

RESOLUTION NO. R-2006-0515

RESOLUTION APPROVING ZONING APPLICATION DOA/EAC2006-284
(CONTROL NUMBER 2004-456)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF ANSCA COMMUNITIES LLC
BY RICHARD W. CARLSON JR, ESQ, AGENT
(TERRA NOVA 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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Application DOA/EAC2006-284 was presented to the Board of County Commissioners at a public hearing conducted on March 23, 2006; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b 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 DOA/EAC2006-284, the petition of Anasca Communities LLC, by Richard W. Carlson Jr, Esq, agent, for a Development Order Amendment/Expedited Application Consideration to delete land area and reconfigure the site plan on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on March 23, 2006, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

The motion was seconded by Commissioner Aaronson 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	¥	Absent
Jeff Koons	¥	Aye
Warren H. Newell	¥	Absent
Mary McCarty	¥	Aye
Burt Aaronson	¥	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on March 23, 2006.


Filed with the Clerk of the Board of County Commissioners on 23rd day of March , 2006.

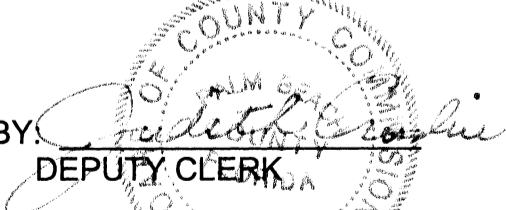
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

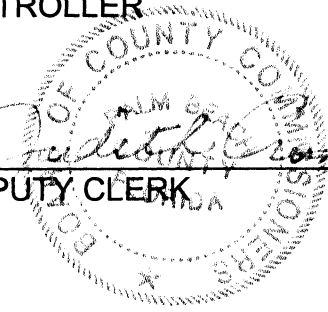


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST ¼ OF SECTION 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 16; THENCE N89°22'44"E ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 680.81 FEET; THENCE N00°34'49"E., A DISTANCE OF 98.34 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N00°34'49"E, ALONG A LINE OF 680.66 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID SECTION 16, A DISTANCE OF 352.08 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES S32°03'32"W, A RADIAL DISTANCE OF 340.00 FEET; THENCE SOUTHEASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 48°31'18", A DISTANCE OF 287.93 FEET; THENCE S 09°25'11"E, A DISTANCE OF 77.09 FEET; THENCE S50°01'13"E, A DISTANCE OF 45.55 FEET; THENCE N89°22'44"E, A DISTANCE OF 280.00 FEET; THENCE S 77°07'31"E. A DISTANCE OF 51.42 FEET TO A POINT OF INTERSECTION WITH THE PROPOSED NORTH RIGHT-OF-WAY LINE OF STATE ROAD 806 (ATLANTIC AVENUE), AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 9303-2510; THENCE S 89°22'44"W ALONG SAID PROPOSED RIGHT-OF-WAY LINE A DISTANCE OF 536.18 FEET TO THE POINT OF BEGINNING.

CONTAINING 48,277 SQUARE FEET/1.108 ACRES MORE OR LESS

LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA

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

EXHIBIT B
VICINITY SKETCH

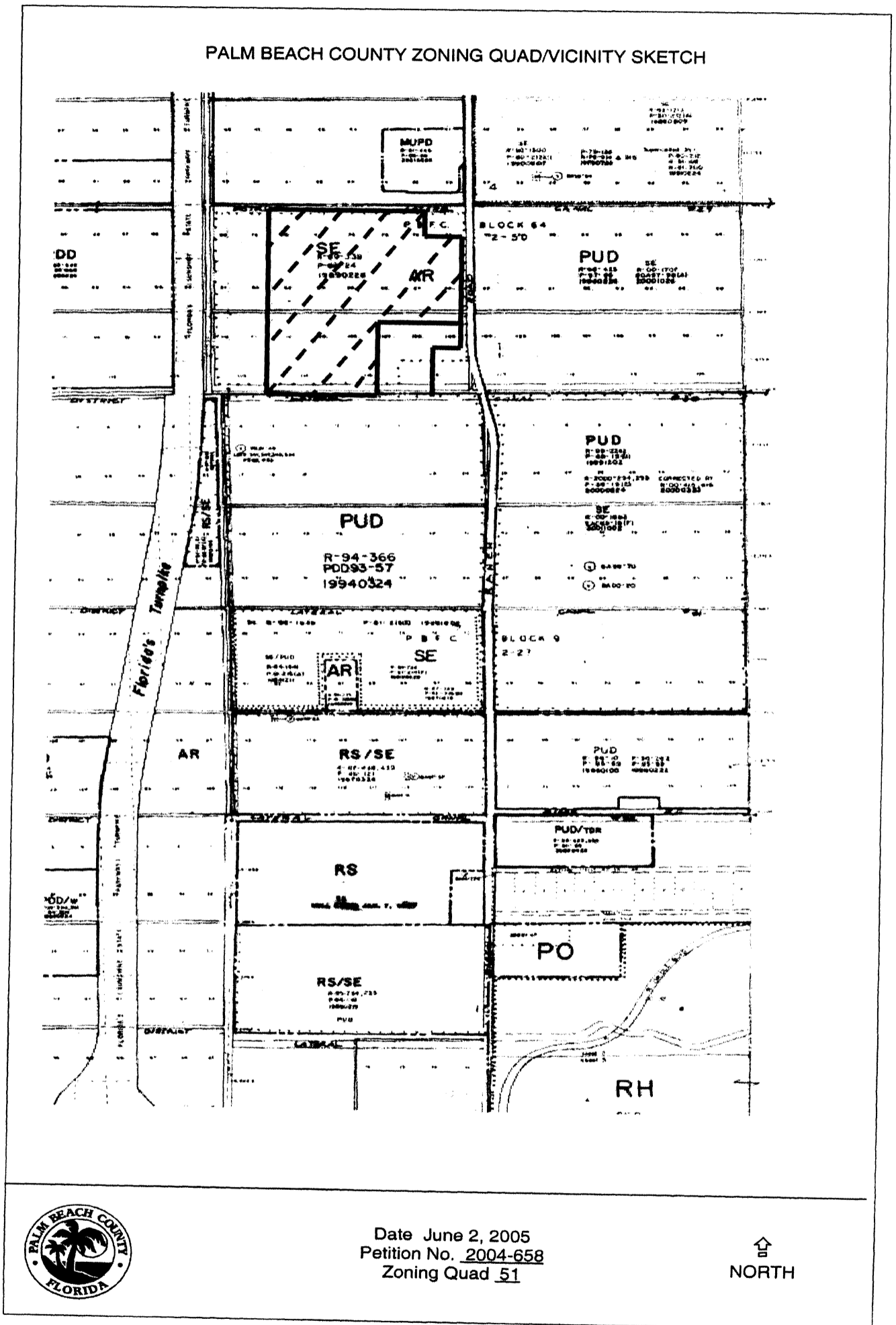


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-2288, Control No. 2004-456, and Resolution R-2006-0281, Control No. 2004-456, have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)
2. All Petitions Condition 1 of Resolution R-2005-2288, Control No. 2004-456, which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Master plan is dated September 28, 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. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Master plan is dated February 17, 2006. 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)

ARCHITECTURAL REVIEW

1. Prior to final approval by the Development Review Officer (DRO), the site plan and 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: ARCH REVIEW - Zoning) (Previous Architectural Review Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

ENGINEERING

1. The Developer shall be restricted to the following phasing schedule:
 - a. occupancy of all dwelling units within the PUD shall be limited to age restricted, over 55 years of age. These dwelling units are referred in the approved traffic study as adult dwelling units.

- b. Building Permits for more than 256 single family dwelling units shall not be issued until the construction commences for intersection improvements at West Atlantic Avenue and Jog Road. Intersection improvements shall be as follows:
- exclusive right turn lane north approach- exclusive right turn lane south approach-second right turn lane west approach (BLDG PERMIT: MONITORING-Eng)
 - c. Building Permits for more than 275 single family dwelling units shall not be issued until the construction commences for the widening of West Atlantic Avenue as a 4 lane facility from Starkey Road to Lyons Road. (BLDG PERMIT: MONITORING-Eng)
 - d. Building Permits for more than 275 single family dwelling units shall not be issued until the contract has been let for the construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to the Florida Turnpike. (BLDG PERMIT: MONITORING-Eng)
 - e. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: ENGINEERING)
 - f. No Building Permits for the site shall 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.E of the Unified Land Development Code. (DATE: MONITORING-Eng) (Previous Engineering Condition 1 of Resolution R-2005-2288, Control No. 2004-456)
2. Acceptable surety required for the West Atlantic Avenue improvements identified in Condition No. E.1.b and E.1.c above shall be posted with the Office of the Land Development Division on or before May 17, 2006. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Property Owner'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) (Previous Engineering Condition 2 of Resolution R-2005-2288, Control No. 2004-456)
 3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG-Eng) (Previous Engineering Condition 3 of Resolution R-2005-2288, Control No. 2004-456)
 4. Prior to September 15, 2006, the property owner shall complete construction plans for the West Atlantic Avenue improvements identified in Condition No. E.1b and E.1c above. These construction plans shall be approved by the Florida Department of Transportation. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING-Eng) (Previous Engineering Condition 4 of Resolution R-2005-2288, Control No. 2004-456)
 5. Prior to May 15, 2007, the property owner shall complete construction of the West Atlantic Avenue improvements identified in Condition No. E.1.b and E.1.c above. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING - ENG) (Previous Engineering Condition 5 of Resolution R-2005-2288, Control No. 2004-456)

6. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for West Atlantic Avenue 120 feet north of the existing south right of way line.

Right of way shall be dedicated prior to June 1, 2006. All Right of way conveyances shall be free of all encumbrances and encroachments. Developer 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 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 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." (DATE: MONITORING-Eng) (Previous Engineering Condition 6 of Resolution R-2005-2288, Control No. 2004-456)

7. Prior to issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on:

- a. Hagen Ranch Road at the PUD and adjacent MUPD entrances.

These rights of ways shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined 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. (BLDG PERMIT: MONITORING Eng) (Previous Engineering Condition 7 of Resolution R-2005-2288, Control No. 2004-456)

8. The Property owner shall construct:

- a. Right turn lane north approach on Hagen Ranch Road at the Project's Entrance Road.
- b. left turn lane south approach on Hagen Ranch Road at the Project's Entrance Road.
- c. Construction of these improvements 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.
- d. Permits required by Palm Beach County for items a and b, shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)

- e. construction of the turn lane improvements in a and b above shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING Eng)(Previous Engineering Condition 8 of Resolution R-2005-2288, Control No. 2004-456)
9. On or before July 1, 2006, 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 West Atlantic Avenue along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). 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) (Previous Engineering Condition 9 of Resolution R-2005-2288, Control No. 2004-456)

10. LANDSCAPE WITHIN THE MEDIAN OF WEST ATLANTIC AVENUE

The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of West Atlantic Avenue. 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 petitioner'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 petitioner, the petitioner 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 project's front footage along West Atlantic Avenue. 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-ENGINEERING)(Previous Engineering Condition 10 of Resolution R-2005-2288, Control No. 2004-456)

- 11. A restrictive covenant shall be recorded prior to DRO approval of the final development plan limiting occupancy of the dwelling units as outlined above. (DRO: ENG-Eng) (Previous Engineering Condition 11 of Resolution R-2005-2288, Control No. 2004-456)

12. TEMPORARY ROADWAY CONSTRUCTION EASEMENT-

Prior to technical compliance for the first plat the property owner shall convey a roadway construction easement to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners road right of way. Construction within this easement shall conform to Palm Beach County Standards. (TC:ENG-Eng)(Previous Engineering Condition 12 of Resolution R-2005-2288, Control No. 2004-456)

13. TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along West Atlanatic Avenue to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance.(BLDG. PERMIT: MONITORING-Eng)(Previous Engineering Condition 13 of Resolution R-2005-2288, Control No. 2004-456)

14. SIGNALIZATION REQUIRMENTS

- A) The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at:
 - a) the Project's Entrance and Hagen Ranch Road
Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation;
 - b) Building Permits for more than 200 dwelling units shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).
- B) In order to request release of the surety for the traffic signal at these intersections the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study

be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENG-Eng) (Previous Engineering Condition 14 of Resolution R-2005-2288, Control No. 2004-456)

15. The mix of allowable uses between this project and the adjacent companion commercial parcel and the phasing requirements for this project may be adjusted by the County Engineer based upon an approved Traffic Study, addressing the combined impacts for both projects which complies with Mandatory Traffic Performance Standards in place at the time of the request. (ONGOING: ENG-Eng)(Previous Engineering Condition 15 of Resolution R-2005-2288, Control No. 2004-456)
16. Engineering Condition 16 of Resolution R-2005-2288, Control No. 2004-456, which currently states:

Any changes to the Master Plan as a result of conveyance of property to Atlantic Commons PUD which will be used for access shall be approved by the Development Review Officer. The revised Master Plan will not require reapproval by the Board of County Commissioners. (DRO: ENG – ENG)

Is hereby deleted: Reason this condition no longer applies.

HEALTH

1. Prior to the issuance of a Building Permit the property owner/developer shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of air pollutants, including fugitive dust particulates, on the site during all phases of site development. The property owner or the representative of the property owner shall meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (BLDG PERMIT: MONITORING - HEALTH)(Previous Health Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

ZONING – LANDSCAPE STANDARDS

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) (Previous Landscape Condition 1 of Resolution R-2005-2288, Control No. 2004-456)
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)(Previous Landscape Condition 2 of Resolution R-2005-2288, Control No. 2004-456)
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) (Previous Landscape Condition 3 of Resolution R-2005-2288, Control No. 2004-456)
 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) (Previous Landscape Condition 4 of Resolution R-2005-2288, Control No. 2004-456)
 5. LANDSCAPING ALONG THE NORTH PROPERTY LINE ABUTTING THE LWDD L33 CANAL

In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the north property line shall be upgraded to include: a. a minimum ten (10) 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: LANDSCAPE - Zoning) (Previous Landscaping North Property Line Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

6. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGES OF WEST ATLANTIC AVENUE AND HAGEN RANCH ROAD)

In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the south and east property lines (frontages of West Atlantic Avenue and Hagen Ranch Road), shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous berm with a minimum height of three (3) feet. Berm height shall be measured from the nearest top of curb, crown of the nearest street or the nearest finished floor elevation, whichever is higher;
- c. a six (6) foot high opaque concrete panel wall, or chain link fence, to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structures within the Terra Nova MUPD. A maximum of two (2) openings in the wall, or fence, shall be permitted to provide pedestrian connectivity;
- d. if a chain link fence is being utilized to meet the requirement, then a hedge, six (6) foot in height at installation shall be provided on both sides of the chain link fence;
- e. 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;
- f. shrub materials required by code shall be double in quantity;
- g. plant materials required by ULDC or by conditions of approval shall be planted alternating on both sides of the wall; and,

- h. prior to the issuance of the first building permit, the property owner shall submit a landscape plan to the Landscape Section for review and approval. This plan shall be prepared in accordance to the landscape code requirements and conditions as required under 1.a-1.g. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Lanscaping South and East Property Lines (Atlantic/Hagen) Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

7. LANDSCAPING ALONG THE WEST PROPERTY LINE

In addition to the proposed landscaping and buffering program and code requirements, landscaping and/or buffer width along the west 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;
- 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; and,
- c. prior to the issuance of the first building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. This plan shall be prepared in accordance to the landscape code requirements and conditions as required under 1.a-1.b. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscaping West Property Line Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

8. LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (ABUTTING THE TERRA NOVA MUPD)

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the south and east property lines (abutting the Terra Nova MUPD), shall be upgraded to include:

- a. a minimum fifteen (15) 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: LANDSCAPE-Zoning) (Previous Landscaping South and East Property Lines (Terra Nova) Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

PLANNING

- 1. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include a notation at the vehicular cross access point shown on the certified plan to the southeastern property line which shall read proposed vehicular and pedestrian cross access". (DRO: PLANNING-Planning) (Previous Planning Condition 1 of Resolution R-2005-2288, Control No. 2004-456)
- 2. Prior to the issuance of the first certificate of occupancy, the property owner shall pave the vehicular and pedestrian connection to the edge of the southeastern property line at the location shown on the certified plan that reads "proposed vehicular and pedestrian cross access". (CO: MONITORING - Planning) (Previous Planning Condition 2 of Resolution R-2005-2288, Control No. 2004-456)
- 3. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include a pedestrian connection to the commercial property to the southeast from the cul-de-sac in the southwestern part of the

PUD. (DRO: PLANNING-Planning) (Previous Planning Condition 3 of Resolution R-2005-2288, Control No. 2004-456)

4. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to include notations at all pedestrian connections to the commercial property to the southeast, that shall read "Pedestrian cross access to MUPD". (DRO: PLANNING-Planning) (Previous Planning Condition 4 of Resolution R-2005-2288, Control No. 2004-456)
5. Prior to the issuance of the 100th certificate of occupancy, the property owner shall pave all pedestrian connections to the commercial property at the southeastern portion of the site, with a break in any buffering or walls, at the locations shown on the certified plan that read "Pedestrian cross access to MUPD". (CO: MONITORING - Planning) (Previous Planning Condition 5 of Resolution R-2005-2288, Control No. 2004-456)
6. Planning Condition 6 of Resolution R-2005-2288, Control No. 2004-456, which currently states:

Pedestrian and vehicular cross access points to the commercial property to the southeast may be controlled by gates or other security devices that may be controlled only by the developer/Homeowners Association of the PUD. However, in no case, shall a gate or security device not provide access to the commercial property by being rendered inoperable or non-functional. (ONGOING: CODE ENF - Planning)

Is hereby amended to read:

Pedestrian and vehicular cross access points to the commercial property to the southeast may be controlled by gates or other security devices that may be controlled only by the developer/property owner/Homeowners Association of the PUD. However, in no case, shall a gate or security device not provide access to the commercial property by being rendered inoperable or non-functional. (ONGOING: CODE ENF - Planning)

7. Planning Condition 7 of Resolution R-2005-2288, Control No. 2004-456, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan shall include all pathways within, and pedestrian access to, the open space and recreation areas, and lakes tracts generally consistent with the certified plan. (DRO: PLANNING - Planning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the site plan shall include all pathways within, and pedestrian access to, the open space and recreation areas, and lakes tracts generally consistent with the certified master plan, dated February 17, 2006. (DRO: PLANNING - Planning)

PROPERTY & REAL ESTATE MANAGEMENT

1. **Platting & Deed.**
The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 1.87 acre public civic site (net usable area minus any buffers), in a location and form acceptable to Facilities, Development & Operations Department (FD&O) by November 1, 2006. Property owner to plat and dedicate the civic site to Palm Beach County prior to conveying the deed, and shall have satisfied each of the following conditions prior to deed conveyance.

a) Title

Property owner to 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. 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 24 month period. If an appraisal is required it shall be obtained by the Property owner. The Property owner shall release the County from all Declarations of Covenants and Conditions of the P.U.D. or other restrictive covenants as they may apply to the civic site.

b) Concurrency

Property owner 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 for the entire PUD. The Property owner 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

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

Property owner shall provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Property owner shall specifically address the following issues:

- 1) The discharge of surface water from the proposed civic site into the Property owner's water retention basins.
- 2) As easement across Property owner's property from the proposed civic site to the retention basins, if required.

f) On-Site Inspections

By acceptance of these conditions Property owner agrees 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

Property owner to 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.

h) Buildable Grade

Prepare civic site to buildable grade under the direction of the Facilities Development & Operations Department. Site shall be stabilized with 1) sod and watered or, 2) seeded, mulched and watered (until seed has established itself) to the satisfaction of Facilities Development and Operations.

i) Water & Sewer

Property owner to provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE:MONITORING-PREM) (Previous PREM condition 1 of Reso. R-2006-281, Control No. 2004-456)

2. Survey

The property owner shall provide the County with a survey certified to Palm Beach County of the proposed civic site by September 1, 2006 . 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.
- c) The survey should include a location of any proposed water retention area that will border the civic site.

Survey is also subject to the County's approval of any proposed or existing easements within the proposed civic site and all title exceptions are to be shown on the survey. (DATE:MONITORING-PREM) (Previous PREM condition 2 of Reso. R-2006-281, Control No. 2004-456)

3. Environmental Survey

The property owner shall provide PREM with an Environmental Assessment certified to Palm Beach County of the proposed civic site by September 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 will include but not be limited to the following:

- a) Review of property abstracts for all historical ownership data for evidence of current and past land use of the proposed civic site.
- b) Review of local, state, and federal regulatory agency's enforcement and permitting records for indication of prior groundwater or soil contamination. Also, a review of the neighboring property that borders the proposed civic site will be required. The review shall include, but not be limited to, Palm Beach County Environmental Resources Management Department Records, and Florida Department of Regulation Records.

The assessment shall reflect whether the civic site or any bordering property is on the following lists:

- 1) EPA's National Priorities list (NPL)

- 2) Comprehensive Environmental Response Compensation and Liability Act System List (CERCLA)
- 3) Hazardous Waste Data Management System List (HWDMS).
- c) Review of current and historical aerial photographs of the proposed civic site. Provide a recent aerial showing site and surrounding properties.
- d) The results of an on-site survey to describe site conditions and to identify potential area of contamination.
- e) Review of Wellfield Protection Zone maps to determine if property is located in a Wellfield Zone.
- f) If the Phase I audit indicates that a Phase II is necessary, then the Developer shall be required to provide that audit as well. (DATE: MONITORING-PREM) (Previous PREM condition 3 of Reso. R-2006-281, Control No. 2004-456)

4. Cash-Out

The Property owner 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 property owner 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 Property owner or if the Property owner is a contract purchaser the per acre value used for the entire PUD may be used to determine the civic site value. If the cash-out method is used, payment shall be made to the County prior to the first recorded plat for the PUD. If off-site land or cash contribution is accepted by Palm Beach County, the Property owner shall be deemed to have satisfied the intent of ULDC. (ONGOING: MONITORING-PREM) (Previous PREM condition 4 of Reso. R-2006-281, Control No. 2004-456)

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-Zoning) (Previous PUD Condition 1 of Resolution R-2005-2288, Control No. 2004-456)
2. Prior to final approval by the Development Review Officer (DRO), the master and site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within two lake tracts. The location of each

fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning) (Previous PUD Condition 2 of Resolution R-2005-2288, Control No. 2004-456)

3. Starting on October 27, 2006, the property owner shall submit an annual report to the Zoning and Traffic Divisions demonstrating compliance with the adult only community requirements as documented in the restrictive covenant. (DATE: MONITORING - Zoning/Eng) (Previous PUD Condition 3 of Resolution R-2005-2288, Control No. 2004-456)
4. Prior to the issuance of a building permit for the first unit over 40% of the total number of units in the development, a Certificate of Occupancy (CO) shall be issued for a clubhouse or similar common building exceeding 2,500 total square feet on the 3.14-acre recreation parcel. This facility shall be equipped with a generator that complies with the following requirements:
 - a. operates essential electrical systems, including A/C systems, for a minimum of thirty percent (30%) of the gross interior floor area of the building;
 - b. an aboveground fuel storage system, or an alternative fuel storage system that is acceptable to Palm Beach County, with a minimum capacity that is acceptable to the Building Division shall be located adjacent to the generator;
 - c. setback in accordance with the Property Development Regulations for a Recreation Pod in accordance with ULDC Table 3.E.2.D-16;
 - d. screened from view on all sides by an opaque barrier constructed of compatible materials, color and character as the building or equivalent landscaping;
 - e. subject to review and approval by the Building Division; and,
 - f. deviation from these requirements and/or required building size shall be permitted if consistent with future ULDC regulations. (BLDG PERMIT: MONITORING - Zoning) (Previous PUD Condition 4 of Resolution R-2005-2288, Control No. 2004-456)

SCHOOL BOARD

1. School Board Condition 1 of Resolution R-2005-2288, Control No. 2004-456) which currently states:

Prior to final Site Plan certification, the applicant shall provide a Declaration and Restrictive Covenant" which prohibits children less than 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. (DRO: SCHOOL BOARD-School Board)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the applicant shall provide a "Declaration and Restrictive Covenant" which prohibits children less than 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. (DRO: CTY ATTY-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. (ONGOING-PBCWUD-PBCWUD) (Previous Utilities Condition 1 of Resolution R-2005-2288, Control No. 2004-456)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)

