

RESOLUTION APPROVING ZONING PETITION **EAC73-52(E)**
DEVELOPMENT ORDER AMENDMENT
PETITION **OF** RESORT AT INDIAN SPRING

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 **EAC73-52(E)** was presented to the Board **of** County Commissioners at a public hearing conducted on September 24, 1992; 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 **EAC73-52(E)**, the petition of RESORT AT INDIAN SPRING, BY JOHN WHEELER, AGENT, for a **DEVELOPMENT ORDER AMENDMENT** to amend the Indian Springs PUD Master Plan, 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 September 24, 1992, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner Newell 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	--	Aye
Karen T. Marcus	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Absent

The Chair thereupon declared that the resolution was duly passed and adopted this 20 day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

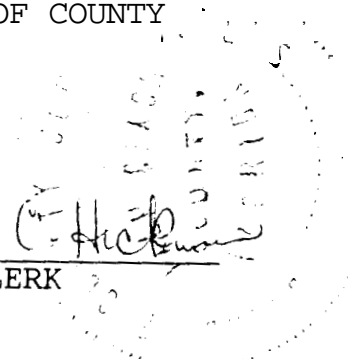


EXHIBIT A
LEGAL DESCRIPTION

PARCEL I

The Northeast One-Quarter (NE 1/4) of Section 35, Township 45 South, Range 42 East,

Less the North 400 feet of the East 433 feet of said Section 35 and

Less Lots 4, 6, 7, 8, and 49, Block 1, Indian Spring Plat No. 1, according to the Plat thereof recorded in Plat Book 31, pages 43 to 47, inclusive, of the public records of Palm Beach County, Florida and

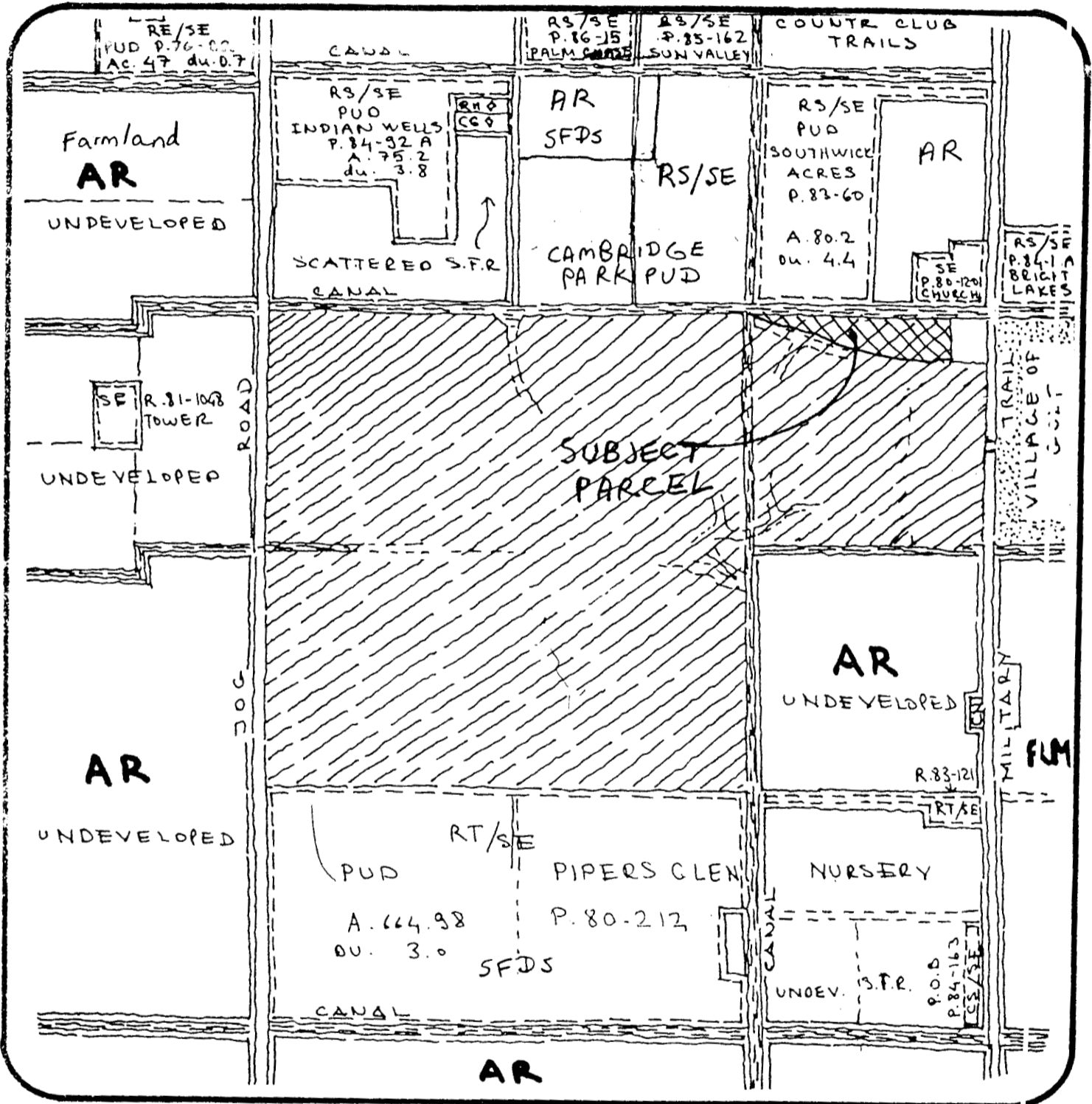
Less Lots 2 and 3, Block 5, Indian Spring Plat No. 2, according to the Plat thereof recorded in Plat Book 31, pages 226 and 227 of the public records of Palm Beach County Florida.

PARCEL II

The East One-Half (E 1/2) of Section 34, Township 45 South, Range 42 East and the West One-Half (W 1/2) of Section 35, Township 45 South, Range 42 East.

Sec. 34 Twp. 45 Rng. 42
 Quadrant Sheet: 35
 Aerial Page: 316 + 317

Vicinity
 Sketch



Request: The petitioner has applied for a Development Order Amendment to amend the master plan for the Indian Springs Planned Unit Development (PUD) to add an access point and redesignate a civic tract and relocate 72 single family units.

PETITION NO: 73-52(E)

BCC DISTRICT: 5

EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Condition No. 1 of Resolution R-89-1082, Petition No. 73-52(C)), which currently states:

The petitioner shall comply with all conditions of previous approvals unless expressly modified herein.

Is hereby deleted. REASON: Duplicate Condition.

2. Condition No. 1 of Resolution R-90-368, Petition No. 73-52(D)), which currently states:

Petitioner shall comply with all previous conditions of approval unless expressly modified herein.

Is hereby deleted. REASON: Superseded by following revised condition.

3. 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 for the Palm Beach County Land Development Code Article 5.8 compliance, as amended, unless expressly modified. (MONITORING)

B. BUILDING AND SITE DESIGN

1. Prior to site plan certification the site plan shall be amended to reflect the following:

- a) Tract B shall have pedestrian linkage to the sidewalk along Indian Spring Trail.

- b) Preservations, and integration of existing landscaping where possible including berms, into the overall site development plan.

- c) Supplemental landscaping consistent in landscape character, growth habit, and spacing with existing ornamental improvements, along the southwest site perimeter to effectively screen on-site recreation facilities from the adjacent golf course.

- d) A continuous solid hedge or six (6) foot fence along all property lines abutting adjacent residential lots.

- e) Relocation of proposed tennis courts to meet setback requirements. Previously Condition No. 2 of Resolution R-85-705, Petition 73-52(A). (ZONING)

2. Prior to certification, the master plan shall be amended to indicate the following:

- a. The tabular data shall reflect the civic site dedication acreage for the entire Planned Unit Development. Previously Condition No. 2 of Resolution R-89-1082, Petition No. 73-52(C). (ZONING)

C. CIVIC USES

1. Condition No. 6 of Resolution R-89-1082, Petition No. 73-52(C), which currently states:

"The petitioner may exchange the required on-site dedication of land for civic uses, either a parcel of land off-site in acreage or the cash 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 on-site and off-site 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."

Is hereby amended to read:

The petitioner may exchange the required on-site dedication of land for civic uses, either a parcel of land off-site in acreage or the cash 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 on-site and off-site 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. Pending the BCC's adoption of a resolution vacating the Civic Tract the developer shall have no more than six months to file an application to replat the site previously known as the Civic Tract. Upon filing of the application for replatting the developer shall pay the County \$524,818.64. A Cashier's Check made payable to Palm Beach County Board of County Commissioners shall be processed through the Property & Real Estate Management (PREM) Division. This payment shall have the effect of satisfying the intent of Zoning Code Section 500.21.H and the agreement approved June 9, 1992 between the BCC and THE RESORT AT INDIAN SPRING, INC.

D. HEALTH

1. **Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.** Previously Condition No. 7 of Resolution R-89-1082, Petition No. 73-52(C). (HEALTH)
2. **Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.** Previously Condition No. 8 of Resolution R-89-1082, Petition No. 73-52(C). (HEALTH)

3. Condition No. 15 of Resolution R-89-1082, Petition No. 73-52(C), which currently states:

Prior to master plan certification provisions for water and sewer service shall be secured, subject to approval by the Palm Beach County Health Department.

Is hereby deleted. REASON: Condition Satisfied.

E. ENGINEERING

1. Prior to the issuance of any permits, the developer shall convey to Palm Beach County the additional right-of-way required to provide sixty (60) feet of right-of-way from the centerline of Military Trail (S.R. 809) Previously Condition No. 2 of Resolution R-75-303, Petition No. 75-31. (ENGINEERING-Building)
2. 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. Previously Condition No. 6 of Resolution R-85-705, Petition 73-52(A). (ENGINEERING)
3. No mounding or berming is to extend into the dedicated right-of-way. Previously Condition No. 7 of Resolution R-85-705, Petition 73-52(A). (ENGINEERING-Building)
4. The existing plat of record for this tract shall be replatted as a recreation facility, prior to commencement of construction of the tennis courts. Previously Condition No. 11 of Resolution R-85-705, Petition 73-52(A). (ENGINEERING-Building)
5. The developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the first one inch of stormwater runoff. In the event that the subject site abuts a Florida Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. Previously Condition No. 9 of Resolution R-89-1082, Petition No. 73-52(C). (ENGINEERING)
6. Within 90 days of approval of this project, the property owner shall convey to Palm Beach County by road right-of-way warranty deed for Military Trail, 60 feet from centerline and Jog Road an additional 40 feet of right-of-way free of all encumbrances and encroachments. Petitioner 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. Previously Condition No. 10 of Resolution R-89-1082, Petition No. 73-52(C). (ENGINEERING)
7. The property owner shall construct:
 - a) at the intersection of Golf Road and Military Trail a left turn lane, south approach;
 - b) at the intersection of S.W. 15th Avenue and the

project's entrance road a left turn lane, east approach

all concurrent with onsite paving and drainage improvements. Construction shall be completed concurrent with paving and drainage improvement for Pod "8". Previously Condition No. 11 of Resolution R-89-1082, Petition No. 73-52(C). (ENGINEERING-Building)

8. The property owner shall convey to Palm Beach County within 90 days of the approval of this project 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 S.W. 15th Avenue and Jog Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along S.W. 15th Avenue and Jog Road. 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. Previously Condition No. 12 of Resolution R-89-1082, Petition No. 73-52(C). (ENGINEERING)

9. The property owner shall construct:

- a. El Clair Ranch Road from Piping Rock Drive to the north side of the proposed crossing of the Lake Worth Drainage District L-28 Canal.

This construction shall be completed upon thirty (30) day notice by the County Engineer. Previously Condition No. 13 of Resolution R-89-1082, Petition No. 73-52(C). (ENGINEERING)

10. Petitioner shall contribute the sum of \$500,000.00 towards roadway improvements within the project area. These funds shall be paid in annual payments of \$125,000.00 beginning November 1, 1989 and ending November 1, 1992. All funds paid under this condition shall be credited towards this property owner's roadway impact fees as it may from time to time be amended. Previously Condition No. 14 of Resolution R-89-1082, Petition No. 73-52(C). (MONITORING/IMPACT FEE COORDINATOR)

11. Prior to February 1, 1990 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for the construction of a right turn lane, north approach on Military Trail at the project's entrance road. This right-of-way shall be a minimum of 12 feet in width, 150 feet in length with a taper length of 180 feet, free of all encumbrances and encroachments. 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer. Previously Condition No. 2 of Resolution R-90-363, Petition No. 73-52(D). (MONITORING-Building/Engineering)

12. The Property owner shall fund the construction of a right turn lane, north approach on Military Trail concurrent with the construction of the 6 laning of Military Trail. Should the developer wish to construct this turnout prior to a twelve (12) month time period that Military Trail is upgraded, then this petitioner shall construct this right turn lane as part of the existing 4 lane roadway at his expense. These funds shall be made available to the County Engineer prior to July 1, 1990. The property owner shall also be responsible for any change orders associated with this construction. Previously Condition No. 3 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING)
13. The Property owner shall convey to Palm Beach County prior to February 1, 1990 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 Military Trail along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Military Trail. Runoff shall be limited to that portion from a 4 lane to a 6 lane roadway. 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. Previously Condition No. 4 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING/MONITORING)
14. The Developer shall install signalization if warranted as determined by the County Engineer at:
 - a. Golf Road and Military Trail; and,
 - b. Military Trail and the project's entrance road

Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. Previously Condition No. 6 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING-Building)
15. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended. Previously Condition No. 7 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING)
16. The proposed entrance onto Military Trail shall be right-turn-in and right-turn-out only. No median openings shall be permitted. Previously Condition No. 8 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING - Building)
17. The Property owner shall construct a left turn lane, east approach on S.W. 15th Avenue at Wingfoot Road. This construction shall be concurrent with the paving and drainage improvements for this proposed parcel known as Brookside. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for the Brookside POD. (ENGINEERING).
18. Petitioner shall include in all written solicitation:;

advertisements, inducements, and other methods or attempts to encourage any person to purchase a legal or equitable interest in property which is the subject of this petition (or amendment hereto) 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. The roadways are continuity for Jog Road, S.W. 15th Avenue and El Clair Ranch Road. (COUNTY ATTORNEY).

F. LWDD

1. The property owner shall not make use of the property described as the south 132 feet of the subject property on a plat until the ownership of that 132 feet is determined either by court order or by agreement between the property owner and Lake Worth Drainage District. The unit density shall be revised accordingly, based upon available land area. The site plan shall be noted accordingly. Previously Condition No. 5 of Resolution R-90-368, Petition No. 73-52(D). (ENGINEERING/LWDD)

G. LANDSCAPING

1. The twenty-five (25) foot buffer along the southern property line of parcel 8 shall be upgraded with landscape plantings consisting of a berm and hedge combination, to reach six (6) feet in height within one (1) year, and minimum ten (10) foot native canopy trees planted a maximum of twenty (20) feet on center. Previously Condition No. 3 of Resolution R-89-1082, Petition No. 73-52(C). (ZONING)
2. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (ZONING)
3. Prior to issuance of any Certificate of Occupancy within parcel 7, the petitioner shall provide a minimum twenty (20) foot landscape buffer tract with a six (6) foot opaque hedge. The required landscape buffer tract shall consist of the following:
 - a. One (1) native canopy tree planted every twenty (20) feet on center.
 - b. One (1) native palm tree for every thirty (30) linear feet. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
 - c. Forty-Eight (48) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches.

4. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape Code requirements and all landscape/vegetation preservation conditions of approval. (ZONING)

H. LEGAL

1. 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. Previously Condition No. 5 of Resolution R-89-1082, Petition No. 73-52(C). (COUNTY ATTORNEY)

I. LIGHTING

1. The new tennis courts (those permitted pursuant to this approval) shall not be lighted. Previously Condition No. 3 of Resolution R-85-705, Petition 73-52(A). (ZONING-Building/Code Enforcement)

J. RECYCLE SOLID WASTE

1. The property owner and/or lessees shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SOLID WASTE AUTHORITY)

K. USE LIMITATIONS

1. Condition No. 1 of Resolution R-75-303, Petition No. 75-31, which currently states:

The time limit for the special exception shall be a maximum of eighteen (18) months.

Is hereby deleted. REASON: Superseded by Condition No. 1 of Resolution R-77-40, Petition No. 76-192.

2. Condition No. 1 of Resolution R-77-40, Petition No. 76-192, which currently states:

The time Limit for the Special Exception shall be extended from the original eighteen (18) months, for twelve (12) additional months.

Is hereby deleted. REASON: Special Exception was for temporary clubhouse, permanent clubhouse has been built.

3. **No density shall be allocated for the subject 9.88 acre site.** Previously Condition No. 1 of Resolution R-78-870, Petition No. 78-141. (ZONING) REASON FOR CONDITION: 9.88 acres added to PUD for addition to existing golfcourse, not residential use.

4. **Prior to site plan certification the petitioner shall obtain variance relief from the Board of Adjustment for substandard side interior yard setbacks for the residential unit and recreation building.** Previously Condition No. 1 of Resolution R-85-705, Petition 73-52(A) (ZONING)

5. Condition No. 4 of Resolution R-85-705, Petition 73-

52(A), which currently states:

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.

Is hereby deleted. REASON: Required by Code.

6. Condition No. 5 of Resolution R-85-705, Petition 73-52(A), which currently states:

Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

Is hereby deleted. REASON: Required by Code.

7. **There shall be no bleachers or viewing stands in excess of one hundred and twenty-five (125) seats, and there shall be no public tournament-type activities held at the subject recreation site (Parcel B). Previously Condition No. 8 of Resolution R-85-705, Petition 73-52(A). ZONING-Building/Code Enforcement)**

8. a) **When Phase I of tennis courts is completed, new parking lot at clubhouse shall be completed. (Phase I is 5 new courts).**

b) **Phase II (10 courts) will not be constructed until an additional 250 units are built in the development.**

c) **Phase III (4 courts) will not be built until an additional 750 units are built in the development. (This includes the 250 units referenced in paragraph b, above.: Previously Condition No. 9 of Resolution R-85-705 Petition 73-52(A). (ZONING-Building)**

9. **No change from this particular recreational use shall be permitted by administrative approval. Any such change must be presented to the Board of County Commissioners in a modification petition. Previously Condition No. 10 of Resolution R-85-705, Petition 73-52(A). (ZONING-Building)**

10. **Parcel 8 building height shall be limited to three (3) stories. Previously Condition No. 4 of Resolution R-89-1082, Petition No. 73-52(C). (ZONING-Building)**

L. COMPLIANCE

1. Condition No. 16 of Resolution R-89-1082, Petition No. 73-52(C), which currently states:

Failure to comply with any conditions of approval 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.

Is hereby deleted. REASON: Duplicate Condition.

2. Condition No. 9 of Resolution R-90-368, Petition No. 73-52(D), which currently states:

Failure to comply with any conditions of approval 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.

Is hereby deleted. REASON: Superseded by following revised condition.

3. As provided in Palm Beach County Land Development Code Article 5.8, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemption; therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code. (MONITORING)
4. Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING)