

RESOLUTION NO. R-98- 120

RESOLUTION APPROVING ZONING PETITION PDD97-72
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF THOROUGHbred LAKE ESTATES, LTD.
BY KERIAN KILDAY, AGENT
(THOROUGHbred LAKES ESTATES)

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 PDD97-72 was presented to the Board of County Commissioners at a public hearing conducted on January 8, 1998; 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 PDD97-72, the petition of Thoroughbred Lake Estates, Ltd. by Kerian Kilday, agent, for an Official Zoning Map Amendment (PDD) Rezoning from the Residential Transitional (RT) and the Residential Estate (RE) to the Planned Unit Development (PUD) Zoning Districts 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 January 8, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

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

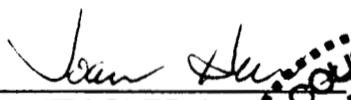
The Chair thereupon declared that the resolution was duly passed and adopted on January 29, 1998.

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

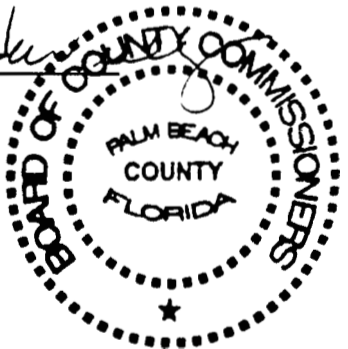


EXHIBIT A

LEGAL DESCRIPTION

THOROUGHbred LAKE ESTATES PUD

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN SECTION 36, TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF BLOCK 35, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF SAID PALM BEACH COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 SECTION CORNER OF SAID SECTION 36, THENCE N02°03'38"E, ALONG THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, A DISTANCE OF 133.98 FEET; THENCE S87°56'22"E A DISTANCE OF 55.00 FEET TO A LINE 55.00 FEET EAST OF AND PARALLEL WITH SAID NORTH-SOUTH QUARTER SECTION LINE, AND THE **POINT OF BEGINNING**.

FROM THE **POINT OF BEGINNING**, THENCE N02°03'38"E ALONG SAID PARALLEL LINE, A DISTANCE OF 2253.67 FEET TO A LINE 47.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACTS 17 THROUGH 20, OF SAID BLOCK 35; THENCE N89°03'39"E ALONG LAST SAID PARALLEL LINE, A DISTANCE OF 2390.15 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD 7 (US 441) AS RECORDED IN OFFICIAL RECORD BOOK 6676, PAGE 186 OF SAID PUBLIC RECORDS; THENCE S01°29'08"W ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 50.04 FEET TO A LINE 97.00 FEET SOUTH OF AND PARALLEL WITH SAID NORTH LINE OF LOTS 17 THROUGH 20; THENCE S89°03'39"W ALONG THE LAST SAID PARALLEL LINE, A DISTANCE OF 942.89 FEET TO THE EAST LINE OF LOT 19; THENCE S00°59'30"E ALONG SAID EAST LINE OF LOT 19, THE EAST LINE OF LOT 22 AND ITS EXTENSION ACROSS THE PLATTED PALM BEACH FARMS COMPANY RIGHT-OF-WAY, 30 FEET IN WIDTH, AND ALONG THE EAST LINE OF LOT 27, A DISTANCE OF 1901.14 FEET; THENCE DEPARTING FROM SAID EAST LINE, S89°32'55"W A DISTANCE OF 353.10 FEET; THENCE S00°27'05"E A DISTANCE OF 343.04 FEET TO A LINE 130.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOTS 29 & 30 OF SAID BLOCK 35; THENCE N89°01'00"W ALONG SAID PARALLEL LINE A DISTANCE OF 1209.50 FEET TO THE **POINT OF BEGINNING**.

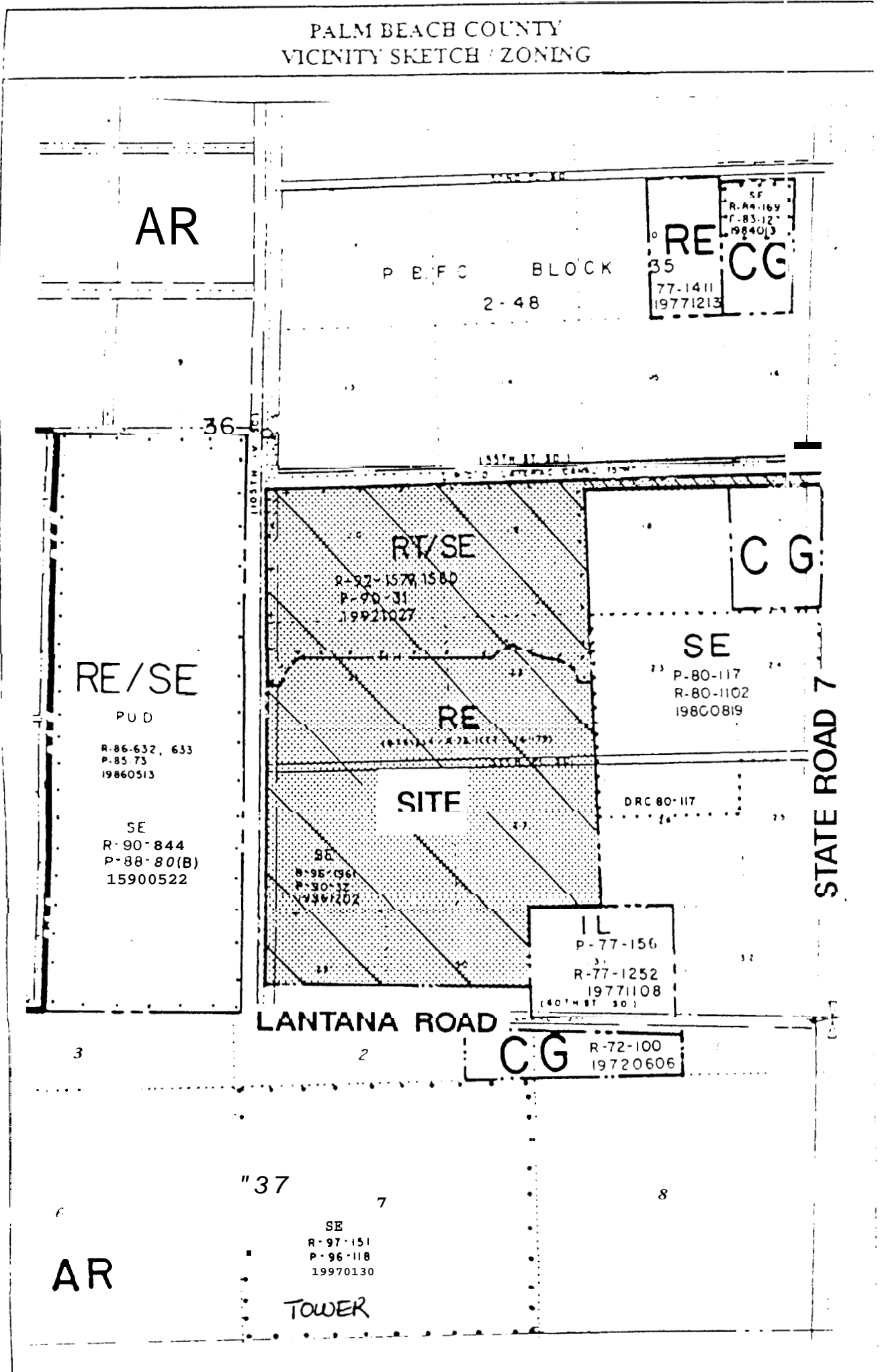
, MORE OR LESS.

AND RESTRICTIONS OF RECORD.

97-72
JUL 16 1997

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING



Petition Number 97-72
 Zoning Quad Page 63
 Date JUNE 26, 1997

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 NORTH
 FILE COPY

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-92-1579, R-92-1580 (Petition 90-31), R-90-1461, R-96-392 and R-96-1961 (Petition 90-32) are hereby revoked.
2. Development of the site is limited to the uses and site design approved by the Board of County Commissioners. The approved master/site plan is dated August 27, 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. (DRC: 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 ground.
 - 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)

C. LANDSCAPING ALONG THE WEST 1447 FEET OF THE NORTH PROPERTY LINE

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide Type B landscape buffer strip. No reductions shall be permitted. (CO: LANDSCAPE)

D. LANDSCAPING FOR BOTH SIDES OF THE S.R.7/US 441 ENTRY RIGHT-OF-WAY (942 FOOT PROPERTY LINE, NORTH AND SOUTH SIDES)

1. Prior to DRC final certification, the petitioner shall obtain a variance from the Board of Adjustments to waive the Type B landscape buffer for the 942 foot north property line and the Type C landscape buffer 942 foot south property line and the Type D landscape buffer for the 50 foot east property line. (DRC: LANDSCAPE -Zoning)
2. Landscaping along the north side of the right-of-way shall include, subject to the County Engineer's approval:
 - a. An eight (8) foot paved bike path or two four (4) foot wide sidewalk to be located on the north side of the 50 foot wide right-of-way. (CO:LANDSCAPE/ENG- Zoning)

3. Landscaping along the south side of the right-of-way shall include, subject to the County Engineer's approval:
 - a. One (1) canopy tree for every fifty (50) feet on center or one (1) palm for every forty (40) feet on center. (CO:LANDSCAPE/ENG- Zoning)

E. ENGINEERING

1. 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 74 dwelling units shall not be issued until construction has begun for widening of SR7 as a 6 lane section from Lake Worth Road to Lantana Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
 - b) No Building Permits for the site may be issued after December 31, 2000. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. (DATE: MONITORING-Eng)
2. The Property owner shall construct a pedestrian pathway along the north side of Lantana Road from the projects entrance onto Lantana Road to SR 7 subject to the approval of the County Engineer.
 - 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.
 - B) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
 - C) Construction shall be completed prior to the issuance of the **first** Certificate of Occupancy. (CO: MONITORING - Eng)

F. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (LANTANA ROAD FRONTAGE)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide Type D landscape buffer strip. No reductions shall be permitted; and
 - b. A continuous two and one half (2.5) foot high berm measures 1 from top of curb. (CO: LANDSCAPE)

G. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide landscape buffer strip. No reductions shall be permitted; and
 - b. One (1) canopy tree planted every thirty (30) feet on center; and

- c. One (1) palm 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 or pine trees may supersede the requirement for a canopy tree in that location; and
- d. Twenty (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 forty-eight (48) inches; and
- e. Credit may be given for existing or relocated trees provided they meet current ULDC requirements, (CO: LANDSCAPE)

H. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING INDUSTRIAL)

- 1. Landscaping and buffering along the above property line shall include:
 - a. A minimum fifteen (15) foot wide Type C landscape buffer strip. No reductions shall be permitted. (CO: LANDSCAPE)

I. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the above property line shall include:
 - a. A minimum twenty (20) foot wide Type B landscape buffer strip. No reductions shall be permitted. (CO: LANDSCAPE)

J. MASS TRANSIT

- 1. A. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or Palm Tram. (DRC: ZONING)
- 2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tram, and County Engineer prior to issuance of a building permit for more than 25% (55) 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)

K. PARKS

- 1. Any parcel of land used to satisfy minimum recreation requirements shall adhere to the following dimensions.
 - a. Minimum parcel size shall be seven thousand five hundred (7,500) square feet exclusive of easements.
 - b. Minimum parcel width shall average seventy five (75) feet with no dimension less than fifty (50) feet.

- c. Minimum parcel depth shall average one hundred (100) feet with no dimension less than seventy five (75) feet.
- d. The Parks and Recreation Department may waive this condition when considering location, abutting land uses, accessibility, recreation facilities to be offered and the recreation parcels' function in the overall recreation and open space network of the development. (DRC:PARKS)

L. 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)

- 5. The petitioner shall include in homeowners documents as well as written sales brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying of the existence of towers in the vicinity of the development. The developer/property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning January 29, 1999 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowners association. (ONGOING: MONITORING)

M. PREM

- 1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by **January 15, 1999**, for a **1.54** acre civic site, in a location and form acceptable to Facilities, Development & Operations Department (FDO), and the County Attorney's office. 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. The appraisal to be obtained by 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 Attorneys 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 **October 15, 1998**. 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 **October 15, 1998**. 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. Prior to **October 15, 1998**, 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)

N. 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)

O. SIGNS

1. Freestanding signs fronting on Lantana Road 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.
 - d. Maximum number of sign - 1 pair. (CO: BLDG)

P. UNITY

1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public record a unity of **control/title** for the entire **subject** property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

Q. 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 noncompliance, 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)