

RESOLUTION NO. R-2009- 1823

RESOLUTION APPROVING ZONING APPLICATION DOA-2009-02674
(CONTROL NUMBER 2004-00525)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF ATLANTIC COMMONS
BY ATLANTIC COMMONS ASSOCIATES, LLLP, AGENT
(ATLANTIC COMMONS 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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2009-02674 was presented to the Board of County Commissioners at a public hearing conducted on October 22, 2009; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 purposes, goals, objectives, and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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-2009-02674, the application of Atlantic Commons, by Atlantic Commons Associates, LLLP, agent, for a Development Order Amendment to to reconfigure the Master Plan, change unit types, allow a model row, and modify and delete Conditions of Approval (PUD and Landscape). 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 October 22, 2009, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on October 22, 2009.

Filed with the Clerk of the Board of County Commissioners on October 26th, 2009

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

ATLANTIC COMMONS
Overall project legal

PARCEL 1:

TRACT 31, IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT OF PALM BEACH FARMS CO. PLAT NO. 1, RECORDED IN PLAT BOOK 2, PAGES 26-28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH ALL OF THOSE PARTS OF TRACTS 1, 2 AND 3, IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LYING EAST OF THE SUNSHINE STATE PARKWAY AND WEST OF THE E-2E CANAL, ALL BEING ACCORDING TO THE PLAT OF PALM BEACH FARMS CO. PLAT NO. 1, RECORDED IN PLAT BOOK 2, PAGES 26-28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS AND EXCLUDING THE NORTH 36 FEET OF SAID TRACT 3 AS CONVEYED PURSUANT TO DEED BOOK 129, PAGE 164 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS AND EXCLUDING THE NORTH 39.66 FEET OF SAID TRACT 1 AND THE NORTH 40.92 FEET OF SAID TRACTS 2 AND 3 PURSUANT TO OFFICIAL RECORDS BOOK 6495, PAGE 761 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS AND EXCLUDING THAT PORTION OF SAID TRACT 1 LYING EAST OF THE WEST LINE OF THE 15 FOOT PLATTED RESERVATION (RUNNING NORTH/SOUTH WITHIN SAID TRACT 1) AS SHOWN ON SAID PLAT OF PALM BEACH FARMS CO. PLAT NO. 1 AS CONVEYED PURSUANT TO OFFICIAL RECORDS BOOK 1585, PAGE 505 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS AND EXCLUDING THOSE PORTIONS OF SAID TRACTS 1, 2 AND 3 LYING NORTH OF THE SOUTH LINE OF THE 15 FOOT PLATTED RESERVATION (RUNNING EAST/WEST WITHIN SAID TRACTS 1, 2 AND 3) AS SHOWN ON SAID PLAT OF PALM BEACH FARMS CO. PLAT NO. 1 AS CONVEYED PURSUANT TO OFFICIAL RECORDS BOOK 1585, PAGE 505 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

TRACTS 30, 32, 33 AND 35, IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT OF PALM BEACH FARMS CO. PLAT NO. 1, RECORDED IN PLAT BOOK 2, PAGES 26-28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS AND EXCLUDING THOSE PORTIONS OF SAID TRACTS 30 AND 35 KNOWN AS RIGHT-OF-WAY PARCEL NOS. 27 AND 29 CONVEYED TO THE FLORIDA STATE TURNPIKE AUTHORITY PURSUANT TO THE FIFTEENTH JUDICIAL CIRCUIT COURT, CASE NO. 15,304, AS SET FORTH IN THE MINUTES OF CIRCUIT COURT IN MCC BOOK 68, PAGES 520 AND 523, PALM BEACH COUNTY, FLORIDA, AND LESS AND EXCLUDING THOSE PORTIONS OF SAID TRACTS 32 AND 33 LYING EAST OF THE WEST LINE OF THE 15 FOOT PLATTED RESERVATION (RUNNING NORTH/SOUTH WITHIN SAID TRACTS 32 AND 33) AS SHOWN ON SAID PLAT OF PALM BEACH FARMS CO. PLAT NO. 1 AS CONVEYED PURSUANT TO OFFICIAL RECORDS BOOK 1585, PAGE 505 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

TRACTS 62, 63 AND 64, IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, LYING EAST OF THE SUNSHINE STATE PARKWAY AND WEST OF THE E-2E CANAL, ALL BEING ACCORDING TO THE PLAT OF PALM BEACH FARMS CO. PLAT NO. 1, RECORDED IN PLAT BOOK 2, PAGES 26-28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS AND EXCLUDING THE SOUTH 15 FEET OF SAID TRACTS 62, 63 AND 64 AS CONVEYED PURSUANT TO OFFICIAL RECORDS BOOK 1585, PAGE 505 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LESS AND EXCLUDING THAT PORTION OF SAID TRACT 64 LYING EAST OF THE WEST LINE OF THE 15 FOOT PLATTED RESERVATION (RUNNING NORTH/SOUTH WITHIN SAID

RIGHT-OF-WAY MAP SECTION 93030-2510; THENCE SOUTH 89 DEGREES 22 MINUTES 44 SECONDS WEST ALONG SAID PROPOSED RIGHT-OF-WAY LINE, A DISTANCE OF 536.18 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

NON-EXCLUSIVE EASEMENT RIGHTS CREATED BY ACCESS EASEMENT(S) RECORDED IN OFFICIAL RECORDS BOOK 13729, PAGE 414; OFFICIAL RECORDS BOOK 13729, PAGE 420; OFFICIAL RECORDS BOOK 13729, PAGE 426; OFFICIAL RECORDS BOOK 13729, PAGE 432, AS AMENDED IN OFFICIAL RECORDS BOOK 17776, PAGE 656; AND IN OFFICIAL RECORDS BOOK 21356, PAGE 1759, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

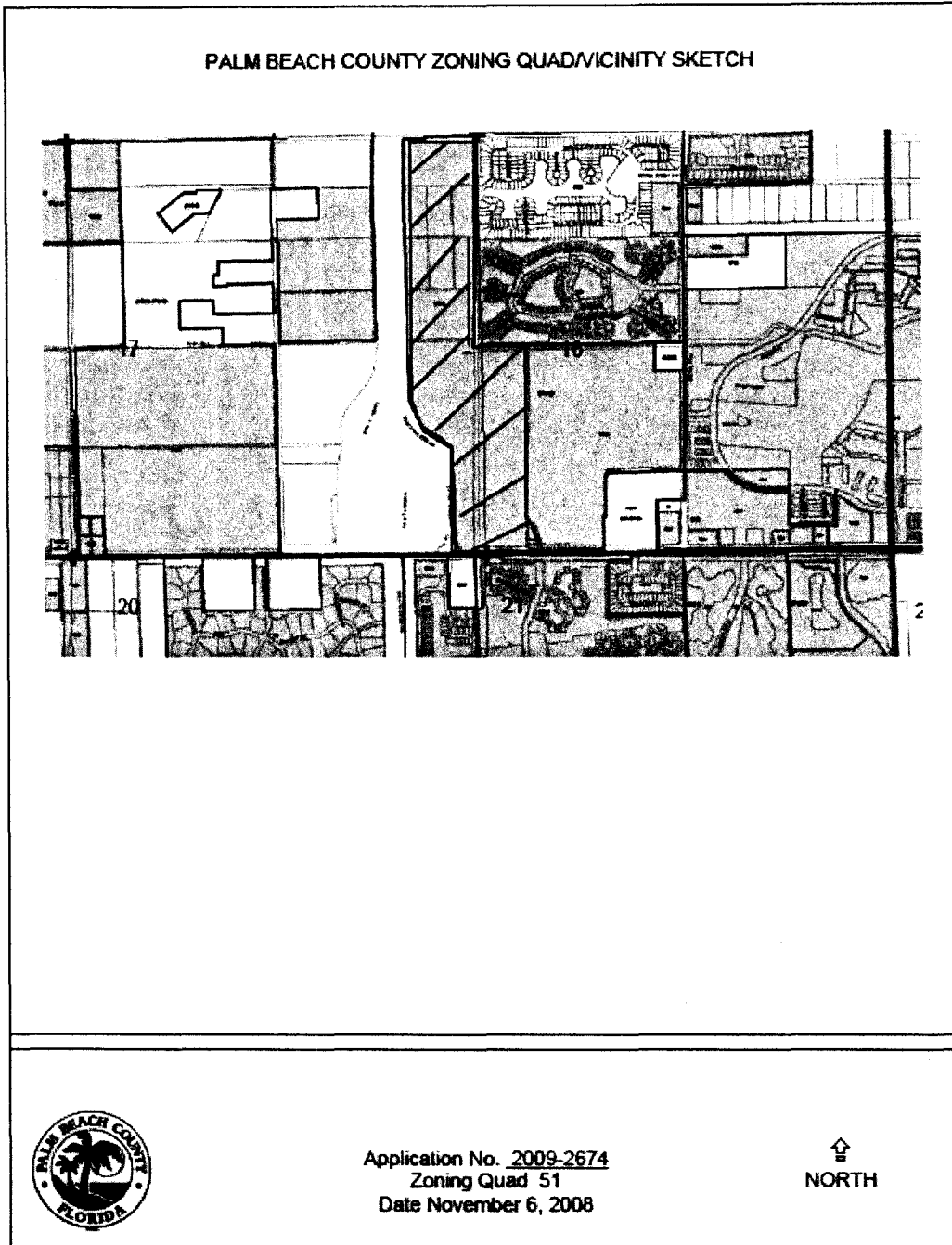


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petitions Condition 1 of Resolution No. R-2009-0713, Control No. 2004-00525, which currently reads:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2006-516, Control No. 2004-525, 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)

Is hereby amended to state:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2009-0713, Control No. 2004-525, 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 2 of Resolution No. R-2009-0713, Control No. 2004-00525, which currently reads:

Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Preliminary Master Plan is dated February 13, 2009. 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 state:

Development of the site shall be generally consistent with the preliminary master plan dated August 14, 2009 and approved by the Board of County Commissioners. Modification of the site design may be allowed pursuant to conditions of approval or are in accordance with Article 2 of ULDC. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the DRO may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by conditions of approval or the ULDC must be approved by the Board of County Commissioners. (ONGOING: ZONING- Zoning)

3.Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (ONGOING: MONITORING-Zoning) (Previous All Petitions Condition of Resolution No. R-2009-0713, Control No. 2004-00525)

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.Building Permits for more than 286 townhouse dwelling units (maximum 146 PM peak hour trips) shall not be issued until construction commences for the 4 lane median divided construction of West Atlantic Avenue from Lyons Road to Starkey Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - ENG) [Note:Completed per Atlantic Ave. Agreement]

b.Building Permits for more than 286 townhouse dwelling units (maximum 146 PM peak hour trips) shall not be issued until the contract has been let for the 4 lane median divided

construction of West Atlantic Avenue from Starkey Road to the Florida Turnpike. (BLDG PERMIT: MONITORING - ENG) [Note:Completed]

c. Building Permits for more than 112 detached dwelling units and 149 townhouse dwelling units (maximum 207 PM peak hour trips) shall not be issued until the contract has been let for the 6 lane median divided construction of Jog Road from Lake Ida Road to Atlantic Avenue plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng) [Note:Completed]

d. Building Permits for more than 171 detached dwelling units (maximum 126 AM peak hour trips) shall not be issued until construction commences for the following improvements at the intersection of West Atlantic Avenue and Jog Road: -exclusive right turn lane north approach; -exclusive right turn lane south approach; and, -second right turn lane west approach. (BLDG PERMIT: MONITORING - ENG) [Note:Completed per Atlantice Ave. Agreement]

e. No Building Permits for the site may be issued after December 31, 2012. 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)

(Previous Engineering Condition 1 of Resolution R-2009-713, Control No. 2004-525)

2. Prior to final approval by the DRO, the property owner shall provide access to the property to the north currently owned by the Florida Department of Transportation. Type of access, width, and location shall be approved by both the County Engineer and the Florida Department of Transportation. (DRO: ENGINEERING-ENG)

(Previous Engineering Condition 2 of Resolution R-2009-713, Control No. 2004-525)

3. Prior to the 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 West Atlantic Avenue at the project's entrance road. This right of way 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. 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. (BLDG PERMIT: MONITORING - ENG)

(Previous Engineering Condition 3 of Resolution R-2009-713, Control No. 2004-525)

4. INTERSECTION IMPROVEMENTS

The property owner shall construct:

- i. left turn lane west approach on West Atlantic Avenue at the project's entrance; and,
- ii. right turn lane east approach on West Atlantic Avenue at the project's entrance.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Prior to the issuance of the first building permit, permits shall be obtained from the Florida Department of Transportation for construction of these turn lanes. (BLDG PERMIT: MONITORING - ENG)

b. Construction for these turn lanes shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - ENG)

(Previous Engineering Condition 4 of Resolution R-2009-713, Control No. 2004-525)

5.FLORIDA TURNPIKE NOISE MITIGATION

a. The master plan for this site shall be amended to reflect noise mitigation requirements for dwelling units adjacent to Florida's Turnpike as outlined in the applicants approved Noise Analysis. Requirements such as a sound wall and or landscape buffers shall be shown on the master plan for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENGINEERING - ENG)

b. Construction of any required sound walls and landscape buffers for a pod fronting the turnpike as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy for any lot within the pod. This condition shall apply to all of Pods B and C only as shown on the Master Plan for the Application DOA-2008-01897 or as otherwise revised by an approved Noise Analysis acceptable to the County Engineer. The construction shall be as outlined in the Noise Analysis. The property owner shall provide Land Development a listing of the applicable PCN numbers for all affected lots within Pods B and C. (CO:MONITORING-Eng)

c. 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 Florida's Turnpike and that some of the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to Florida's 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 are constructed by the property owner. In addition, there shall be a statement that any additional noise mitigation measures requested by property owners or the Home Owners Association in the future shall not be funded by Palm Beach County. (ONGOING: ENGINEERING - ENG)

d. The property owner shall submit documentation of compliance with "c" above on an annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before October 23, 2009 and shall continue on an annual basis until all units within the development have been sold or the property owner relinquishes control to the homeowner's association. (ONGOING/DATE: MONITORING - ENG)

(Previous Engineering Condition 5 of Resolution R-2009-713, Control No. 2004-525)

6.WEST ATLANTIC AVENUE ROAD RIGHT OF WAY

The property owner shall convey to Palm Beach County Land Development Division by warranty deed for West Atlantic Avenue 126 feet north of the existing south right of way of West Atlantic Avenue. Right of way shall be conveyed prior to March 1, 2006, or prior to the issuance of the first building permit, whichever shall first occur. 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 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/BLDG PERMIT: MONITORING - ENG)

(Previous Engineering Condition 6 of Resolution R-2009-713, Control No. 2004-525)

[Note:Complete]

7.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: ENGINEERING- ENG)

(Previous Engineering Condition 7 of Resolution R-2009-713, Control No. 2004-525)

8.TEMPORARY ROADWAY CONSTRUCTION EASEMENT

Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along West Atlantic 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 8 of Resolution R-2009-713, Control No. 2004-525)

9.On or before April 23, 2010, 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-2009-713, Control No. 2004-525)

[Note: Documents have been approved and are being held in escrow.]

10.Prior to final approval by the DRO, the property owner shall obtain additional right of way from the adjacent property to the east to provide a non-plan collector road between this property and West Atlantic Avenue. This access shall align with Lexington Club Boulevard. Geometrics for this access road including right of way to provide for a right turn lane on West Atlantic Avenue at the project's entrance shall be approved by the County Engineer. Right of way for this access road if unable to be acquired by the property owner shall be obtained through condemnation procedures through Palm Beach County, subject to the approval of the County Attorney and the County Engineer. Any and all costs for any

required condemnation shall be funded by this property owner. (DRO: ENGINEERING - ENG)

(Previous Engineering Condition 10 of Resolution R-2009-713, Control No. 2004-525)
[Note:Complete]

11. RIGHT-OF-WAY ACQUISITION

The property owner shall provide for the acquisition of the access road right of way outlined above by funding the cost of this right-of-way and all associated costs. The property owner shall provide surety acceptable to the Office of the County Engineer and County Attorney. This property owner shall enter into a written agreement with the Right of Way Acquisition Section on or before June 1, 2006. Notification by the property owner shall be given to the Land Development Division. (DATE: MONITORING - ENG)

(Previous Engineering Condition 11 of Resolution R-2009-713, Control No. 2004-525)
[Note: ROW has been acquired]

12. Previous Engineering Condition 12 of Resolution R-2009-713, Control No. 2004-525, which currently states:

The Atlantic Avenue Agreement currently includes the cost of signal installation if warranted as determined by the County Engineer and the Florida Department of Transportation at West Atlantic Avenue and the project's Entrance. If the Atlantic Agreement is revised to not include this intersection or becomes void, the Property Owner shall be responsible for funding the cost of the signalization, if warranted. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

a. If the signal is not accounted for by the existing Atlantic Avenue Agreement, Building Permits for more than 300 dwelling units shall not be issued until the property owner 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 this intersection, 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 West Atlantic Avenue at the project's entrance. 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: ENGINEERING - ENG)

Is hereby amended to read:

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 West Atlantic Avenue and the project's entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. Building Permits for more than 300 dwelling units shall not be issued until the developer provides acceptable surety 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 the above intersection, 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 the intersection, OR the Property Owner shall provide written documentation to the Traffic Division that the property has been sold and that a replacement surety has been provided to the Traffic Division by the new Property Owner. 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: ENGINEERING-Eng)

13. Acceptable surety required for the West Atlantic Avenue improvements identified in Engineering Condition 1.a. and 1.d. 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 13 of Resolution R-2009-713, Control No. 2004-525)
[Note: Complete]

14. Prior to September 15, 2006, the property owner shall complete construction plans for the West Atlantic Avenue improvements identified in Engineering Conditions 1.a and 1.d 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 14 of Resolution R-2009-713, Control No. 2004-525)
[Note: Complete]

15. Prior to May 15, 2007, the property owner shall complete construction of the West Atlantic Avenue improvements identified in Engineering Conditions 1.a and 1.d 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 15 of Resolution R-2009-713, Control No. 2004-525)
[NOTE: COMPLETED per Atlantic Ave. Agreement]

HEALTH

1. Prior to the issuance of the first building permit the property owner shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of fugitive dust particulates on the site during all phases of site development. The property owner or the representative of the property owner shall be available to 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)

Is COMPLETE

LANDSCAPE - GENERAL

1. A minimum of fifty (50) percent of all trees to be planted in the perimeter 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) (Previous Landscape Condition 1 of Resolution No. R-2009-0713, Control No. 2004-00525)

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 No. R-2009-0713, Control No. 2004-00525)

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 No. R-2009-0713, Control No. 2004-00525)

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 No. R-2009-0713, Control No. 2004-00525)

5. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 5 of Resolution No. R-2009-0713, Control No. 2004-00525)

LANDSCAPE - PERIMETER-ALONG THE WEST PROPERTY LINE (ABUTTING FLORIDA'S TURNPIKE)

6. In addition to code requirements and the proposed planting program, the landscape buffer along the west property line shall be upgraded to include:

a. a minimum of one (1) flowering tree for each fifty (50) linear feet of the property line, to be planted on both sides of the wall or FDOT sound barrier. Flowering trees shall be spaced a maximum distance of seventy-five (75) feet on center on each side of the wall or FDOT sound barrier. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 6 of Resolution No. R-2009-0713, Control No. 2004-00525)

LANDSCAPE - PERIMETER-COMPATIBILITY BUFFER BETWEEN PODS B AND C

7. Landscape Condition 6 of Resolution No. R-2009-0713, Control No. 2004-00525, which currently reads:

In addition to code requirements for the required landscape buffer along the property line between pods B and C, landscaping shall be upgraded to include:

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)

Is hereby deleted. [REASON: Applicant's request]

LANDSCAPE - PERIMETER-ALONG THE EAST PROPERTY LINE OF POD C, NORTH OF THE L-33 CANAL

8. In addition to code requirements, landscaping along the east property line of Pod C (west side of E-2-E Canal) shall be upgraded to include:

- a. A continuous berm with a minimum height of one (1) foot; a maximum of one (1)-foot width of the berm may overlap into open space;
- b. A six (6) foot high vinyl coated chain link fence;
- c. A continuous hedge planted on the east side of the fence to be maintained at a minimum of six (6) feet in height;
- d. Required trees shall be native canopy trees with a maximum spacing of twenty (20) feet;
- e. One palm or pine tree for every 20 linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- f. Landscape installation:
 - i. The fence shall be installed concurrent with the construction of the project's spine road north of the L-33 Canal.
 - ii. The landscaping within the east buffer adjacent to the projects main spine road shall be installed immediately upon completion of the roadway (if the roadway is built in sections, then the landscaping would be required to be installed adjacent to any completed section only).
 - iii. The landscaping adjacent to any unit or building within Pod C-2 shall be installed prior to receipt of the first CO. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 8 of Resolution No. R-2009-0713, Control No. 2004-00525)

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to

the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous Palm Tran Condition 1 of Resolution R-2009-713, Control No. 2004-525)

2. Prior to issuance of the first Building Permit, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (BLDG PERMIT/PLAT: MONITORING/ENG -Palm Tran) (Previous Palm Tran Condition 2 of Resolution R-2009-713, Control No. 2004-525)

PLANNED DEVELOPMENT

1. Prior to the recordation of the first plat, all property included in the legal description of the application 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: CO ATTY Zoning) (Previous PUD Condition 1 of Resolution No. R-2009-0713, Control No. 2004-00525)

2. All landscape focal points shall be:

a. subject to review and approval by the Landscape Section; and,

b. reflected on the regulating plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE Zoning) (Previous PUD Condition 2 of Resolution No. R-2009-0713, Control No. 2004-00525)

3. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to indicate a landscape focal point within a central island of all cul-de-sacs and roundabouts. (DRO: ZONING - Zoning) (Previous PUD Condition 3 of Resolution No. R-2009-0713, Control No. 2004-00525)

4. Prior to final approval by the Development Review Officer (DRO), the site/regulating plans shall be revised to depict upgraded recreation amenities within each of neighborhood park. These additional amenities shall:

a. be accessible from a minimum five (5) foot wide pathway. This pathway shall have a direct connection to the the primary sidewalk system on the property;

b. include a minimum of two (2) pedestrian benches; and,

c. include a minimum of one (1) trash receptacle. (DRO: ZONING - Zoning) (Previous PUD Condition 5 of Resolution No. R-2009-0713, Control No. 2004-00525)

5. PUD Condition 8 of Resolution No. R-2009-0713, Control No. 2004-00525, which currently states:

Each townhouse unit shall include a garage with interior dimensions that excess minimum ULDC requirements for a residential parking space or a separate storage closet for trash receptacles. (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Each townhouse unit with a garage shall provide sufficient area within the garage for a residential parking space and trash receptacles. (BLDG PERMIT: BLDG - Zoning)

6. Prior to final DRO approval, all multi-family units along the west side of the E-2-E canal, directly abutting the internal spine road, shall be a maximum two stories in height, not to exceed a maximum thirty (30)-feet in height measured to the highest point of the structure. (DRO: ZONING - Zoning) (Previous PUD Condition 11 of Resolution No. R-2009-0713, Control No. 2004-00525)

7. The owner/ developer shall provide for and maintain rodent control during land development and site construction within the project. (ONGOING: ZONING - Zoning) (Previous PUD Condition 12 of Resolution No. R-2009-0713, Control No. 2004-00525)

PLANNING

1. Planning Condition 1 of Resolution R-2009-0713, Control No. 2004-525 which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the plan shall include all pathways within and pedestrian access to the open space and recreation areas, and along lakes tracts generally consistent with the certified master plan, dated February 13, 2009. (DRO: PLANNING Planning)

Is hereby Deleted. [REASON: Redundant, included in Condition #2.]

2. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall indicate a pedestrian pathway fronting the lakes within the passive park areas in POD B-2" and POD C-1". This pedestrian pathway shall provide continuous circulation to the sidewalks within the development. In addition, a minimum of one (1) bench shall be placed at each of these locations. (Previous Planning Condition 2 of Resolution R-2006-0516, Control No. 2004-525) (DRO: PLANNING - Planning)

3. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

a. Guarantees the attainability of all 71 workforce units, which includes all units required per Article 5.G in the ULDC per the time frames noted within the adopted ULDC at the time of BCC approval. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the Workforce Housing requirements in Article 5.G in the ULDC. (Previous Planning Condition 3 of Resolution R-2009-0713, Control No. 2004-525) (DRO: COUNTY ATTY- Planning)

4. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in Master Plans and related Site Plans that shall indicate that a minimum of 71 units have been designated as workforce housing units. Notations shall make reference to the recorded Restrictive Covenants for Workforce Housing and indicate that all the required workforce units are subject to the Restrictive Covenants and shall be sold, resold, or rented only to low, moderate 1, moderate 2, or middle-income qualified households. (Previous Planning Condition 4 of Resolution R-2009-0713, Control No. 2004-525) (DRO: PLANNING-Planning)

5. On an annual basis, beginning April 1, 2010, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, the property owner, master homeowners association, or property owner association shall submit an annual report to

the Planning Division and HCD documenting compliance with the Declaration of Restrictive Covenants for Workforce Housing. (Previous Planning Condition 5 of Resolution R-2009-0713, Control No. 2004-525) (DATE/ONGOING: MONITORING-Planning/HCD)

PROPERTY & REAL ESTATE MANAGEMENT

1. The property owner shall provide Palm Beach County Board of County Commissioners with a Statutory Warranty Deed on a net 2.47 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, 2011. Developer 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

Developer 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 Developer. The Developer 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

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 for the entire PUD. The 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 prorated 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

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

1) The discharge of surface water from the proposed civic site into the Developer's water retention basins.

2) As easement across Developer's property from the proposed civic site to the retention basins, if required.

f) On-Site Inspections

By acceptance of these conditions developer 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

Developer 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

Developer to provide water and sewer stubbed out to the property line and other required utilities as determined by PREM. (DATE:MONITORING-PREM). (Previous Civic Site Condition 2 of Resolution R-2009-713, Control No. 2004-525)

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, 2011 . 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 Civic Condition 3 of Resolution R-2009-713, Control No. 2004-525)

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, 2011 . 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.

a) 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 Civic Condition 4 of Resolution R-2009-713, Control No. 2004-525)

4.The Petitioner 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. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of ULDC. (ON-GOING:PREM) (Previous Condition 4 of Resolution No. R-2006-0516, Control No. 2004-525) (Previous Civic Condition 5 of Resolution R-2009-713, Control No. 2004-525)

5.The property owner has offered to provide the County with additional civic site property from the Hyder PUD, which may be utilized as a credit towards the civic site dedication requirements for this project. The civic property conveyance for this project shall be handled by either one of two separate agreements, known as the proposed Hyder Agreement and the Exchange and Civic Site Dedication Agreement (approved pursuant to R-2004-0936), which agreements shall supersede all conditions set forth herein. However, (1) should the Hyder Agreement not be finalized by either the County or the property owner, or (2) in the event there is no remaining civic site credit available for use by the property owner pursuant to the Exchange and Civic Site Dedication Agreement, then all requirements of PREM conditions 1 through 5 contained herein shall remain in effect. (ON-GOING:PREM) (Previous Civic Condition 6 of Resolution R-2009-713, Control No. 2004-525)

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) (Previous Condition SCHOOL BOARD 1 of Resolution R-2009-0713, Control No. 2004-525)

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. 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.) (Previous Condition SCHOOL BOARD 2 of Resolution R-2009-0713, Control No. 2004-525)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 (CO); 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 Unified Land Development Code (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 the 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 Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)