

RESOLUTION NO. R-93- 401

RESOLUTION APPROVING ZONING PETITION DOA83-121(B)  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF KENCO COMMUNITIES AT LAKES OF BOCA, INC.

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 petitions relating to zoning; and

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

WHEREAS, Zoning Petition DOA83-121(B) was presented to the Board of County Commissioners at a public hearing conducted on March 25, 1993; 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 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 proposal is consistent with the Palm Beach County Comprehensive Plan.
2. This proposal is consistent with the requirements of the Palm Beach County Land Development Code and all other applicable local land development regulations.

WHEREAS, Article 5 of the Palm Beach County 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 DOA83-121(B), the petition of KENCO COMMUNITIES AT LAKES OF BOCA, INC., BY: KIERAN J. KILDAY, AGENT for a DEVELOPMENT ORDER AMENDMENT in the RESIDENTIAL TRANSITIONAL SUBURBAN (RTS) Zoning District, to delete acreage and amend Condition Number 7 of Resolution R-89-947 on a Planned Unit Development (PUD), previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on March 25, 1993, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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


Mary McCarty, Chair	--	Aye
Burt Aaronson	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Absent
Karen T. Marcus	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

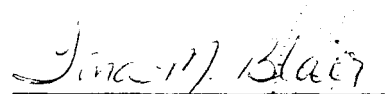
The Chair thereupon declared that the resolution was duly passed and adopted this 25th day of March, 1993.

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**

A parcel of land lying in a portion of Section 2, Township 47 South, Range 41 East, Palm Beach County, Florida and said land being more particularly described as follows  
All of the Southeast Quarter of aforesaid Section 2, LESS the East 170.00 feet thereof.

Containing 149.185 Ac., more or less, and subject to easements and rights-of-way of record,

EXHIBIT B  
VICINITY SKETCH

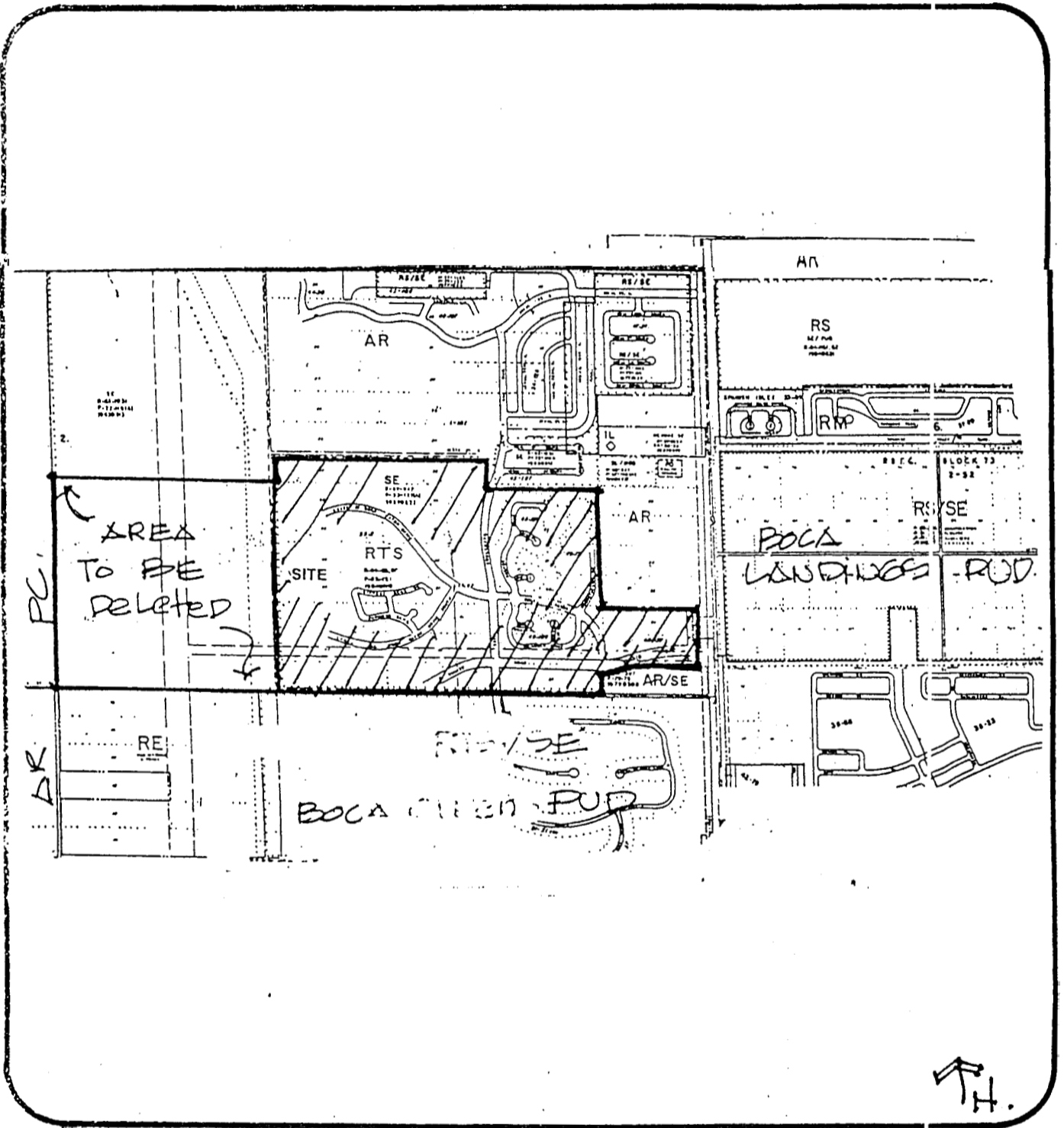


EXHIBIT C

CONDITIONS OF APPROVAL

A. STANDARD CONDITIONS

1. Condition No. 1 of Resolution No. R-89-947, which presently states:

**"The petitioner shall comply with all previous conditions of approval unless expressly modified herein."**

Is hereby amended to read, as follows:

All previous conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines, unless expressly modified herein. (MONITORING)

2. Condition No. 3, of Resolution NO. R-89-947, which presently states:

**Prior to certification, the master plan shall be amended to reflect the following:**

- a. The correct front setback of 60 feet for the commercial structures.
- b. Minimum tree planting requirements for the undeveloped parcels.
- c. Access and parking aisles shall be 90 degrees angle and shall encourage smooth vehicular traffic flow.

Is hereby deleted. (Reason: Code requirement)

B. CIVIC SITE

1. The property owner shall dedicate to the Palm Beach County Parks Department the 8 1/2 acre "Municipal Site" prior to July 1, 1988." (Previously Condition No. 10 of Resolution No. R-89-947) Condition has been satisfied. (PREM)

C. HEALTH

1. Condition No. 11 of Resolution No. R-89-947, which presently states:

**"Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site."**

Is hereby amended to state as follows:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. All existing on-site sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC and Palm Beach County ECR-I. (HEALTH)

2. Condition No. 12 of Resolution No. R-89-947, which presently states:

**"Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water."**

Is hereby amended to state as follows:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing on-site potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH)

D. LANDSCAPING ALONG THE EAST PROPERTY LINES

1. Condition No. 7 of Resolution No. R-89-947, which presently states:

**"The petitioner shall install an additional twenty-five foot landscape strip, to accommodate a three (3) foot high earth berm supplemented with hedge material to reach and be maintained at a minimum height of five (5) feet with ten (10) to twelve (12) foot canopy trees placed a minimum of thirty (30) feet on center along the eastern property line."**

Is hereby amended to state, as follows:

Prior to site plan certification by the Development Review Committee (DRC) the petitioner shall submit a landscape plan that is acceptable to the zoning division for the required landscape buffer along S.R.7. The required landscaping shall, at a minimum include the following:

- a. An additional twenty five (25) foot landscape buffer along the east boundary of the PUD were it abuts S.R.7;
- b. One (1) canopy tree for every thirty (30) linear feet of frontage along S.R.7. A canopy tree may be substituted by three (3) palms; and
- c. One (1) thirty inch shrub for every twenty four (24) inches of frontage along S.R.7.

The required plant material may be planted in clusters on the east and west perimeters of the adjacent lake. Landscaping along the west perimeter of the lake, in accordance with this condition, shall not be credited toward any other required buffer. (ZONING)

E. ENGINEERING

1. **The developer shall acquire any necessary rights-of-way and shall construct any off-site canals necessary to accomplish connection to the Lake Worth Drainage District Canal System.** (Previously Condition No. 4 of Resolution No. R-84-66) (ENGINEERING)
2. Condition No. 5 of Resolution No. R-84-66, which presently states:.

**"This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended.**  
(ENGINEERING)

Is hereby deleted.

[REASON: Now a Code requirement]

3. The Master Plan shall be amended to reflect the following:
  - a. realignment of the right of way for Yamato Road per the County Engineer's Approval.
  - b. Identification and preservation of areas of existing significant vegetation.
  - c. designation of the required 25 foot perimeter buffer. (Previously Condition No. 5 of Resolution R-89-947) (ENGINEERING)

4. The petitioner shall provide the construction plans for S.R. 7 as a 4-lane median divided section, compatible with the Department of Transportation typical section from South of Glades Road through Kimberly Boulevard to include the appropriate tapers, per the county Engineers' approval. These plans shall be completed within 6 months of Special Exception approval or prior to the issuance of a Certificate of Occupancy, whichever first occurs. (Previously Condition No. 6 of Resolution R-84-66) (ENGINEERING)

[Records indicate compliance with this condition]

5. The developer shall acquire 200 feet of right-of-way for S.R. 7 west of the west right-of-way line of Lake Worth Drainage District E-1 Canal, from south of Glades Road through Kimberly Boulevard including the appropriate tapers which will be required for the road construction for S.R. 7 as outlined in the previous Condition. This right-of-way shall be acquired within 12 months of Special Exception approval, or prior to the issuance of a Certificate of Occupancy, whichever first occurs. Palm Beach County will acquire this right-of-way at the developer's expense. (Previously Condition No. 7 of Resolution R-84-66) (ENGINEERING)

[Records indicate compliance with this condition]

6. The developer shall construct S.R. 7 as a 4-lane divided section from Glades Road through Kimberly Boulevard to include the appropriate tapers, per the County Engineers approval. The construction shall include an asphalt overlay of the two existing lanes on S.R. 7, if required by the County Engineer. This construction shall be completed and accepted by Florida Department of Transportation prior to the issuance of 200 Certificates of Occupancy or within two (2) years of Special Exception approval, whichever first occurs. (Previously Condition No. 8 of Resolution R-84-66) (ENGINEERING)

[Records indicate compliance with this condition]

7. The developer shall construct at the project's entrance onto S.R. 7 concurrent with the filing of the first plat:
  - a) Right Turn Lane, North approach.
  - b) Left Turn Lane, South approach.(Previously Condition No. 9 of Resolution R-84-66) (ENGINEERING)

[Records indicate compliance with this condition]

8. The developer shall install signalization at the intersection of S.R. 7 and the project's entrance when warranted as determined by the County Engineer, but shall be no later than five (5) years after the issuance of the final Certificate of Occupancy. (Previously Condition No. 10 of Resolution R-84-66) (ENGINEERING)

[Developers cost of complying with this condition shall be credited toward the Traffic Impact Fees from this project]

9. Condition No. 11 of R-84-66, which presently state::

"The developer shall contribute Sixty Seven Thousand Eight Hundred and Fifty Seven Dollars (\$67,857.00) toward the cost of meeting this project's direct and identifiable impact.

The impact fee monies are to be used toward the construction program located within the project area. The money shall be in the form of a clean, irrevocable letter of credit to Palm Beach County within ninety (90) days of Special Exception approval, and may be called upon at any time thereafter. (ENGINEERING)

Is hereby deleted.

[REASON: Now a Code requirement]

10. The property owner shall convey the ultimate right-of-way for Cain Boulevard necessary to provide for an eighty (80) foot ultimate section. This right-of-way alignment shall be per the County Engineer's approval, within 180 days of Special Exception approval. (Previously Condition No. 12 of Resolution R-84-66) (ENGINEERING)

11. Condition No. 14 of Resolution R-84-66, Zoning Petition 83-121, which presently states:

"The property owner shall reserve 192 feet along the project's west property line for the ultimate right-of-way for University Parkway. This alignment shall be per the County Engineer's approval at the time of the platting of the adjacent parcels to accommodate the future interchange." (ENGINEERING)

Is hereby deleted.

(REASON: University Parkway is now no longer adjacent to this PUD)

12. The property owner shall convey for the ultimate right-of-way of State Road 7, 240 feet west of the west right-of-way line of the Lake Worth Drainage District E-1 Canal, within ninety (90) days of approval; conveyance must be accepted by Palm Beach County prior to the issuance of the first building permit. (Previously Condition No. 15 of Resolution R-84-66) (ENGINEERING)

13. Condition No. 16 of Resolution R-84-66, Zoning Petition 83-121, which presently states:

"The property owner shall convey the ultimate right-of-way for Yamato Road necessary to provide for a 120 foot ultimate section. This right-of-way alignment shall be per the County Engineer's approval within 180 days of Special Exception approval, conveyance must be accepted by the County prior to the issuance of the first building permit."



Is hereby amended to state as follows:

Prior to **December 15, 1994**, or prior to the recordation of the next plat, whichever shall first occur, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:

a) Yamato Road, **120** feet in width plus sufficient right-of-way to provide for the road relocation through the FPL easement along the project's west property line (a maximum of 15 feet in width plus a taper length of **600** feet). (ENGINEERING)

14. Condition No. 8 of Resolution R-89-947, which presently states:

**"If required by the County Engineer the Palm Beach County Water Utilities Department shall convey adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of State Road 7, Cain Boulevard, Yamato Road and University Parkway along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along State Road 7, Cain Boulevard, Yamato Road and University Parkway, Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge requirements of the applicable County Water Control District and South Florida Water Management District for the combined runoff from the project and District the ultimate Thoroughfare Plan of the included segment."**

Is hereby amended to state as follows:

Prior to **December 15, 1993** or prior to the recordation of the next plat, the Property owner shall convey to Palm Beach County adequate road drainage easement through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of Yamato Road, SR 7, and Cain Bl along the property frontage and for a maximum **400** ft. distance each side of the property boundary lines along Yamato Road, Cain Bl, and SR 7. Said easements shall be no less than **20** feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District 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. Elevation and location of all construction 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 (MONITORING-Engineering).

15. The Ueveloper shall construct 2-lane Cain Boulevard from the project's north property line south to the project's south property line. This construction shall be completed prior to December 1, 1989. One-hundred (100) percent approved and permitted construction plans shall

be submitted to the office of the County Engineer prior to March 1, 1989. Construction plans shall be in accordance with Palm Beach County's minimum construction plans as they presently exist or as they may from time to time be amended. (Previously Condition No. 9 of Resolution R-89-947) (ENGINEERING)

[Records indicate compliance with this condition]

16. The property owner shall dedicate to the Palm Beach County Parks Department the 8 1/2 acre "Municipal Site" prior to July 1, 1988. (Previously Condition No. 10 of Resolution R-89-947) (ENGINEERING)
17. The petitioner shall include in all homeowners documents, as well as all written sales brochures, Master Plans and related site plans, a disclosure statement identifying all planned roadways adjacent or through the petition property which are included in the County's Thoroughfare Plan or Five Year Road Program, currently Yamato Road. The Developer/Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of the Planning, Zoning and Building Department beginning January 1, 1994 until all units within the development have been sold or the developer relinquishes control to the homeowners association. (MONITORING-Engineering).

**F. PROPERTY OWNERS ASSOCIATION**

1. Condition No. 13, of Resolution No. R-89-947, which presently states:

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 owner's 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.

Is hereby amended to state as follows:

All property included within the legal description of the petition shall be subjected to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall, among other things, provide for: Formation of a single "master" property owner's association, automatic voting membership in the "master" association by any party holding title to any portion of the property included in the Planned Unit Development (PUD), and assessment of all members of the "master" association for the cost of maintaining the PUD's common areas. The property shall not be subjected to the Declaration of Restrictions in phase; and approval of the Declaration must be obtained from the County Attorney's Office prior to the recordation of the first plat of any portion of the Planned Unit Development. (COUNTY ATTORNEY)

**G. SIGNS**

4. Condition No. 4 of Resolution No. R-89-947, which presently states:

"There shall be no signage for the commercial site fronting on, or directed at non-residents using, State Road 7 or Yamato Road."

Is hereby amended to state:

Signage for Parcel A entry shall be limited to a maximum of two (2) signs mounted on the existing walls fronting on Yamato Road. Each wall sign shall be limited to forty-eight (48) inches in height and twenty (20) square feet of face area. (ZONING)

H. USE LIMITATION

1. Condition No. 2 of Petition No. 83-121(A), Resolution No. R-89-947, which presently states:

**"The northeastern seven (7) acre parcel shall be limited to:**

- a. A 2.0 acre commercial parcel with a total square footage of 20,070 building area. The commercial area shall be limited to neighborhood commercial office and retail uses which provide services to the residents of the Planned Unit Development only.
- b. A 1.5 acre day care parcel which shall be limited to 6,260 square feet of building area.
- c. The remaining 3.5 acres of land shall be designated open space and developed as an entrance feature for the development.

Is hereby amended to state:

**"The northeastern seven (7) acre parcel shall be limited to:**

- a. A 2.0 acre commercial parcel with a total square footage of 20,070 building area. The commercial area shall be limited to neighborhood commercial office and retail uses which provide services to the residents of the Planned Unit Development.
  - b. A 1.5 acre day care parcel which shall be limited to 6,260 square feet of building area.
  - c. The remaining 3.5 acres of land shall be designated open space and developed as an entrance feature for the development.
2. **The day care facility shall be limited to a maximum of 135 children and ten (10) employees.** (Previously Condition No. 5 of Resolution No. R-89-947)
  3. **The hours of operation of the commercial and day care center shall be limited to 6:30 a.m. to 11:00 p.m.** (Previously Condition No. 6 of Resolution No. R-89-947)
  4. **The developer shall take reasonable precautions during the development of this property to insure that fugitive particulates (dust particles) from this project do not become a nuisance to neighboring properties.** (Previously Condition No. 2 of Resolution No. R-84-66)
  5. **The developer shall take reasonable precautions during the development of this property to prevent pollutant run-off to neighboring and nearby surface waters.** (Previously Condition No. 3 of Resolution No. R-34-66)

I. COMPLIANCE

1. Condition No. 14, of Resolution No. R-89-947, which presently states:

"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."

Is hereby deleted.

(REASON: Code requirement)