

RESOLUTION NO. R-2010-0673

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA-2009-03922
(CONTROL NO. 2005-00452)
a Development Order Amendment
APPLICATION OF C Bruce Pearson
BY Cotleur & Hearing, Inc., AGENT
(Wyndsong Ranch 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 ABN/DOA-2009-03922 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 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 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 ABN/DOA-2009-03922, the petition of C Bruce Pearson, by Cotleur & Hearing, Inc., agent, for a Development Order Amendment to allow reconfiguration of the preliminary master plan, deletion of land area, reduction of units, and modify conditions of approval in the 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 April 22, 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	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 22, 2010.

Filed with the Clerk of the Board of County Commissioners on April 28, 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

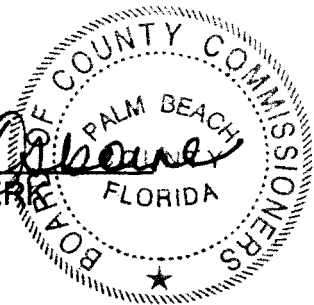


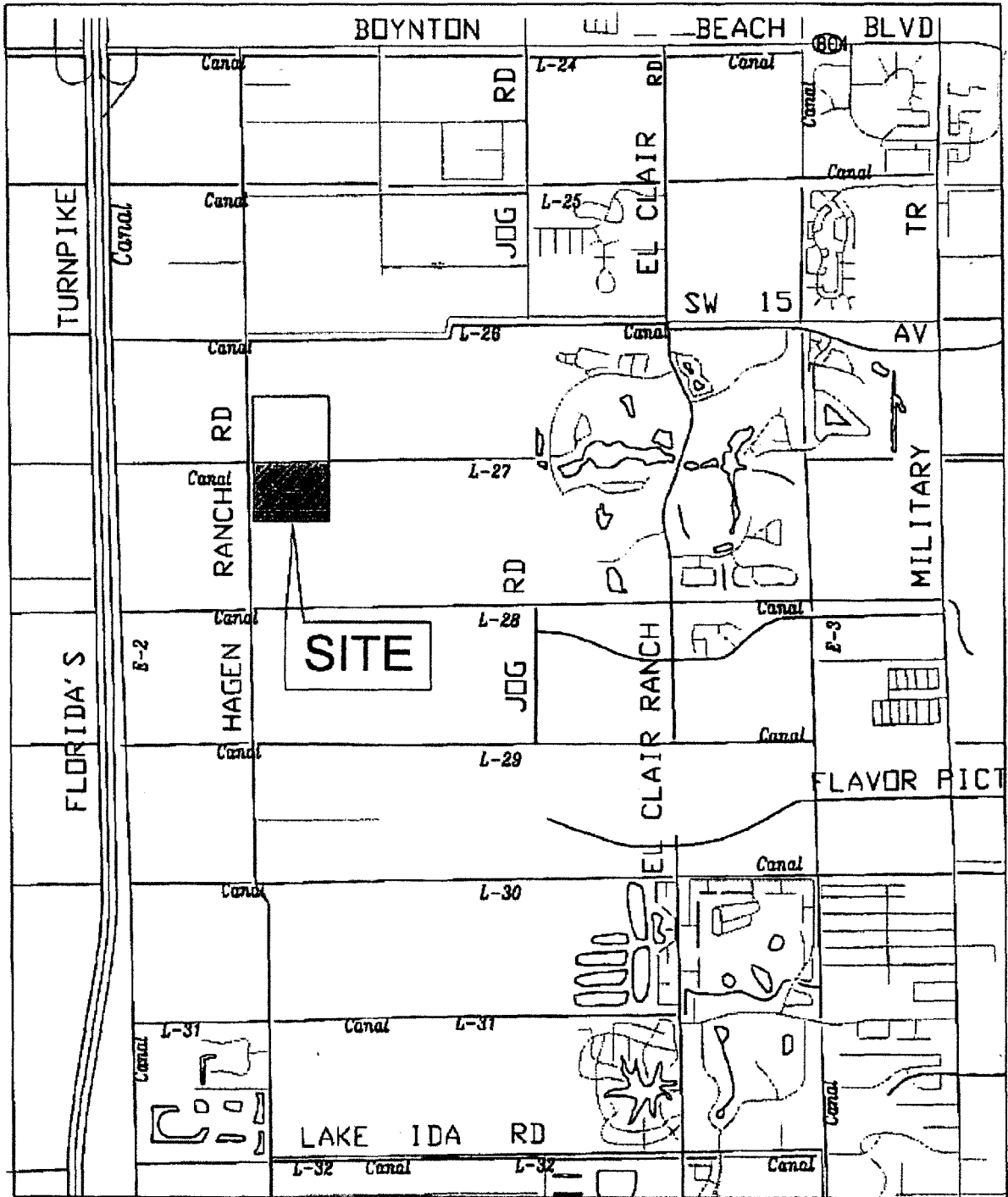
EXHIBIT A

LEGAL DESCRIPTION

TRACTS 72, 71 AND THE WEST 30 FEET OF TRACT 70, INCLUSIVE, BLOCK 58, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS AND EXCEPT THE NORTH 70 FEET THEREOF AND THE WEST 30 FEET OF SAID TRACT 72, BLOCK 58.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 389,421 SQUARE FEET OR 8.940 ACRES MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH



LOCATION MAP
SEC. 33, T. 45S, R. 42E

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2006-0522 (Control No. 2005-452), and R-2006-0742 (Control No. 2005-452) 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. Previous All Petitions Condition 1 of Resolution R-2006-0522, Control No. 2005-452, which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved master plan is dated January 13, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission 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 January 15, 2010. 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)

ARCHITECTURAL REVIEW

1. Previous Architectural Review Condition 1 of Resolution R-2006-0522, Control 2005-452 which currently states:

Prior to final approval by the Development Review Officer (DRO), architectural elevations for any project signage, gatehouse, school bus shelter, entry feature, and cabana/pool area shall be submitted for review and approval by the Architectural Review Section. All elevations shall be:

- a) given similar architectural treatment that is generally consistent with the architectural character of the residential units; and,
- b. reflected on the Regulating Plan. (DRO: ARCH REVIEW - Zoning)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), architectural elevations for any project school bus shelter, gazebo, and cabana/pool area shall be submitted for review and approval by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

ENGINEERING

1. Previous Condition E1 of Resolution R-2006-522, Control No. 2005-452, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of

Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a.No Building Permits for the site may be issued after December 31, 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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2.Previous Condition E2 of Resolution R-2006-522, Control No. 2005-452, which currently states:

On or before June 1, 2007 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 Hagen Ranch Road along the property frontage; and a maximum 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)

Is hereby deleted. [Reason: No Longer Required]

3.Landscape within the Median of Hagen Ranch Road

a. The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hagen Ranch 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 Commissioner's 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.

b. 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)

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

d. 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.

e. Alternately, at the option of the property owner, and prior to the issuance of a Building Permit, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hagen Ranch 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. (Previous Condition E3 of Resolution R-2006-522, Control No. 2005-452) [Note: COMPLETED]

4. 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 Condition E4 of Resolution R-2006-522, Control No. 2005-452)

HEALTH

1. Prior to the issuance of a Building Permit, the property owner shall provide written verification issued by the Florida Department of Environmental Protection affirming that environmental contamination assessment and if necessary cleanup of the site are satisfactorily addressed, thus reducing the potential for exposure of construction workers and future residents to any contaminated soil or polluted water. (BLDG PERMIT: MONITORING--Health) (Previous condition Health 1. of Resolution R2006-522; Control 2005-452)

2. Prior to the issuance of a Building Permit, the property owner must submit results of an asbestos containing materials (ACM) survey to the Palm Beach County Health Department. (BLDG PERMIT: MONITORING--Health) (Previous condition Health 2. of resolution R2006-522; Control 2005-452)

3. Prior to the final plan approval by the Development Review Officer, the property owner must submit all Site Assessment Reports and Remedial Action Plan(s) to the Palm Beach County Health Department. All such reports and plans must be signed and sealed by the appropriate registered professional pursuant to Rule 62770.690, FAC (DRO:HEALTH-Health) (Previous condition Health 3. of Resolution R2006-522; control 2005-452)

LANDSCAPE - GENERAL

1. 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 shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape Standards1 of Resolution R-2006-0522, Control No.. 2005-452)

2. Previous Condition Landscape Standards 2 of Resolution R-2006-0522, Control No. 2005-452 which currently states:

A minimum of seventy-five (75) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

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

requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

Is hereby amended to read:

A minimum of seventy-five (75) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet;
- b. trunk diameter: to meet grade and standards;
- 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 Condition Landscape Standards 2 of Resolution R-2006-0522, Control No. 2005-452)

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 Standards 3 of Resolution R-2006-0522, Control No. 2005-452)

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 Condition Landscape Standards 4 of Resolution R-2006-0522, Control No. 2005-452)

LANDSCAPE - PERIMETER-ZONING - LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING HAGAN RANCH ROAD)

5. In addition to code requirements and the proposed landscaping buffer along the west property line shall be upgraded to include:

- a. a continuous three (3) foot high berm;
- b. an opaque concrete wall to be located on the plateau of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. Shop drawings of the wall shall be reviewed and approved by the Arch Review/Landscape Section prior to the issuance of a building permit. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition Landscape -1 of Resolution R-2006-0522, Control No. 2005-452)

PALM TRAN

1. Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, 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 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 -Palm Tran) (Previous Condition MASS TRANSIT 2 of Resolution 2006-522, Control No. 452)

2. 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 MASS TRANSIT 1 of Resolution R-2006-522, Control No. 2005-452)

PLANNING

1. Condition Planning 1. of Resolution R-2006-522, Control No. 2005-452, which currently states:

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 the following:

- a. Guarantees the attainability of 30% of the requested TDR units (the number of units calculated shall be rounded up to the nearest dwelling unit) for a period of ten years (ownership) twenty years (rental) to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and
- b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits.
- c. The attainable units are not required to be of similar square footage or provide premium features found in market rate units. (DRO: COUNTY ATTY- Planning)

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

2. Condition Planning 2. of Resolution R-2006-522, Control No. 2005-452, which currently states:

The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of this development, that the project has a minimum of 30% of the requested TDR units earmarked as attainable housing units and any residents wishing to reside in a unit that has been earmarked as an attainable housing unit shall qualify for eligibility. Every deed of sale for each of the attainable units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). The property owner is responsible for disclosure of the location of these attainable units prior to the sale of any units. On an annual basis, beginning April 1, 2007, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Attainable Housing declaration of restrictive covenants, the sales document disclosure, and the deed of sale restriction. (DATE: MONITORING - Planning)

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

3. Condition Planning 3. of Resolution R-2006-522, Control No. 2005-452, which currently states:

Prior to final approval by the Development Review Officer (DRO), the property owner shall:

- a. provide a donation of \$50,000 per attainable unit, as required in Planning Condition 1; or,
- b. provide the required attainable units as required in an off-site project location acceptable to the DRO. (DRO: PLANNING-Planning)

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

SCHOOL BOARD

1. 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 1 of Resolution R-2006-0522, Control No. 2005-452)

2. 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 2 of Resolution R-2006-0522, Control No. 2005-452)

UTILITIES

1.If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBCWUD-PBCWUD) (Previous Utilities Condition 1 of Resolution R-2006-0522).

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)