

RESOLUTION NO. R-2004- 2028

RESOLUTION APPROVING ZONING PETITION PDD2003-105  
OFFICIAL ZONING MAP AMENDMENT  
TO A PLANNED DEVELOPMENT DISTRICT (PDD)  
PETITION OF COLSON & COLSON CONSTRUCTION CO.  
BY MILLER LAND PLANNING CONSULTANTS, INC., AGENT  
(SOUTHWIND HEIGHTS)

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 PDD2003-105 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, contingent upon the approval of Small Scale Development Amendment No. SCA 2004-00004;
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 PDD2003-105, the petition of Colson & Colson Construction Co. by Miller Land Planning Consultants, Inc., agent, for an Official Zoning Map Amendment from the Multiple Use Planned Development District 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 KOONS and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that this resolution shall not become effective until Small Scale Development Amendment No. SCA 2004-00004 (MILITARY/GATEWAY CLF a.k.a. SOUTHWIND HEIGHTS) is effective.

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:


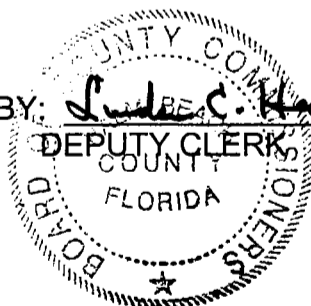
  
DEPUTY CLERK  


EXHIBIT A

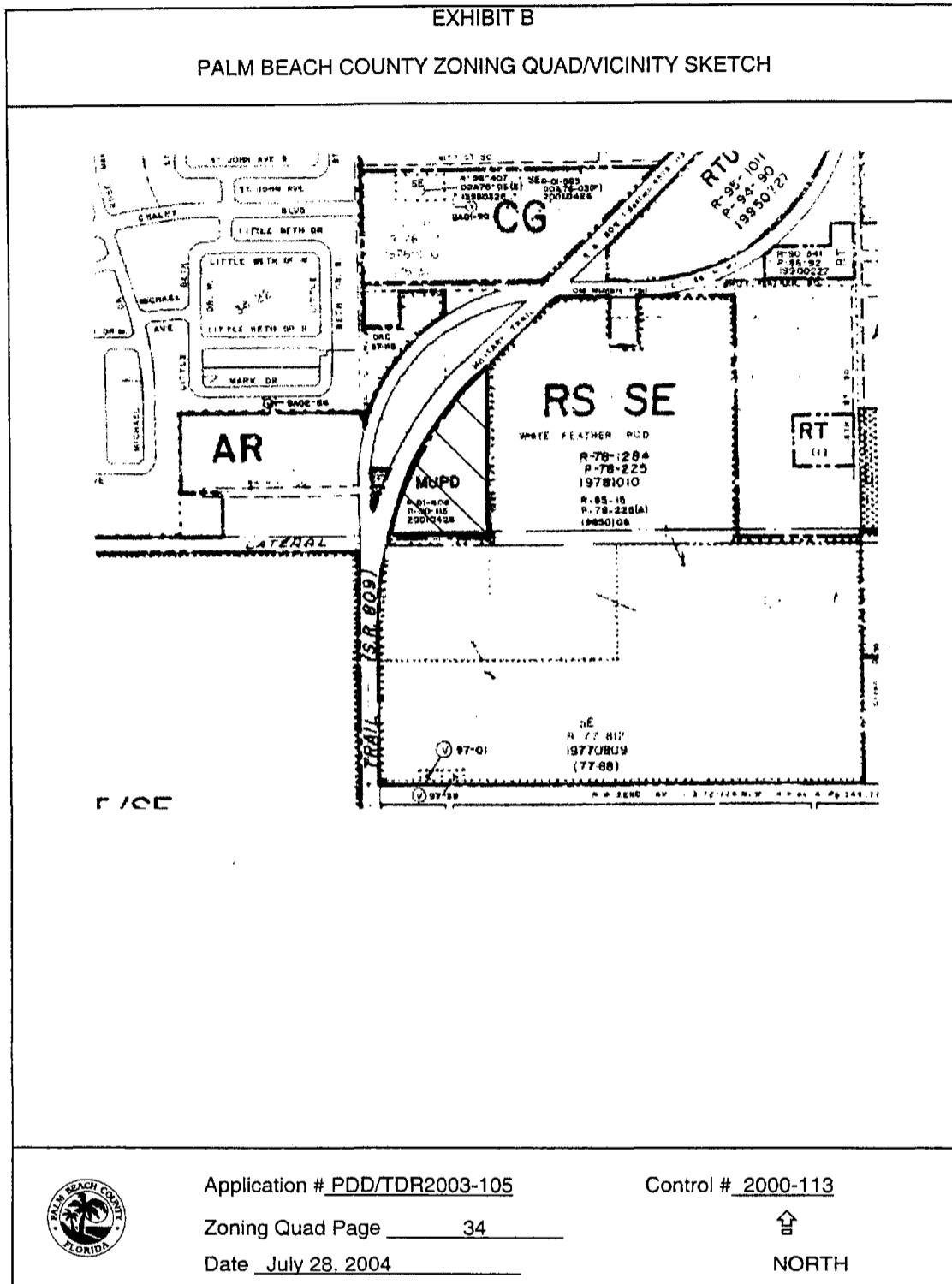
LEGAL DESCRIPTION

THAT PART OF THE WEST HALF (W. ½) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE NORTHWEST QUARTER (N.W. ¼) OF SECTION 13, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13, A DISTANCE OF 659.63 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF (W. ½) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 40.0 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13 AND THE POINT OF BEGINNING; THENCE CONTINUE N.0°54'42"W., ALONG SAID EAST LINE, A DISTANCE OF 852.60 FEET TO A POINT ON THE SOUTH-EASTERLY RIGHT OF WAY LINE OF MILITARY TRAIL (STATE ROAD 809); THENCE S.44°29'36"W., ALONG SAID SOUTH-EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 72.75 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTHEAST HAVING A CENTRAL ANGLE OF 29°03'58" AND A RADIUS OF 1850.08 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 938.54 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER (N.W. ¼) OF SAID SECTION 13; THENCE N.89°35'02"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 528.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 6.21 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



Application # PDD/TDR2003-105

Control # 2000-113

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Date July 28, 2004

NORTH

## 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 June 11, 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)
2. Prior to the issuance of a Certification of Occupancy (CO), the Congregate Living Facility shall be equipped with a standby power generating system to power the facility during periods of power outage. The capacity of this standby power generating system shall be adequate, as determined by the Building Division, to sustain normal operating conditions including (but not limited to) air conditioning, lighting, hot water heaters, food services, and medical apparatus at all times during a power outage. (CO/ONGOING: MONITORING/CODE ENF - Bldg)

#### B. ALTERNATIVE LANDSCAPE PLAN

1. Prior to final approval by the Development Review Officer (DRO), an Alternative Landscape Plan shall be submitted for landscaping along the south and east property lines and/or any portion of the property where existing vegetation may affect the proposed landscaping. (DRO: LANDSCAPE - Zoning)
2. Prior to final approval by the DRO, the property owner shall meet with Landscape Section staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: LANDSCAPE - Zoning)

#### C. ARCHITECTURAL REVIEW

1. At time of submittal for final DRO approval, architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations and the site plan shall be designed to be consistent with Section 5.C of the ULDC, the Boynton Beach Turnpike Interchange Corridor manual dated March 10, 2003, and shall be generally consistent with the elevations prepared by Curry Brandaw Architects dated May 25, 2004. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW/PLANNING - Zoning/Planning)
2. The maximum height for the CLF building shall not exceed thirty-five (35) feet measured from finished grade to highest point, excluding any rooftop atrium or other decorative element that is acceptable to the Architectural Review Section, which shall not exceed forty-five (45) feet measured from finished grade to highest point. The maximum height for all accessory buildings and structures shall not exceed twenty-five (25) feet measured from finished grade to highest point. (DRO/BLDG PERMIT: ARCH REVIEW/BLDG - Zoning)
3. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier that is consistent with the color, character and architectural style of

the principal structure or equivalent landscape material. (DRO/CO: ARCH REVIEW/LANDSCAPE - Zoning)

4. Prior to final approval by the DRO, the site plan shall be amended to indicate a focal point within the median to the west of the covered entrance to the CLF building, as indicated on the site plan dated June 11, 2004. This focal point shall be subject to review and approval by the Landscape and/or Architectural Review Section(s), as applicable. (DRO: ARCH REVIEW/LANDSCAPE - Zoning)

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM)

E. ENGINEERING

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

No Building Permits for the site shall be issued after August 26, 2007. 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 restricted median open on Military Trail at the project's entrance 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 this median improvement shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
  - b. Construction for this median improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)

3. LANDSCAPE WITHIN THE MEDIAN OF MILITARY TRAIL

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Military Trail. 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 petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner 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: 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 petitioner 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 petitioner. The petitioner 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 Petitioner. (ONGOING: MONITORING - 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 project's front footage along Military Trail. 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. (ONGOING: MONITORING - Eng)
- 4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING - Eng)
  - 5. Prior to DRO approval, the final site plan shall be amended to provide for a line of sight restriction at the project entrance along Military Trail based upon Florida DOT Standards. An Alternative Landscape Betterment Plan may be submitted to and approved by the Zoning Division for any landscape buffers in conflict with this line of sight restriction. Height of the proposed berming and landscape material within this line of sight restriction shall be restricted to conform to this requirement. This line of sight restriction shall then be identified on the final plat for the PUD. (DRO: ENG - Eng)

F. LANDSCAPING - STANDARD

- 1. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall 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. Field adjustment of berms and plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easement crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

3. All landscaping and plant materials shall comply with the recommendations of the West Boynton Area Community Plan and the Boynton Beach Turnpike Interchange Corridor manual dated March 10, 2003. (BLDG PERMIT: LANDSCAPE - Zoning/Planning)
  4. Berm height shall be measured from the nearest top of the curb, the crown of the nearest 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)
- G. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING THE LWDD L-21 CANAL AND WINDWARD (A.K.A. WHITE FEATHER) PUD - COMMERCIAL POD)
1. In addition to code requirements, landscaping and buffering along the south property line shall be upgraded to include:
    - a. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet; and,
    - b. a minimum of 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. (BLDG PERMIT: LANDSCAPE - Zoning)
- H. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING WINDWARD (A.K.A. WHITE FEATHER) PUD)
1. In addition to code requirements, landscaping and buffering along the east property line shall be upgraded to include:
    - a. a minimum two (2) to four (4) foot high undulating berm with an average height of three (3) feet;
    - b. two (2) rows of native canopy trees, to be planted in a staggered manner to maximize screening. Tree spacing shall not exceed twenty (20) feet center to center per row, unless authorized herein; and,
    - c. a minimum of 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. (BLDG PERMIT: LANDSCAPE - Zoning)
- I. LANDSCAPING - INTERIOR
1. Foundation planting or grade level planters shall be provided along the north, south, east and west facades of the CLF building to consist of the following:
    - a. The minimum width of the required landscape areas shall be five (5) feet;
    - b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of each side of the structure; and,
    - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. (DRO/BLDG PERMIT: ZONING/LANDSCAPE - Zoning)
  2. Prior to final approval by the DRO, the site plan shall be amended to indicate decorative paving treatment (pre-cast concrete paver blocks and/or stamped concrete) at the ingress/egress from Military Trail. This treatment shall:
    - a. begin at the property line or base building line, as applicable;
    - b. extend the entire length of the driveway throat; and,
    - c. cover the entire area of the applicable drive aisle surface. (DRO/CO: ZONING/LANDSCAPE - Zoning)



J. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall be setback a minimum distance of fifty (50) feet from the west property line. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 10:00 p.m. daily, excluding security lighting only. (ONGOING: CODE ENF - Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material and/or illuminate pedestrian walkways. (ONGOING: CODE ENF - Zoning)

K. PARKING

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
2. Parking spaces that share a drive aisle with the service entrance and loading area shall be used for employee parking only. Appropriate signs shall be posted restricting this area to employee parking only. (CO/ONGOING: BLDG/CODE ENF - Zoning)

L. PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the site plan shall include:
  - a. cross section details depicting a shaded landscaped pathway/sidewalk system along all internal pathways/sidewalks as well as along the sidewalk fronting Military Trail;
  - b. details depicting that all drive aisle crossings will be striped or consist of paver bricks to identify pedestrian use; and,
  - c. the notation of a pedestrian pathway to be paved to the property line with breaks in any buffering or fence/wall to the retail center located to the south of the property as indicated on the certified site plan dated June 11, 2004. This pedestrian pathway shall align with existing pedestrian pathway(s) on the adjacent retail center property. (DRO: LANDSCAPE/PLANNING - Planning)
2. Prior to the issuance of a certificate of occupancy, the property owner shall pave the pedestrian pathway to the southern property line, including breaks in any buffering or fence/wall, as indicated on the approved master plan/site plan. (CO: MONITORING/PLANNING - Planning)

M. SCHOOL BOARD

1. The subject site will be limited to an "adults only" community. Prior to issuance of the first building permit, the applicant shall provide a "Declaration and Restrictive Covenant" which prohibits children under nineteen years of age from residing in the community. This declaration shall be recorded in the public records for Palm Beach County in a form and manner acceptable to the School Board and the County Attorney. (BLDG PERMIT: SCHOOL BOARD/CO ATTY - School Board)

N. SIGNS

1. All signs shall comply with the Signage Guidelines set forth within Section 5 of the Boynton Beach Turnpike Interchange Corridor manual dated March 10, 2003. (CO: BLDG - Zoning/Planning)
2. Wall signs shall be limited to the north and west facades of the CLF building only and individual lettering size shall be limited to a maximum of twenty-four (24) inches high. Wall signs shall be limited to identification of project name only. (CO: BLDG - Zoning)
3. Within sixty (60) days from the adoption date of a resolution approving the rezoning request of Petition PDD/R/TDR2003-105, all existing billboards shall be removed from the subject property. (DATE: MONITORING - Zoning)

O. USE LIMITATION

1. Total gross floor area for the CLF building shall be limited to a maximum of 105,200 square feet. No further expansion is permitted except subject to BCC approval. (DRO: ZONING - Zoning)
2. The CLF shall be limited to a maximum of 136 beds and/or residents at any given time, provided that the TDR approval of 8 units (19 beds) is utilized. The maximum number of beds and residents to be permitted on the property at any given time shall be reflected on the final site plan prior to approval by the DRO. (DRO/ONGOING: ZONING/CODE ENF - Zoning)
3. Deliveries shall not be permitted prior to 7:00 a.m. nor continue later than 9:00 p.m. daily, and shall be coordinated with employee shift changes so as to minimize potential conflicts with the designated employee parking area. (ONGOING: CODE ENF - Zoning)
4. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
5. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

P. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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)