

RESOLUTION NO. R-2004- 2019

RESOLUTION APPROVING ZONING PETITION PDD2003-090
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF DORISMAE KERNS & CHARLES WARWICK III
BY LAND DESIGN SOUTH, AGENT
(BELVEDERE ISLES II 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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Petition PDD2003-090 was presented to the Board of County Commissioners at a public hearing conducted on September 30, 2004; 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 has considered the findings in the staff report and 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 2.K.3.b (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 PDD2003-090, the petition of Dorismae Kerns & Charles Warwick III by Land Design South, agent, for an Official Zoning Map Amendment from the Agricultural Residential Zoning District and the Single Family Residential Zoning District with a Special Exception to the Residential Planned Unit Development 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 September 30, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner MASILOTTI moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	- NAY
Tony Masilotti, Vice Chairman	- AYE
Jeff Koons	- AYE
Warren H. Newell	- AYE
Mary McCarty	- AYE
Burt Aaronson	- AYE
Addie L. Greene	- AYE

The Chair thereupon declared that the resolution was duly passed and adopted on September 30, 2004.

Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 2004.

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:


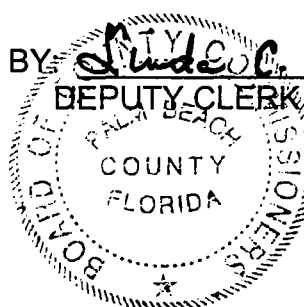

DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

THE EAST HALF OF TRACT 17, BLOCK 3, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PALM BEACH COUNTY, FLORIDA; LESS THE LANDS DESCRIBED IN DEED BOOK 693, PAGE 168 AND OFFICIAL RECORDS BOOK 2339, PAGE 1686 FOR ROAD RIGHT OF WAY FOR BELVEDERE ROAD.

CONTAINING: 8.55 ACRES, MORE OR LESS

PARCEL 2

THE EAST HALF OF TRACT 12, BLOCK 3, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 105 FEET OF THE EAST 210 FEET THEREOF; TOGETHER WITH THE SOUTH HALF OF THE WEST 450 FEET OF THE EAST 660 FEET OF THE ABANDONED 30 FOOT ROADWAY LYING NORTH OF AND ADJACENT TO TRACT 12, BLOCK 3, PALM BEACH FARMS COMPANY PLAT NO. 3.

CONTAINING: 9.63 ACRES, MORE OR LESS

PARCEL 3

THE WEST HALF OF TRACT 17, BLOCK 3, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

LESS, HOWEVER, THE SOUTH 33.00 FEET THEREOF FOR ROAD RIGHT-OF-WAY PER MINUTES OF THE PALM BEACH COUNTY BOARD OF COMMISSIONERS MEETING MARCH 14, 1932.

ALSO LESS ADDITIONAL RIGHT-OF-WAY FOR BELVEDERE ROAD PER OFFICIAL RECORDS BOOK 7973, PAGE 1542.

CONTAINING: 7.41 ACRES, MORE OR LESS

TOTAL OF ALL PARCELS CONTAINING: **25.59 ACRES**, MORE OR LESS

EXHIBIT B
VICINITY SKETCH

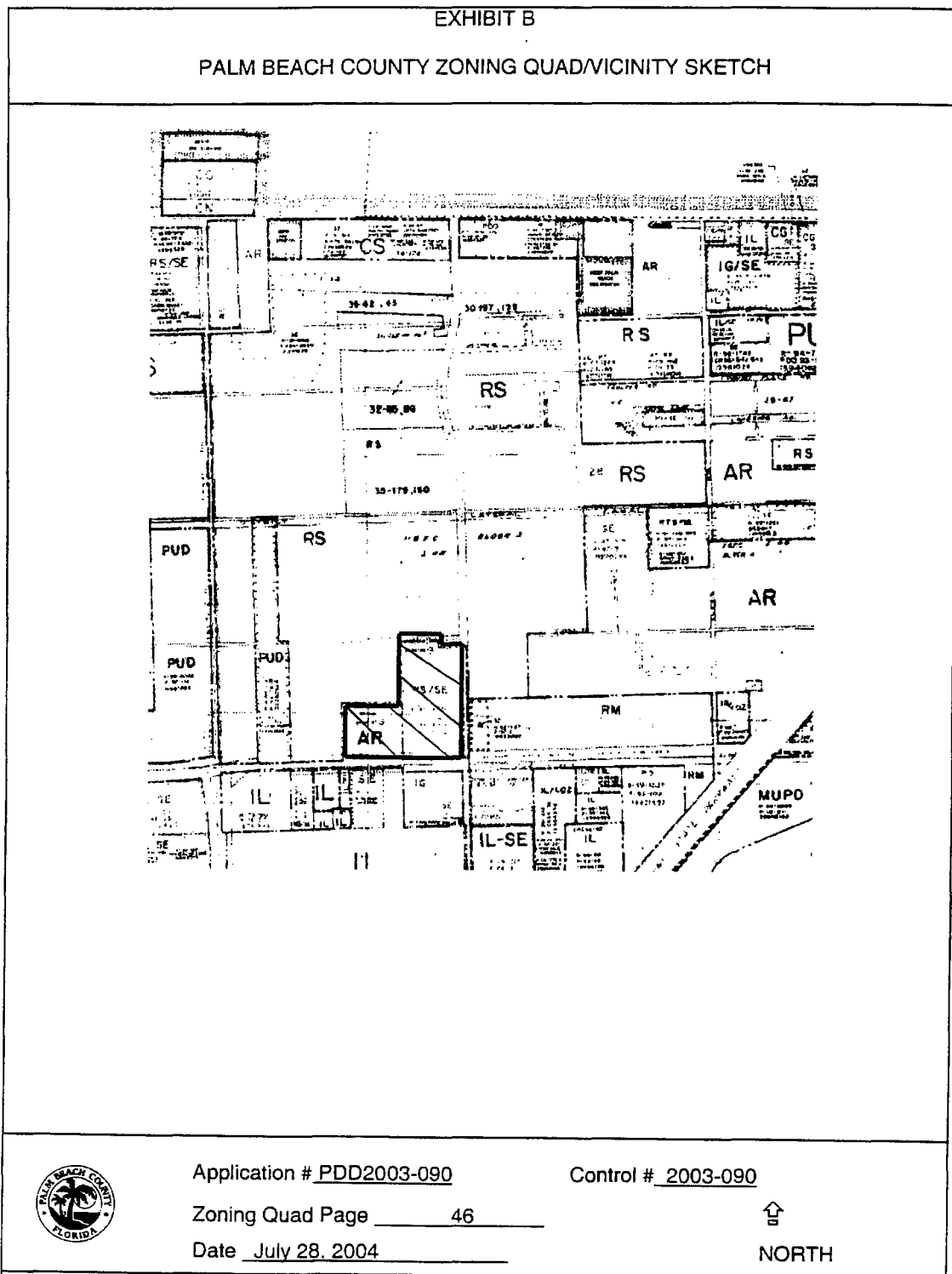


EXHIBIT C

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 August 19, 2004. 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-Zoning)

B. LANDSCAPING - STANDARD

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE – Zoning)
2. All palms required to be planted on the property 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. (BLDG PERMIT: LANDSCAPE – Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. this condition does not apply to the five (5) foot wide compatibility buffer or where a single row of hedge is required on one or both sides of the wall. (BLDG PERMIT: LANDSCAPE – Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (BLDG PERMIT: LANDSCAPE – Zoning)
5. A group of three (3) or more palm or pine trees may not supersede the requirement for perimeter canopy trees in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE – Zoning)

6. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (BLDG PERMIT: LANDSCAPE – Zoning)
7. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings. (BLDG PERMIT: LANDSCAPE – Zoning)
8. Berm height shall be measured from the nearest top of the curb or the crown of the adjacent road or the nearest adjacent finished floor elevation, whichever is higher. Minor height adjustment may be permitted subject to the approval by the Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: LANDSCAPE - Zoning)

C. LANDSCAPING ALONG THE EAST PORTION OF THE NORTH PROPERTY LINE (ABUTTING SUB-SECTION 13A AND LAKE SUSAN ROAD), THE SOUTH PROPERTY LINE (FRONTAGE OF BELVEDERE ROAD), THE ENTIRE EAST PROPERTY LINE (FRONTAGE OF GOLDEN LAKES BOULEVARD) AND THE NORTH PORTION OF THE WEST PROPERTY LINE (ABUTTING GOLDEN LAKES, SECTION 13)

1. Landscaping and buffering along the east portion of the north property line (abutting Sub-Section 13A and Lake Susan Road), the south property line (frontage of Belvedere Road), the entire east property line (frontage of Golden Lakes Boulevard), and the north portion of the west property line (abutting Golden Lakes, Section 13) shall be upgraded to include:
 - a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction shall be permitted. Buffer width shall be permitted to be reduced to twenty (20) feet only along the west 659 linear feet of the south property line. A maximum five (5) feet easement encroachment pursuant to ULDC requirements shall only be permitted along the south property line;
 - b. a continuous three (3) foot high berm shall be provided in the 25-foot wide buffer;
 - c. a six (6) foot high black vinyl coated chain link fence along the east property line (fronting Golden Lakes Boulevard);
 - d. one (1) native canopy tree for each thirty (30) feet of the property line. Trees shall be planted alternating on both sides of the fence where a fence is required;
 - e. 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. Palm or pine tree shall be planted alternating on both sides of the fence where a fence is required;
 - f. one (1) small shrub for each two (2) linear feet of the property line and shall be planted on both sides of the fence where a fence is required. Shrub shall be a minimum height of eighteen (18) inches at installation;
 - g. one (1) medium shrub for each four (4) linear feet of the property line and shall be planted on both sides of the fence where a fence is required. Shrub shall be a minimum height of twenty-four (24) inches at installation;
 - h. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. In area where a fence is required, the large shrubs shall be planted at two (2) linear feet o.c. on the exterior side of the fence. Shrubs shall be installed and maintained at seventy-two (72) inches. (BLDG PERMIT: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING GOLDEN LAKES PUD, SECTION 14) AND ALONG THE NORTH PROPERTY LINE (ABUTTING GOLDEN LAKES PUD, SECTION 13)

1. Landscaping and buffering along the west property line (abutting Golden Lakes PUD, Section 14) and along the north property line (abutting Golden Lakes PUD, Section 13) shall be upgraded to include:
 - a. a minimum ten (10) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. one (1) canopy tree planted for each thirty (30) linear feet of the property line,
 - c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) linear feet between clusters;
 - d. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
 - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (BLDG PERMIT: LANDSCAPE - Zoning)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site shall be issued after January 1, 2006. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2 Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. The property owner shall construct a right turn north approach on Pike Road Extension (Golden Lakes Boulevard) at Belvedere Road. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.
 - a. Permits required by Palm Beach County for the construction of this right turn lane shall be obtained prior to the issuance of 110 total Building Permits for the PUD. (BLDG PERMIT: MONITORING-Eng)
 - b. Construction for this improvement shall be completed prior to the issuance of 120 total Certificates of Occupancy for the PUD. (CO: MONITORING-Eng)

3. LANDSCAPE WITHIN THE MEDIAN OF BELEVEDERE ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Belvedere Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless property owner provides payment for maintenance as set forth in Paragraph d below.

- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

- b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy (CO). (CO: MONITORING -Eng)
 - c) At the property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the property owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the property owner. The property owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property owner. (ONGOING-ENG-Eng)
 - d) Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along Belvedere Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT:MONITORING-Eng)
4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG-Eng)

F. PLANNED UNIT DEVELOPMENT

- 1. Decorative street lights shall be provided pursuant to Section 6.8.A.16.c.(1) of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE – Eng/Zoning)
- 2. In addition to tree planting in terminal islands, canopy trees shall be required within the parking tract of the internal roadway. Trees shall be planted at twenty-five (25) feet on center. (BLDG PERMIT:LANDSCAPE-Zoning)
- 3. Decorative pavers (stamped concrete or paving blocks) shall be provided along the internal driveway indicated on the master plan dated August 19, 2004. The minimum dimension for each area shall be as follows:
 - a. Main access point –6,200 square feet; and,
 - b. Pedestrian walkways – 120 square feet each. (DRO/BLDG PERMIT: DRO/BLDG PERMIT – Zoning)
- 4. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to show the following:
 - a. an architectural focal point at the terminus of the parking tract in Belvedere Isles II. The focal point shall be in the form of a plaza, fountain, arcade or similar pedestrian oriented public areas;
 - b. an architectural focal point at the main access point; and,
 - c. details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: ARCH REVIEW – Zoning)

5. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to show a fountain in each lake. (DRO/PLAT:DRO-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. Such recreation uses shall have a direct connection to the pedestrian system on the property 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. (DRO: DRO – Zoning)
7. Prior to the recordation of the first plat, 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 include the following:
 - a. 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.
 - b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
 - c. The property shall not be subject 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/COUNTY ATTY – Zoning)
8. The security gate and fence presently in place on the private right-of-way of Golden Lakes Boulevard at its existing southern terminus shall remain in place. (ONGOING:CODE ENF-Zoning)
9. A four (4) foot wide pedestrian bridge shall be provided as indicated on the site plan dated August 19, 2004. The bridge shall be designed with decorative elements along the bridge's railing/parapet wall. Details of the bridge shall be submitted to the Architectural Review Section for review and approval (DRO: ARCH REVIEW – Zoning)

G. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the notations for five (5) foot mulch pathways along both lakes in the project shall remain on the site plan as indicated on the site plan dated August 19, 2004. In addition, the site plan shall contain a pedestrian connection from both mulch pathways fronting the lakes to the recreation area and private civic area. (DRO:PLANNING-Planning)

H. SCHOOL

1. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. 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. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: SCHOOL BOARD/ENG-School Board)

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service 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-School Board)

I. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner 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 a Code Enforcement Special Master 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 Article 2.E 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. (ONGOING: MONITORING - Zoning)

