

RESOLUTION NO. R-93-513

RESOLUTION APPROVING ZONING PETITION NO. 73-219(D)
SPECIAL EXCEPTION PETITION OF BREAKERS WEST DEVELOPMENT CORPORATION

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

WHEREAS, the notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied (Ordinance 73-2, as amended; and

WHEREAS, Petition No. 73-219(D) was presented to the Board of County Commissioners of Palm Beach County at its Public Hearing conducted on September 24, 1992; and

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

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner (Ordinance 73-2, as amended; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

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

WHEREAS, Chapter 402.5 of the Zoning 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 Petition No. 73-219(D) the petition of BREAKERS WEST DEVELOPMENT CORPORATION, BY RUSSELL SCOTT, AGENT, for a SPECIAL EXCEPTION TO AMEND THE BREAKERS WEST PUD MASTER PLAN TO DELETE ACREAGE, TRANSFER UNITS AND INCREASE DENSITY on a parcel of land lying in a parcel of land situate in Sections 29, 30, 31, and 32, Township 43 South, Range 42 East, Palm Beach County, Florida, being a portion of Blocks 1 and 2 of "Palm Beach Farms Co., Plat No. 3", as shown in Plat Book 2 at Pages 45 through 54, inclusive, and a portion of Block 1 of "PALM BEACH FARMS CO. PLAT NO. 9", as shown in Plat Book 5 at page 58, all of the public records of Palm Beach County, Florida, being more particularly described as the following three (3) parcels: PARCEL A - A parcel of land situated in Section 29, 30, 31, and 32, Township 43 South, Range 42 East, Palm Beach County, Florida, being a portion of Blocks 1 and 2 of "Palm Beach Farms Co. Plat No. 3". as shown in Plat Book 2 at pages 45 through 54, inclusive, and a portion of Block 1 of "Palm Beach Farms Co. Plat No. 9", as shown in Plat Book 5 at page 58. All of the public records of Palm Beach County, Florida, being more particularly described as follows:

Commencing at the Northwest corner of Lot 1 of Block 1 of said "Palm Beach Farms Co. Plat No. 3", thence along the north line of said Lot 1 S89°55'48"E, a distance of 150.15' to a point in the east Right-of-way line of Lake Worth Drainage District E-1 Canal Right-of-way, said point being the point of beginning. From said point of beginning: thence continuing along the north line of said Lot 1 S89°55'48"E, a distance of 1559.85 feet to a southerly extension of the west line of Lot 4, Block 1, of the aforementioned "Palm Beach Farms Co. Plat No. 9"; thence N 00°54'38", along the west line of said Lot 4, a distance of 1434.62 feet; then S87°46'19"E, a distance of 602.08 feet to the east line of said Lot 4; thence N 00°34'14"E. A distance of 64.76 feet to the northeast corner of said lot 4; thence S87°44'55"E along the north line of lot 5 of said "Palm Beach Farms Plat No. 9", a distance of 308.63 feet; thence S 00°29'50"W, a distance of 64.63 feet; thence S 87°46'08"E, a distance of 1380.57 feet to the east line of lot 7 of said "Palm Beach Farms Plat No. 9"; thence S 00°04'15"W along said east line of Lot 7, a distance of 1348.11 feet to a point in the north line of lot 2 of the aforementioned block 2, "Palm Beach Farms Plat No. 3"; thence S 89°56'49"E along the north line of said lot 2, block 2, a distance of 1979.63 feet of the northeast corner of said lot 2, block 2; thence S 00°02'11"W along the east line of said lot 2 and the southerly extension thereof, lot 4 and the southerly extension thereof, and lot 9, of said block 2 of "Palm Beach Farms Co. Plat No. 3", a distance of 3358.54 feet to the southeast corner of said lot 9; thence N89°57'49"W, along the south line of said lot 9, a distance of 228.17 feet to the southeast corner of "O-S" tract 4 of "Breakers West Plat No. 2", as shown in plat book 36 at pages 31-35 of the aforementioned public records. Said point lying on a curve in the westerly line of "Rubin Road" shown as being an 80 foot wide right-of-way on said "Breakers West Plat No. 2", now "Sansbury's Way". Said curve being concave to the northwest, having a radius of 1105.92 feet and a chord which bears S33°05'53"W; thence southwesterly along the arc of said curve, subtending a central angle of 10°15'15", a distance of 3.30 feet to the end of said curve; thence S33°11'01"W along a line 40.00 feet northwest of and parallel with the centerline of said "Sansbury's Way", as shown on "Breakers West Plat No. 13" recorded in plat book 55 at pages 145 through 150, inclusive, of the aforementioned public records, a distance of 502.90 feet to the beginning of a curve concave to the southeast having a radius of 1185.92 feet; thence southerly along the arc of said curve, subtending a central angle of 33°07'27", a distance of 685.61 feet; thence S00°03'34"W, a distance of 202.87 feet to a point in the north line of the Lake Worth Drainage District Canal L-3 Right-of-way, 75 feet in width, as shown on the aforementioned "Breakers West Plat No. 13"; thence N89°57'56"W along said canal north right-of-way line, a distance of 1991.82 feet to the east line of lot 11, block 1 of the aforementioned "Palm Beach Farms Co. Plat No. 3"; thence S00°03'01"W a distance of 75.00 feet to the southeast corner of said lot 11, block 1; thence N89°57'57"W along the south line of lot 11 and lot 12 of said block 1, a distance of 2309.90 feet to the southwest corner of said lot 12; thence N00°02'21"E along the west line of said lot 12, distance of 75.00 feet to the north line of the aforementioned Lake Worth Drainage District L-3 Canal Right-of-Way; thence N89°57'57"W along said canal north right-of-way line, a distance of 223.10 feet; thence N00°02'21"E, parallel with and 223.10 feet west of the east line of said lot 13, block 1, a distance of 585.78 feet to the north line of said lot 13; thence N89°87'43"W, along the north line of said lot 13, a distance of 809.18 feet to a point in the east line of the Lake Worth Drainage District E-1 Canal Right-of-way, 150.00 feet in width; thence N02°36'21"E along said canal east right-of-way line, a distance of 4054.49 feet to the point of beginning. The above described parcel contains 684.084 acres of land, more or less. Less a portion of

the west one half of the aforementioned lot 5 of block. PARCEL B - "Palm Beach Farms Co. Plat No. 9" described as follows: Commencing at the southwest corner of :Breakers West Plat No. 1", as shown in plat book 32 at page 83 of the aforementioned public records. Said corner being also the southeast corner of the aforesaid west one half of lot 5, block 1, "Palm Beach Farms Plat No. 9", thence along the west line of said "Breakers West Plat No. 1", $N00^{\circ}29'50"E$, a distance of 239.00 feet to the point of beginning, From the point of beginning: thence $N89^{\circ}35'00"W$, a distance of 135.02 feet; thence $S00^{\circ}32'03"W$, a distance of 239.83 feet to the south line of the aforesaid lot 5, block 1, "Palm Beach Farms Co. Plat No. 9"; thence $N89^{\circ}56'07"E$ along said south line of lot 5, a distance of 175.18 feet to the south corner of said lot 5; thence $N00^{\circ}34'14"E$ along the west line of said lot 5, a distance of 602.83 feet; thence $A88^{\circ}59'00"E$, a distance of 309.58 feet to the west line of the aforesaid "Breakers West Plat No. 1"; thence $S00^{\circ}29'50"W$ along said line of said "Breakers West Plat No. 1", a distance of 358.68 feet to the point of beginning. The above described out parcel contains 3.529 acres of land, more or less. Less, also, the right-of-way for Rubin Road (Sansbury's Way), as described in the right-of-way warranty deed recorded in official record book 2615 at page 510 of the public records of Palm Beach County, Florida, containing 4.21 acres of land, more or less. Less, also, that portion of parcel a lying in the Lake Worth Drainage District Canal Right-of-Ways as described in quit claim deed recorded in official record book 2698 page 1825 and right of way reservation recorded in official record book 1994 at page 1593 of the Public Records of Palm Beach County, Florida, more particularly described as follows: The north 70 feet of lots 4, 5, 6, and 7, and the north 70 feet of the platted road right-of-way lying between said lots 6 and 7, of block 1 of "Palm Beach Farms Co. Plat No. 9", as shown in plat book 5 at page 58, and the south 75 feet of lots 12 and 13 of block 1 of "Palm Beach Farms Co. Plat no. 3", as shown in plat book 2 at pages 45 through 54, inclusive, all of the aforementioned public records. The canal rights-of-way as described above contain a total of 4.728 acres of land, more or less. Less, also, the additional right-of-way for Sansbury's Way as described in official record book 4723 at page 1638 of the public records of Palm Beach County, Florida, containing 1.380 acres of land, more or less. Less a portion of the west one half of the aforementioned lot 5 of block 1, "Palm Beach Farms Co. Plat No. 9" described as follows: Beginning at the southwest corner of "Breakers West Plat No. 1", as shown in plat book 32 at page 83 of the aforementioned public records, said corner being also the southeast corner of the aforesaid west one half of lot 5, block 1, "Palm Beach Farms Plat No. 9", thence $N89^{\circ}56'07"W$, a distance of 135.17 feet; thence $N00^{\circ}32'03"E$, a distance of 239.83 feet, thence $S89^{\circ}35'00"E$, a distance of 135.02 feet; thence $S00^{\circ}29'50"W$, a distance of 239.00 feet to the point of beginning. The above described out parcel of land contains 32,343 square feet or 0.743 acres, more or less. PARCEL C - A parcel of land situated in Sections 28 and 29, Township 43 South, Range 42 East, Palm Beach County, Florida, being lot 8, lot 9, and the west one half of lot 10 of block 1 of "Palm Beach Farms Co. Plat No. 9", as recorded in plat book 5 at page 58 of the public records of Palm Beach County, Florida, less and except, the north 32 feet of the east one half of lot 9 and the west one half of lot 10 conveyed to Lake Worth Drainage District in official record book 67 at page 419 and page 451 of said public records. The above Parcel C contains 50,669 acres of land, more or less. The entire site being located on the S. side of Okeechobee Blvd., E. side of Sansbury Way, W. side of U.S. 441 (SR 7) in the RS Zoning District, was approved on September 24, 1992, as advertised, subject to the following conditions:

1. Conditions A.1. of R-91-253, Petition 73-219(C), which currently states:

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

Is hereby deleted.

2. 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 Zoning Code Section 402.9 compliance, unless expressly modified. (ZONING/MONITORING)
3. The petitioner shall receive certification of the site plan approved by the Board of County Commissioners for the subject property, as amended as required by the conditions of approval, by the Site Plan Review Committee on or before October 31, 1992. (ZONING)
4. Approval of the deletion of Parcel W from P73-219(D) shall extinguish the Special Exception for a Planned Unit Development from Parcel W, as shown on Exhibit 135. (ZONING)

B. ACCESS

1. **Maintenance vehicles shall not access onto Okeechobee Boulevard from the maintenance area. Access to the Planned Unit Development for these maintenance vehicles shall be at south of the maintenance area. Previously Condition 2 of R-73-818, Petition 73-219.**
2. **Prior to master plan certification the developer shall provide documentation of right of way access to the "not included" parcel located in the northwestern portion of the site. Previously Condition 7 of R-85-943, Petition 73-219(A).**
3. Condition 11 of R-90-834, Petition 73-219(B), which currently states:

Parcel "W" shall not be permitted direct access onto Sansbury Way or Okeechobee Boulevard.

Is hereby deleted.

C. BUILDING AND SITE DESIGN

1. **Prior to Master Plan certification the master plan shall be amended to reflect the following:**
 - a. **Appropriate housing categories for each parcel pursuant to Section 402.7.B.3.d(2) of the zoning code.**
 - b. **Plat book and page number of recorded platted parcels and corresponding dwelling unit count.**
 - c. **All parcels previously site planned shall reflect the corresponding unit count. Previously Condition 6 of R-85-943, Petition 73-219(A).**

2. All proposed air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color and character of the principle structure or equivalent landscape material.
(BUILDING/ZONING)

D. CIVIC SITE

1. Condition No. 3 of R-90-834, Petition 73-219(B) which presently states:

The petitioner may exchange the required on-site dedication of land for civic uses either by conveying fee simple title for a parcel of land off-site equal in acreage or cash of equal value. In addition, in the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site land dedications. The value of the land shall be based upon its value as a civic site. This contribution shall be used to offset the identifiable impacts directly attributable to this project. If an off-site land or cash contribution is accepted by Palm Beach County, the petition shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H.

The value for this release shall be determined by the Department of Property and Real Estate Management, and be approved and accepted by the Board of County Commissioners prior to master plan certification. This agreement shall be clearly noted by the applicant on the approved master plan.

Is hereby amended to read:

On or before February 1, 1993, the petitioner shall notify the County of its election to either satisfy the 2% civic requirement by reservation of the required civic site for civic purposes by amendment to the Master Plan, or to exchange the required on-site dedication of land for civic uses either by conveying fee simple title for a parcel of land off-site equal in acreage or cash of equal value. In addition, in the event that the off-site land dedication is of less cash value than the on-site reservation, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site parcels. The value of the land shall be based upon its value as a civic site. This contribution shall be used to offset the identifiable impacts directly attributable to this project. If an off-site land or cash contribution is accepted by Palm Beach County, the petition shall be deemed to have satisfied the intent of Zoning Code Section 500.21.H. The value for this release shall be determined by the Department of Property and Real Estate Management, and be approved and accepted by the Board of County Commissioners prior to master plan certification. This agreement shall be clearly noted by the applicant on the approved master plan.

In the event the petitioner elects to amend the master plan to reserve the civic site for civic purposes, the location thereof shall have direct access to Okeechobee Road or Sansbury Way. Petitioner shall file this amendment to the master plan on or before April 1, 1993 showing the civic site on either Parcel **Q** or Parcel **S**. Final approval of the amendment may be granted by the Development Review **Committee**. Palm Beach County shall have a right of first refusal to acquire all or a portion of the civic site in the event that the petitioner receives a bona fide third party offer to purchase all or a portion of such civic site. Such right of first refusal to purchase shall be at the same price contained in the third party offer. The County shall exercise such right of first refusal within ninety (90) days of notice from petitioner of the third party offer.

In the event the petitioner elects to reserve the civic site for civic purposes, the petitioner shall reimburse the County for the cost of both appraisals obtained by the County in the amount of \$4,250.00, and payment to be made within thirty (30) days of such election.

2. **Prior to Site Plan Review Committee Certification, the Master Plan shall be amended to designate the 0.44 acre parcel east of Sansbury's Way as a Civic Site.** Previously Condition D.1 of R-91-253, Petition 73-219(C).
3. Prior to site plan certification, the petitioner shall indicate on the Master Plan the civic site with its appropriate underlying residential use to include: unit type, density and maximum number of units. In the event the petitioner elects to "cash out" in accordance with Condition D.1 and develop the subject parcel; access shall be limited to the internal circulation system of the Planned Unit Development. (PREM/ZONING/ENGINEERING)

E. ENGINEERING

1. **Turning lanes onto Okeechobee Boulevard at the project entrance road shall be constructed at his expense.** Previously Condition 1 of R-73-818, Petition 73-219.
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 1 of R-85-943, Petition 73-219(A).
3. **Breakers West Development Corp. shall convey for the ultimate right of way of Lyons Road 60 feet from centerline, approximately an additional 20 feet, within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit and shall be for all remaining unplatted parcels of property owned by Breakers West.** Previously Condition 2 of R-85-943, Petition 73-219(A).

4. The Petitioner shall provide Palm Beach County with a road drainage easement through this project's internal lake system to legal positive outfall for the road drainage of Okeechobee Boulevard, Lyons Road and Belvedere Road. This drainage easement shall be subject to all governmental agency requirements. Previously Condition 2 of R-73-818, Petition 73-219.

5. The property owner shall construct dual left turn lanes east approach on Okeechobee Boulevard at the project's entrance road. This construction shall be concurrent with 4 laning of Okeechobee Boulevard from State Road 7 to Golden Lakes Boulevard. This property owner shall also be responsible for any and all Change Orders associated with this construction. Previously Condition 7 of R-90-814, Petition 73-219(B).

6. The Developer shall install signalization if warranted as determined by the County Engineer at:
 - a. Project's entrance and Belvedere Road
 - b. project's entrance and Okeechobee Boulevard.

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 8 of R-90-834, Petition 73-219(B).

7. 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 10 of R-90-834, Petition 73-219(B).

F. HEALTH

1. The water and sewerage facilities shall be developed and constructed by the developer at his expense and deeded to Palm Beach County for one (1) dollar, for ownership, operation and maintenance. Previously Condition 3 of R-73-818, Petition 73-219.

2. Condition 4 of R-90-834, Petition 73-219(B), which currently states:

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

Is hereby deleted.

3. Condition 5 of R-90-834, Petition 73-219(B), which currently states:

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

Is hereby deleted.

4. Condition B.1 of R-91-253, Petition 73-219(C), which currently states:

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

Is hereby deleted.

5. Condition B.2 of R-91-253, Petition 73-219(C), which currently 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 read:

Water service and sewer service are available to the property. Therefore, no potable well and/or on site sewage disposal system shall be permitted on the site.

G. IRRIGATION QUALITY WATER

1. When irrigation quality water **is** available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES)

H. LWDD

1. Condition No. 9 of R-90-834, Petition 73-219(B), which presently states:

The property owner shall convey to the Lake Worth Drainage District the north 70 feet of the West 1/2 of Tract 5, all of Tract 8, all of Tract 9, (less the north 32 feet) thereof, and the West 1/2 of Tract 10 (less the North 32 feet thereof) all in Block 1 according to the plat of Palm Beach Farms No. 9 for the required right-of-way for Lateral Canal No. 1, by Quit Claim Deed or an Easement Deed in the by said District within ninety (90) days of the approval of the Resolution approving this project.

Is hereby amended to read:

The property owner shall convey to the Lake Worth Drainage District the north 70 feet of the West 1/2 of Tract 5, all in Block 1 according to the plat of Palm Beach Farms No. 9 for the required right-of-way for Lateral Canal No. 1, by Quit Claim Deed or an Easement Deed in a manner and form acceptable by said District within ninety (90) days of the approval of the Resolution approving this project.

I. LEGAL

1. **The petitioner shall present a notarized Affidavit of Disclosure at the Zoning Authority Meeting.** Previously Condition 8 of R-85-943, Petition 73-219(A).

J. PLANNED UNIT DEVELOPMENT

1. Each proposed primary structure within the **PUD** shall clearly display a street address number on the facade of the building or on a mailbox, whichever is legible from the street. (CODE ENFORCEMENT)

K. RECYCLE SOLID WASTE

1. The property owner 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. (SWA)
2. The petitioner shall encourage homeowners to participate in a recycling program for paper, plastic, metal and glass products. (SWA)

L. SCHOOL BOARD

1. Condition No. C.1 of R-91-253, Petition 73-219(C), which presently states:

The petitioner shall include in all sales and promotional literature and agreements for purchase information that children in the development may be bused because of School Board policies regarding overcrowding, racial imbalancing or other policy matters. This information shall be updated on an annual basis.

Is hereby deleted.

2. All sales and notice literature and purchase agreements for the within development shall include a statement/notice that students may not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School Board to determine which school assignment will apply to their children. (SCHOOL BOARD)
3. Prior to master plan certification, petitioner(s) shall demonstrate that they have met with the School Board and discussed the potential of entering into an agreement to help achieve racial balance and allow the children who reside within the development to attend the nearest available schools. (SCHOOL BOARD)

M. USE LIMITATIONS

1. **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.** Previously Condition 4 of R-85-943, Petition 73-219(A).

2. Reasonable measure shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. Previously Condition 5 of R-85-943, Petition 73-219(A).
3. The 1.8 acre commercial site shall have no more than 4,000 square feet of building area and shall be limited to the use as a real estate office. Previously Condition 6 of R-90-834, Petition 73-219(B).

N. VEGETATION PRESERVATION

1. Condition 1 of R-90-834, Petition 73-219(B), which presently states:

"Prior to Site Plan Review Committee application for Parcel "W" (50.66 acre parcel in the northeast corner of the PUD), the petitioner shall:

- a. Designate a minimum of ten percent (10%) of Parcel "W" as open space, landscape buffer and preserve area. Lakes and water bodies shall not be included in this calculation. No trenching, grade changes or other development activity shall take place in the preserve area except as approved by the Zoning Division staff. This provision shall not restrict selective clearing, additional planting of new or relocated material, pruning or eradication of prohibited species within the preserve nor the creation of earth berms within the buffer area except where same may threaten preservation of desired species.
- b. Submit a tree survey drawn to the same scale as the site plan of parcel "W".
- c. Submit a preservation, relocation and removal program which corresponds to the tree survey. This program shall demonstrate how significant native vegetation is to be incorporated into the site design. At a minimum this program shall specify:
 1. The preservation or relocation of all oak trees greater than twenty-four inches (24") in diameter. Removal of oak trees greater than twenty-four inches (24") in diameter shall be allowed upon presentation to the Zoning Division that relocation or preservation is not feasible.
 2. The preservation or relocation of all oak trees less than twenty-four inches (24") in diameter unless the condition or location of the tree is an impediment to development of the property.
 3. The preservation within the preserve and buffer areas of all healthy native plant material (oaks, pines, sabal palms and cypress, if any).
 4. The preservation or relocation of native

plant material (oaks, pines, sabal palms and cypress, if any) within the designated preserve and/or buffer areas and/or the installation of new native plant material into such areas so as to create a density of one tree per seven hundred fifty (750) square feet is achieved throughout the buffer/ preserve system.

Is hereby deleted.

2. Condition 2 of R-90-834, Petition 73-219(B), which presently states:

Prior to the issuance of a Vegetation Removal Permit for Parcel "W", the following shall be achieved:

- a. All trees to be relocated, preserved or removed shall be identified in the field and tagged and numbered according to the tree survey.
- b. Trees to be preserved shall receive appropriate protection during site development. Protection devices shall be in place and approved by the Zoning Division prior to commencing any clearing activity.
- c. Tree relocation shall occur prior to construction activity except as approved by the Zoning Division upon submission of a development phasing plan.

Is hereby deleted.

0. COMPLIANCE

1. Condition 12 of R-90-834, Petition 73-219(B), 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.

2. Condition E.1 of R-91-253, Petition 73-219(C), which currently states:

As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:

- a. 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; and/or
- b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
- c. A requirement of the development to conform with updated standards of development, applicable 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.

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 Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Is hereby amended to read:

- 1. As provided in Zoning Code Sections 400.2 and 402.6, and the Palm Beach County Land Development Code, Section 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 exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of condition;;, 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)
- 2. 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)

- 3. The approval of this petition shall not affect any review date established as the result of a previous approval for this property. (MONITORING)

Commissioner Marcus moved for 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
Ken Foster -- Aye
Burt Aaronson -- Aye
Maude Ford Lee -- Aye
Karen T. Marcus -- Aye
Warren H. Newell -- Aye
Carol A. Roberts -- Absent

The Chair thereupon declared 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: [Signature] COUNTY ATTORNEY

BY: [Signature] DEPUTY CLERK [Seal]