

RESOLUTION NO. R-94- 790

RESOLUTION APPROVING ZONING PETITION **Z/COZ94-18**
OFFICIAL ZONING MAP AMENDMENT (REZONING)
PETITION OF WILLIAM GUNDLACH, JR.

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 **Z/COZ94-18** was presented to the Board of County Commissioners at a public hearing conducted on June 23, 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 **Z/COZ94-18**, the petition of William Gundlach, Jr. for a OFFICIAL ZONING MAP AMENDMENT (REZONING) from the Agricultural Residential (AR) ZONING DISTRICT to the Residential Transitional Urban (RTU) ZONING DISTRICT with a CONDITIONAL OVERLAY ZONE (**COZ**) 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 June 23, 1994, subject to the conditions of the Conditional Overlay Zone described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 23rd day of June, 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

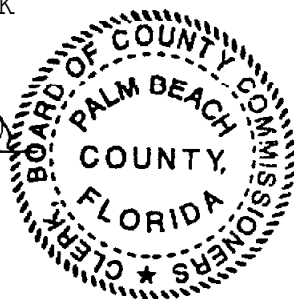


EXHIBIT A
LEGAL DESCRIPTION

ATTACHMENT A

Tracts 55, 56, 57, 58, 71, 72, 73, 74, 87, 88, 89, 90, and 106, Block 49, PALM BEACH FARMS CO., Plat No. 3, according to the Plat thereof recorded in **Plat** Book 3, Pages 45 to 54 inclusive, of the Public Records of Palm Beach County, Florida, containing 65 acres more or less.

EXHIBIT B
VICINITY SKETCH

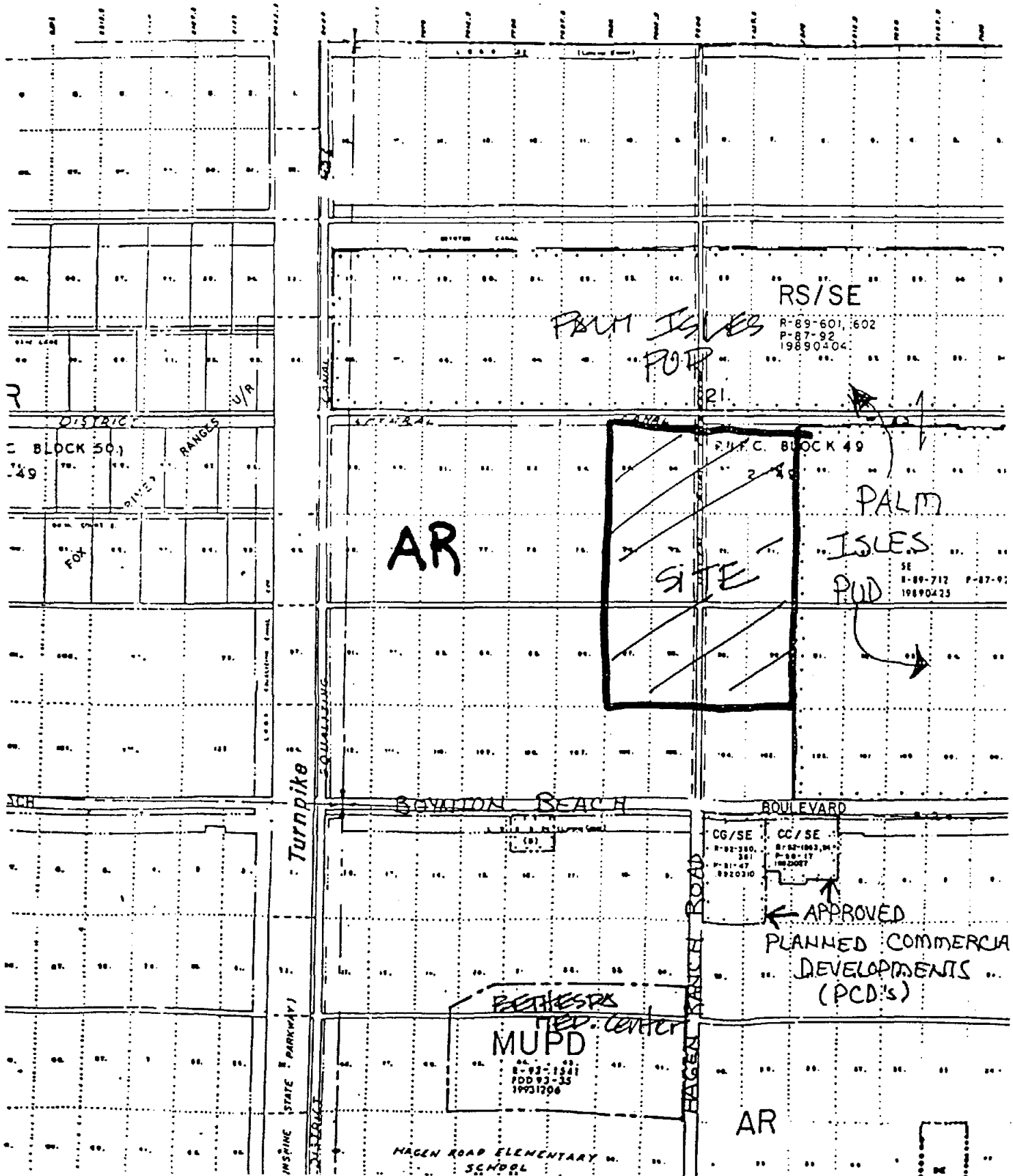


EXHIBIT C

CONDITIONAL OVERLAY CONDITIONS

A. 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)

B. LANDSCAPING - GENERAL

1. 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: 3.5 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. (BUILDING-Zoning)

C. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum five (5) foot wide landscape buffer strip;
 - b. A six (6) foot high opaque concrete (masonry) wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development;
 - c. One (1) canopy tree planted every twenty (20) feet on center; and,
 - d. One (1) native palm tree or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,

Fifty (50%) percent of the required trees shall be planted on the exterior side of the required wall and may be installed off site. The minimum code requirements for landscaping along the east property line shall be met on site. (BUILDING-Zoning)

2. Prior to issuance of the first building permit on the east parcel, the petitioner shall install the required wall along the entire east property line. (BUILDING)

B. ENGINEERING

1. The property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed the right of way for Hagen Ranch Road. This site related right of way for Hagen Ranch Road, 80 feet in width, shall be conveyed prior to **January 15, 1995** or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. 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. The Property owner shall construct a left turn lane north approach and a left turn lane south approach on Hagen Ranch Road at the project's entrance road. This construction shall be concurrent with the paving and drainage improvements for the site for Phase 1. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not limited to, utility relocations and acquisition of any additional required right-of-way. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).
3. Prior to July 15, 1995 or prior to the issuance of the first Building Permit, whichever occurs first, the Property owner shall convey to Palm Beach County adequate road drainage easement through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Hagen Ranch Road along the property frontage and for the section of Hagen Ranch Road from Boynton Beach Boulevard to the project's south property line. Said easements shall be no less than 20 feet in width. The drainage system within the 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/Building - Engineering).
4. 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 or as it may from time to time be amended. The Fair Share Fee for this project to be paid at the time of the Building Permit is \$1650 presently per approved single family dwelling unit and \$1155 per approved multi family dwelling unit. (trips X \$165.00 per trip) (IMPACT FEE COORDINATOR).

5. a) The Property owner shall lengthen the existing northbound left turn lane on El Clair Ranch Road at Boynton Beach Boulevard. Length of this turn lane shall be a minimum of 390 feet in length. The construction shall be concurrent with the paving and drainage improvements for Phase 1 of the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not limited to, utility relocations and acquisition of any additional required right-of-way. Acceptable surety for this construction shall be posted with the office of the County Engineer prior to January 1, 1995 based upon 110% of a certified cost estimate by the developers engineer. (MONITORING - Engineering)
 - b) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BUILDING - Engineering)
 - c) Construction shall be completed prior to the issuance of building permits which authorizes the construction of 47 dwelling units. (BUILDING - Engineering).
6. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a) Building Permits for no more than 97 single family and 100 multi family housing units shall be issued until the contract for construction of Jog Road from Boynton Beach Boulevard to Le Chalet Boulevard as a four lane divided roadway has been let.
 - b) Building Permits for no more than 97 single family and 95 multi family units shall be issued until the contract for construction of an additional eastbound left turn lane at Boynton Beach Boulevard and Jog Road has been let.

The mix of the proposed single family and multi family dwelling units may be adjusted by the County Engineer if an approved traffic study is submitted which demonstrates compliance with the Mandatory Traffic Performance Standards. (BUILDING - Engineering)

7. a) Prior to the recordation of the first plat, the petitioner shall include in the homeowners documents and all sales contracts as well as all written sales brochures, Master Plans and related Site Plans a disclosure statement identifying all Hagen Ranch Road as a planned roadway through the petition property which is included in the County's Thoroughfare Plan or Five Year Road Program including the ultimate number of lanes for this road. (ENGINEERING)
- b) The Developer/Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Sector of Planning, Zoning and Building Department. The next report shall be submitted on or before July 15, 1995 and shall continue on an annual basis until all units within the development have been sold. (MONITORING)

- c) This property shall also be appropriately signed by the developer prior to the issuance of the first building permit. Sign locations shall be indicated both on the Master Plan and appropriate Site Plans. (MONITORING - Engineering).
8. The Property owner shall construct Hagen Ranch Road from the southern paved terminus by Boynton Isles PUD, south to this project's south property line. This construction shall be concurrent with the paving and drainage improvements for phase 1 of the site. Construction shall be to collector street standards, 2-12 foot travel lanes (expandable to 5-lanes), based upon construction plans approved by the County Engineer. Construction shall be completed prior to the issuance of the first certificate of occupancy. (BUILDING - Engineering).
9. The Property owner shall provide construction plans for Hagen Ranch Road as a two lane collector road, (expandable to five lanes) from Boynton Beach Boulevard to this project's south property line. 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 prior to January 15, 1997. 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 (MONITORING - Engineering).
10. The property owner shall provide for the acquisition by funding the right-of-way of Hagen Ranch Road from Boynton Beach Boulevard to this project's south property line as referenced in the Condition above. This developer shall enter into an agreement for acquisition with the Right of Way Acquisition Section prior to January 15, 1996. Notification shall be given to Land Development Division (MONITORING - Engineering).
11. Prior to January 15, 1996 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 Hagen Ranch Road from Boynton Beach Boulevard to this project's south property line, 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 (MONITORING - Engineering).
12. The property owner shall construct Hagen Ranch Road as a two lane collector road from Boynton Beach Boulevard to this project's south property line. This construction shall be completed prior to December 1, 1997. This construction shall include:
- a) Separate left turn lane and right turn lane north approach on Hagen Ranch Road at Boynton Beach Boulevard.
 - b) Signal modifications as required by the County Engineer at the intersection of Hagen Ranch Road and Boynton Beach Boulevard. (MONITORING - Engineering)

13. All canal crossings within the project limits shall be constructed to their ultimate configuration (ENGINEERING).
14. Acceptable surety required to the Land Development Division for the offsite road improvements as outlined in the condition above shall be posted with the Office of the County Engineer prior to April 1, 1997. This surety shall be based upon 110% of the certified cost estimate from the developers engineer (MONITORING - Engineering).
15. The Property owner shall prepare the construction plans for the additional eastbound left turn lane required in Condition #6(b) plus the appropriate tapers. 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 prior to July 2, 1995. Plan costs shall be approved by the County Engineer. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division (MONITORING - Engineering).
16. The property owner shall provide for the acquisition by funding the right-of-way of the additional eastbound left turn lane as referenced in the Condition above and shall provide surety acceptable 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 prior to January 1, 1995, or prior to the certification of the Master Plan whichever shall first occur. Notification shall be given to Land Development Division (MONITORING - Engineering).
17. Prior to January 1, 1995, 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 the additional eastbound left turn lane as referenced above and 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. (MONITORING - Engineering)
18. The property owner shall construct the additional eastbound left turn lane per Condition No. 6(b). The construction shall commence prior to January 1, 1996. All canal crossings within the project limits shall be constructed to their ultimate configuration (MONITORING - Engineering).
19. Surety required to the Land Development Division for the offsite road improvements as outlined in Condition Nos. 15, 16, 17 and 18 shall be posted with the Office of the County Engineer prior to January 1, 1995. Surety in the amount of 110% shall be based upon a Certified Cost Estimate from the Developer's Engineer (MONITORING - Engineering).

20. The developer has agreed to designing, acquiring the right-of-way and constructing Hagen Ranch Road from Boynton Beach Boulevard to the project's south property line (Conditions #9, 10, 11, 12 and 13) in lieu of paying Traffic Impact Fees. The cost of designing acquiring the right-of-way and constructing the additional eastbound left turn lane at the intersection of Boynton Beach Boulevard and Jog Road (Conditions #15, 16, 17 & 18) shall be credited against this project's impact fee. The developer's maximum cost for complying with Conditions #9, 10, 11, 12, 13, 15, 16, 17 and 18 shall not exceed \$320,000.
21. Prior to submission of the first plat for recordation the developer shall provide legal access to this project via Hagen Ranch Road from the project south to Boynton Beach Boulevard or through the Palm Isles PUD by recording a Supplement to Declaration of Protective Covenants and Restrictions for Palm Isles and Perpetual Access Easement.
22. Construction for the access to this site shall be limited to the section of Hagen Ranch Road south of the subject site. (ENGINEERING - Building)
23. No Certificates of Occupancy shall be issued until Hagen Ranch Road from Boynton Beach Boulevard to the project is open for vehicular traffic provided that there has been no undue delay by Palm Beach County in acquiring the right-of-way for this section of Hagen Ranch Road. (ENGINEERING - Building)

D. 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;
 - d. 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)