

RESOLUTION NO. R-2010- 0440

RESOLUTION APPROVING ZONING APPLICATION DOA/W-2009-04276  
(CONTROL NO. 2004-00250)  
a Development Order Amendment  
APPLICATION OF Boca Raton Associates VI, LLLP, Palm Beach County, Pontano  
Family Farms, LLC, South Florida Water Management District  
BY Urban Design Kilday Studios, AGENT  
(Dubois AGR PUD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

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

WHEREAS, Zoning Application DOA/W-2009-04276 was presented to the Board of County Commissioners at a public hearing conducted on March 31, 2010; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment.

WHEREAS, Article 2.A.1.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/W-2009-04276, the petition of Boca Raton Associates VI, LLLP, Palm Beach County, Pontano Family Farms, LLC, South Florida Water Management District, by Urban Design Kilday Studios, agent, for a Development Order Amendment to reconfigure the Master Plan, designate a model row, increase the number of dwelling units by 48 to 602, modify and delete Conditions of Approval (Planning, Planned Unit Development) and, restart the development clock in the Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on March 31, 2010, 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 Vana and, upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on March 31, 2010.

Filed with the Clerk of the Board of County Commissioners on April 2, 2010.

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 R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

**DESCRIPTION: DUBOIS DEVELOPMENT PARCEL**

ALL OF TRACTS 65 TO 128, INCLUSIVE, SECTION 29, TOWNSHIP 46 SOUTH, RANGE 42 EAST, (LESS 30.59 ACRES SOLD TO FLORIDA STATE TURNPIKE AUTHORITY AND MORE PARTICULARLY DESCRIBED IN DEED BOOK 1104, PAGE 577), THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 26 TO 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS: (PARCEL 108 OF THE LYONS ROAD TAKING)

THE EAST 40 FEET OF THE WEST 55 FEET OF TRACTS 80, 81, 112 AND 113, BLOCK 29 OF SECTION 29, TOWNSHIP 46 SOUTH, RANGE 42 EAST OF THE PALM BEACH FARMS CO. PLAT NO. 1 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26 - 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 2.45 ACRES.

AND LESS: (PARCEL 108A OF THE LYONS ROAD TAKING)

THAT PART OF TRACT 113, BLOCK 29, OF THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 30, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE NORTH 00°52'26" WEST, ALONG THE EAST LINE OF SAID SECTION 30 A DISTANCE OF 85.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT (LWDD) L-38 CANAL; THENCE NORTH 89°24'14" EAST, ALONG SAID CANAL FOR A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°24'14" EAST, FOR A DISTANCE OF 30.00 FEET; THENCE NORTH 00°52'26" WEST, ALONG A LINE PARALLEL WITH AND 85.00 FEET EAST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 312.70 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 30.00 FEET; THENCE NORTHWEST ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 47.12 FEET TO A POINT 55.00 FEET EAST OF AND PARALLEL TO THE EAST LINE OF SAID SECTION 30; THENCE SOUTH 00°52'26" EAST, ALONG A LINE PARALLEL WITH AND 55.00 FEET EAST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 342.56 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRES.

AND LESS: (PARCEL 108B OF THE LYONS ROAD TAKING)

THAT PART OF TRACT 113, BLOCK 29, OF THE PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 30, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE NORTH 00°52'26" WEST, ALONG THE EAST LINE OF SAID SECTION 30 A DISTANCE OF 85.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT (LWDD) L-38 CANAL; THENCE NORTH 89°24'14" EAST, ALONG SAID CANAL FOR A

DISTANCE OF 85.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°24'14" EAST, FOR A DISTANCE OF 25.00 FEET; THENCE NORTH 00°52'26" WEST, ALONG A LINE PARALLEL WITH AND 110.00 FEET EAST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 312.82 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 55.00 FEET; THENCE NORTHWEST ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 86.39 FEET TO A POINT 55.00 FEET EAST OF AND PARALLEL TO THE EAST LINE OF SAID SECTION 30; THENCE SOUTH 00°52'26" EAST, ALONG A LINE PARALLEL WITH AND 55.00 FEET EAST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 25.00 FEET TO A POINT ON THE ARC OF A CURVE CONCAVE TO THE SOUTHWESTERLY HAVING A RADIUS OF 30.00 FEET TO WHICH A RADIAL LINE BEARS SOUTH 00°52'26" EAST; THENCE SOUTHEASTERLY 47.12 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" TO A POINT OF TANGENCY; THENCE SOUTH 00°52'26" EAST ALONG A LINE PARALLEL WITH AND 85.00 FEET EAST OF THE EAST LINE OF SECTION 30 FOR A DISTANCE OF 312.70 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.22 ACRES.

CONAINING A TOTAL OF 299.182 ACRES, MORE OR LESS.

**DESCRIPTION: DUBOIS AGR – PRESERVE PLAT ONE**

BEING ALL OF TRACT "A" ACCORDING THE THE PLAT OF DUBOIS AGR – PRESERVE PLAT ONE, AS RECORDED IN PLAT BOOK 112, PAGES 132 AND 133 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. CONTAINING 82.397 ACRES MORE OR LESS.

**DESCRIPTION: DUBOIS PRESERVE PARCEL 2**

BEING THE SOUTH 300.00 FEET OF THE NORTH 1600.55 FEET OF THE EAST 2066.28 FEET OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SECTION 14, TOWNSHIP 45 SOUTH, RANGE 41 EAST, ALL LYING WITHIN PALM BEACH COUNTY, FLORIDA.

CONTAINING 14.232 ACRES MORE OR LESS.

**DESCRIPTION: PRESERVE PARCEL 3**

THAT PORTION OF LAND BEING THE SOUTH 1043.82 FEET OF THE NORTH 5467.82 OF SECTIONS 3 AND 4, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, LYING EAST OF THE NORTHEASTERLY RIGHT-OF-WAY LINE OF LEVEE L-40.

LESS AND EXCEPT

THAT PORTION OF THE SOUTH 1043.82 FEET OF THE NORTH 5467.82 OF SECTIONS 3 AND 4, TOWNSHIP 45 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SECTION 2, TOWNSHIP 45 SOUTH, RANGE 41 EAST, SAID PALM BEACH COUNTY ALSO BEING THE SOUTHWEST CORNER OF THE PLAT OF HOMELAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 33, PAGES 111 THROUGH 117, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 00°56'23" WEST, ALONG THE WEST LINE OF SAID SECTION 2, ALSO BEING THE WEST LINE OF SAID PLAT OF HOMELAND, A DISTANCE OF 1,981.51 FEET; THENCE NORTH 88°32'09" WEST, A DISTANCE OF 100.08 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 88°32'09" WEST, A DISTANCE OF 2,201.79 FEET; THENCE NORTH 00°56'23" WEST, A DISTANCE OF 248.18 FEET; THENCE NORTH 89°42'50" EAST, A DISTANCE OF 2,200.00 FEET; THENCE SOUTH 00°56'23" EAST, A DISTANCE OF 315.44 FEET TO THE POINT OF BEGINNING.

NOTE: FOR THE PURPOSE OF THIS LEGAL DESCRIPTION, ALL REFERENCES TO SECTIONS 3 AND 4 WILL INCLUDE THAT PORTION OF THE HIATUS TRACTS 39 AND 40 KNOWN AS TOWNSHIP 44 1/2 SOUTH, WHICH MAY HAVE BEEN HISTORICALLY DESCRIBED AS SAID SECTIONS 3 AND 4. CONTAINING 154.402 ACRES, MORE OR LESS.

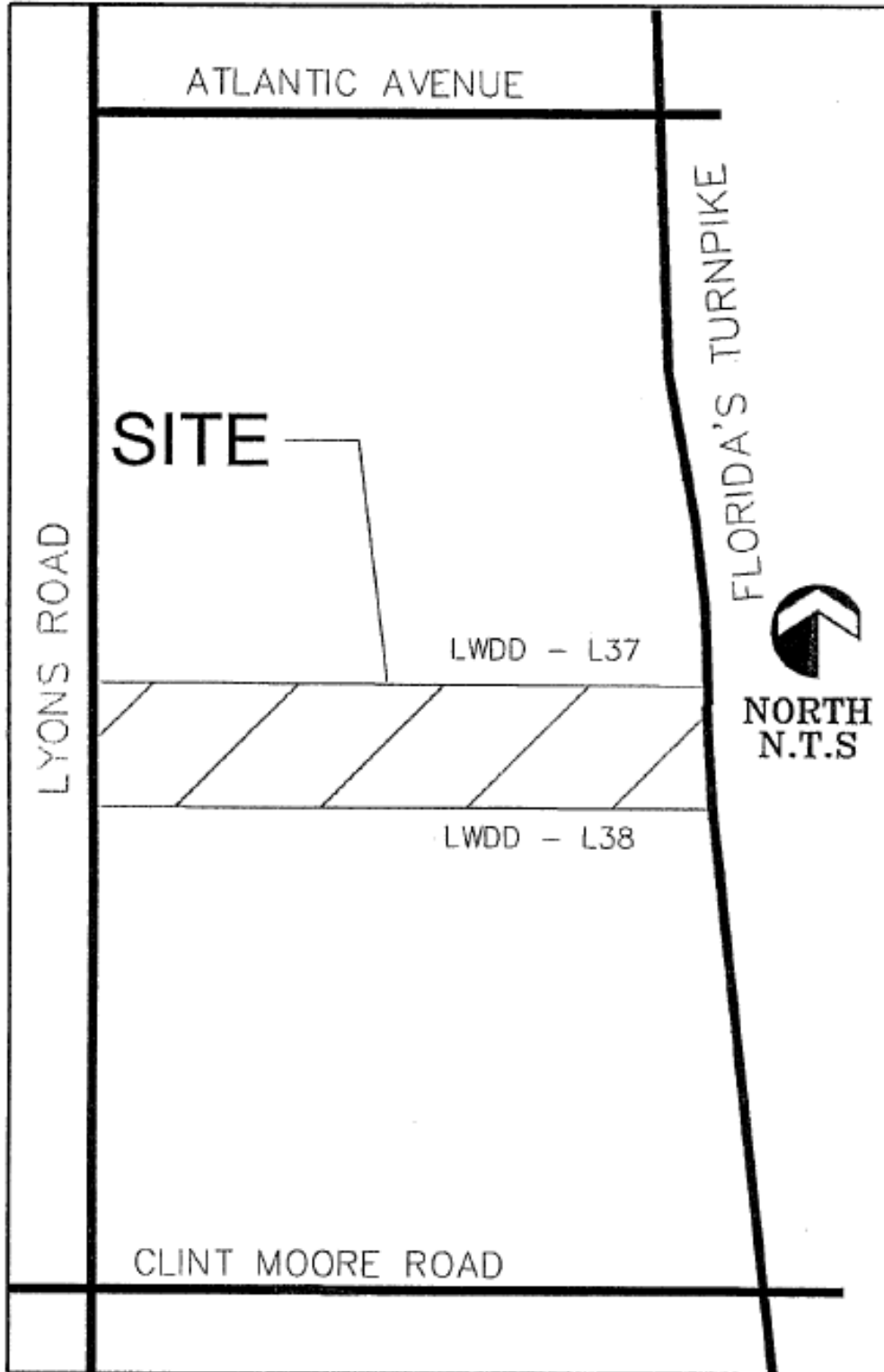
**DESCRIPTION: DUBOIS AGR – PRESERVE PLAT FOUR**

BEING ALL OF TRACT “A” ACCORDING THE THE PLAT OF DUBOIS AGR – PRESERVE PLAT FOUR, AS RECORDED IN PLAT BOOK 112, PAGES 134 AND 135 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. CONTAINING 138.917 ACRES MORE OR LESS.

**DESCRIPTION: DUBOIS AGR – PRESERVE PLAT FIVE**

BEING ALL OF TRACT “A” ACCORDING THE THE PLAT OF DUBOIS AGR – PRESERVE PLAT FIVE, AS RECORDED IN PLAT BOOK 112, PAGES 90 AND 91 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. CONTAINING 33.507 ACRES MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition ALL PETITIONS 1 of Resolution R-2008-114, Control 2004-250 which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-1406, Control 2004-0250, and Resolution R-2006-2327, Control 2004-250, 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 read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-0114 (Control 2004-250), 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 Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Condition All Petitions 2 of Resolution R-2008-0114, Control 2004-250 which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The preliminary master plan is dated October 29, 2007. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)

Is hereby amended to read:

The approved Preliminary Master Plan is dated December 28, 2009 and Preliminary Regulating Plans are dated December 14, 2009. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (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 date of approval of this resolution. (DATE: March 31, 2013: MONITORING - Zoning)

#### ENGINEERING

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

a. No Building Permits shall be issued until construction has commenced for intersection improvements at West Atlantic Avenue and Lyons Road providing for:

- 1) east approach
  - 2 through lanes
  - left turn lane
- 2) west approach
  - 2 through lanes
  - right turn lane
- 3) south approach
  - left turn lane

- right turn lane

(BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED per Atlantic Ave Agreement]

b. Building Permits for more than forty (40) single family residential dwelling units shall not be issued until the contract has been awarded by the FDOT for the construction of West Atlantic Avenue as a 4 lane facility from Lyons Road to the Florida Turnpike plus the appropriate paved tapers. Commencement of construction may also include someone other than the Florida Department of Transportation. (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED per the Atlantic Avenue Agreement] (Previous Engineering Condition No. 1 of Resolution R-2008-0114, Control No. 2004-250)

2. Previous Engineering Condition No. 2 of Resolution R-2008-0114, Control No. 2004-250, which currently states:

No Building Permits for the site may be issued after January 1, 2013. 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)

Is hereby amended to read:

No Building Permits for the site may be issued after January 1, 2014. 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)

3. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Project's Entrance and Lyons Road. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

a. 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 Project entrance and Lyons Road, 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 this intersection. 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) (Previous Engineering Condition No. 3 of Resolution R-2008-0114, Control No. 2004-250)

4. Required noise mitigation for this development as outlined in the approved noise analysis shall be provided for in the Preliminary Development Plan as approved by the DRO. (DRO: ZONING /ENGINEERING - Eng) (Previous Engineering Condition No. 4 of Resolution R-2008-0114, Control No. 2004-250) [Note: COMPLETED]

5. Previous Engineering Condition No. 5 of Resolution R-2008-0114, Control No. 2004-250, which currently states:

Construction of the required sound walls and landscape buffers shall be completed prior to the issuance of the first certificate of occupancy for any lot within Pods C or D. The property owner shall provide Land Development a listing of the applicable PCN numbers for all lots within Pod C and D prior to receipt of the first building permit within Pods C or D. (CO: MONITORING - Eng)

Is hereby amended to read:



Construction of the required sound walls and landscape buffers shall be completed prior to the issuance of the first certificate of occupancy for any lot within Pods D or H. The property owner shall provide Land Development a listing of the applicable PCN numbers for all lots within Pod D and H prior to receipt of the first building permit within Pods D or H. (CO: MONITORING - Eng)

6.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:

- a. this site is adjacent to the Florida Turnpike,
- b. the proposed dwelling units are in an area subject to noise generated by traffic as a result of its location to the Florida Turnpike, and
- c. the Developer has installed noise abatement improvements determined by the Florida Turnpike Enterprise to be effective in keeping noise levels from the Florida Turnpike below the State noise abatement criteria in effect as of the date of issuance of this Development Order. All sales contracts and homeowner documents shall also include a statement that any additional noise mitigation measures requested in the future by the Residents will not be funded or constructed by Palm Beach County.

The property owner shall submit documentation of compliance with the noise level requirement 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 January 15, 2007 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowner's association. (DATE/ONGOING: MONITORING - Eng) (Previous Engineering Condition No. 6 of Resolution R-2008-0114, Control No. 2004-250)

7.Acceptable surety required for the offsite road improvements as outlined in the Traffic Performance Standards Phasing Condition A and for B which relates to that portion of West Atlantic Avenue from Starkey Road to Lyons Road plus the appropriate paved tapers shall be posted with the Office of the Land Development Division on or before January 28, 2006. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING - Eng) (Previous Engineering Condition No. 7 of Resolution R-2008-0114, Control No. 2004-250) [Note: COMPLETED per the Atlantic Avenue Agreement]

8.Previous Engineering Condition No. 8 of Resolution R-2008-0114, Control No. 2004-250, which currently states:

The Property owner shall construct:

- a. Left turn lane north approach on Lyons Road at Project Entrance.
- b. Right turn lane south approach on Lyons Road at the Project 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.

- c. Permits required by Palm Beach County for the construction of these turn lanes shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
- d. Construction of these turn lanes shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)

Is hereby amended to read:

The Property owner shall construct:

- 1) Left turn lane north approach on Lyons Road at Project Entrance.
- 2) Right turn lane south approach on Lyons Road at the Project 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. Permits required by Palm Beach County for the construction of these turn lanes shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)

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

9. Previous Engineering Condition No. 9 of Resolution R-2008-0114, Control No. 2004-250, which currently states:

LANDSCAPE WITHIN THE MEDIAN OF LYONS ROAD The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Lyons Road. 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 property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless property owner provides payment for maintenance as set forth in Paragraph d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)

c. At the property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the property owner 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 property owner. The property owner 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 Property Owner. (ONGOING: ENGINEERING - Eng)

d. Also, prior to the issuance of a Building Permit, and at the option of the property owner, the property owner may make a contribution to the County's Only Trees Irrigation and Sod (OTIS) program, unincorporated thoroughfare 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 Lyons Road. 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 - Eng)

Is hereby deleted. [Reason: No longer applicable]

10. 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 Lyons Road 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. 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 No. 10 of Resolution R-2008-0114, Control No. 2004-250)

11.The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING Eng) (Previous Engineering Condition No. 11 of Resolution R-2008-0114, Control No. 2004-250)

12.Prior to September 15, 2006, the property owner shall complete the funding for the construction for the improvements and construction identified in the Traffic Performance Standards Phasing Condition A and in B for that portion of West Atlantic Avenue from Starkey Road to Lyons Road plus the appropriate paved tapers. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Funding shall include any required right of way acquisition costs, construction plans, and all construction costs. (DATE: MONITORING - Eng) (Previous Engineering Condition No. 12 of Resolution R-2008-0114, Control No. 2004-250) [Note: COMPLETED per the Atlantic Avenue Agreement]

#### ENVIRONMENTAL

1.An Exotic Removal Management Plan, covering the conservation parcels, associated with the Dubois AGR PUD, shall be reviewed and approved by ERM prior to final DRC site plan approval. (DRO: ERM - ERM) (Previous condition Environmental 1 of Resolution R-2008-0114, Control 2004-250)

2.All Restricted Covenant Agreements and Conservation Easements for the Conservation Parcels, associated with the Dubois AGR PUD, shall be submitted to ERM for review and approval prior to recordation. (DRO: ERM- ERM)(Previous condition Environmental 2 of Resolution R-2008-0114, Control 2004-250)

#### HEALTH

1.Previous condition Health 2 of Resolution R-2008-114; Control 2004-250 which reads:

Prior to the issuance of a building permit, the property owner must submit results of a Phase II environmental Site Assessment that, at a minimum, includes soil testing, and groundwater testing when indicated, in the following areas of the site: vacant containment pad for the missing 1,000 gallon AST, the two 500-gallon AST, and the pump stations along the north, east, and south boundaries of the site. (BUILDING PERMIT: MONITORING-Health)

Is hereby deleted. [Reason: No longer applicable.]

2.Previous condition Health 3 of Resolution R-2008-114; Control 2005-250 which reads:

The property owner shall not develop any area of the site that is identified as contaminated or potentially contaminated as determined through environmental site assessment performed by a qualified professional, unless the property owner is in receipt of written comments from the Florida Department of Environmental Protection (FDEP) approving the assessment and any rehabilitation of the site. (ONGOING: CODE ENF-Health)

Is hereby deleted. [Reason: No longer applicable.]

3.Previous condition Health 4 of Resolution R-2008-114; control 2005-250 which reads:

Prior to final approval by the Development Review Officer, the property owner must provide information on the number and location of septic tank systems and wells on the site: clearly and accurately depict their location, and identify the well(s) that will be abandoned, and those, if any, that will be retained onsite. (DRO:HEALTH-Health)

Is hereby deleted. [Reason: No longer applicable.]

## LANDSCAPE - GENERAL

1.Landscape condition 1 of Resolution R-2008-0114, Control 2004-250, which currently states:

A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

- a. tree height: Fourteen (14) feet;
- b. trunk diameter: Three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

A minimum of fifty (50) percent of all (new and replacement) trees to be planted in the landscape buffers shall meet the following minimum standard at installation: Tree height: fourteen (14) feet. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

2.All palms required to be planted on the property by this approval, except on individual residential lots, shall meet the following minimum standards at installation:

- a. palm heights: Twelve (12) feet clear trunk;
- b. clusters: Staggered heights twelve (12) to eighteen (18) feet, and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape 2 of Resolution R-2008-0114, Control 2004-250)

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 Condition Landscape 3 of Resolution R-2008-0114, Control 2004-250)

4.Field adjustment of 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 Condition Landscape 4 of Resolution R-2008-0114, Control 2004-250)

## LANDSCAPE - PERIMETER

4.Landscaping Along the North Property Line (Abutting LWDD L-37 Canal R-O-W) condition 1 of Resolution R-2008-0114, Control 2004-250, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the north property line shall be upgraded to include:

- a. 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); and,

Landscaping Along the South, East, West property Line (Abutting LWDD L-38, E-2W Canal, and Lyons Road R-O-W'S) condition 1 of Resolution R-2008-0114, Control 2004-250, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the south, east and west property line shall be upgraded to include:

- a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

are hereby amended to read:

In addition to Code requirements, the proposed landscaping for the perimeter of the development area shall be upgraded to include: One (1) palm or pine for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

#### LAKE WORTH DRAINAGE DISTRICT

1.Lake Worth Drainage District (LWDD) Condition 1 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to platting and approval from the District for Technical Compliance, the owner shall convey an easement for the South 5 feet of the North 70 feet of Tracts 67-80, Sec 29/46/42, Palm Beach Farms Co. Plat No. 1 for the ultimate right-of-way for the L-37 Canal (Based on cross sections). (PLAT: ENG - LWDD)

Is hereby amended to read:

Prior to platting, approval from LWDD for Technical Compliance, or the issuance of any LWDD permits, the owner shall convey to LWDD either by warranty deed or exclusive easement deed, the South 5 feet of the North 70 feet of Tracts 67-80, Sec. 29/46/42, Palm Beach Farms Co. Plat No. 1 for the L-37 Canal Right-of-Way based on cross-sections. (PLAT: ENG-LWDD)

#### 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 Condition Palm Tran 1 of Resolution R-2008-0114, Control 2004-250)

2.Prior to Plat Recordation, 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. (PLAT: ENG - PalmTran) (Previous Condition Palm Tran 2 of Resolution R-2008-0114, Control 2004-250)

#### PLANNED DEVELOPMENT

1.Prior to 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: ENG/ COUNTY ATTY - Zoning) (Previous Condition PUD 1 of Resolution R-2008-0114, Control 2004-250)

2.PUD condition 2 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to final approval by the Development Review Officer (DRO), the site/regulating plans

shall be revised to indicate upgraded recreation amenities within each of the neighborhood parks. These additional amenities shall:

- a. be accessible from a minimum five (5) foot wide pathway composed of stamped concrete, paver blocks, or other improved surface;
- b. include a minimum of two (2) pedestrian benches;
- c. include a minimum of one (1) trash receptacle adjacent to each pedestrian bench;
- d. include a shade structure (eg. trellis, gazebo, pergola), tot lot, fitness station, rest station, or similar recreation amenity or other shade structure; and,
- e. details for all items indicated above shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning)

Is hereby deleted. [REASON: Approval of DOA-2009-4276 requesting to delete condition.]

3.PUD condition 3 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to final approval by the Development Review Officer (DRO), the master/site plans shall be revised to indicate a minimum of one (1) water fountain as a focal feature within lake tracts #2, #3, and #7. The location of each fountain shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: ULDC amendment Ord.2006-055 effective 11/28/06]

#### PLANNING

1.Condition Planning 1 of Resolution R-2008-0114, Control 2004-250, which currently states:

The PUD shall be limited to a maximum of 554 dwelling units and shall meet 60/40 AGR-PUD requirements. The balance of 168 additional units shall not be utilized on this site or transferred elsewhere. (DRO/ONGOING: PLANNING - Planning)

Is hereby amended to read:

The PUD shall be limited to a maximum of 602 dwelling units and shall meet 60/40 AGR-PUD requirements. The balance of 120 additional units shall not be utilized on this site or transferred elsewhere. (ONGOING: PLANNING - Planning)

2.Condition Planning 2 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to recordation of a plat for the Dubois Development Area Parcel, the property owner shall record boundary plats for all of the Preserve parcels, and include on said boundary plats, language limiting these parcels to Agricultural Reserve preservation uses as permitted by conditions in this Resolution, the Comprehensive Plan Objective 1.5, and Policies of the Future Land Use Element. As an alternative to satisfy the platting requirements pursuant to the ULDC, and provided the parcels are owned by the SFWMD and a conservation easement is recorded, the property owner may request the following:

- a. a ULDC text amendment to waive platting requirements for SFWMD owned preserve parcel; or
- b. a variance from platting requirements subject to the approval of the Board of Adjustment;

The title insurance requirement for the conservation easement may as an alternative, be a title opinion issued by a member of the Florida Bar, submitted in a form acceptable to, and subject to approval by the County Attorney. Provided the Board of County Commissioners adopts an ordinance amendment to the ULDC, whereby this preserve area does not require platting or a variance is granted, then any such platting requirement for the preservation parcel set forth herein shall not apply to the preservation parcel. (PLAT: PLANNING/ENG - Planning) (Previous Condition Planning 2 of Resolution R-2008-0114, Control 2004-250)

Is hereby deleted. [REASON: No longer applicable.]

3. Prior to recordation of a plat for the development area of this PUD, the property owner shall provide documentation to the Planning Division that the recordation of the proposed boundary plat for the Dubois Development parcel would not result in the creation of an illegal lot of record. The property owner shall provide documentation to the Planning Division and the County Attorney's Office that any lots created to achieve the configuration of the Dubois Development Parcel total a combined acreage of 299.18 acres, prior to dedications, and 280.91 acres with dedications. (PLAT: ENG/CO ATT - Planning) (Previous Condition Planning 3 of Resolution R-2008-0114, Control 2004-250)

4. Condition Planning 4 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to recordation of a plat for the development area of this PUD, the property owner shall provide documentation to the Planning Division that the recordation of the proposed boundary plat for all of the proposed Preservation parcels would not result in the creation of illegal lots of record. The property owner shall provide documentation to the Planning Division and the County Attorney's Office that any lots created to achieve the configuration of these Preservation parcels would not result in the creation of illegal lots of record and would at a minimum total: Johnson Preserve = 138.917 acres, Chico Preserve = 82.397 acres, PBC/Butts = 33.507 acres, and South Florida Water Management District = 168.634 acres. (PLAT: ENG/CO ATT - Planning) (Previous Condition Planning 4 of Resolution R-2008-0114, Control 2004-250)

Is hereby deleted. [REASON: No longer applicable.]

5. Condition Planning 5 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide an AGR/PUD Preserve and Development Parcel Location Map" as an addendum to the Master Plan. This addendum shall also indicate the location, access, acreage, and permitted uses within the preservation areas consistent with the Palm Beach County Comprehensive Plan and the Unified Land Development Code (ULDC). (DRO: PLANNING - Planning) (Previous Condition Planning 5 of Resolution R-2008-0114, Control 2004-250)

Is hereby deleted. [REASON: No longer applicable.]

6. Condition Planning 6 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), a management plan for all of the preservation areas shall be submitted. The property owner shall also submit a commitment letter indicating that these preservation properties will remain in their same state from the time of development approval to the final recordation of the conservation easement. The management plan shall contain a legal description and sketch of each parcel, an inventory of existing uses and environmental assets on each site, and a plan approved and enforced by the Department of Environmental Resources (ERM) for exotic removal and maintenance on each of the sites. (DRO: PLANNING/ERM - Planning) (Previous Condition Planning 6 of Resolution R-2008-0114, Control 2004-250)

Is hereby amended to read:

Prior to final approval by the Development Review Officer, submit a signed copy of the AGR Preserve Management Plans approved by ERM for each Agricultural Preserve parcel. (DRO-PLANNING-Planning)

7. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall add a Preservation Area/Proposed Uses" notes section on page 1 of

the site plan and include the following:

The preservation areas approved as part of this application shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

#### PERMITTED USES

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

#### NOT PERMITTED

- 7) Agricultural support uses such as processing facilities, farmworker housing and the like shall not be accommodated in the protected or preservation area of the AGR-PUD;
- 8) No residential units or farm residences (whether existing or proposed) shall be allowed within the preserve area. (DRO/ONGOING: PLANNING - Planning) (Previous Condition Planning 7 of Resolution R-2008-0114, Control 2004-250)

8. Condition Planning 8 of Resolution R-2008-0114, Control 2004-250, which currently states:

Prior to or concurrent with recordation of the plat for the developable area as identified in this application, for the Preserve parcels, the property owner shall either: 1) dedicate the land to Palm Beach County or another governmental entity such as the South Florida Water Management District; 2) record a restrictive covenant in a form acceptable to the Palm Beach County Attorney for the subject parcel; or 3) subject the parcel to a conservation easement, limiting the preserve parcel to an Agricultural Reserve preserve area in accordance with the Agricultural Reserve preserve provisions of the Comprehensive Plan. (PLAT: PLANNING/ENG - Planning) (Previous Condition Planning 8 of Resolution R-2008-0114, Control 2004-250)

Is hereby deleted. [REASON: No longer applicable; duplicative of Condition #9.]

9. Prior to plat recordation for the Dubois Development Area Parcel, the conservation easements for all of the Preservation parcels shall be recorded, as approved by the County Attorney's Office, Department of Environmental Resources Management, and the Planning Division.

a. The conservation easements for all of these preserve parcels shall contain:

- 1) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;
- 2) a list of permitted uses, uses not permitted, and prohibited activities.

b. Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENG/CO ATT/ERM - Planning) (Previous Condition Planning 9 of Resolution R-2008-0114, Control



2004-250)

10. Condition Planning 10 of Resolution R-2008-0114, Control 2004-250, which currently states:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to November 1st, 2009, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING-PLANNING/ENGINEERING/CTY ATTY - Planning) (Previous Condition Planning 10 of Resolution R-2006-2327, Control 2004-250)

Is hereby amended to read:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to the recordation of the Plat for the Development Parcel, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (PLAT: ENGINEERING/CTY ATTY - Planning)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

#### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD) (Previous Condition SCHOOL BOARD 1 of Resolution R-2008-0114, Control No. 2004-250)

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-2008-0114, Control No. 2004-250)

#### 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 Condition Utilities 1 of Resolution R-2008-0114, Control 2004-250)

#### 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)