

RESOLUTION NO. R-2001- 2076

RESOLUTION APPROVING ZONING PETITION DOA1984-130(F)
DEVELOPMENT ORDER AMENDMENT
PETITION OF PALM BEACH COUNTY PREM
BY KIM JURAN, AGENT
(VISTA CENTER)

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

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1984-130(F) was presented to the Board of County Commissioners at a public hearing conducted on November 29, 2001; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), 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 made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA1984-130(F), the petition of Palm Beach County PREM, by Kim Juran, agent, for a Development Order Amendment (DOA) to re-designate land uses, modify/delete conditions of approval and add access point on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on November 29, 2001, subject to the conditions of approval described in EXHIBIT C1, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

The motion was seconded by Commissioner Greene and, upon being put to a vote, the vote was as follows:

Warren H. Newell, Chairman	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Tony Masilotti	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on November 29, 2001.

Filed with the Clerk of the Board of County Commissioners on 29 day of November, 200-1

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

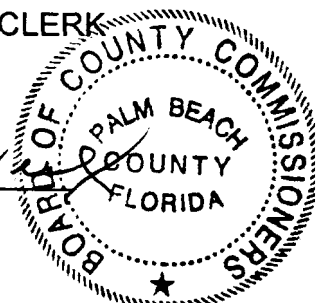


EXHIBIT A
LEGAL DESCRIPTION

The south 100.00 feet less the West 60.00 feet thereof, of the West ½ of Section 15, Township 43 South, Range 42 East, Palm Beach County, Florida, and all that part of Section 22, Township 43 South, Range 42 East, Palm Beach County, Florida, lying West of the Westerly right-of-way line of the Sunshine State Parkway (Florida Turnpike), excepting therefrom the South 170.00 feet thereof, also excepting therefrom the West 60.00 feet thereof and also excepting therefrom the following described parcel: Commencing at the intersection of the said North line of the South 170.00 feet of Section 22 with the East Line of the West 60.00 feet of Section 22, run thence North 3 degrees 27' 29" East, along the said East line of the West 60.00 feet of Section 22, a distance of 980.74 feet to a line parallel with and 1150.01 feet Northerly from, as measured at right angles to, the South line of said Section 22; thence South 88 degrees 45' 24" East along said parallel line, a distance of 749.35 feet; thence South 01 degree 14' 36" West, a distance of 980.01 feet to a point in the North line of the said South 170.00 feet of Section 22; thence North 88 degrees 45' 24" West along said North line of the South 170.00 feet of Section 22, a distance of 787.25 feet to the Point of Beginning; Containing 493.687 acres, more or less.

EXHIBIT B
VICINITY SKETCH

EXHIBIT B

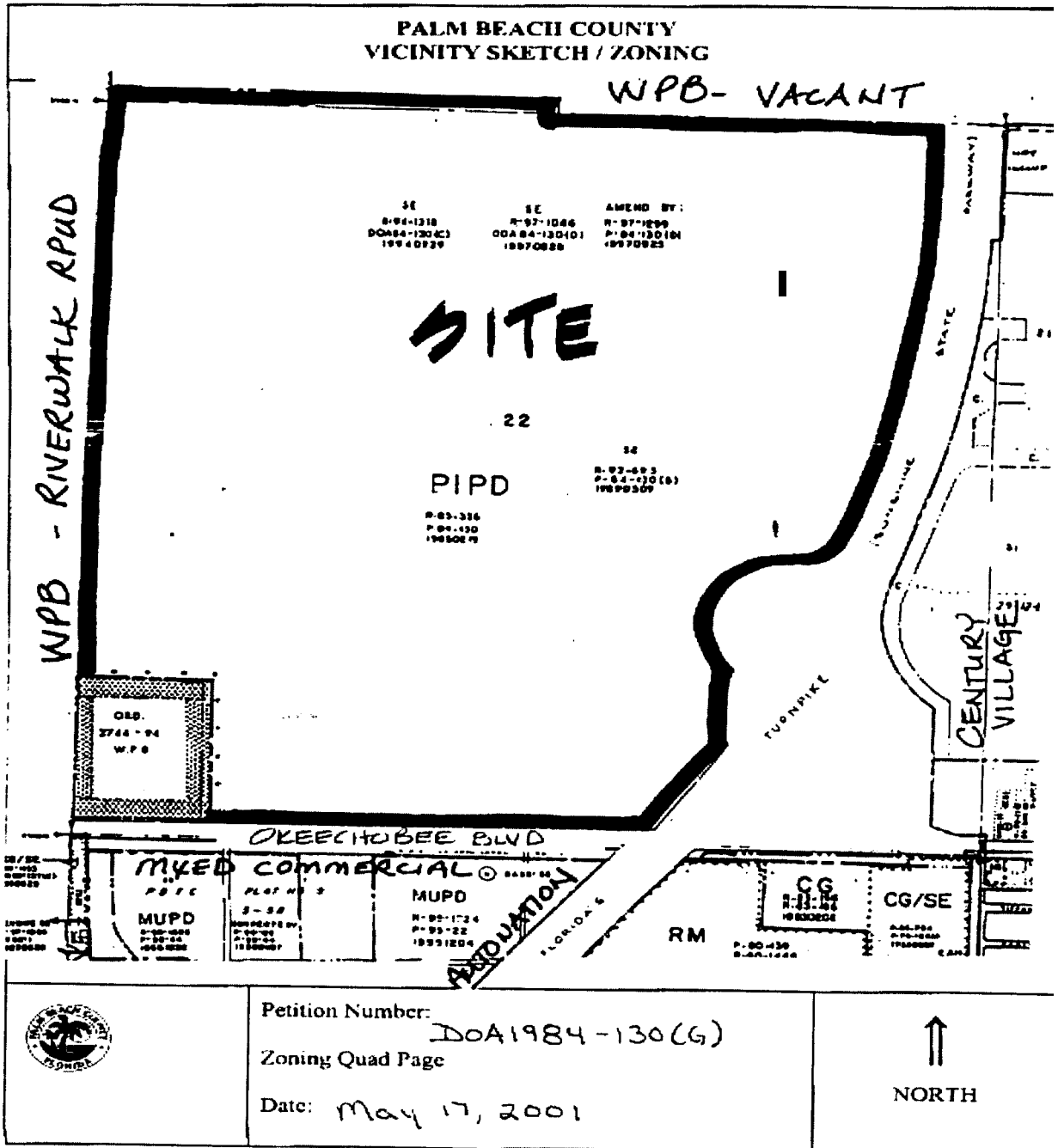


EXHIBIT C1

LOCAL CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2001-0807 (Petition EAC1984-130(G)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved preliminary development plan is dated November 14, 2001. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING)
3. **COMMENCEMENT OF DEVELOPMENT:** In the event the developer fails to commence significant physical development within three (3) years from the effective date of the Development Order, development approval shall terminate and the development shall be subject to further consideration pursuant to Section 380.06, Florida Statutes. Significant physical development shall mean site preparation work for any portion of the project. (MONITORING) (Previously Condition 2 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
4. **TRANSMITTAL OF COPIES**

Copies of this revised Development Order shall be transmitted immediately by Certified Mail to the State of Florida Department of Community Affairs, the Treasure Coast Regional Planning Council, and the Developer. (ZONING) (Previously Condition 1 of Section VII of Resolution R-2001-0807, Petition DOA84-130(G))

B. AIR POLLUTION

1. a. Clearing of specific building sites shall not commence until the developer is ready to build the building or buildings to be located on that site.
- b. During land clearing and site preparation, wetting operations or other soil treatment techniques appropriate for controlling unconfined emission shall be undertaken and implemented by the developer to the satisfaction of the Palm Beach County Health Department and the Florida Department of Environmental Regulation. (HEALTH) (Previously Condition 3 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

C. ANNUAL REPORT

1. **The Annual** Report required by Section 380.06(16), Florida Statutes shall be submitted on or before October 16th of each year. This Annual Report shall be submitted to Palm Beach County, the Treasure Coast

Regional Planning Council, the State of Florida Department of Community Affairs, the State of Florida Department of Environmental Regulations, and the South Florida Water Management District. This Annual Report shall include the following items:

- a. Changes in the plan of development or phasing for the reporting year and for the next year;
- b. A summary comparison of development activity proposed and actually conducted for the year;
- c. Undeveloped tracts of land, other than individual single family lots, that have been sold to a separate entity or developer;
- d. Identification and intended use of lands purchased, leased, or optioned by the developer adjacent to the original DRI site since the Development Order was issued;
- e. An assessment of the development's and the local government's compliance with Conditions of Approval contained in the DRI Development Order;
- f. Any known incremental DRI applications or request for a substantial deviation determination that were filed in the reporting year and to be filed during the next year;
- g. A statement that all persons have been sent copies of the Annual Report in conformance with Subsections **380.06(14)** and **(16)**, Florida Statutes;
- h. A copy of any notice of the adoption of a Development Order or the subsequent modification of an adopted Development Order that was recorded by the developer pursuant to Paragraph **380.06(14)(d)**, Florida Statutes; and
- i. A list of all industrial tenants, including a description of their activities and the four (4) digit Standard Industrial Classification Code applicable to the operation. (MONITORING) (Previously Condition 1 of Section VI of Resolution R-2001-0807, Petition DOA84-130(G))

D. BUILDING AND SITE DESIGN - MASTER PLAN MODIFICATIONS

- 1. a. Condition 20.a of Section IV of Resolution R-2001-0807, Petition DOA84-130(G) which currently states:

Development of the site is limited to the uses and site design shown on the Master Plan approved by the Board of County Commissioners (Exhibit No. 64). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section **402.7(E)2(b)** (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein. (ZONING/CODE ENF)

~~Is~~ hereby deleted. [REASON: superceded by Condition A.2]

- b. Prior to March 30, 1995, the petitioner shall receive certification of a revised Preliminary Development Plan (PDP) by the Development Review Committee for the subject property. The PDP shall reflect compliance with all applicable code

requirements, conditions of approval, the application for development approval (ADA), and the development order for the DRI. In addition, the PDP shall indicate tabular data for each parcel, in accordance with the ADA. (MONITORING/ZONING) (Previously Condition 20.b of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

E. ENGINEERING

1. TRANSPORTATION AND MAJOR ROAD IMPROVEMENTS

PHASE I OF PROJECT

a. The Developer shall not receive building permits for buildings (excluding temporary structures associated with construction and site related work) in Phase I (as defined in the Application for Development Approval Page **31-9**) of the project until such time as the Developer has assured funding by cash, bond, or irrevocable letter of credit for the design and construction of the following improvements:

1) Two additional lanes to the existing segment of Okeechobee Boulevard from the west side of the intersection with Golden Lakes Boulevard east to the existing four-lane section of Okeechobee Boulevard east of the Florida Turnpike as identified in the construction plans which received technical approval from the Florida Department of Transportation in approximately May **1988** and as specified in the Tri-Party Agreement between the Developer, Palm Beach County, and the Florida Department of Transportation; and [NOTE: COMPLETE]

2) A new three-lane bridge over the Florida Turnpike on Okeechobee Boulevard. The construction in (a) **(1)** and (2) above shall be designed and constructed in contemplation of a future eight-lane section. The Developer shall provide construction plans for said road improvements to the Florida Department of Transportation (DOT) and to the South Florida Water Management District (SFWMD) for their review. Construction of (a) **(1)** and (2) improvements shall be completed within **18** months from the date of issuance of the construction permit by DOT. Furthermore, construction of buildings undertaken pursuant to any building permits issued (excluding those for temporary structures associated with construction, and site related work) under this provision shall be limited to footings and foundations until such time as construction has commenced on the improvements specified in (a) **(1)** and (2) above. The Developer shall award the **contract(s)** for construction of said improvements by July **15, 1988**. (ENG) (Previously Condition 9.a of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) [NOTE: COMPLETE]

b. By the completion of construction in Phase I of the project (or of construction generating an equivalent number of vehicle trips per day), the Developer shall have completed the construction of a two-lane section of Jog Road running north along the west side of the project from Okeechobee Boulevard to the north property line of the project to Palm Beach County Thoroughfare Plan standards including the ultimate drainage for a multiple lane road. Developer shall complete construction of this two-lane

section of Jog Road within **15** months from the date of issuance of a construction permit for the Jog Road Construction by the County. This construction shall commence by September **1990** and be completed in no case later than July **1991**. (ENG) (Previously Condition 9.b of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) [NOTE: COMPLETE]

PHASE II OF PROJECT

- c. The developer shall not receive building permits for buildings (excluding temporary structures associated with construction and site related work) for Phase II of the project until the following have occurred:

A Contract (or Contracts) for the commencement of construction of an eight-lane section of roadway on Okeechobee Boulevard from the Florida Turnpike to Palm Beach Lakes Boulevard has been awarded. To expedite this construction, the developer shall provide all necessary funds toward the purchase of the right-of-way necessary to 6-lane Okeechobee Boulevard between Haverhill Road and the Florida Turnpike. This shall include all studies, appraisals, court costs, etc. This amount shall not be less than **\$800,000**. Palm Beach County shall contribute road impact fees to the Florida Department of Transportation toward this right-of-way acquisition. These impact fee funds shall be **(\$196,000)**. Developer funds shall be made available when requested by Florida Department of Transportation. The developer shall also provide the right-of-way map and all associated documents required for the taking of this right-of-way. Florida Department of Transportation shall acquire this right-of-way. (ENG) (Previously Condition 9.c of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) [NOTE: COMPLETE]

- d. The property owner shall make available to Palm Beach County the amount of **\$648,482** which is the residual amount from the **\$1,000,000** funding for road improvements. These funds shall be paid as follows:

- 1) **\$324,241** shall be paid prior to August **1, 2001**.
- 2) The remaining **\$324,241** shall be paid prior to July **1, 2002** plus interest payment at the rate of **3%** per year on the total unpaid balance of **\$648,482** which shall be calculated from the date of May **12, 1993**. (DATE: MONITORING - Eng)

In addition the Property owner shall contribute an additional amount of **\$200,000** funding for road improvements. These funds shall be paid prior to October **31, 2001**. (DATE: MONITORING - Eng) (Previously Condition 9.d of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

- e. Developer and the County shall make good faith efforts to achieve the agreements and improvements specified under subsections (c) and (d) above. (ENG) (Previously Condition 9.e of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- f. The County shall make application in **1984** to the Florida Department of Commerce for a grant of funds to help meet the costs of the road improvements required by this section. Developer shall assist and support the County applying for and obtaining said funds. If such a grant is received, it shall be applied to the cost of the right-of-way acquisition described

under subsection (c) above, or to the improvements described under subsection (a) above. These monies shall be used prior to Palm Beach County impact funds being used. (ENG/IMPACT FEE COORD) (Previously Condition 9.f of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) [NOTE: COMPLETE]

- g. Property owner shall convey a cross access easement with the property owner to the west prior to approval by the DRC for a Master Plan revision to Parcel 23, or prior to the issuance of a building permit for Parcel 23, whichever shall first occur. (ENG) (Previously Condition 9.g of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) [NOTE: COMPLETE]
- h. Prior to Master Plan/Site Plan approval for Parcel 23, an approved traffic impact analysis shall be submitted to the Engineering Department. This Traffic Impact Analysis shall include the projected traffic from the parcel to the west. **Geometrics**, including stacking distance, shall then be approved by the County Engineer and Florida Department of Transportation based upon the approved Traffic Impact Analysis. (ENG) (Previously Condition 9.h of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- i. In the event the parcel to the west is proposed for development, or is developed prior to Parcel 23, and provides access for the benefit of Parcel 23 along its east boundary to Okeechobee Boulevard at the median cut. Condition 9.g. and 9.h. above shall be considered satisfied. The petitioner shall align access points for Parcel 23 into the parcel to the west, based on the established cross access points on the plan for the parcel to the west. The petitioner shall eliminate the western most access point to Parcel 23 onto Okeechobee Boulevard from the Master Plan after the above occurs. When Parcel 23 is developed, paved access shall be provided from Parcel 23 to the parcel to the west and from the parcel to the west to Parcel 23 which shall include access to Vista Parkway as indicated on the approved or to be approved site plans for the respective parcels. Should the parcel develop as a single user (i.e., corporate office project with secured access) then this petitioner may be relieved of this obligation for a cross access easement. (ENG) (Previously Condition 9.i of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- j. The following strategies shall be implemented and shall be coordinated with the County Engineer and shall include but not be limited to:
 - 1) facilitation of mass transit usage through
 - provision of bus stop signs
 - distribution of bus schedules
 - coordination with PALMTRAN and other mass transit services within the business in the park
 - 2. encourage staggered work hours on the employers and their employees within the Park under the authority of protective covenants;
 - 3. coordination with South Florida Commuter Services to facilitate a reduction in the number of vehicle trips by employees at Vista Center. (ENGINEERING) (Previously Condition 9.j of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

2. TRANSPORTATION: SITE RELATED ROAD IMPROVEMENTS

The following site related road improvements shall be undertaken as specified below:

- a. The Developer shall convey to Palm Beach County, within ninety (90) days of adoption of the PIPD Rezoning Resolution by the Board of County Commissioners, the ultimate right-of-way for:
 - 1) Okeechobee Boulevard, 200 feet north of the north right-of-way line of the Lake Worth Drainage District L-1 Canal through the project's limits (approximately an additional eighty-two (82) feet.
 - 2) Jog Road, sixty (60) feet through the project's limits.
 - 3) The "Special Intersections" as shown on the Thoroughfare Right-of-way Protection Map.
 - a) Sixty-four (64) feet from centerline for Jog Road.
 - b) The necessary right-of-way for the Okeechobee Overpass over the Florida Turnpike. (ENG) (Previously Condition 10.a of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- b. The Developer shall complete, within twelve (12) months of the approval date by the Board of County Commissioners, the engineering plans for a three-lane bridge on Okeechobee Boulevard over the Florida Turnpike. Surety is to be submitted to the County Engineer for the design cost within ninety (90) days from the date of special exception approval. (ENG) (Previously Condition 10.b of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- c. The developer shall ensure that access for the entire site onto Okeechobee Boulevard shall be limited to three street connections into the site from Okeechobee Boulevard. The requested eastern access shall be limited to right turn movement only. (ENG) (Previously Condition 10.c of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- d. The Developer shall construct the internal loop roadway as a four-lane median divided section. (ENG) (Previously Condition 10.d of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- e. The Developer shall construct, concurrent with the construction of the project's entrance road at its intersection with Okeechobee Boulevard:
 - 1) Right turn lane, east approach;
 - 2) Right turn lane, north approach;
 - 3) Dual left turn lanes, north approach;
 - 4) Dual left turn lanes, west approach; and
 - 5) Signalization when warranted, as determined by the County Engineer. (ENG) (Previously Condition 10.e of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- f. The Developer shall construct, concurrent with the construction of Jog Road onto Okeechobee Boulevard:

- 1) Right turn lane, north approach;
- 2) Dual left turn lanes, north approach;
- 3) Dual left turn lanes, west approach;
- 4) Right turn lane, east approach; and
- 5) Signalization when warranted, as determined by the County Engineer. (ENG) (Previously Condition 10.f of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

g. Condition 10.g of Section IV of Resolution R-2001-0807, Petition DOA84-130(G)) which currently states:

The Developer shall construct, concurrent with the construction of Jog Road at the project's entrance road:

- 1) Right turn lane, south approach;
- 2) Left turn lane, north approach;
- 3) Right turn lane, east approach;
- 4) Left turn lane, east approach; and
- 5) Signalization when warranted, as determined by the County Engineer. (ENG)

Is hereby amended to read:

g. The Developer shall construct, concurrent with the construction of Jog Road at the project's entrance road between Parcel 20 and 21:

- 1) Right turn lane, south approach;
- 2) Left turn lane, north approach;
- 3) Right turn lane, east approach;
- 4) Left turn lane, east approach; and
- 5) Signalization when warranted, **as** determined by the County Engineer. (ENG)

3. **PLATTING; POSTING OF BONDS AND SURETY:** All areas of this development shall be platted and appropriate bonds, surety, or letters of credit shall be posted with the office of the County Engineer. (ENG) (Previously Condition 11 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

4. **FAIR SHARE ROAD IMPACT FEES:** The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently, the Fair Share Fee for this project is:

<u>PHASE I</u>	<u>TOTAL</u>
Hotel	\$38,625.00
Villas	9,850.00
Office	28,825.00
Light Industrial	<u>26,113.00</u>
 <u>PHASE II</u>	
Hotel	\$57,813.00
Villas	8,775.00
Office	166,775.00
Light Industrial	<u>107,625.00</u>
Subtotal	\$340,988.00

**Cumulative Total of
Phase I and Phase II \$444,401.00**

Credit for the Impact Fees shall be applied toward the construction and expenditures of funds as outlined in Condition 9 (a), (c) and (d). Any credit shall be based upon a certified cost estimate by the developer's engineer and subject to approval by the County Engineer's Office. (IMPACT FEE COORD) (Previously Condition 13 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

5. The Property owner shall construct the following at the entrance to Parcel 22 at Jog Road:

- a right turn lane south approach
- a left turn lane north approach on Jog Road at the Projects additional entrance to Vista Center.

This construction shall be concurrent with the construction of the additional access road onto Jog Road. Any and all costs associated with the construction shall be paid by the property owner. (ENG)

6. LANDSCAPE WITHIN MEDIAN OF COUNTY ROADS

A. Prior to January 15, 2002, the property owner shall apply to the Palm Beach County Engineering and Public Works Department Permit Section for a permit to landscape the adjacent median of Jog Road Right-of-Ways. This permit shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. When permitted by the Land Development Division of the Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner, or the Property Owner's Association if the requirements of paragraph C are complied with, shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. Exempted from this condition is Project No. 473-504 (Garfield Restaurant and Hampton Inn). (BLDG PERMIT: MONITORING-Eng)

B. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to,

pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of the next certificate of occupancy. Exempted from this condition is Project No. 473-504 (Garfield Restaurant and Hampton Inn). (CO: MONITORING- Eng)

- c. The Property Owner's Association (POA) may enter into the Right-of-Way Landscape, Maintenance, Removal and Indemnification agreements, in substitution for the Property Owner, in the event the POA is validly formed, in operation and the Property Owners Association documents are amended to give the POA the power and obligation to perform the terms of said Maintenance and Indemnification Agreement and the POA documents encumber all property subject to this petition. If the Developer does not enter into an agreement with Palm Beach County to assume the maintenance responsibility, then appropriate property owners documents or other restrictive covenant documents, evidencing the obligation to install, irrigate and maintain the landscaping and indemnify the County and perform other obligations under the Maintenance and Indemnification Agreement shall be established or amended as required and shall be approved by the Palm Beach County Attorney's Office and recorded prior to January 15,2001. Exempted from this condition is Project No. 473-504 (Garfield Restaurant and Hampton Inn. (DATE: MONITORING-Eng)

7. If required by the County Engineer as part of the road widening of Okeechobee Boulevard, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed additional right of way for the construction of a right turn lane on Okeechobee Boulevard at the Project's Entrance into Parcel 23. This right-of-way shall be twelve feet in width, 280 feet in length, with a taper length of 50 feet. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. The property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. This additional right of way shall be conveyed within thirty notice to the property owner that this additional right of way is required as part of the road widening for Okeechobee Boulevard. (ROAD CONSTRUCTION OKEECHOBEE BOULEVARD:THIRTY DAY NOTICE-Eng)

F. DRAINAGE AND HAZARDOUS WASTE

1. a. **For water quality enhancement purposes, the developer shall design and construct the surface water management system to detain the runoff from a one-hour, three-year storm event. Further, the system shall incorporate filtering or skimming devices such as grease traps, baffles, and skimmers to remove pollutants from parking lots, roads, and other impervious surfaces. Special attention should be given in the final drainage design to assure that existing water tables will not be lowered off-site.** (ENG) (Previously Condition 6.a of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

- b. The developer shall design and construct the golf course storm water management system to retain the first one-half inch of runoff from a one-hour, three-year storm event. (ENG) (Previously Condition 6.b of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- c. As part of the annual report required under Section **380.06(16)**, Florida Statutes, the developer shall provide a list of all industrial tenants, including a description of their activities and the four (4) digit Standard Industrial Classification Code applicable to the operation. A copy of this list shall be provided to the Department of Environmental Regulation and the agency delegated the authority for maintaining, updating, and verifying the master files for hazardous waste generators in Palm Beach County. (ENG) (Previously Condition 6.c of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- d. Condition 6.d of Section IV of Resolution R-2001-0807, Petition DOA84-130(G) which currently states:

The minimum finished floor elevations shall be set at a minimum 20.5 feet NGVD and the road crown elevations shall be set at an elevation sufficient to protect the road base and pavement. In addition, to protect the site during the design storm event from off-site discharges flowing through the site prior to completion of a Plan of Reclamation for Unit 5, perimeter site grading should be set at 19.5 feet NGVD. (ENG)

Is hereby deleted. [REASON: Regulated by permit from SFWMD]

G. HABITAT, VEGETATION AND WILDLIFE

- 1. a. The developer shall establish a vegetated littoral zone of no less than ten (**10**) acres as part of the surface water management system of lakes. The ten (10) acres of required littoral zone shall be fully vegetated with native plant species and occur from lake control elevation to a depth of three (**3**) feet below control elevation. In addition, the developer shall preserve or create on-site ten (**10**) acres of seasonally flooded wetland habitat designed to be of value to wading birds for feeding, and consisting of native vegetation **typical** of such habitats. Prior to commencement of construction for any phase of the project, the developer shall prepare a design and management plan for all wetlands or littoral zones that will be a part of that phase. The plan shall: 1) include a topographic map of the wetland or littoral zone, or include typical cross sections; 2) specify how vegetation is to be established, including the extent, type, method, and timing of any planting to be provided; and 3) provide a description of any management procedures to be followed in order to assure the continued viability, health, and function of the littoral zone or wetland. The plan for each phase shall be subject to approval by Palm Beach County in consultation with the Treasure Coast Regional Planning Council. The plan shall be implemented and work inspected prior to the beginning of the next phase. (ERM) (Previously Condition 5.b of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

- b. The developer shall provide and maintain a buffer zone of native upland edge vegetation around wetland and deepwater habitats which are preserved or constructed on-site in accordance with the following provisions. The buffer zone may consist of preserved or planted vegetation but shall include canopy, understory, and ground cover of native species only. The edge habitat shall begin at the upland limit of any wetland or deepwater habitat and shall include a total area of at least ten (10) square feet per linear foot of wetland or deepwater habitat perimeter. This upland edge habitat shall be located such that no less than fifty (50) percent of the total shoreline is buffered by a minimum width of 10 (ten) feet of upland habitat. (ERM) (Previously Condition 5.c of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- c. During construction, all melaleuca, brazilian pepper, and australian pine which occur on-site shall be removed. Removal shall be in such manner that avoids seed dispersal by any of these species. There shall be no planting of pest exotic vegetation on-site. (ERM) (Previously Condition 5.d of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- d. Prior to commencement of any land clearing activities, the developer shall conduct a survey of the site to locate all representatives of the endangered epiphyte ***Tillandsia fasciculata***, the Cardinal wild pine bromeliad. All individuals of this species identified by the on-site survey shall be protected and preserved by the applicant in a manner which assures the continued health and viability of the population. The survey and protection methods shall be to the satisfaction of Palm Beach County in consultation with the Treasure Coast Regional Planning Council. (ERM) (Previously Condition 5.e of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
- e. Thirty (30) percent of the landscaped areas on-site, excluding the retention areas, the golf course greens and fairways, rights-of-way, building courtyard areas and planting boxes which abut buildings shall be comprised to preserve, enhance, or recreate native vegetation. The location of vegetation areas shall be such that the watering and fertilization of non-native areas do not inhibit the management of the native vegetation areas in a healthy state. Fifty (50) percent of the trees used in landscaping shall be native trees adapted to the soil conditions on-site. (ERM) (Previously Condition 5.f of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

H. HEALTH

- 1. UNCONFINED PARTICULATES: Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. A plan shall be submitted to the Palm Beach County Health Department to control unconfined particulates prior to the issuance of any land development permits. (HEALTH) (Previously Condition 14 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

2. **INSTALLATION OF STORAGE TANKS:** Any fuel or chemical storage tanks shall be installed and protected against leakage or spillage due to corrosion, breakage, structural failure, or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation. (HEALTH) (Previously Condition 16 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
3. **OPEN BURNING:** Burning due to land clearing operations shall not be conducted during periods when the surface wind is from the western quadrant. (HEALTH) (Previously Condition 17 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
4. **FIRE PROTECTION WATER SUPPLY:** No building permits for buildings (excluding temporary structures associated with construction and site related work) within the project shall be issued unless and until plans for the provision of water for fire fighting purposes at a minimum rated capacity of 1,500 gpm at 20 psi residual pressure have been reviewed by the Military Park Fire Control Tax District #4 for code compliance. (FIRE) (Previously Condition 18 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))
5. **STATUS OF HEALTH DEPARTMENT:** All references to environmental regulatory agencies shall include Palm Beach County Health Department. (HEALTH) (Previously Condition 19 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G))

I. LANDSCAPING - STANDARDS

1. Fifty-percent (50%) of trees to be planted in the perimeter buffer shall **be** native canopy trees and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured at 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 3.5 feet in length.

Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)

2. All palms required to be planted on site by this approval 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. (CO: LANDSCAPE - Zoning) (CO: LANDSCAPE - Zoning)
3. All shrub or hedge material shall be planted in a hierarchy of layers consisting of a minimum of three (3) varying heights as follows:

eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 twenty-four (24) to thirty-six (36) inches – medium shrub; and,
 forty-eight (48) to sixty (60) inches – large shrub

These heights shall be continuously maintained to achieve the hierarchical effect. (CO: LANDSCAPE - Zoning)

4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

J. LANDSCAPING ALONG WEST PROPERTY LINE (ADJACENT TO JOG ROAD)

1. Landscaping and buffering along the west property line shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
 - b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
 - c. one (1) canopy tree planted every twenty (20) feet on center;
 - d. one (1) palm or pine tree for each twenty-five (25) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
 - e. twenty-four (24) inch high shrub or hedge material installed on Fifty-percent (50%) of the plateau of the berm, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

K. COMPLIANCE

1. SEVERABILITY

Should any section or provision of this Resolution or portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the remainder of this resolution. (COUNTY ATTORNEY) (Previously Condition 1 of Section VIII of Resolution R-2001-0807, Petition DOA84-130(G))

2. Compliance with the Development Order shall be monitored through normal County permitting procedures, the procedures listed in specific Conditions of Approval, and review of the Annual Report. The local official responsible for assuring compliance with this Development Order is the Executive Director of the Plan Beach County, Zoning and Building Department. (MONITORING) (Previously Condition 1 of Section V of Resolution R-2001-0807, Petition DOA84-130(G))

3. Condition 21 of Section IV of Resolution R-2001-0807, Petition DOA84-130(G) which currently states:

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; 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; **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 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

Staff may be directed by the Executive Director of PZ&B or a majority vote of the Code Enforcement Board 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

Is hereby amended to read:

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; 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 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 a 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)

4. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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)