

RESOLUTION APPROVING ZONING PETITION PDD96-129
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF RUBY BENNETT
BY KIERAN KILDAY, AGENT
(WINTERPLACE 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 PDD96-129 was presented to the Board of County Commissioners at a public hearing conducted on September 25, 1997; 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) 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) 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 Unified 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 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 PDD96-129, the petition of Ruby Bennett by Kieran Kilday, agent, for an Official Zoning Map Amendment to Planned Development District (PDD) Rezoning from the Agricultural Residential (AR) to the 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 September 25, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 23, 1997.

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

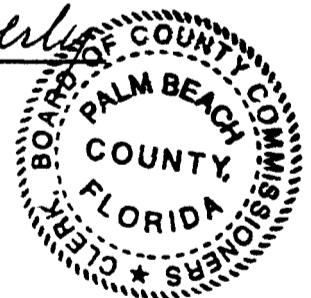


EXHIBIT A
LEGAL DESCRIPTION

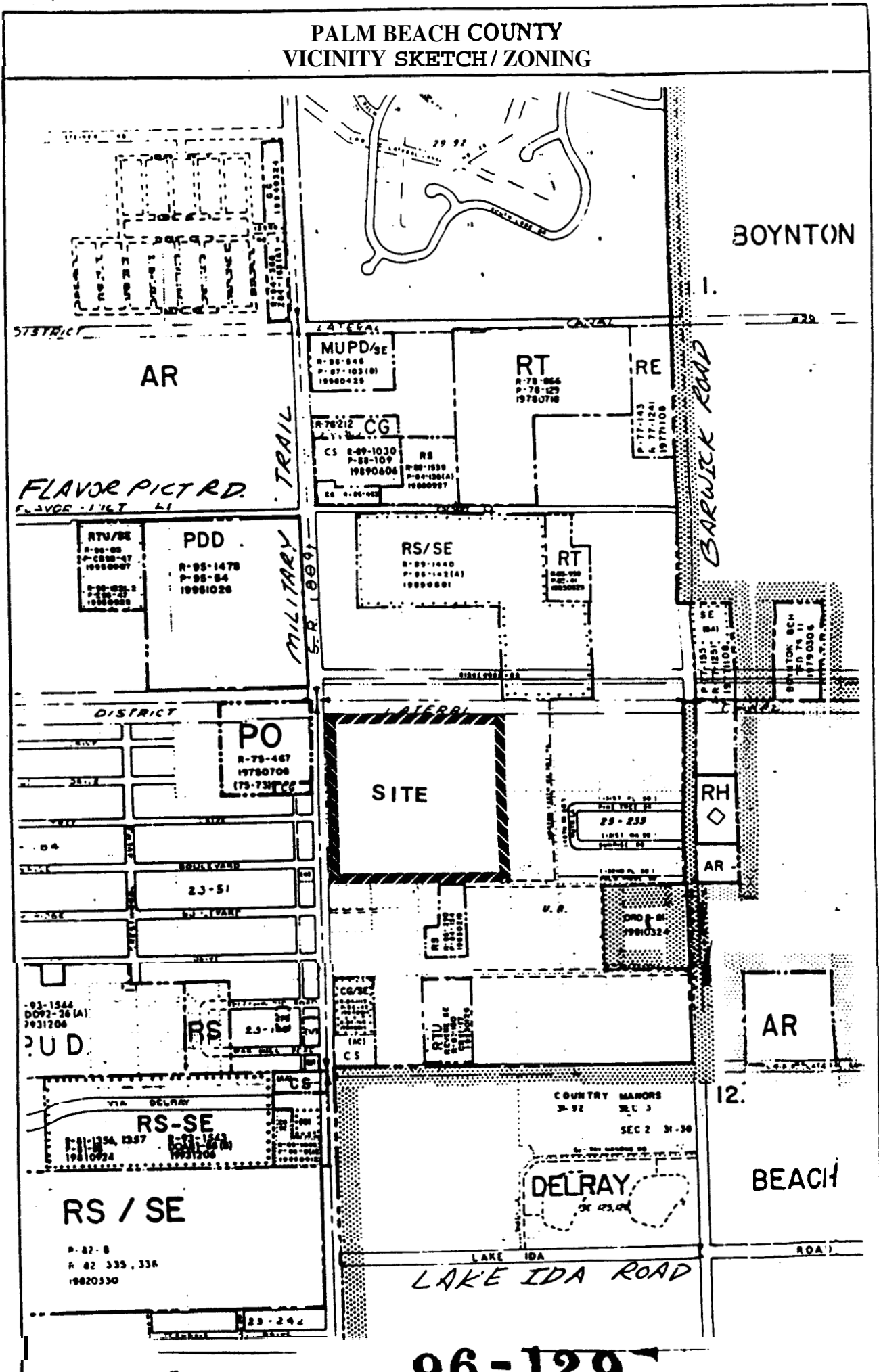
EXHIBIT "A"
LEGAL DESCRIPTION

THE NORTHWEST QUARTER (N.W. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF SECTION 12, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 140.25 FEET THEREOF, LESS THAT PART LYING IN MILITARY TRAIL (STATE ROAD 809) AND LESS THAT PART DESCRIBED IN ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 5816, PAGE 259 OF THE PUBLIC RECORD OF PALM BEACH COUNTY, FLORIDA.

BEING 34.62 ACRES MORE OR LESS.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ZONING



Petition Number: _____
 Zoning Quad Page 36
 Date: DEC 18 1996

FILE COPY



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 January 30, 1997. 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. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval, except on individual residential lots, 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.
 - 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, except on individual residential lots, 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)

C. LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING MILITARY TRAIL)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum twenty (20) foot landscape buffer;
 - b. A continuous three (3) foot high berm measured from finished grade;
 - c. One (1) canopy tree spaced no more than thirty (30) feet on center;
 - d. One (1) palm or pine tree for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms may replace a perimeter canopy tree and;
 - e. Thirty (30) inch high shrub or hedge material shall be planted and 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)

**D. LANDSCAPING ALONG SOUTH AND EAST PROPERTY LINES
(ADJACENT TO RESIDENTIAL)**

1. Landscaping and buffering along the south and east property lines shall be upgraded to include:
 - a. A minimum twenty (20) foot wide Type B landscape buffer strip (with a maximum five (5) foot overlap into utility easement(s));
 - b. A continuous three (3) foot high berm measured from finished grade;
 - c. One (1) canopy tree spaced no more than thirty (30) feet on center;
 - d. One (1) palm or pine tree for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms may replace a perimeter canopy tree and;
 - e. Thirty (30) inch high shrub or hedge material shall be planted and 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)

E. ENGINEERING

1. Prior to technical compliance 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. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING-Eng)
2. Prior to Technical Compliance by the Land Development Division, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Military Trail 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 wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. (DATE: MONITORING-Eng)

3. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROAD

- a. Prior to technical compliance by the Land Development Division, the property owner shall apply to the Land Development Division, Permit Section, of 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 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 Palm Beach County Engineering and Public Works Department March 1994 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: ENG)**
- b. All required median landscaping including an irrigation system, if required, shall be at the property owners expense. All existing landscape material shall also be the perpetual maintenance obligation of the property owner its successors, heirs or assigns 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. The maintenance responsibility of any existing trees within the median shall also become the responsibility of this property owner. All landscape material shall be installed concurrent with the improvements with the first plat. (ENG)**
- c. Declaration of covenants and Restriction Documents shall be established or amended as required, prior to recordation of the first plat to reflect this obligation. (PLAT: ENG)**

4. 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 twenty-four (24) single family dwelling units shall not be issued until construction has begun for an exclusive right turn lane on the west approach at the intersection of Lake Ida and Barwick Road. (BLDG PERMIT: MONITORING-Eng)**

The mix of allowable uses listed as permitted by the Zoning Division, may be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (REVISED TRAFFIC STUDY: MONITORING-Eng)

5. **Acceptable surety required for the offsite road improvements as outlined in the condition above shall be posted with the Office of the Land Development Division on or before March 25, 1998. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)**
6. **The Property owner shall construct an exclusive right turn lane on the west approach at the intersection of Lake Ida and Barwick Road. (BLDG PERMIT: MONITORING-Eng)**
 - a) **This construction shall be concurrent with the paving and drainage improvements for the site. 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.**
 - b) **Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the twenty-fifth (25th) Building Permit. (BLDG PERMIT: Monitoring-Eng)**

F. LANDSCAPING ALONG NORTH PROPERTY LINE (ALONG LWDD L-30 CANAL)

1. **Landscaping and buffering along the above property line shall include:**
 - a. **A minimum ten (10) foot wide landscape buffer strip;**
 - b. **One (1) canopy tree spaced no more than thirty (30) feet on center;**
 - c. **One (1) palm or pine tree for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms may replace a perimeter canopy tree and;**
 - d. **Thirty (30) 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)**

G. LANDSCAPING ALONG THE NORTH, SOUTH AND EAST PROPERTY LINES OF THE CIVIC POQ

1. **Landscaping and buffering along the above property lines shall include:**
 - a. **A minimum fifteen (15) foot wide landscape buffer strip;**
 - b. **One (1) canopy tree spaced no more than thirty (30) feet on center;**
 - c. **One (1) palm or pine tree for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms may replace a perimeter canopy tree and;**
 - d. **Thirty (30) 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. MASS TRANSIT

1. Prior to final certification of the master 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.

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 a building permit for more than 25% (25) of the units, or the 100th unit, whichever is less. 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)

I. PLANNED UNIT DEVELOPMENT

1. Street lights shall be provided pursuant to Section 6.8.A.23.d(1) of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
2. Street trees shall be planted in or adjacent to all rights-of-way, pursuant to Section 6.8.A.23.d(3) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
3. All utilities shall be underground, pursuant to Section 6.8.A.23.d(5) of the ULDC. (PLAT: ENG - Zoning)
4. 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 issuance of the first building permit, or recordation of the first plat for any portion of the planned development, whichever occurs first. (BLDG PERMIT / PLAT: MONITORING / ENG: - Co Att)

J. SCHOOL BOARD

1. The petitioner shall post in a clear and visible location in all sales offices and model homes a sign provided by the School Board of Palm Beach County which indicates that school age children in the development may not be assigned to the most proximate public school because of overcrowding, racial balancing, or other School Board policies. (ONGOING: SCHOOL BOARD)

K. SIGNS

1. Entrance wall signs fronting on Military Trail shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. Maximum sign face area per side - sixty (60) square feet;
 - c. Style - monument style only. (CO: BLDG)
 - d. Maximum number - two (2) and to be located as indicated on the site plan dated January 30, 1997.

L. COMPLIANCE

1. 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; 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)