

RESOLUTION NO. R-88-2063

RESOLUTION APPROVING ZONING PETITION NO. **85-64(A)**
SPECIAL EXCEPTION AND MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF HUMMING BIRD ASSOCIATES, INC.

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

WHEREAS, the notice and hearing requirements as provided for in Chapter 402.5 of the Palm Beach County Zoning Code Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 85-64(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its public hearing conducted on April 29, 1988; and

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

WHEREAS, this approval is subject to Zoning Code Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This proposal is consistent with the requirements of **the** Comprehensive Plan and local land development regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 85-64(A) the petition of HUMMING BIRD ASSOCIATES, INC. for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR SEMINOLE LAKES PLANNED UNIT DEVELOPMENT, WITH A CONCURRENT MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land lying in:

Parcel A

All of Section 24, less the east 200 feet thereof, and that part of the southeast 1/4 of Section 13, lying south of West Lake Park Road (formerly known as Kelsey City West Road), less the east 200 feet of said Section 13, lying therein, all in Township 42 South, Range 41 East, less however, the following described parcel:

Commencing at the northeast corner of said Section 24; thence

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north 88 degrees 43' 31" west, along the north line of said Section 24, a distance of 200.01 feet to an intersection with the west right-of-way line of State Road No. 7 and the point of besinnins; thence south 01 degrees 44' 12" west along said west right-of-way line, being a line 200 feet westerly of and parallel to the east line of said Section 24, a distance of 2403.99 feet to a point of curvature, and a point of cusp, of a curve concave southwesterly, and having a radius of 1860.00 feet, and a radial bearing of north 88 degrees 15' 48" west; thence northerly, along arc of said curve, through a central angle of 33 degrees 37' 43", a distance of 1091.69 feet; thence north 31 degrees 53' 31" west, a distance of 1006.66 feet to a point of curvature of a curve concave northeasterly, and having a radius of 1740.00 feet; thence northerly, along the arc of said curve, through a central angle of 19 degrees 05' 22", a distance of 579.72 feet to an intersection with the north line of said Section 24, at a point 1304.29 feet west of the said northeast corner of Section 24; thence continue northerly along the arc of said curve, through a central angle of 03 degrees 19' 38", a distance of 101.05 feet to the point of tangency of said curve; thence north 09 degrees 28' 31" west, a distance of 506.21 feet to the intersection with the south line of Lake Park West Road, as described in that certain easement, Deed Book 974, pages 319 through 321, thence south 88 degrees 43' 31" east, along said south line, a distance of 1225.95 feet to an intersection with said west right-of-way line of State Road No. 7: thence south 01 degree 48' 24" west, along said right-of-way line, being a line 200 feet westerly of and parallel to the east line of the southeast 1/4 of said Section 13, a distance of 594.29 feet; thence south 01 degree 44' 12" west, continuing along said right-of-way line, a distance of 1.73 feet to the point of beginning.

Road Parcel A

The easterly 120.00 feet of the following described parcel:

All of Section 24, less the east 200 feet thereof, and that part of the southeast 1/4 of Section 13, lying south of West Lake Park Road (formerly known as Kelsey City West Road), less the east 200 feet of said Section 13, lying therein, all in Township 42 South, Range 41 East, less however, the following described parcel:

Commencing at the northeast corner of said Section 24, thence north 88 degrees 43' 31" west, along the north line of said section 24, a distance of 200.01 feet to an intersection with the west right-of-way line of State Road No. 7 and the point of beginning; thence south 01 degrees 44' 12" west along said west right-of-way line, being a line 200 feet westerly of and parallel to the east line of said Section 24, a distance of 2403.99 feet to a point of curvature, and a point of cusp, of a curve concave southwesterly, and having a radius of 1860.00 feet, and a radial bearing of north 88 degrees 15' 48" west; thence northerly, along arc of said curve, through a central angle of 33 degrees 37' 43", a distance of 1091.69 feet: thence north 31 degrees 53' 31" west,

a distance of 1006.66 feet to a point of curvature of a curve concave northeasterly, and having a radius of 1740.00 feet; thence northerly, along the arc of said curve, through a central angle of 19 degrees 05' 22", a distance of 579.72 feet to an intersection with the north line of said Section 24, at a point 1304.29 feet west of the said northeast corner of Section 24; thence continue northerly along the arc of said curve, through a central angle of 03 degrees 19' 38", a distance of 101.05 feet to the point of tangency of said curve; thence north 09 degrees 28' 31" west, a distance of 506.21 feet to the intersection with the south line of Lake Park West Road, as described in that certain easement, Deed Book 974, pages 319 through 321, thence south 88 degrees 43' 31" east, along said south line, a distance of 1225.95 feet to an intersection with said west right-of-way line of State Road No. 7; thence south 01 degree 48' 24" west, along said right-of-way line, being a line 200 feet westerly of and parallel to the east line of the southeast 1/4 of said Section 13, a distance of 594.29 feet; thence south 01 degree 44' 12" west, continuing along said right-of-way line, a distance of 1.73 feet to the point of beginning; being located on the southwest corner of the intersection of West Lake Park Road and the proposed State Road No. 7 Extension (US 441), in a RT-Residential Transitional Zoning District, was approved as advertised, subject to the following conditions:

1. The developer shall comply with all conditions of previous approval, unless expressly modified herein.
2. The 120 Category C units within the recreational/commercial site shall be limited to three (3) stories in height.
3. All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for formation of a single "Master Property Owners' Association" and automatic membership in the "Master Association" by any party holding title to any portion of the property included in the planned unit development.
4. Condition No. 8 of Zoning Petition No. 85-64, Resolution No. R-85-1232 adopted August 13, 1985, which presently states:
 - "8. Northlake Boulevard (Alternate State Road 7 to a point approximately 200 feet west of the intersection of Northlake Boulevard and Beeline Highway). The property owner shall provided:
 - a) A feasibility study to cost no more than \$50,000. shall be completed within six (6) months of the approval of the resolution by

the Board of County Commissioners. Upon completion and receipt of the Engineering feasibility study, the County Engineer shall provide written notice to the Developer of the County's election to proceed with the Northlake Boulevard design and construction project or in the alternative this property owner shall provide the addition of two (2) lanes of road construction to Alternate State Road 7 from Northlake Boulevard on the south to P.G.A. Boulevard, on the north pursuant to Palm Beach County Zoning Petition 84-113 (R-85-36 Ibis Landing) as provided for in Condition No. 9(a).

- b) In the event of County's election to proceed with the Northlake Boulevard design and road construction project, Developer shall provide to County the required monies to pay for the engineering design and governmental permitting for the project within forty-five (45) days of receipt of written confirmation from County that County has entered into an agreement for engineering services for the design and permitting project.

Developer shall further provide Surety acceptable to the County Engineer's office in an amount not to exceed 1.6 million dollars (less sums advanced for the road design and permitting project referenced above) within forty-five (45) days of receipt of written notice from County that County will let the contract within a 90 day period for such road improvements or prior to the issuance of a building permit, whichever shall first occur."

Is hereby amended to read as follows:

"The developer shall provide construction plans as a four-lane ultimate section and construct a four-lane divided roadway on Northlake Boulevard 400 feet west of the project's entrance road east to Beeline Highway (SR 710), plus appropriate tapers. This shall include the dedication of right-of-way for the ultimate expanded intersection on the south side of Northlake Boulevard and State Road 7. The developer shall further provide surety acceptable to the County Engineer's office (within one [1] year of the adoption date of the amended resolution of the project's approval), for an amount not to exceed \$1.6 million. This \$1.6 million surety is to be applied toward the surety

respective sites shall be delivered to the Palm Beach County Board of County Commissioners within twenty-four (24) months of the effective date of the Resolution of approval of the subject Planned Unit Development by the Board of County Commissioners."

Is hereby amended to read as follows:

"Transfer of title and Warranty Deeds to the school/community park site, survey showing and describing the metes and bounds of the respective sites shall be delivered to the Palm Beach County Board of County Commissioners within twenty-four (24) months of the effective date of the amended Resolution of approval of the subject Planned Unit Development by the Board of County Commissioners."

13. Condition No. 20 of Zoning Petition No. 85-64, Resolution No. R-85-1232 adopted August 13, 1985, which presently states:

"20. This project shall be limited to a total of 500 building permits until road construction contract has been let for Northlake Boulevard as referenced above, or two (2) lanes have been added to Alternate State Road 7 (to provide a total of four lanes) from Northlake Boulevard to PGA Boulevard.

The project shall not proceed beyond 350 building permits of the total 500 building permits until the developer provides an agreement from the Ibis Landing project (Palm Beach County Zoning Petition 84-113(A)) that Ibis Landing project will not proceed beyond 550 building permits of a total of 700 building permits previously approved for that project until either of the above road construction contracts (four-laning of Northlake Boulevard from Alternate State Road 7 to Beeline Highway or four-laning of Alternate State Road 7 from Northlake Boulevard to PGA Boulevard) has been let."

Is hereby amended to read as follows:

"This project shall be limited to a total of 500 residential building permits until road construction contract has been let for Northlake Boulevard as referenced in Condition No. 4 of Petition No. 85-64(A).

14. Condition No. 21 of Zoning Petition No. 85-64, Resolution No. R-85-1232, adopted August 13, 1985, which presently states:

posting requirement for Northlake Boulevard construction outlined in Condition **No. 7** of Ibis Landing Planned Unit Development (Zoning Petition No. **84-113 (A)**) ."

5. Condition No. **9** of Zoning Petition **No. 85-64**, Resolution No. **R-85-1232**, adopted August **13, 1985**, which presently states:

"9. Alternate State Road **7** (Northlake Boulevard to PGA Boulevard). In the event County determines the Northlake Boulevard construction project provided for in condition **8** to be unfeasible, the Developer shall provide:

- a) Within forty-five (**45**) days of receipt of written notice from County to Developer that the construction plans for Alternate State **Road 7** as a 2 lane section (expandable to a six-lane section), from PGA Boulevard to Northlake Boulevard have been accepted by the County, that a minimum of **120** feet of right-of-way for Alternate State Road **7** has been obtained for this road construction project **and** that a construction project contract for the contemplated work has been executed by the Developer of Ibis Landing (Petition **No. 84-113**), Developer shall provide Surety acceptable to the County Engineer's office in an amount necessary to construct two (**2**) additional lanes for **Alternate State Road 7** from PGA Boulevard **on the** north to Northlake Boulevard on the south, said construction work to be coincidental with the construction of the initial two-lane section required **by** Petition **84-113.**"

Is hereby deleted.

6. Condition **No. 10** of Zoning Petition **No. 85-64**, Resolution No. **R-85-1232** adopted August **13, 1985**, which presently states:

"10. Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional **\$159,654.00** toward Palm Beach County's existing Roadway Improvement Program, these total funds of **\$798,271.00** to be paid prior to July **1, 1989**.

Credit for this Impact Fee shall be given for all road construction costs as outlined **in** condition numbers **8** and **9.**"

Is hereby amended to read **as** follows:

"Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$159,654.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of \$798,271.00.

Credit for this Impact Fee shall be given for all road construction costs as outlined in Condition No. 4 of Petition No. 85-64(A)."

7. Condition No. 12 of Zoning Petition No. 85-64, Resolution No. R-85-1232 adopted August 13, 1985, which presently states:

"12. The property owner shall construct, concurrent with the construction of the project's drive onto State Road 7 and Northlake Boulevard, left and right turn lanes on all approaches."

Is hereby amended to read as follows:

"The property owner shall construct, concurrent with the construction of the project's drive onto Northlake Boulevard:

- a) left turn lane, east approach
- b) left and right turn lanes, south approach
- c) right turn lane, west approach

The above referenced turn lanes shall be replaced when Northlake Boulevard is completed as a four-lane section. The property owner shall further construct at the time Alternate SR 7 is constructed to connect with the project's drive onto Alternate SR 7:

- a) right turn lane, north approach
- b) left turn lane, south approach
- c) left and right turn lanes, west approach

The property owner shall further construct, at the intersection of Northlake Boulevard and State Road 7 at the time State Road 7 is constructed:

- a) two through lanes and a single left turn lane, east approach
- b) separate left and right turn lanes, south approach

Expanded right-of-way shall be dedicated for the intersection of the project's drive and State Road 7.

8. Condition No. 14 of Zoning Petition No. 85-64, Resolution No. R-85-1232, adopted August 13, 1985, which presently states:

"14. The property owner shall provide Palm Beach County with a road drainage easement with sufficient retention/detention capacity through this project's internal lake system to legal positive outfall for the road drainage of Northlake Boulevard and State Road 7. This drainage easement shall be subject to all governmental agency requirements."

Is hereby amended to read as follows:

"If required by the County Engineer, the property owner shall provide to Palm Beach County a road drainage easement within the project's internal lake system which is adjacent to the property capable of accommodating all runoff of those segments of Northlake Boulevard and Alternative State Road 7 along the property frontage and, for a maximum 400 foot distance each side of the property boundary lines along Northlake Boulevard and Alternate State Road 7. The drainage system within the project shall have sufficient retention/detention capacity to meet the stormwater discharge requirements of the applicable County Control District and South Florida Water Management District, The design of the system shall assume the ultimate Thoroughfare Plan section road drainage runoff."

9. Condition No. 16 of Zoning Petition No. 85-64, Resolution No. R-85-1232 adopted August 13, 1985, which presently states:

"16. Prior to certification by the Site Plan Review Committee, the Master Plan shall be amended to delete the 13.8 acres at the northeast corner of the project and the Planned Unit Development commercial area shall be relocated to the Golf Club/Village commercial parcel located at the intersection of the south property line of the project and the main north/south internal access road for the project. The commercial site shall be limited to a maximum of 60,000 square feet of gross leasable space.**"

Is hereby deleted.

10. Condition No. 17 of Zoning Petition No. 85-64, Resolution No. R-85-1232 adopted August 13, 1985, which presently states:

"17. No onsite water or sewage system shall be provided."

Is hereby amended to read as follows:

"Provision of water and sewer services to the subject site will be via the Palm Beach County Water Utilities Department from the utility plant to be located on the Civic Site in the southwest portion of the property."

11. Condition No. 18 of Zoning Petition No. 85-64 (Resolution No. R-85-1232 adopted August 13, 1985) which presently states:

"18. Petitioner shall dedicate to the Board of County Commissioners a 25 acre civic site to be located in Section 24, Township 42S, Range 41E contiguous and adjacent to the previously designated twenty-five (25) acre school site provided by Petition 84-113.

The petitioner agrees that these sites shall be used for school or park recreation facilities at the discretion of the Board of County Commissioners. If these sites are not used for school or park/recreation facilities, they shall revert to the petitioner.::

Is hereby amended to read as follows:

"The Petitioner shall dedicate to the Board of County Commissioners a 25 acre civic (community park/school) site to be located in Section 24, Township 42S, Range 41E contiguous and adjacent to the previously designated twenty-five (25) acre school site provided by Petition 84-113, Resolution No. 85-36.

The petitioner agrees that these sites shall be used for school park/recreation facilities at the discretion of the Board of County Commissioners. If these sites are not used for school or park/recreation facilities, they shall revert to the petitioner."

12. Condition No. 19 of Zoning Petition No. 85-64 (Resolution No. R-85-1232 adopted August 13, 1985) which presently states:

"19. Transfer of title and Warranty Deeds to both the school site and the civic/park site, surveys showing and describing the metes and bounds of the

"21. The above referenced school and park sites shall be provided legal positive outfall into the Seminole Lakes P.U.D. retention lakes."

Is hereby amended to read as follows:

"The above referenced school, park., and civic/public utility sites shall be provided legal positive outfall into the Seminole Lakes Planned Unit Development retention lakes."

15. Surety required for the off-site road improvements **as** outlined in Condition Nos. 4 and 7 of Petition **No. 85-64(A)** and Condition **No. 13** of Resolution No. R-85-1232 shall be posted with the Office of the County Engineer within **12** months of the adoption of the amended resolution of approval of the subject planned unit development by the Board of County Commissioners.
16. Prior to master plan certification, the petitioner shall amend the master plan to indicate a maximum **two** (2) acre commercial tract which satisfies **the** requirements of Zoning Code Section **500.21.L.5**.
17. Palm Beach County shall determine the final alignment for that portion of State Road 7 within the planned unit development on or before August 1, 1988 and the petitioner shall submit, within thirty days thereafter, the following:
 - a. A legal description for the parcel of land located in the northeast portion of the planned unit development that is bounded on the north by Northlake Boulevard, on the east by the existing **200** foot right-of-way, and on the south and west by the east line **of** the realigned State Road 7.
 - b. A revised legal description and survey for **the** planned unit development which excludes **the** parcel of land described above.
18. Prior **to** certification, the master plan shall **be** amended to delete the parcel of land described in Condition **No. 17(a)** above.
19. A master plan shall **be** filed and certified within one **(1)** year of the adoption **of** the resolution by the Board of County Commissioners, or the project shall **be** subject to review by the Board of County Commissioners, pursuant to Section **401.2** of the Zoning Code, **This** condition shall not be subject to administrative time extensions pursuant to Section **402.6**, unless it **is**

determined that the condition cannot be met because governmental delays, including but not limited to the Army Corps of Engineers Dredge and Fill Permit approvals, have prevented a decision on the alignment of State Road 7.

20. The effective date of the development order for purposes of applying Section 500.21.E.9.g(1) and Section **500.21.E.9.g(2)** shall be from the date of the first master plan approval by Site Plan Review Committee.
21. In order to provide for the realignment of State Road 7 and the planned unit development's internal collector road, Site Plan Review Committee shall have the authority to amend the master plan to allow reconfiguration of the internal roadway system in the development. At such time as the Site Plan Review Committee realigns the road after the legal description pursuant to Condition **No. 17(a)** is submitted, the parcel described in Condition **No. 17(a)** shall be deemed to be deleted from the planned unit development and the Zoning Atlas shall be amended.
22. Residential development within 300 feet of the western property line shall consist exclusively of Category **A** dwelling units.
23. The average density of the planned unit development shall not exceed 1.5 dwelling units per acre.
24. The maximum number of dwelling units shall not exceed 951.
25. The development shall be limited to the housing category mix as shown on the master plan, Exhibit **No. 41**. The housing categories may be changed in accordance with Section **402.7.E.2.c.(4)(b)** (Master Plan Amendments) of the Zoning Code. There shall be no more than 120 Category C dwelling units and no less than 346 Category A dwelling units.
26. The petitioner may exchange the required on-site dedication of land for civic uses either for a parcel of land off-site equal in acreage or cash of equal value. In addition, in the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the onsite and off-site land dedications. The value of the on-site land dedication shall be based upon its value as a civic site. This contribution shall be used to off-set the identifiable impacts directly attributable to this project. If an off-site

land or cash contribution is accepted by Palm Beach County, petitioner shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H.

27. At the time that the County determines which of the two possible State Road 7 alignments it intends to utilize as the final State Road 7 Right-of-way, should the County select the westerly of the two alignments:, the Petitioner, or its successors in interest, shall convey the 120 foot right-of-way for the selected alignment to the County and at the time of that conveyance by the Petitioner, or its successors in interest, the County will reconvey to Petitioner, or its successors in interest, that portion of the originally dedicated 120 foot right-of-way for State Road 7 not now required. This reconveyance shall be by deed or through County abandonment ordinance procedures, either of which shall be initiated and processed by the County.
28. If required by the County Engineer, access to the proposed park and school shall be made available through the project's entrance roads, subject to approval by the County Engineer.
29. Failure to comply with the conditions herein may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Violations of the conditions herein shall constitute violation of the Palm Beach County Zoning Code.

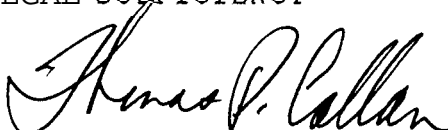
Commissioner Marcus moved for approval of the petition. The motion was seconded by Commissioner **Adams** and, upon being put to a vote, the vote was as follows:

Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Absent
Karen T. Marcus	--	Aye
Dorothy Wilken	--	Aye
Kenneth M. Adams	--	Aye

The foregoing resolution was declared duly passed and adopted this 22nd day of November, 1988 confirming action of April 29, 1988.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY


BY :


COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY:


DEPUTY CLERK

