete all required work. (DATE: MONITORING -Eng)
8. The property owner shall provide for the acquisition of Haverhill Road right of way, 80 feet on an alignment approved by the County Engineer from Hypoluxo Road to the L 17 Canal. All funding for the cost of the right-of-way and associated costs as referenced in the Condition above shall be provided with acceptable surety to the Office of the County Engineer and County Attorney. This developer shall enter into a written agreement with the Right of Way Acquisition Section on or before October 26, 2001. Notification by the developer shall be given to the **Land Development Division**. (DATE: MONITORING - Eng)
9. On or before January **1, 2002** the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of Haverhill Road as referenced above subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to **Land Development Division**. (DATE: MONITORING-Eng)

10. Prior to June 1, 2002 the Property Owner shall provide to the Roadway Division of Office of the County Engineer completed and permitted Construction Plans for Haverhill Road as a 2 lane section (ultimate 5 lane section) from the north right of way line of the L 17 Canal to Hypoluxo Road. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Plan costs shall be approved by the County Engineer. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (DATE: MONITORING -Eng)
11. The property owner shall construct Haverhill Road as a 2 lane section in accordance with the condition above. This construction shall be completed and open to traffic on or before January 1, 2003. (DATE: MONITORING-Eng)
12. The Property owner shall provide construction plans for an exclusive right turn lane south approach on Military Trail at Hypoluxo Road. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed on or before February 1, 2002. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (DATE: MONITORING-Eng)
13. The property owner shall provide for the acquisition of right of way to provide for an exclusive right turn lane south approach on Military Trail at Hypoluxo Road. Funding shall include all associated costs. This developer shall enter into a written agreement with the Right of Way Acquisition Section on or before December 1, 2001. Notification by the developer shall be given to the **Land Development Division** for the completion of this condition of approval. (DATE: MONITORING/ ENG)
14. The property owner shall construct an exclusive right turn lane south approach Military Trail at Hypoluxo Road. Construction shall be completed on or before December 1, 2002. All canal crossings within the project limits shall be constructed to their ultimate configuration. Any required signalization upgrade shall be a mast arm structure installation and shall be funded by the property owner as outlined above. (DATE: MONITORING-Eng)
 - A. Building permits for no more than 98 single family dwelling units and no civic site building permits shall be issued until construction has commenced for Haverhill Road from Hypoluxo Road to the L-17 Canal as a 2-lane section and the contract has been awarded for the construction of Hypoluxo Road from Military Trail to Lawrence Road as a 6-lane divided section. If the contract has already been awarded for the construction of Hypoluxo Road from Military Trail to Lawrence Road as a 6-lane divided section, then building permits for no more than 110 single family housing units and no civic site building permits shall be issued until Haverhill Road is under construction from Hypoluxo Road to the L-17 Canal as a 2-lane section. However, if construction of Haverhill Road from Hypoluxo Road to the L-17 Canal has not commenced by January 1, 2003, then no additional building permits shall be issued until construction has commenced. Construction commences is defined as

awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits. (BLDG PERMIT: MONITORING-Eng)

- B. Building permits for no more than 50 single family dwelling units and no civic site building permits shall be issued until construction has commenced for an exclusive right turn lane south approach at the intersection of Hypoluxo Road/Military Trail. However, if the contract has been awarded for the construction of Hypoluxo Road from Military Trail to Lawrence Road, then building permits for no more than 110 single family dwelling units and no civic site building permits shall be issued until construction of the exclusive right turn lane south approach at the intersection of Hypoluxo Road/Military Trail has commenced, After January 1, 2003, building permits for no more than 50 single family housing units and no civic site shall be issued until construction of the exclusive right turn lane south approach at the intersection of Hypoluxo Road/Military Trail has commenced. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits. (BLDG PERMIT: MONITORING-Eng)
 - C. If the contract for construction of Hypoluxo Road from Military Trail to Lawrence Road has not been awarded by January 1, 2003, then building permits for no more than 50 single family dwelling units and no civicsite shall be issued until this contract has been awarded. (BLDG PERMIT: MONITORING-Eng)
 - D. Building permits for more than 110 single family dwelling units shall not be issued until the contract has been awarded for the construction of Lantana Road from Haverhill Road to Military Trail to a 6-lane divided cross section. (BLDG PERMIT: MONITORING-Eng)
 - E. Building permits for more than 216 single family dwelling units shall not be issued until the contract has been awarded for the construction of Hypoluxo Road from Lawrence Road to Congress Avenue to a 6-lane divided cross section. (BLDG PERMIT: MONITORING-Eng)
15. "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF HAVERHILL AND HYPOLUXO 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 landscape cutouts within the concrete median of Hypoluxo and Haverhill Road 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 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 Owner's 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)

16. LANDSCAPE WITHIN MEDIAN OF COUNTY ROADS

- 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 Hypoluxo and Haverhill Road. This permit 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 for supplementing 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. (BLDG PERMIT: MONITORING- Eng)
- 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 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)
 - D. As with Condition E.15, the start dates reflected in Subparagraphs A. and B. of Condition 16. shall be separated for Hypoluxo Road and Haverhill Road. The work required in Subparagraph A. for Hypoluxo Road shall remain "prior to issuance of a building permit." Also, the work required pursuant to Subparagraph B. for Hypoluxo Road shall remain being required prior to the issuance of the first certificate of occupancy. As to Haverhill Road, however, the start date to be reflected in Subparagraph A. shall be June 1, 2002. The completion date as reflected in Paragraph B shall be on or before the completion of Haverhill Road as set forth in Condition E.1 1.
17. In the event Lantern Key PUD is unable to convey the required drainage easements for Haverhill Road adjacent to this site as determined by the County Engineer then this property owner shall convey to Palm Beach County sufficient road drainage easement(s). These drainage easements shall be provided through this project's internal drainage system and shall provide legal positive outfall for runoff from those segments of Haverhill 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. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. 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 wing wall 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. All Drainage easements when requested by the County Engineer shall be completed and executed within 60 days notice to the property owner. (ENG)
18. Prior to final approval of the preliminary development plan the property owner amend the PDD to reflect an additional access for the site onto Hypoluxo Road at a location approved by the County Engineer. (DRC APPROVAL: ENGINEERING)

19. Traffic Impact Fee credit shall be given for all required work associated with the Haverhill Road construction from the Project entrance to the north right of way line of the L 17 Canal, and for the construction of an exclusive right turn lane south approach on Military Trail at Hypoluxo Road. Impact fee credits shall be approved by the County Engineer. (IMPACT FEE COORD: ENGINEERING)

F. LANDSCAPING ALONG THE NORTH AND WEST PROPERTY LINES

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. a minimum five (5) foot wide landscape buffer strip along north property line that abuts Rivermill PUD. No width reduction or easement encroachment shall be permitted along these property lines;
 - b. a six (6) foot high chain link black vinyl coated fence.
 - c. a minimum seven and a half (7.5) foot wide landscape buffer strip along L.W.D.D. L-17. (CO: LANDSCAPE)
2. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. a minimum seven and a one half (7.5) foot wide landscape buffer strip along the west property line that abuts the Rivermill PUD townhouses and a minimum five (5.0) foot wide landscape buffer strip along the west property line that abuts the Rivermill PUD patio homes.
 - b. a six (6) foot high chain link black vinyl coated fence.
3. The following landscaping requirements shall be installed on the exterior side of the required fence:
 - a. one (1) canopy tree planted every thirty (30) 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)
4. Along the interior side of the required fence, 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. PLANNING

1. Prior to final site plan approval by the Development Review Committee, the Planning Division shall determine whether this site plan conforms with Recommendation #35 of the West Boynton Area Community Plan incorporated onto the site plan dated **January 25, 2001 (Rec.# 35-** landscaping of **rights-of-way)**. The cross sections indicating landscaping of all rights-of-way shall remain on the site plan. (DRC: PLANNING)

H. PLANNED UNIT DEVELOPMENT

1. Decorative street lights shall be provided pursuant to Section 6.8.A. **16.c.(l)** of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)

2. Street trees shall be planted within or adjacent to rights-of-way of fifty (50) feet in width or greater, pursuant to Section 6.8.A. 16.c(3) of the ULDC and subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. Street bike lanes shall be provided in or adjacent to all rights-of-way over fifty (50) feet in width, pursuant to Section 6.8.A. 16.c(4) of the ULDC and subject to approval by the County Engineer. (CO: BLDG - Eng)
4. All utilities shall be underground, pursuant to Section 6.8.A. 16.c(5) of the ULDC. (PLAT: ENG - Zoning)
5. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to show a focal point at the terminus of each residential access street, cul-de-sac, or nonresidential access way. The focal point shall be in the form of a plaza, fountain, arcade or similar pedestrian oriented public areas acceptable to the Zoning Division. (DRC: ZONING)
6. Recreation uses provided in accordance with Section 6.8.B.4.A.(6)(b)(i) of the ULDC shall be located on a minimum of 0.1 acre and shall be located within each residential pod. Such recreation uses shall have a direct connection to the pedestrian system within the project and include a tot lot, gazebo, fitness station, rest station, or similar recreation amenity subject to approval of the Zoning Division. These recreation areas shall not be used towards the Parks and Recreation Department's minimum recreation requirement or be located within land areas designated for drainage, stormwater management or other utility purposes. (DRC/PLAT: ZONING)
9. Drainage easements shall not be permitted along the rear yards of **back-to-back** units. (DRC: ZONING)
10. Zero-lot line lots (units) which side yard abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (DRC: **ZONING/BLDG**)
11. 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. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG - Co Att)

I. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by **July 1, 2002**, for a **1.37** acre Public civic site, in a location and form acceptable to Facilities, Development & Operations Department (FD&O). Developer to Plat and dedicate the Civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.
 - a. Developer to provide a title policy insuring marketable title to Palm Beach County for the civic site. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's

approval. The title policy to be insured to Palm Beach County for a dollar value based on current market appraisal of the proposed civic site or the Contract purchase price on a per acre basis. The appraisal to be obtained the Developer. The County to have the option, at their discretion, to release all or part of the Declarations of Covenants and Conditions of the P.U.D., as it would apply to the civic site.

- b. All ad **valorem** real estate taxes and assessments for the year of closing shall be pro-rated at the day of acceptance of the deed for the civic site; acceptance date to be determined by PREM and the County Attorney's Office after receiving Board approval.
 - c. Civic site to be free and clear of all trash and debris at the time of acceptance of the warranty deed.
 - d. Developer shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Developer shall specifically address the following issues:
 - 1) The discharge of surface water from the proposed civic site into the Developer's water retention basins.
 - 2) As easement across Developer's property from the proposed civic site to the retention basins, if required.
 - e. By acceptance of these conditions developer agrees to allow the County to perform any on site inspections deemed appropriate to support the acquisition of the civic site.
 - f) Developer to prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department.
 - g) Developer to provide water and sewer stubbed out to the property line. (DATE: MONITORING - PREM)
2. The property owner shall provide the County with a certified survey of the proposed civic site by **May** 1, 2002. Survey shall reflect the boundary and topographical areas of the site and the surveyor shall use the following criteria:
- a) The survey shall meet Minimum Technical Standards for a Boundary Survey as prescribed by F.A.C. 21 HH.6.
 - b) If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided.
 - c) The survey should include a location of any proposed water retention area that will border the civic site.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site. (DATE: MONITORING - PREM)

3. The property owner shall provide PREM with an Environmental Assessment of the proposed civic site by **May** 1, 2002. The minimum assessment which is required is commonly called a "Phase I Audit". The audit shall describe the environmental conditions of the property and identify the past and current land use.

The assessment will include but not be limited to the following:

- a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
- b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL)
 - 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
 - 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
 - d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
 - e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone. (DATE: MONITORING - PREM)
4. The Petitioner may request to exchange the required on-site dedication of land for cash of equal value or off-site land equal in acreage, however, **this option shall be used only upon County approval**. In addition, should the off-site land option be chosen, each PREM condition listed in numbers 1, 2 & 3 above will also apply. If the land off-site is of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the petitioner or if the petitioner is a contract purchaser the per acre value used for the entire PUD may be used to determine the civic site value. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of ULDC 6.8B.6a (2). (DATE: MONITORING - PREM)
5. Petitioner requests BCC approval allowing petitioner to exchange the required **onsite** dedication of land as contained in Condition I for cash of equal value or **offsite** land equal in acreage as set forth in Condition 1.4.

J. SCHOOL BOARD

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

"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 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. The developer shall coordinate with the Palm Beach County School Board Transportation Department in locating a temporary school bus shelter and pickup point. The temporary school bus shelter and pickup point shall remain until such time as the extension of Haverhill Road is complete. At such time as the construction of Haverhill Road is complete, the developer shall construct a permanent school bus shelter as indicated on the site plan dated February 13, 2001. 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, appropriate lighting, waste container, and bicycle rack. Bus shelters located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING - Eng/School Board)

K. SIGNS

1. Wall signs fronting on Hypoluxo Road and Haverhill Road shall be limited as follows:
 - a. Maximum sign height six (6) feet;
 - b. Maximum sign face area per side- sixty (60) square feet;
 - c. Maximum number of signs- four (4)
 - d. Style- entry wall only. (CO: BLDG.)

L. 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 Division 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)