

RESOLUTION NO. R-2005- 1785

RESOLUTION APPROVING ZONING APPLICATION PDD2004-778
(CONTROL NO. 2004-524)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF M/I HOMES OF WEST PALM BEACH LLC
BY LAND DESIGN SOUTH, INC., AGENT
(WOODWIND 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 Application PDD2004-778 was presented to the Board of County Commissioners at a public hearing conducted on September 22, 2005; 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 2.F, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067; 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 Application PDD2004-778, the application of M/I Homes of West Palm Beach LLC by Land Design South, Inc., agent, for an Official Zoning Map Amendment to a Planned Development District rezoning from the Agricultural Residential Zoning 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 22, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus 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:

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

The Chairman thereupon declared that the resolution was duly passed and adopted on September 22, 2005.

Filed with the Clerk of the Board of County Commissioners on 22nd day of September, 2005.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

PARCEL ONE-A:

TRACT 9, BLOCK 34, "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL ONE:

TRACT 10, BLOCK 34, "PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL TWO:

THE EAST ½ OF TRACT 11, BLOCK 34, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL THREE:

THE WEST ½ OF TRACT 11, BLOCK 34, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL FOUR:

THE NORTH ½ AND THE EAST ½ OF THE SOUTH ½ OF TRACT 12, BLOCK 34, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL FIVE:

THE WEST ½ OF THE SOUTH ½ OF TRACT 12, BLOCK 34, "THE PALM BEACH FARMS COMPANY PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 1,583,616 SQUARE FEET/36.35 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

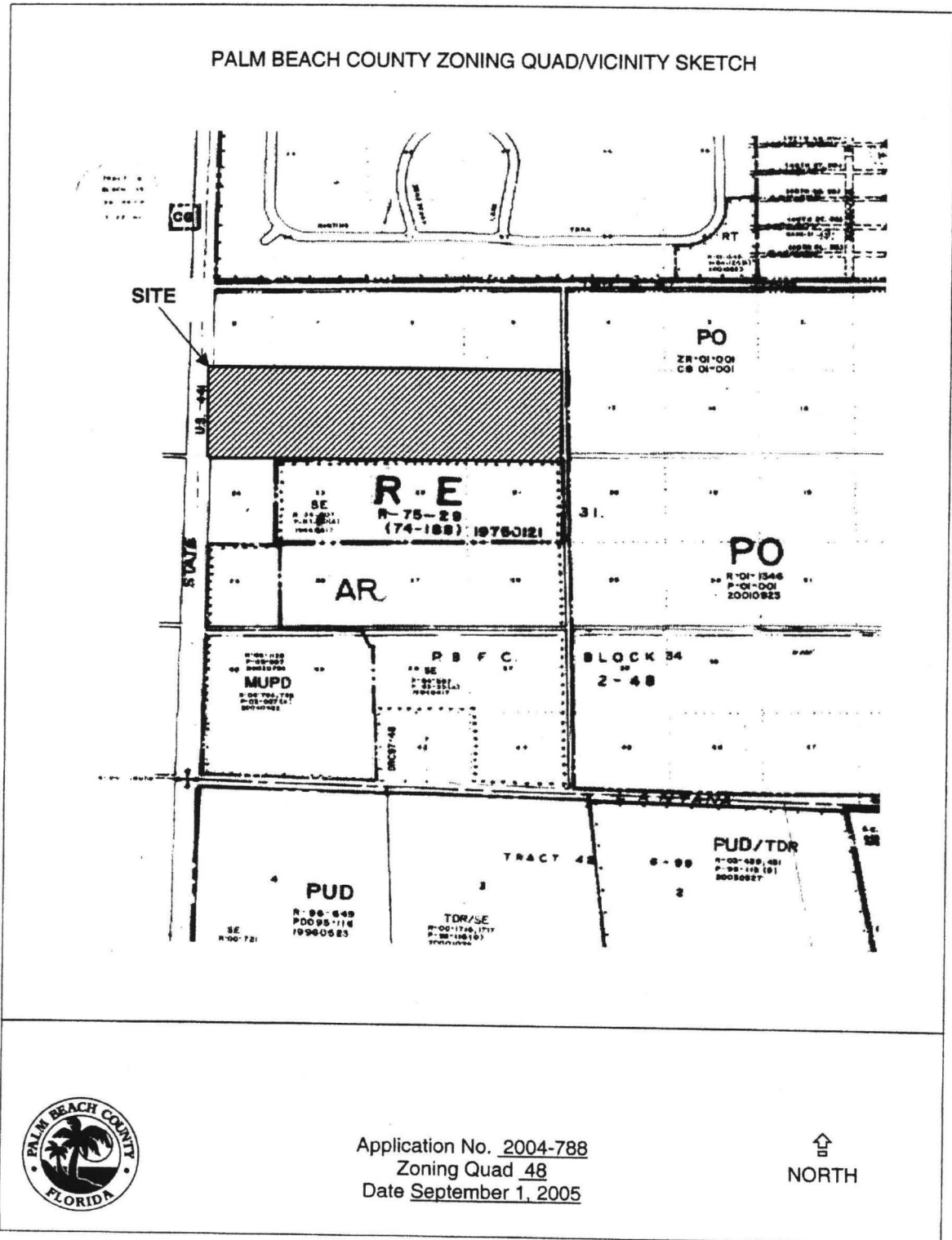


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved master plan and regulating plan are dated May 13, 2005. 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. (DRO: ZONING - Zoning)

ENGINEERING

1. **TRAFFIC PERFORMANCE STANDARDS PHASING REQUIREMENTS**
In order to comply with the mandatory Traffic Performance Standards, the property owner shall be restricted to the following phasing schedule:
 - a) No Building Permits for the site may be issued after January 1, 2008. 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. **ADDITIONAL ROAD RIGHT OF WAY - Woodward Lane and 95th Avenue South**

The property owner shall convey to Palm Beach County Land Development Division by warranty deed for:

- a) Woodward Lane, 80 foot right of way from State Road 7 to the Project's Entrance Road on an alignment approved by the County Engineer;
- b) Woodward Lane, 25 feet from centerline from the Project Entrance, east to 95th Avenue South;
- c) 95th Avenue South, 25 feet from centerline from Woodward Road to the projects north property line.
All right of way shall be conveyed prior to the issuance of the first Building Permit. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The 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. The Grantor (property owner) also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee, (Palm Beach County) harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips." (BLDG. PERMIT: MONITORING-Eng)

3. ROAD CONSTRUCTION IMPROVEMENTS

The property owner shall construct:

- a) Woodward Lane, local street standards minimum two 10 foot travel lanes from SR 7 east approximately 800 feet as shown on the proposed Master Plan;
- b) left turn lane east approach on Windwood Lane at State Road 7;
- c) reconstruct the existing median opening on State Road 7 at the realigned Woodward Lane;
- d) left turn lane north approach on State Road 7 at Woodward Lane;
- e) right turn lane south approach on State Road 7 at Woodward Lane.

All 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 and the Florida Department of Transportation for the construction in E3a-E3e above shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- B. Construction for the improvements in E3a-E3e shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

4. 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 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: 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 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 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. (ONGONG-ENG-Eng)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG- Eng)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the final site plan shall include all cross access points, consistent with the certified site plan dated May 12, 2005. (DRO:PLANNING-Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement from the subject property to the adjacent property to the north in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Planning)
3. Prior to the issuance of a certificate of occupancy (CO) for any buildings on site, the property owner shall pave the cross access point to the edge of the northern property line at the location shown on the site plan labeled vehicular + pedestrian cross access to be paved to property line". (CO: MONITORING-Planning)
4. Prior to final site plan approval by the Development Review Officer (DRO), the master plan and site plan shall show the location of the proposed future sidewalk along State Road 7. (DRO: PLANNING-Planning)

SCHOOL BOARD

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)

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:MONITORING SCHOOL BOARD/ENG School Board.)

UTILITIES

1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (DRO:UTIL-Util)

ZONING - LANDSCAPING-STANDARD

1. A minimum of 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. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE-Zoning)
4. Field adjustment of berm and plant material locations 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)
5. Prior to the issuance of a first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with the ULDC and Conditions of Approval. (BLDG PERMIT: MONITORING –Landscape)
6. Preservation of existing native trees areas may be incorporated into landscape buffer planting and berm requirements, subject to the following:
 - a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,
 - b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: ZONING-Landscape)

ZONING LANDSCAPING ALONG THE EAST AND WEST PROPERTY LINES
(ABUTTING COUNTY GOLF COURSE AND SR-7/US441)

1. In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the east and west property lines shall be upgraded to include:
 - a. Width reduction or easement encroachment for the west property line shall be permitted subject to an Alternative Landscape Plan (ALP); and,
 - b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING- Landscape)

ZONING - LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING
VACANT AR LAND)

1. In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the north property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted; and,
 - b. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING- Landscape)

ZONING LANDSCAPING ALONG SOUTH PROPERTY LINE (FUTURE COUNTY
PARK)

1. In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the south property line shall be upgraded to include:
 - a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: ZONING- Landscape)

ZONING - PLANNED UNIT DEVELOPMENT

1. Prior to 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)

2. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate upgraded recreation amenities within each of the neighborhood parks. These additional amenities shall:
 - a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface;
 - b. include a minimum of two (2) pedestrian benches;
 - c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
 - d. include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and,
 - e. details for all items indicated above shall be subject to review and approval by the Architectural Review Section. (DRO: ZONING-Arch Review)

3. Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within each lake tract . The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning)

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)