

RESOLUTION NO. R-94- 647

RESOLUTION APPROVING ZONING PETITION **PDD94-04**  
OFFICIAL ZONING MAP AMENDMENT (REZONING)  
PETITION OF GEOFFERY J.W. KENT & JORIE BUTLER KENT

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 Land Development Code (Ordinance **92-20**), have been satisfied; and

**WHEREAS**, Zoning Petition **PDD94-04** was presented to the Board of County Commissioners at a public hearing conducted on May 26, 1994; 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 Land Development Code;
3. This official zoning **map** amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County 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) 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) 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 Land Development Code, Ordinance 92-20; and,
7. This official zoning **map** amendment (rezoning) 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 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 **PDD94-04**, the petition of Geoffery J.W. Kent & Jorie Butler Kent for an OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Agricultural Residential (AR) ZONING DISTRICT to the Planned Unit Development (PUD) ZONING DISTRICT 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 26, 1994, 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 Roberts and, upon being put to a vote, the vote was as follows:

Mary McCarty, Chair	--	Absent
Burt <b>Aaronson</b>	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of May, 1994.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

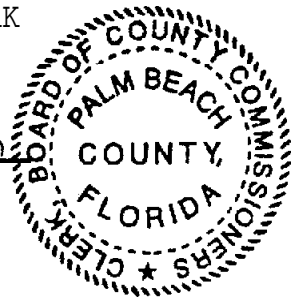
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



**EXHIBIT A**  
**LEGAL DESCRIPTION**

**LEGAL DESCRIPTION**

Tracts 1, 2, 3, 12, 13, 14, 15, 16, and 17 together with that 30 foot wide road lying adjacent to and south of said Tracts 12 through 14 and adjacent to and north of said Tracts 15 through 17 in Block 27 of Palm Beach Farms Co. Plat No. 3 recorded in Plat Book 2, Page 45, less parcels of taking for right-of-way of Lake Worth Road described in Order of Taking recorded in Official Records Book 6379, Page 23, specifically on Pages 26 and 27 and subject to an easement described on Pages 28 and 29 of said order, and less parcels of taking for right-of-way of Lake Worth Road described in Order of Taking recorded in Official Records Book 6379, Page 30, specifically on Pages 33, 34 and 35, and subject to an easement described on Pages 36, 37 and 38, of said order all of the Public Records of Palm Beach County, Florida.

Subject parcel being further described as follows:

**BEGINNING** at the southeast corner of Tract 15, Block 27, PALM BEACH FARMS COMPANY PLAT NO. 3 as recorded in Plat Book 2, Pages 45 through 54, Public Records of Palm Beach County, Florida; thence South  $88^{\circ}59'40''$  West (State Plane Grid Bearing Datum) along the south line of Tracts 15, 16 and 17, a distance of 1979.75 feet to the southwest corner of Tract 17; thence North  $00^{\circ}59'15''$  West along the west line of Tract 17 and the northerly extension thereof, 689.80 feet to the southwest corner of Tract 12; thence North  $01^{\circ}01'41''$  West along the west line of Tracts 3 and 12, a distance of 1308.72 feet to the southerly right-of-way line of Lake Worth Road (S.R. 802) as delineated on the Palm Beach County Engineering Department Lake Worth Road R/W Acquisition Map, Project No. 86066, dated 1987, (order of takings recorded in O.R.B. 6379, Pages 23 and 30, said Public Records) thence along said south right-of-way line the following six (6) courses: thence North  $89^{\circ}31'51''$  East, 608.53 feet; thence North  $89^{\circ}01'58''$  East, 703.02 feet; thence South  $89^{\circ}56'10''$  East, 250.04 feet; thence South  $87^{\circ}18'42''$  East, 180.37 feet; thence North  $89^{\circ}01'58''$  East, 200.00 feet; thence North  $84^{\circ}32'24''$  East, 39.12 feet to the east line of Tract 1; thence South  $00^{\circ}59'32''$  East along the east line of Tracts 1, 14 and 15, a distance of 1978.97 feet to the POINT OF BEGINNING; containing 90.465 acres, more or less.

EXHIBIT B  
VICINITY SKETCH

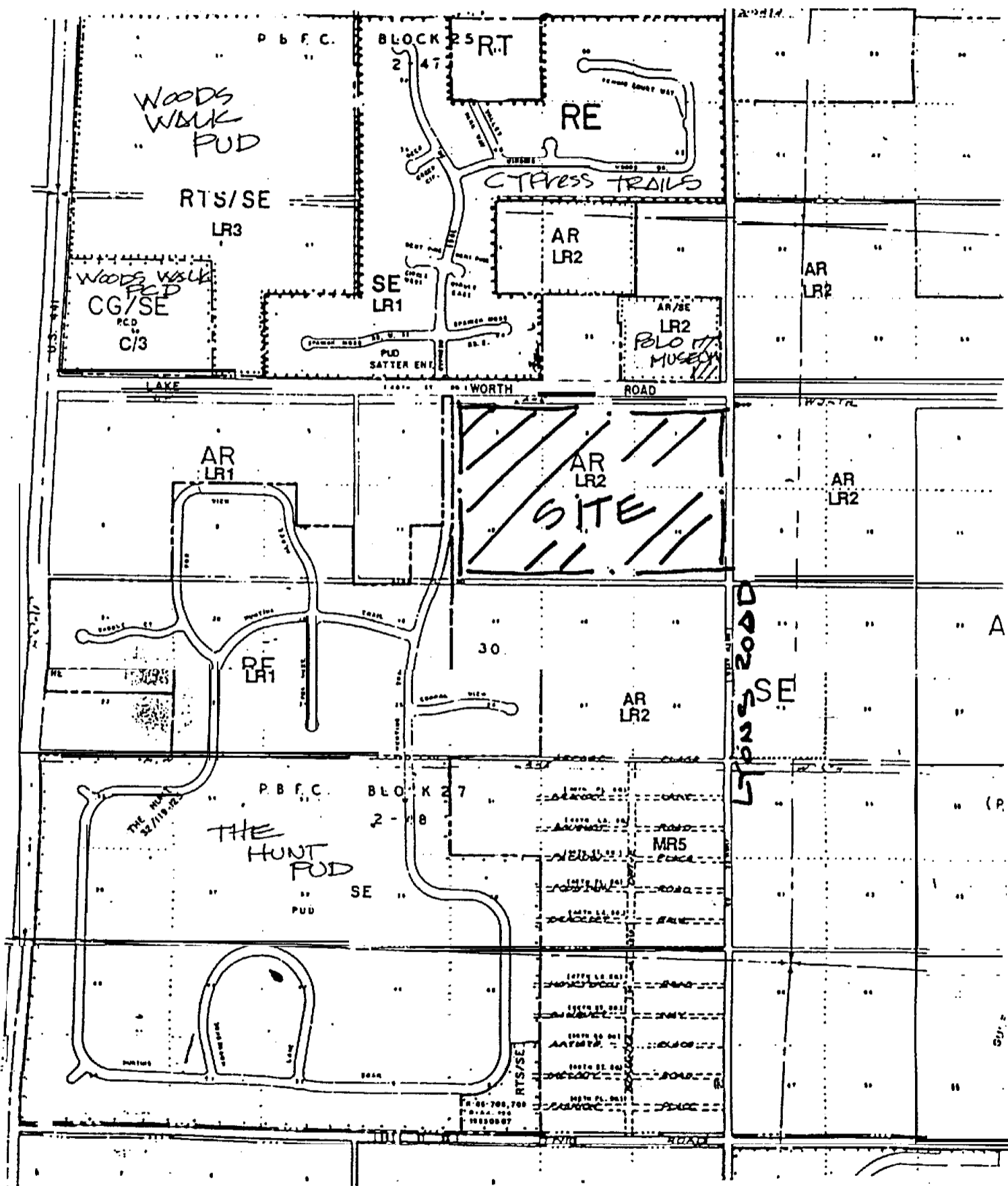


EXHIBIT C

CONDITIONS OF APPROVAL

A. SITE DESIGN

1. Internal median landscaping, subject to permitting by the County Engineer, shall be provided within all internal right-of-ways with medians. Median landscaping shall, at a minimum, include:
  - a. One (1) tree for every thirty (30) feet of median;
  - b. One (1) shrub for every one hundred fifty (150) square feet or one groundcover for every seventy-five (75) square feet of median area;
  - c. Lawn area planted by sod; and,
  - d. Detailed median landscaping plans shall be submitted, installed and maintained pursuant to the standards set forth in Article 6.8.23.d(2)(a) of the Palm Beach County Unified Land Development Code.  
(ENGINEERING/BUILDING)
2. All utilities shall be underground pursuant to Article 6.8.23.d(5) of the Palm Beach County Unified Land Development Code. (ENGINEERING/BUILDING)

B. LIGHTING

1. Street lights a maximum of twenty-five (25) feet in height shall be installed along all platted access tracts, easements, and privately dedicated right-of-ways. Light fixtures shall be directed away from residences.  
(Building - Zoning - Engineering)

C. LANDSCAPING - GENERAL

1. Street trees shall be planted no more than fifty (50) feet on center along both sides of all streets within all platted, privately dedicated right-of-ways, access tracts, and easements that are interior to the PUD, subject to approval by the County Engineer. All required landscaping shall be installed prior to the release of the performance bond or issuance of a certificate of completion, whichever occurs first, for the road intended to be landscaped. (BUILDING - Engineering)
2. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
  - a. Tree height: fourteen (14) feet.
  - b. Trunk diameter: 3.0 inches measured 4.5 feet
  - c. Canopy diameter: seven (7) feet.

Diameter shall be measured 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. (BUILDING/ZONING)

D. HEALTH

1. Sewer service is available to the property. **Therefore,** no septic tank shall be permitted on this site. All existing **onsite** sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC., and Palm Beach County ECR-I. (HEALTH)
2. Water service is available to the property. **Therefore,** no well shall be permitted on the site to provide **potable** water. All existing **onsite** potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

E. ENGINEERING

1. The property owner shall convey to Palm Beach County **Land** Development Division by road right-of-way warranty deed the required site related right of way for Lyons Road. 64 feet from centerline, prior to January 1, 1995, or **prior** to the recordation of the first Plat whichever shall first occur. This right of way dedication shall be in accordance with Palm Beach County's typical **expanded** intersection detail and shall be free of all **encumbrances** and encroachments. The Developer shall provide Palm Beach County with sufficient documentation **acceptable** to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and **encroachments**. Right-of-way conveyances shall also include **"Safe Sight Corners"** where appropriate at intersections as determined **by** the County Engineer (MONITORING/BUILDING - Engineering).
2. Prior to January 1, 1995 or prior to the issuance of the first Building Permit, the Property owner shall **convey** to Palm Beach County adequate road drainage easement(s) through the project's internal surface water **management** system to provide legal positive outfall for all **runoff** from those segments of Lyons Road along the **property** frontage and for a maximum 400 ft. distance each **side** of the property boundary lines along Lyons Road. **Said** easement(s) shall be no less than 20 feet in width. The drainage system within this project shall have **sufficient** retention/detention capacity to meet the storm water discharge and treatment requirements of the **applicable** County Water Control 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. Elevation and location of all construction 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** (MONITORING - Engineering).

3. The Developer shall pay a Fair Share Fee in the **amount** and manner required by the "**Fair** Share Contribution for Road Improvements Ordinance" as it presently exists 0:: as it **may** from **time to time** be amended. The Fair Share Fee for this project presently **at the time** of the **Building** Permit is \$1650 per approved single family dwelling **unit** (10 trips X \$165.00 per trip). (IMPACT FEE **COORDINATOR**)
4. The Developer shall install signalization if **warranted** as determined by the County Engineer at Project **Entrance** Road and Lake Worth Road. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from **this** condition. (ENGINEERING - Building)
5. Prior to certification of the Preliminary **Development** Plan (PDP) approval by the Development Review **Committee** the applicant shall revise the PDP to reflect a **secondary** access onto Lyons Road. (ENGINEERING)
6. Building Permits for more than 137 single **family** dwelling units shall not be issued until SR 7 is **under** construction as a 4 lane median divided section **from** Forest Hill Boulevard to a Lake Worth Road plus the appropriate paved tapers. Note: This **condition** references phasing in accordance with the **applicant's** approved Traffic Study. If the applicant later **submits** another approved Traffic Study and the **Concurrency** Reservation is subsequently amended after this **approval**, then the maximum number of dwelling units shown in the phasing schedule may be adjusted by the County **Engineer** without re-approval by the Board of County Commission. (BUILDING/ENGINEERING)

F. LANDSCAPE WITHIN MEDIAN

1. Prior to recordation of the first plat, the **petitioner** shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. **When** permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall consist of a minimum of one **(1)** fourteen (14) foot tall native tree for **each** thirty (30) linear feet of the adjacent median **to** be planted and appropriate ground cover. Trees **may** be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

<u>Trees :</u>	<u>Ground cover:</u>
Laurel Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

Alternative species **may** be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and shall conform with the following:

- a) All plants shall be container grown or field collected and transplanted from the **project** site.
- b) All plantings shall be done in accordance with detailed planting plans and **specifications** to be submitted and approved by the **County** Engineer concurrent with Site Plan certification. (BUILDING/ENGINEERING)

2. All required median landscaping, including **watering**, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or **assignees** or duly established Property Owner's Association and/or Homeowners's Association, and shall be **installed** concurrent with the recordation of the first **plat**. (BUILDING/ENGINEERING - Zoning)
3. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat to reflect this **obligation**. Maintenance shall be in accordance with the **issued** permits. (BUILDING/ENGINEERING - County Attorney)

**G. PHASING CONDITION**

1. Building Permits for more than 137 single family dwelling units shall not be issued until SR 7 is **under** construction as a 4 lane median divided section from Forest Hill Boulevard to a Lake Worth Road plus the appropriate paved tapers. Note: This **condition** references phasing in accordance with the **applicants** approved Traffic Study. If the applicant later submits another approved Traffic Study and the **Concurrency** Reservation is subsequently **amended** after this **approval**, then the maximum number of dwelling units shown in the phasing schedule may be adjusted by the County **Engineer** without reapproval by the Board of County Commission. (BUILDING/ENGINEERING)

**H. PREM**

1. The Petitioner shall convey by Special Warranty **Deed** to the County 2% of the gross area of the Planned **Unit** Development (1.81 acres) in net usable acreage (no buffering or other PUD requirements shall diminish usable acreage), and shall comply with the following conditions prior to deed conveyance:
  - a. Developer shall provide the County with a Special Warranty Deed by August 26, 1995 for the 1.81 acre Civic site, in a location and form **acceptable** to Facilities, Planning, Design & Construction Department (**FPD&C**) and the County Attorney's Office. Developer shall plat in accordance with the standards of the ULDC and dedicate the civic site to Palm Beach County prior to conveying the **deed**.
  - b. Developer shall provide a title policy insuring marketable title, in a manner and form acceptable to Property & Real Estate Management Department (**PREM**) and County Attorney, to the County for the civic site. The title policy to be insured **to** the County for Seventy Thousand Dollars (**\$70,000.00**). The County shall have the option, at their sole 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.
  - c. All ad **valorem** real estate taxes and **assessments** for the year of closing shall be pro-rated at the day of Plat recording for the Civic Site.
2.
  - a. Civic site to be free and clear of all trash and debris at the time of acceptance of the **Special** Warranty Deed.
  - b. The Petitioner shall provide the County with an Environmental Assessment of the proposed civic site **by** January 1, 1995. The minimum **required** assessment shall be a "Phase I **Audit**", as **generally** referred to. At a minimum, the audit shall describe the environmental conditions of the



property and identify the past and current land use.

- c. If **the** Phase I Audit is determined to be satisfactory the Petitioner will be deemed to **have** satisfied the Environmental Assessment portion of the PREM conditions. However, given the **limited** scope of the Phase I Audit, the Petitioner **shall** be obligated to rectify any subsurface environmental problems which should arise during development of the civic site by the County. This will include the cost for environmental testing, removal of the hazards, final testing and site restoration.
3. Developer shall provide all retention, detention and drainage required for any future development of the proposed Civic site. The Developer agrees to:
    - a. The discharge of surface water from the civic site into the Development's drainage system; and,
    - b. An easement in a manner and form acceptable to the County Attorney and PREM, across the PUD from the proposed civic site to the retention basins, if required. (PREM)
    - c. The County will provide the Petitioner with general drainage data on the proposed Fire Station for retention calculations.
  4. Developer shall permit the County or its agents to perform any on site inspections deemed appropriate to support the acquisition of the Civic site. (PREM)
  5. Developer to provide water and sewer services stubbed out to the property line. (PREM/Engineering)
  6. At the county's option, exchange the required **on-site** dedication of land (by fee simple title) for cash of equal value or land off-site equal in acreage. In the event the off-site land option is chosen all conditions of approval shall be applicable. Should the land **off-site** be of less cash value than the on-site **dedication** the petitioner shall contribute cash equal to the difference in values. Valuation of the land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or **cash** contribution is accepted by Palm Beach County, the Petitioner shall be deemed to have satisfied the **intent** of Section **6.8-B.6.a(2)(a)(i)** of the ULDC as **amended**. (PREM)

I. ENVIRONMENTAL RESOURCES MANAGEMENT

1. The four areas indicated on the Master Plan as "**Cypress Head**" (8.17 acres) are considered preserve areas and **are** subject to preserve requirements pursuant to **ULDC** Section **7.5.K**. A Preserve Management Plan must be submitted to and receive approval from the Department of Environmental Resources Management prior to certification of the PDP by the DRC. (ERM)

J. COMPLIANCE

1. Failure to comply with any of these conditions of approval at any time may result in:
  - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist order; the denial of a Certificate of Occupancy on **any** building or structure; or the denial or

revocation of any permit or approval for any developer; owner, commercial-owner, lessee, or user of the subject property; and/or

- b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
- c. A requirement of the development to conform with updated standards of development, applicable 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;
- a. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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 Conditional Use, Rezoning, 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)