

RESOLUTION NO. R-2004-2271

RESOLUTION APPROVING ZONING PETITION PDD2004-022
(CONTROL NO. 2004-022)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF CITY NATIONAL BANK OF FLORIDA, TRUSTEE
BY KILDAY & ASSOCIATES INC, AGENT
(APPOLONIA FARMS 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 PDD2004-022 was presented to the Board of County Commissioners at a public hearing conducted on October 28, 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 PDD2004-022, the petition of City National Bank of Florida, Trustee, by Kilday & Associates Inc, agent, for an Official Zoning Map Amendment from the Agricultural Reserve and the Preservation Conservation Zoning Districts to the Agricultural Reserve 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 October 28, 2004, 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 Koons and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	-	Aye
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 October 28, 2004.


Filed with the Clerk of the Board of County Commissioners on 15 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

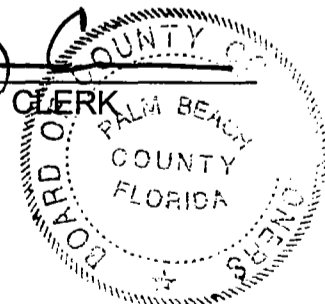


EXHIBIT A

LEGAL DESCRIPTION

DEVELOPMENT PARCEL

LAND DESCRIPTION (PROPERTY WEST OF LYONS ROAD):

TRACTS 1 THROUGH 15, INCLUSIVE, LESS THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 38; LESS THE RIGHT OF WAY FOR LYONS ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 11413, PAGE 1734 AND LESS THAT PORTION LYING EAST OF THE EAST RIGHT OF WAY LINE FOR SAID LYONS ROAD; TRACTS 18 THROUGH 31, INCLUSIVE, TRACT 32, LESS THE RIGHT OF WAY FOR SAID LYONS ROAD AND LESS THAT PORTION OF TRACT 32 LYING EAST OF THE EAST RIGHT OF WAY LINE OF SAID LYONS ROAD; TRACT 33, LESS THE RIGHT OF WAY FOR SAID LYONS ROAD; TRACTS 34 THROUGH 47, INCLUSIVE; TRACT 49, LESS THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT E-1 CANAL; TRACTS 50 THROUGH 64, LESS THE RIGHT OF WAY FOR SAID LYONS ROAD, ALL LYING IN BLOCK 70, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THAT PORTION OF THE ROAD RIGHTS OF WAY AS DESCRIBED IN QUIT-CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 9343, PAGE 73, AND AS SHOWN ON THE SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 3 AS CONTAINED WITHIN THE ABOVE DESCRIBED PARCEL, LESS THE RIGHTS OF WAY FOR LAKE WORTH DRAINAGE DISTRICT CANALS AS DESCRIBED HEREIN AND LESS THE RIGHT OF WAY FOR SAID LYONS ROAD.

AND

TRACTS 16, 17 AND 48, LESS THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 38, AND LESS THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT CANAL E-1 CANAL, ALL BEING IN BLOCK 70, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING AND SITUATE IN PALM BEACH COUNTY, FLORIDA, CONTAINING 324.02 ACRES, MORE OR LESS.

AND

LAND DESCRIPTION (PROPERTY EAST OF LYONS ROAD):

TRACT 1, LESS THE RIGHT OF WAY FOR THE SUNSHINE STATE PARKWAY (FLORIDA TURNPIKE) AND LESS THE RIGHT OF WAY FOR THE LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 38 AND LAKE WORTH DRAINAGE DISTRICT E-2-W CANAL; TRACTS 2 THROUGH 15, INCLUSIVE, LESS THE RIGHT OF WAY FOR LAKE WORTH DISTRICT LATERAL CANAL NO. 38; TRACT 16, LESS THE RIGHT OF WAY FOR LYONS ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 11413 PAGE 1734; TRACTS 17 THROUGH 29, INCLUSIVE; TRACTS 30 AND 31 LESS THE RIGHT OF WAY FOR THE SUNSHINE STATE PARKWAY (FLORIDA TURNPIKE) AND THE RIGHT OF WAY FOR THE LAKE WORTH DRAINAGE DISTRICT E-2-W CANAL; TRACTS 32 THROUGH 44, INCLUSIVE; TRACTS 45 AND 46, LESS THE RIGHT OF WAY FOR LYONS ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 11413, PAGE 1734; TRACTS 47 THROUGH 59, TRACT 60 LESS THE RIGHT OF WAY FOR THE SUNSHINE STATE PARKWAY (FLORIDA TURNPIKE) AND THE RIGHT OF WAY FOR THE LAKE WORTH DRAINAGE DISTRICT E-2-W CANAL; ALL LYING IN BLOCK 71, 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 OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THAT PORTION OF BLOCK 70, OF SAID PALM BEACH FARMS COMPANY PLAT NO. 3, LYING EAST OF THE RIGHT OF WAY FOR LYONS ROAD AS DESCRIBED IN OFFICIAL RECORDS BOOK 11413, PAGE 1734.

TOGETHER WITH THAT PORTION OF THE ROAD RIGHTS OF WAY AS DESCRIBED IN QUIT CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 9343, PAGE 73 AND AS SHOWN ON THE SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS CONTAINED WITHIN THE ABOVE DESCRIBED PARCEL, LESS THE RIGHTS OF WAY FOR LAKE WORTH DRAINAGE DISTRICT CANALS AS DESCRIBED HEREIN AND LESS THE RIGHT OF WAY FOR SAID LYONS ROAD.

SAID LANDS LYING AND SITUATE IN PALM BEACH COUNTY, FLORIDA, CONTAINING 285.95 ACRES, MORE OR LESS.

PERSERVATION PARCEL

ALL OF TRACT 39, TOWNSHIP 44-1/2 SOUTH, RANGE 41 EAST,

AND

ALL OF TRACT 40, TOWNSHIP 44-1/2 SOUTH, RANGE 41 EAST,

AND

THAT PORTION OF SECTIONS 3 AND 4, TOWNSHIP 45 SOUTH, RANGE 41 EAST, LYING NORTH OF A LINE PARALLEL WITH AND 4424.00 FEET SOUTH OF AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF TOWNSHIP 44-1/2, SAID NORTH LINE BEING COINCIDENT WITH THE SOUTH LINES OF SECTIONS 33 AND 34, TOWNSHIP 44 SOUTH, RANGE 41 EAST.

LESS THAT PORTION LYING SOUTHWESTERLY OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF SOUTH FLORIDA WATER MANAGEMENT DISTRICT LEVEE 40, AS DESCRIBED IN DEED BOOK 942, PAGE 241, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE WITHIN, PALM BEACH COUNTY, FLORIDA.

CONTAINING 918.76 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

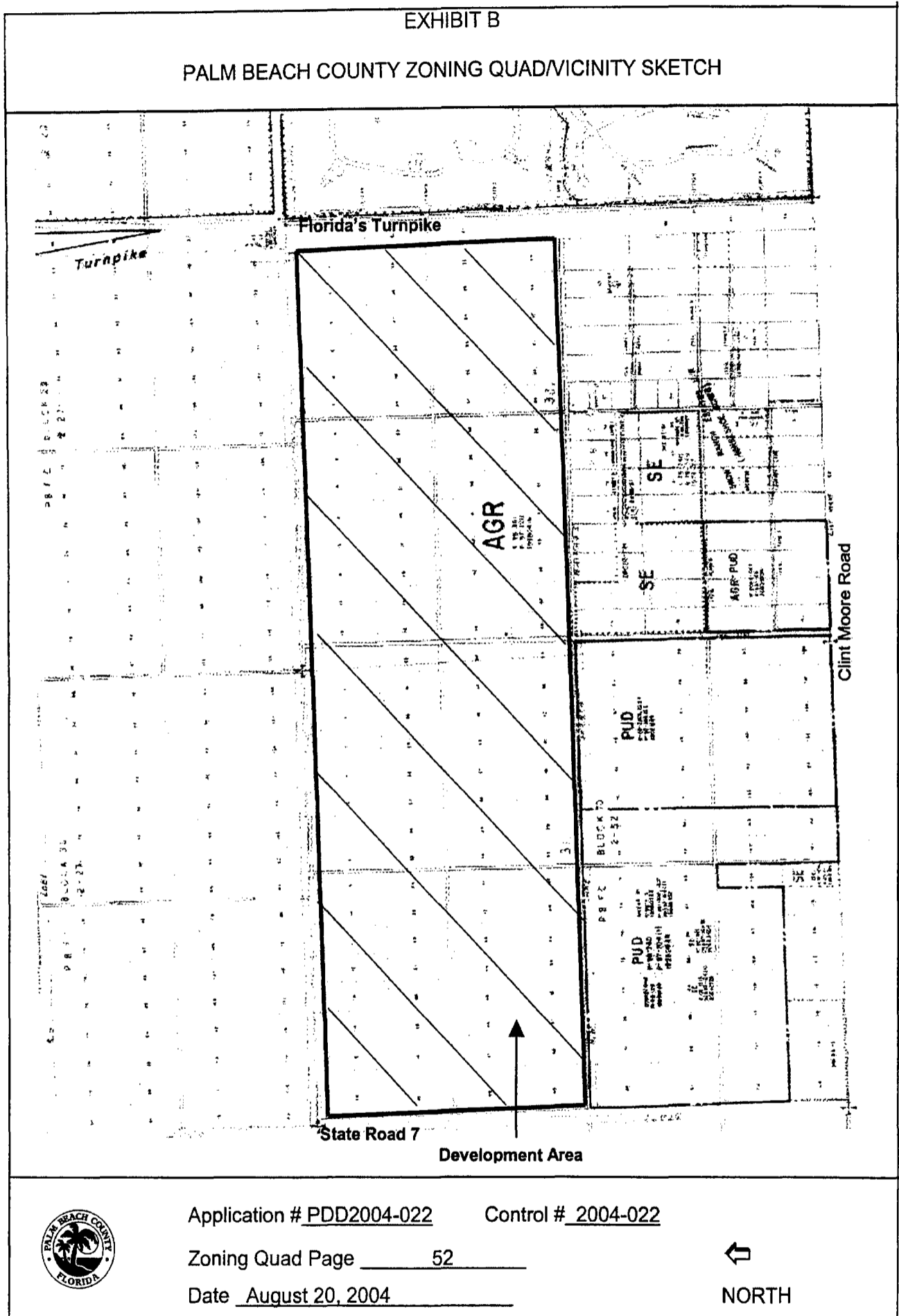


EXHIBIT C

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 July 23, 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. 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. 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. Field adjustment of berms, walls and plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
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)

C. LANDSCAPING ALONG WEST PROPERTY LINE (FRONTAGE OF SR 7/US 441)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. A minimum fifty (50) foot wide landscape buffer strip. No width reduction shall be permitted;
 - b. A four (4) to six (6) foot high undulating berm, with an average height of five (5) feet, berm height shall be measured from top of nearest curb or the nearest finished floor elevation, whichever is higher;

- c. One (1) canopy tree planted for each twenty (20) linear feet of the property line;
- d. One (1) palm or pine tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. 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;
- f. One (1) native medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation; and,
- g. One (1) large shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of forty-two (42) inches at installation. (BLDG PERMIT: LANDSCAPE – Zoning)

D. PLANNED UNIT DEVELOPMENT

1. Street trees shall be required within the street tracts or right-of-ways of the subject development consistent with the requirements of the Engineering Department, and the following criteria:
 - a. Along both sides of all internal PUD streets, fifty (50) feet in width or greater;
 - b. All Final Subdivision Applications shall include roadway cross-section sketches showing street trees. (DRO: ZONING/ENG – Zoning)
2. Street bike lanes shall be provided in or adjacent to all streets eighty (80) feet in width, pursuant to Article 3.E.1.C.2.e of the ULDC and subject to approval by the County Engineer. (CO: LANDSCAPE - Eng/Zoning)
3. Zero-lot line lots (units) with a side yard that abuts the rear yard of two (2) or more lots (units) shall be restricted to one (1) story in height. (DRO: BLDG PERMIT - Zoning)
4. Decorative pavers (stamped concrete or paving blocks) shall be provided along the internal driveway indicated on the master plan and regulating plan dated July 23, 2004. The minimum dimension for each area shall be as follows:
 - a. main access point (State Road 7)– 19,300 square feet;
 - b. west entrance on Lyons Road – 25,500 square feet;
 - c. east entrance on Lyons Road – 25,700 square feet;
 - d. focal point FP-2 – 9,700 square feet;
 - b. pedestrian walkways – 120 square feet each;
 (DRO/BLDG PERMIT: DRO/ZONING – Zoning)
5. 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 main access points, each residential access street, cul-de-sac, or nonresidential access way. The focal point shall be in the form of a plaza, fountain, arcade or similar pedestrian oriented public areas; and,
 - b. details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval.
 (DRO: ARCH REVIEW – Zoning)
6. Prior to the recordation of the first plat, all property included in the legal description of the development portion 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)

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 58 single family dwelling units (the equivalent of up to 52 new external PM peak hour trips per day) shall not be issued until the construction commences for a south approach right turn lane and east approach left turn lane at West Atlantic Avenue and Lyons Road plus the appropriate paved tapers. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements and the acquisition of all required permits. (BLDG PERMIT: MONITORING-Eng)
 - b) Building Permits for more than 72 single family dwelling units (the equivalent of up to 65 new external PM peak hour trips) shall not be issued until:
 - 1) the contract has been awarded by the FDOT for the construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to the Florida Turnpike or commencement of construction by someone other than FDOT plus the appropriate paved tapers (and) (BLDG PERMIT: MONITORING-Eng)
 - 2) the commencement of construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to Lyons Road, plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)

No Building Permits for the site may be issued after January 1, 2009. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

- 2. Acceptable surety required for the offsite road improvements as outlined in the Condition 1(a) and 1(b) above shall be posted with the Office of the Land Development Division on or before April 28, 2005 unless some other developer or government entity first assures these improvements. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate

prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension)
(DATE: MONITORING-Eng)

3. a) Construction of the required sound walls and landscape buffers as outlined in the approved Noise Analysis and shown on the Master Plan, shall be completed prior to the issuance of the first certificate of occupancy for any dwelling unit east of Lyons Road. b) Construction of sound walls along SR 7 shall also be constructed if required by the Florida Department of Transportation. Any required SR 7 sound walls shall be completed prior to the issuance of the first certificate of occupancy for any dwelling unit west of Lyons Road. (CO: MONITORING-Eng)
4. The property owner shall notify future home buyers by providing that all homeowners documents, sales contracts, as well as all sales brochures, Master Plans and related Site Plans contain a disclosure statement identifying that this site is adjacent to the Florida Turnpike and SR 7 if required by the Florida Department of Transportation. That these proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike. Also, there shall be a statement included in the sales contracts and homeowner documents the noise levels residents may expect after any noise mitigation improvements will be constructed by the Developer. If the State of Florida guidelines does not require any noise mitigation improvements, all sales contracts and homeowner documents shall include a statement of the noise levels residents may expect, that noise mitigation were not required under the State of Florida Guidelines at the time of the approval, and that any noise mitigation measures requested in the future will not be constructed by Palm Beach County. The property owner shall submit documentation of compliance with the above condition on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before January 15, 2006, and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (DATE: MONITORING-Eng)
5. Prior to technical compliance for the first plat the property owner shall convey a roadway construction easement for Lyons Road to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owner's road right of way. Construction within this easement shall conform to Palm Beach County Standards. (TC:ENG-Eng)
6. Prior to the issuance of the first Building Permit, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a right turn lane north and south approach on Lyons Road at the projects entrance road, free of all encumbrances and encroachments. Right turn lane right of ways shall be 12 feet in width, 280 feet in length, plus a taper length of 50 feet or as approved by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include "Corner Clips" where appropriate at intersections as determined by the County Engineer. (BLDG PERMIT: MONITORING-Eng)
7. The Property owner shall construct:
 - a. A left turn lane north approach on State Road 7 at the projects entrance road.
 - b. A left turn lane north approach on Lyons Road at the projects entrance road.

- c. A left turn lane south approach on Lyons Road at projects entrance road.
- d. A right turn lane south approach on Lyons Road at the projects entrance road.
- e. A right turn lane north approach on Lyons Road at the projects 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.

- f. Permits required by Palm Beach County for the construction in a, b, c, and e shall be obtained prior to the issuance of the first Building for any unit west of Lyons Road. Permits required by Palm Beach County for the construction in b, c, and d shall be obtained prior to the issuance of the first Building for any unit east of Lyons Road. (BLDG PERMIT: MONITORING-Eng)
- g. Construction for the improvements in a, b, c, and e shall be completed prior to the issuance of the first Certificate of Occupancy for any unit west of Lyons Road. Construction for the improvements in b, c, and d shall be completed prior to the issuance of the first Certificate of Occupancy for any unit east of Lyons Road. (CO: MONITORING-Eng)

8. LANDSCAPE WITHIN THE MEDIAN OF STATE ROAD 7

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of State Road 7. 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 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-ENGINEERING)

- 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 beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the projects front footage along State Road 7. 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-ENG)
9. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING:ENG-Eng)
10. On or before January 1, 2005, 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 Lyons Road along the property frontage; and up to a maximum of an additional 800 feet of the adjacent right of way. 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, Compensating storage within this projects retention system as required by all permitting agencies, 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)
11. The property owner shall fund the cost of right-of-way acquisition for the construction of West Atlantic Avenue 4 laning from Starkey Road to Lyons Road plus the appropriate paved tapers. Funding shall include all associated acquisition costs and shall provide surety acceptable to the Office of the County Engineer and County Attorney. This developer shall enter into a written agreement with the Right of Way Acquisition Section prior to the issuance of the 58th building permit. Notification by the developer shall be given to the Land Development Division. (BUILDING PERMIT: MONITORING-Eng)
12. Prior to prior to the issuance of the 58th building permit the property owner shall fund the construction plans for West Atlantic Avenue 4 laning (expandable to a 6 lanes) from Starkey Road to Lyons Road plus the appropriate paved tapers. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (BUILDING PERMIT: MONITORING-Eng)

13. The property owner shall fund the construction of West Atlantic Avenue 4 laning from Starkey Road to Lyons Road plus the appropriate paved tapers. Funding of the construction shall be completed prior to the issuance of the 72nd building permit. All canal crossings within the project limits shall be constructed to their ultimate configuration. (BUILDING PERMIT: MONITORING-Eng)
14. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer and the Florida Department of Transportation at:
 - Lyons Road and Project Entrance
 - SR 7 and Project entranceSignalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.
 - a) Building Permits for more than 200 total dwelling units shall not be issued until the developer provides acceptable surety to the Land Development Division in an amount as determined by the Director of the Traffic Division for the installation of these signals. (BLDG PERMIT: MONITORING-Eng).

F. PLANNING

1. The PUD shall be limited to a maximum of 609 dwelling units and shall meet 60/40 AGR-PUD requirements. The balance of 919 additional units, which could have been allowed on the site, shall not be utilized on this site or transferred elsewhere. (DRO/ONGOING: PLANNING-Planning)
2. Prior to recordation of a plat for the development parcel, the property owner shall prepare a boundary plat for the 918-acre preserve parcel. As an alternative to satisfy the platting requirements pursuant to the ULDC, and provided the parcels are owned by the SFWMD and a conservation easement is recorded, the property owner may request the following:
 - a. a ULDC text amendment to waive platting requirements for SFWMD owned preserve parcels; or
 - b. a variance from platting requirements subject to the approval of the Board of Adjustment;

The title insurance requirement for the conservation easement may as an alternative be a title opinion issued by a member of the Florida Bar.

Provided the Board of County Commissioners adopts an ordinance amendment to the ULDC, whereby this preserve area does not require platting or a variance is granted, then any such platting requirement for the preservation parcel set forth herein shall not apply to the preservation parcel. (DATE: MONITORING-Planning).

3. Prior to recordation of a plat for the development parcel of this PUD, the property owner shall provide documentation to the Planning Division that the recordation of the plat for these parcels would not result in the creation of an illegal lot of record. The property owner shall provide documentation to the Planning Division and the County Attorney's Office that any lots created to achieve the configuration of the Development Parcel total a combined acreage of 609.97 acres and any lots created for the SFWMD Preserve parcel total 918.76 acres. (TC: ENG-/CTY ATTY-Planning)

4. Prior to final Master Plan approval by the Development Review Officer (DRO), the property owner shall provide an "AGR/PUD Preserve and Development Parcel Location Map". This Plan shall also indicate the location, access, acreage, and permitted uses within the preservation areas consistent with the Palm Beach County Comprehensive Plan and the Unified Land Development Code (ULDC). (DRO: PLANNING - Planning)
5. Prior to final Master Plan approval by the Development Review Officer (DRO), a management plan for the preservation area shall be submitted. The property owner shall also submit a commitment letter indicating that the preservation property will remain in its same state from the time of development approval to the final recordation of the conservation easement. The management plan shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan approved and enforced by the Department of Environmental Resources (ERM) for exotic removal and maintenance. (DRO: PLANNING/ERM-Planning)
6. Prior to final Master Plan approval by the Development Review Officer (DRO), the property owner shall add a "Preservation Area/Proposed Uses" notes section on page 1 of the Master Plan and include the following:
 - a. The preservation areas approved as part of Application # 2004-022 shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

PERMITTED USES

- 1) Crop production, pasture, or equestrian purposes or may be retained as fallow land;
- 2) Accessory structures such as barns and pump structures are permitted;
- 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the 60/40 AGR-PDD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
- 4) Wetland or bona fide agricultural uses per the ULDC;
- 5) Other uses as permitted by the required conservation easements;
- 6) Other uses as may be permitted within the protected area of an AGR-PDD consistent with the Comprehensive Plan and the Unified Land Development Code,;

NOT PERMITTED

- 7) Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD; nor shall new residential uses be accommodated thereon.
 - 8) No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve area. (DRC/ONGOING: PLANNING-Planning)
7. Prior to recordation of a plat for the Appolonia Farms Development parcel, the property owner is responsible for the recordation of boundary plats for all of the Preserve parcels, and include on said boundary plats, language limiting these parcels to Agricultural Reserve preservation uses as permitted by the conditions in this Resolution, the Comprehensive Plan Objective 1.5, and Policies hereunder of the Future Land Use Element. (PLAT: PLANNING/ENG-Planning)

8. Prior to or concurrent with recordation of the plat for the developable area as identified in Petition No. 2004-22, for the Preserve parcel, the property owner shall either: 1) dedicate the land to Palm Beach County or another governmental entity such as the South Florida Water Management District; 2) record a restrictive covenant in a form acceptable to the Palm Beach County Attorney for the subject parcel; or 3) subject the parcel to a conservation easement, limiting the preserve parcel to an Agricultural Reserve preserve area in accordance with the Agricultural Reserve preserve provisions of the Comprehensive Plan. (PLAT: PLANNING/ENG-Planning)

9. Prior to plat recordation for the Appolonia Farms Development PUD, the conservation easements for the Preservation parcel shall be recorded, as approved by the County Attorney's Office and the Department of Environmental Resources Management.
 - a. The conservation easements for all of these preserve parcels shall contain:
 - 1) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;
 - 2) a list of permitted uses, uses not permitted, and prohibited activities.

 - b. Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT:ENG-CTY ATTY/ERM)

 - c. Should conservation easements not be recorded for these properties in a form acceptable to the County Attorney prior to August 1 2007, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING PLANNING/ENG/CTY ATTY-Planning)

10. Prior to final DRO site plan approval for the project number for the recreation building for the 5.0 acre recreation site (Pod J) (DRO condition and Eng. project number to be added to the DRO approval) and then subsequently prior to the certificate of occupancy for Pod J (DRO condition and Eng. project number will have been added to the DRO approval), the property owner shall mulch or pave a pedestrian trail shown fronting the recreation area along the wetland area as shown on the master plan dated 7/23/04. In addition, a minimum of two (2) benches shall be placed at this location. (DRO/CO: ENG/MONITORING/PLANNING-ONGOING-Planning)

11. Prior to final DRO site plan approval for the project number for the recreation building for the 2.41 acre recreation site (Pod F) (DRO condition and Eng. project number to be added to the DRO approval) and then subsequently prior to the certificate of occupancy for Pod J (DRO condition and Eng. project number will have been added to the DRO approval), the property owner shall mulch or pave a pedestrian trail shown fronting the recreation area along the wetland area and lake as shown on the master plan dated July 23, 2004. In addition, a minimum of two (2) benches shall be placed at this location. (DRO/CO: ENG/MONITORING/PLANNING-ONGOING-Planning)

G. PREM

1. Platting & Deed - The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 12.2 acre public civic site (net usable area minus any buffers), in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by April 3, 2006. The property owner/developer shall 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. Title – The property owner/developer shall provide a title policy insuring marketable title to Palm Beach County for the civic site and any easements that service the civic site as required by the County Attorney's office. All title exception documentation to be provided to County. This 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 or the Contract purchase price on a per acre basis if the contract purchase was concluded within the previous twenty-four (24) month period. If an appraisal is required, it shall be obtained by the property owner/developer. The property owner/developer shall release the County from all Declarations of Covenants and Conditions of the of the P.U.D. or other restrictive covenants as they may apply to the civic site;
 - b. Concurrency – the property owner/developer to assign sufficient traffic trip capacity such that the traffic volume associated with a County facility shall be attached to the civic site and recorded on the concurrency reservation. The property owner/developer shall be provided with input as to the size of a structure (and proposed use), which the civic site would support and the corresponding amount of trips;
 - c. Taxes – All ad valorem real estate taxes and assessments for the year of acceptance shall be pro-rated to include the day of acceptance.
 - d. Site condition – the civic site to be free and clear of all trash and debris at the time of acceptance of the Statutory Warranty Deed;
 - e. Retention and Drainage – The property owner/developer shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. The property owner/developer shall specifically address the following issues:
 - 1) The discharge of surface water from the proposed civic site into the property owner/developer's water retention basins.
 - 2) As easement across the subject property from the proposed civic site to the retention basins, if required;
 - f. On-Site Inspections – By acceptance of these conditions, the property owner/developer shall agree to allow the County to perform any on site inspections and testing deemed appropriate to support the acquisition of the civic site;
 - g. Vegetation Permit – The property owner/developer shall perform a tree survey and obtain a vegetation clearing permit. If it is determined by PREM that clearing is not required at time of conveyance, the cost of such clearing shall be paid to the County by the property owner/developer;
 - h. Buildable Grade – The property owner/developer shall prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. The civic site shall be stabilized with either 1) sod and watered or, 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations; and

- i. Water & Sewer – The property owner/developer shall provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE: MONITORING-PREM)
2. Survey – The property owner/developer shall provide the County with a survey certified to Palm Beach County of the proposed civic site by February 1, 2006. The 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. 21HH.6;
 - b. If this parcel is a portion of Palm Beach Farms, sufficient data to make a mathematical overlay should be provided; and,
 - c. The survey shall 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 and all title exceptions are to be shown on the survey. (DATE: MONITORING-PREM)

3. Environmental Survey – The property owner/developer shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by February 1, 2006. 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 shall 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; and,
- e. Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.

If the Phase I audit indicates that a Phase II is necessary, then the property owner/developer shall be required to provide that audit as well. (DATE: MONITORING-PREM)

4. Cash-Out – The Property owner/developer 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 when the County has established that the cash or offsite land enhances or supports a County property, facility or function in the general vicinity of the PUD. 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 property owner/developer shall be deemed to have satisfied the intent of ULDC. (ONGOING: PREM-PREM)

H. SCHOOL

1. 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)

2. 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: ENG/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 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)