

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: July 10, 2007

Consent

Regular

Workshop Public Hearing

Department:

Submitted By: Engineering and Public Works

Submitted For: Right-of-Way Acquisition Section

Project No. 1993901

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to Approve: A Termination of Declaration of Maintenance Covenants.

Summary: Approval of this action will provide for the termination of the Declaration of Maintenance Covenants previously recorded by the property owner, Herbert F. Kahlert, individually, and as Personal Representative of the Estate of Heinz Kahlert and Karl A. Kahlert et al. In accordance with the requirements of Condition E 3 of Palm Beach County Zoning Petition PDD 1999-035, the owner was required to install and maintain landscaping and related items within the median strip of Jog Road at its intersection with Woolbright Road and file this covenant. This median strip on the owner's frontage is limited to a concrete traffic separator. The Declaration of Maintenance Covenants was recorded in the Official Records of the Clerk of Palm Beach County, Official Record Book 12968 Page 0912. Subsequently, in October of 2004, the Board of County Commissioners of Palm Beach County (BCC) directed staff not to require developers to install median separator cutouts any longer. This ended the requirement of median maintenance in this case and the Median Maintenance Covenants became unnecessary.

District: 5 (PK)

Background and Justification: The property owner and petitioner (PDD1999-035) complied with the requirement of zoning condition E 3 by signing and recording a Declaration of Maintenance Covenants in Official Record Book 12968 Page 0912. These covenants required the owner to install and maintain landscaping and related items within the median strip of Jog Road, contiguous to the frontage of the owner's property, at its intersection with Woolbright Road. In this instance the property frontage on Jog Road was limited to a concrete traffic separator and would have entailed the median separator cutouts that were the standard at the time. Subsequently, in October of 2004, the Board of County Commissioners of Palm Beach County (BCC) directed staff not to require developers to install median separator cutouts any longer. This ended the requirement of median maintenance in this case and the Median Maintenance Covenants became unnecessary. The property owner has requested that this encumbrance be removed from the record title. The Termination of Maintenance Covenants will remove this encumbrance and will conform to BCC policy. Staff recommends this action.

Attachments:

1. Location Map
2. Declaration of Maintenance Covenants
3. Termination of Declaration of Maintenance Covenants

Recommended by:

Division Director

Date

Approved by:

A. J. Webb
County Engineer

6/26/07
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
Capital Expenditures	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Operating Costs	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
External Revenues	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
Program Income (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
In-Kind Match (County)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
NET FISCAL IMPACT	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>
ADDITIONAL FTE POSITIONS (Cumulative)	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>	<u>-0-</u>

Is Item Included In Current Budget? Yes N/A No

Budget Account No.: Fund _____ Agency _____ Org. _____ Object _____
Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact: N/A

No FISCAL IMPACT. Savings of \$1,500 may be available in operating funds

C. Departmental Fiscal Review: *R.D. Ward 6/15/07*

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

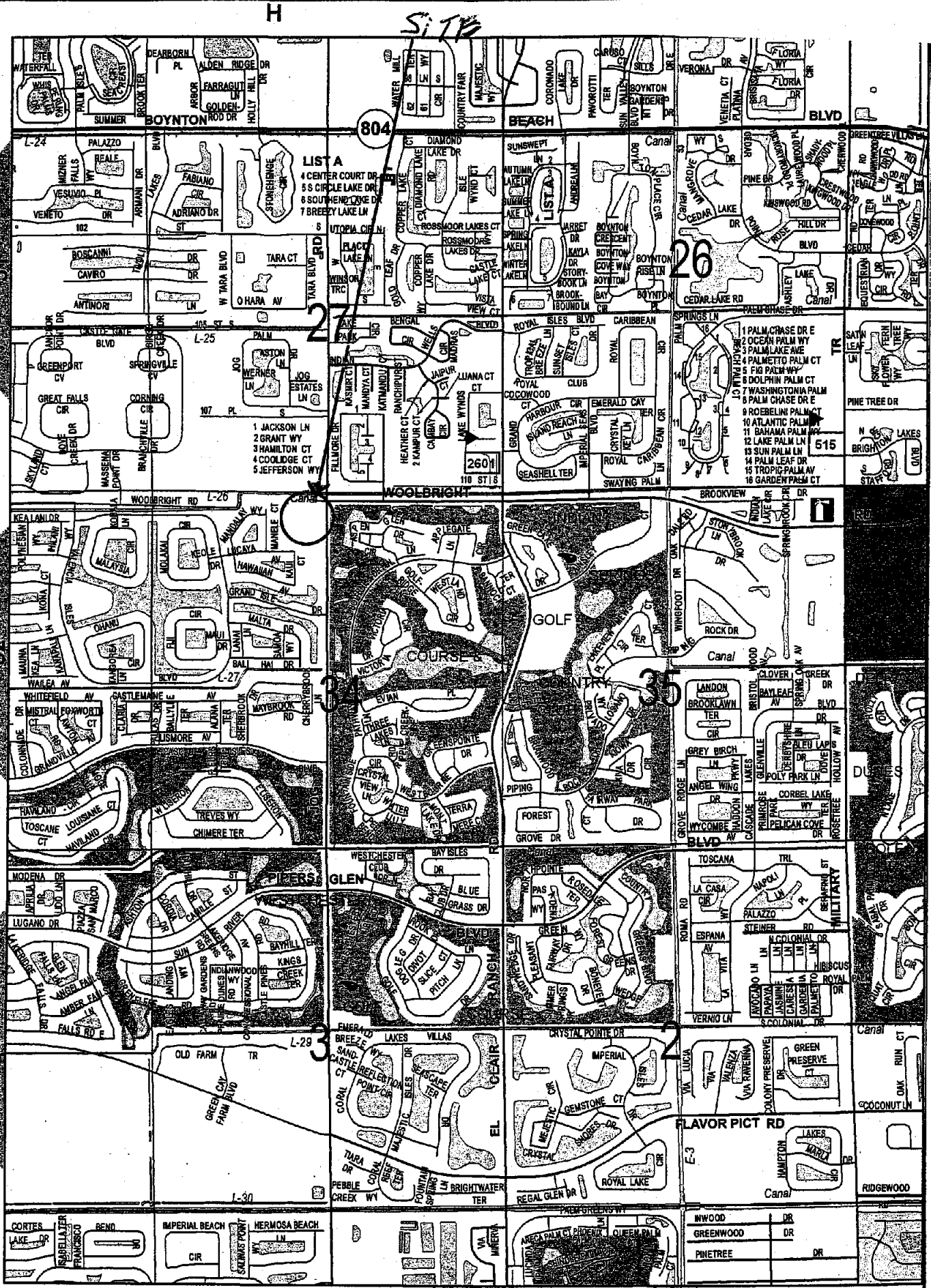
[Signature] 6/27/07
OFMB
[Stamp] 6/27/07
[Signature] 6/28/07
Contract Dev. and Control
E. Jones 6/28/07

B. Legal Sufficiency:

Paul F. J. [Signature] 6/28/07
Assistant County Attorney

C. Other Department Review:

Department Director





Prepared By:
Leo L. Bentz, Esquire
Bloch & Minerley, PL
908 North Federal, Suite 412
Boca Raton, FL 33432

ATTACHMENT 2

DECLARATION OF MAINTENANCE
COVENANTS
Page 1 of 2

Folio # 00-42-45-34-00-000-3020

DECLARATION OF MAINTENANCE COVENANTS

THIS DECLARATION, made this 5TH day of October, 2001, by Herbert F. Kahlert, individually and as Personal Representative of the Estate of Heinz Kahlert and Karl A. Kahlert and Herbert F. Kahlert, as Co-Trustees of Trust A under the Will of Fritz M. Kahlert, as owners of the land hereinafter described, (hereinafter jointly referred to as "Declarant"), whose address is 1555 Palm Beach Lakes Boulevard, Suite 1208, West Palm Beach, Florida 33401.

WITNESSETH

WHEREAS, Declarant is the owner in fee simple of the real property (the "Property") described as follows:

The East Half (E 1/2) of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 34, Township 45 South, Range 42 East, Palm Beach County, Florida, less and except the Right of Way for Jog Road as shown in the instrument recorded in Official Records Book 7542, Page 1212 and the Right of Way for a portion of Woolbright Road as shown in the instrument recorded in Official Records Book 10468, Page 1908.

WHEREAS, Declarant, pursuant to Condition of Approval E. 3. of the Palm Beach County Zoning Petition PDD99-035, intends to install landscaping within the median strip abutting the right-of-way of the Property.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, Declarant hereby declares the following as and to be a covenant running with the land:

1. Declarant agrees to install paver cut-outs, landscaping and irrigation in the median strip abutting the right-of-way adjacent to the Property in conjunction with the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department August 1999 Streetscape Standards.

DECLARATION OF MAINTENANCE COVENANTS

2. All required median paver cut-outs, landscaping and irrigation system shall be installed at the expense of Declarant. All pavers, landscaping and irrigation system shall be the perpetual maintenance obligation of Declarant and its successors, heirs and assignees as owners of the land described herein. Perpetual maintenance includes, but is not limited to, maintenance of pavers, irrigation system, pruning, fertilizing, and alternative watering of Xeriscape landscaping material during periods of drought in order to maintain healthy plant material. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards.

IN WITNESS WHEREOF, this instrument is executed on the date and year first above written.

Signed in the presence of the undersigned witnesses:

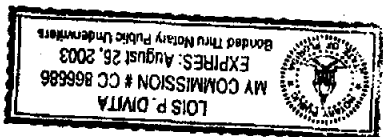
DECLARANTS:

Witness: Lois P. Divita
Lois P. Divita
Witness: Lois P. Divita
Lois P. Divita
Witness: Lois P. Divita
Lois P. Divita
Witness: Lois P. Divita
Lois P. Divita

Herbert F. Kahlert
HERBERT F. KAHLERT, as Personal Representative of the Estate of Heinz Kahlert and as Co-Trustee of Trust A under the Will of Fritz M. Kahlert and individually
Karl A. Kahlert
KARL A. KAHLERT, as Co-Trustee of Trust A under the Will of Fritz M. Kahlert

State of Florida
County of Palm Beach

BEFORE ME, the undersigned authority, this 5th day of October, 2001, personally appeared Herbert F. Kahlert, individually and as Personal Representative of the Estate of Heinz Kahlert and Karl A. Kahlert and Herbert F. Kahlert, as Co-Trustees of Trust A under the Will of Fritz M. Kahlert, who in my presence executed the foregoing instrument and who are personally known to me or who provided their _____ as identification.



Lois P. Divita
NOTARY PUBLIC
My Commission Expires

LOIS P. DIVITA

Prepared By:
Leo L. Bentz, Esquire
980 North Federal, Suite 412
Bloch & Minerley, PL
Boca Raton, FL 33432

TERMINATION OF DECLARATION OF MAINTENACE COVENANTS

ORIGINAL DECLARATION. Pursuant to Condition of Approval E. 3. of the Palm Beach County Zoning Petition PDD99-035, Herbert F. Kahlert, individually and as Personal Representative of the Estate of Heinz Kahlert and Karl A. Kahlert and Herbert F. Kahlert, as Co-Trustees of Trust A under the Will of Fritz M. Kahlert, as the "Declarant", whose address is 500 South Australian Ave. Suite 710, West Palm Beach, Florida 33401, imposed certain median maintenance obligations upon the property hereinafter described. Those obligations are set forth in that Declaration of Maintenance Covenants recorded October 9, 2001 in Official Records Book 12968, Page 0912, of the Public Records of Palm Beach County:

Parcels A, B, C, and D of the subdivision of WOOLBRIGHT JOG MUPD, as recorded in Plat Book 92, Page 83, Public Records of Palm Beach County

formerly known as:

The East Half (E 1/2) of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of the Northwest Quarter (NW 1/4) of Section 34, Township 45 South, Range 42 East, Palm Beach County, Florida, less and except the Right of Way for Jog Road,

WITNESSETH

WHEREAS, Palm Beach County has made other roadway and median improvements on the portion of Jog Road contiguous to the property described above and no longer needs the median maintenance as originally desired.

NOW, THEREFORE, in consideration of the premises and covenants herein contained, the County of Palm Beach hereby releases the above described property and the owners thereof from any and all the obligations and covenants set forth in said Declaration of Maintenance Covenants and agrees that the recording of this Termination document in the Public Records of Palm Beach County shall terminate and cancel that certain Declaration of Maintenance Covenants recorded October 9, 2001 in Official Records Book 12968, Page 0912, Public Records of Palm Beach County.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairperson or Vice-Chair of said Board, the day and year aforesaid.

ATTEST: PALM BEACH COUNTY, FLORIDA, BY
SHARON R. BOCK, CLERK & COMPTROLLER ITS BOARD OF COUNTY COMMISSIONERS

BY: _____
Clerk & Comptroller (or Deputy Clerk)

BY: _____
Addie L. Greene, Chairperson

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

This instrument reviewed by:
Paul King, Assistant County Attorney
Palm Beach County
P.O. Box 21229
West Palm Beach, FL 33416

BY: _____
County Attorney

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this _____ day of _____, 2007 by Chairman, Board of County Commissioners, who is personally known to me or who has produced as identification and who did not take an oath.

Typed name of Acknowledger
Deputy Clerk