

RESOLUTION NO. R-93-894

RESOLUTION APPROVING ZONING PETITION EAC89-15(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF DIVOSTA & COMPANY

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 EAC89-15(B) was presented to the Board of County Commissioners at a public hearing conducted on July 29, 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 Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach county 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 standards imposed on it by applicable provisions of the Palm Beach County 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 exemption and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County 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 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 EAC89-15(B), the petition of DIVOSTA & COMPANY, INC., by: DONALDSON E. HEARING, AGENT for a DEVELOPMENT ORDER AMENDMENT in the Multi-Family Residential (RM) Zoning District, to amend Condition F.1 of Resolution R-91-1711 (Traffic), 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 July 29, 1993, 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.

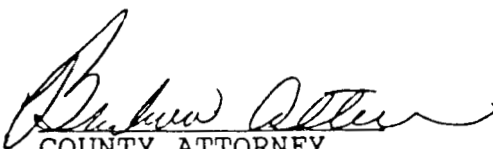
The motion was seconded by Commissioner Foster and, upon being put **to** a vote, the vote **was** as follows:


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 29th day of July, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD **OF** COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

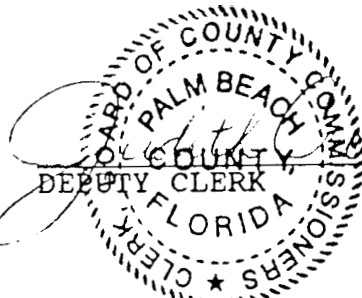


EXHIBIT A

(legal description)

The West 3/4 of the South 1/2 of the Northeast 1/4 of the North 1/2 of the Southeast 1/4 of Section 24, Township 42 South, Range 42 East, Palm Beach County, Florida, less therefrom that certain parcel of land conveyed to the Board of Public Instruction of Palm Beach County in Official Records Book 1301, Page 559 and being more particularly described as follows:

A parcel of land in the North 1/2 of the Southeast 1/4 of Section 24, Township 42 South, Range 42 East, Palm Beach County, Florida, being more particularly described as follows:

Commence at the point of intersection of the East right of way line of SR #809, said East right of way line being 50.00 feet each-side of the West line of said Southeast 1/4 with the South line of the North 1/2 of said Southeast 1/4 for a point of beginning; thence Easterly along said South line of the North 1/2 a distance of 663.00 feet to a point; thence Northerly parallel to said East right of way line of SR #809 a distance of 660.00 feet to a point; thence Westerly parallel to said South line of the North 1/2 to the intersection thereof with said East right of way line or SR #809; thence Southerly along said East right of way line to the POINT OF BEGINNING.

Also, less therefrom that certain parcel of land as set forth in Official Records Book 2137, Page 1834 and being more particularly described as follows:

A parcel of land in Section 24, Township 42 South, Range 42 East, more particularly described as follows:

Commencing at the Northwest corner of the Northeast 1/4 of Section 24, Township 42 South, Range 42 East; thence South 01 degrees 34 minutes 16 seconds West along the centerline of Military Trail a distance of 1,327.68 feet to a railroad spike; thence South 88 degrees 11 minutes 14 seconds East 50.00 feet to the POINT OF BEGINNING; thence South 88 degrees 11 minutes 14 seconds East, along the south boundary and Easterly prolongation of the Subdivision of Nicholas Park (unrecorded) Assessors Map No. 64 a distance of 1,926.60 feet to the intersection with the West line of the Subdivision of property for F. J. Guethle (unrecorded) Assessors Map No. 72; thence South 01 degrees 48 minutes 54 seconds West, along said West line 1,326.32 feet; thence South 88 degrees 11 minutes 43 seconds East, 506.61 feet; thence South 01 degrees 33 minutes 47 seconds West, along the Westerly right of way line of I-95 a distance of 220.94 feet; thence North 88 degrees 26 minutes 13 seconds West, 50.00 feet; thence North 01 degrees 33 minutes 47 seconds East, 171.15 feet; thence North 88 degrees 11 minutes 43 seconds West, 506.82 feet; thence North 01 degrees 48 minutes 54 seconds East, 1,326.32 feet; thence North 88 degrees 11 minutes 14 seconds West, 1,876.39 feet; thence North 01 degrees 34 minutes 16 seconds East, along the Easterly right of way line of Military Trail a distance of 50.00 feet to the POINT OF BEGINNING.

The bearing of South 01 degrees 34 minutes 16 seconds West, along the centerline of Military Trail as referred to in this description is an assumed bearing and all others are relative thereto.

Also, less therefrom the East 150 feet of the Northeast 1/4 of the Southeast 1/4 for right of way of State Road 9 (I-95).

Also, less therefrom the right of way of State Road 809 (Military Trail).

EXHIBIT B

(location sketch)

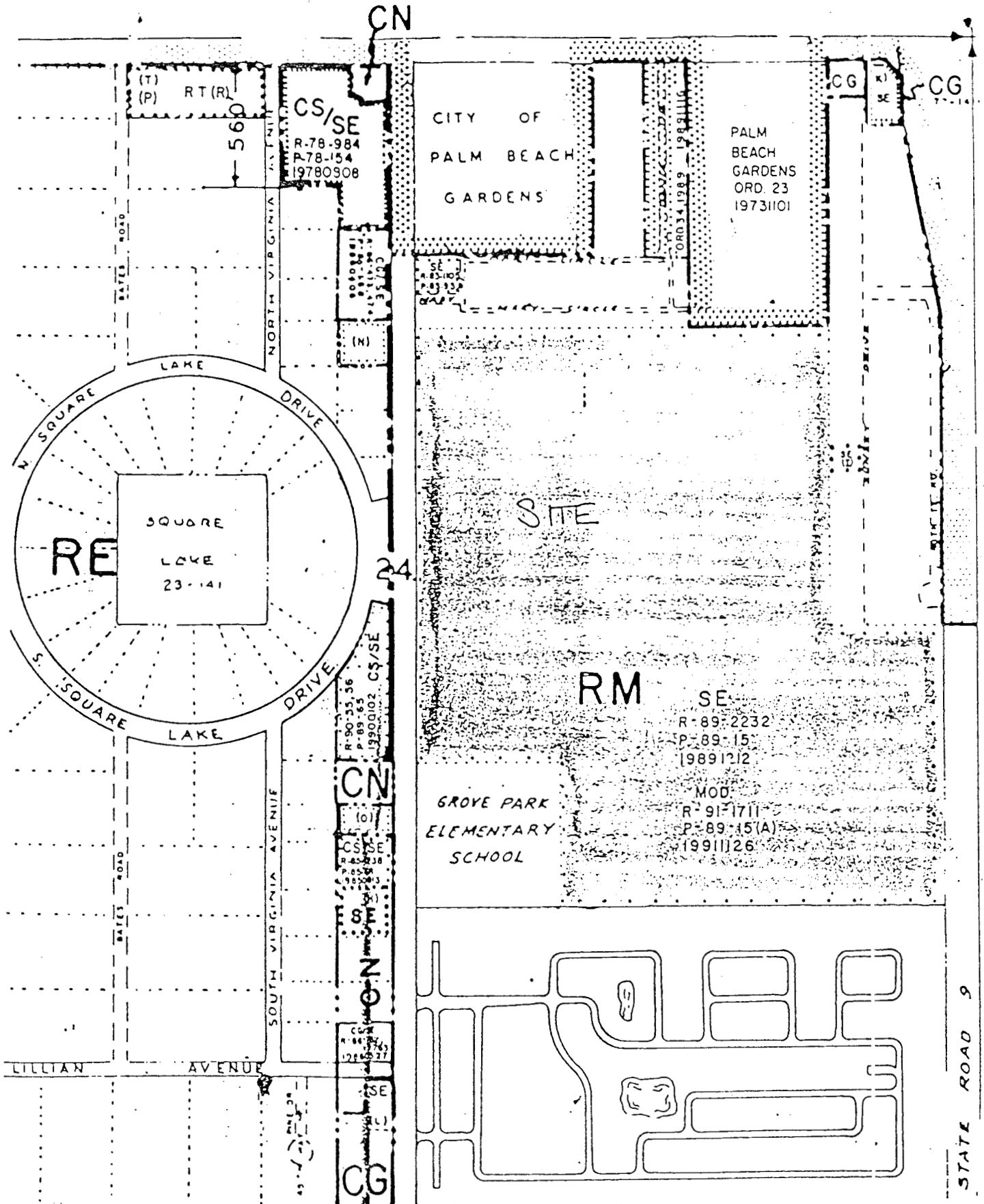


EXHIBIT C
CONDITIONS OF APPROVAL

A. STANDARD CONDITIONS

1. Condition A.1. of Resolution R-91-1711, which currently states:

The petitioner shall comply with all previous conditions of approval, including original deadlines for Zoning Code Section 402.9 compliance, unless expressly modified herein.

Is hereby amended to state:

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 ULDC Section 5.8 compliance, as amended, unless expressly modified.

2. Prior to certification, the Master Plan and each subsequent site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County. Previously Condition A.2. of Resolution R-91-1711. (ZONING)
3. Condition A.3. of Resolution R-91-1711, 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. 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.

Is hereby deleted. REASON: Code requirement.

B. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site. Previously Condition No.5. of Resolution R-89-2232. (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.6. of Resolution R-89-2232. (HEALTH)
3. Condition B.1. of Resolution R-91-1711, which currently states:

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

Is hereby deleted. REASON: Repetitive condition.

4. Condition B.2. of Resolution R-91-1711, 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. REASON: Repetitive condition.

5. Condition B.3. of Resolution R-91-1711, which currently states:

No further utility confirmation is required for this modification.

Is hereby deleted. REASON: Condition not necessary.

C. LANDSCAPING - GENERAL

1. Prior to certification, the Master Plan and each subsequent site plan shall be revised to reflect conformance to current Landscape Code requirements and all landscape/vegetation preservation conditions of approval. Previously Condition C.1. of Resolution R-91-1711. (ZONING)

D. LANDSCAPE WITHIN MEDIAN

1. Prior to site plan certification for any unit approved by Petition No. 89-15(A), the petitioner shall obtain, if possible, permission from the Florida State Department of Transportation (FDOT) or the County Engineer to landscape the median of all abutting rights-of way. This landscaping shall consist of one (1) twelve (12) foot tall native canopy tree for each thirty (30) linear feet of the adjacent median and appropriate ground cover. Trees may be planted singly or in clusters, with a maximum spacing or sixty (60) feet on center, All landscape material shall be selected according to xeriscape principles from the following list. Alternative species may be allowed subject to approval by the Department of Environmental Resources Management.

Trees:

Turkey Oak
Live Oak
Slash Pine
Palmetto/Sabal Palmettos

Groundcover:

Wedilia

All plant material shall be installed according to xeriscape principles and shall conform with the following:

- a. All plants shall be container grown.
- b. The bottom cushion of the planting area shall include a minimum 3-4 inch thick, high moisture retaining, marl based soil.
- c. Potting soil shall be placed around the plant root balls at time of planting.

This landscaping shall be the daily maintenance obligation, including daily irrigation, of the property owner for ninety (90) days and shall be installed prior to the issuance of the first certificate of occupancy (C.O.) for any unit approved by Petition No. 89-15(A) for the undeveloped tracts within the PUD. Previously Condition D.1. of Resolution R-91-1711. (ENGINEERING)

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the storm water 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 on site the storm water runoff generated by a three (3) year-one (1) hour storm with a

total rainfall of 3 inches as required by the Permit Section, **Land Development Division**. In the event that the subject site abuts a 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. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement. Previously Condition E.1. of Resolution R-91-1711. (ENGINEERING)

2. Prior to January 1, 1992, the property owner shall verify conveyance to Palm Beach County by **Roadway Production Division** by road right-of-way warranty deed for Park Avenue, a total of 80 feet of right-of-way free of all encumbrances and encroachments. Developer 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. Previously Condition E.2. of Resolution R-91-1711. (MONITORING-Engineering)
3. Prior to January 1, 1992, the Property owner shall convey to Palm Beach County an adequate road drainage tract through the project's internal surface water management system to provide legal positive out fall for all runoff from those segments of Park Avenue from Military Trail to 1-95. 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 District for the combined runoff from the project and the ultimate Thoroughfare Plan Road Section(s) of the included segment not in excess of 80 feet. The property owner shall construct concurrent with the construction of drainage improvements for the 184 units being added a closed piping system with pipe furnished by Palm Beach County. Elevations and location of all construction shall be approved by the County Engineer. Previously Condition E.3. of Resolution R-91-1711. (MONITORING-Engineering)
4. Condition E.4. of Resolution R-91-1711, Petition 89-15 (A), which presently states:

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. The Fair Share fee for this project presently at the time of the Building Permit is \$1,650.00 per approved single family dwelling unit and \$1,155.00 per approved multi family dwelling unit. Credit toward traffic impact fees which are paid on any dwelling units after approval of this project will be given for road construction outlined in Condition No.s E5, E6, E7, and E8.

Is hereby amended to state:

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. The Fair Share fee for this project presently at the time of the Building permit is \$1,650.00 per approved single family dwelling unit and \$1,155.00 per approved multi family dwelling unit. Credit toward traffic impact fees which are paid

on any dwelling units after approval of this project will be given for road construction outlined in Condition No.s E5, E6, E7, and E8. The Developer of Garden Oaks PUD shall continue to pay these Fair Share Fees, as described above, which will be credited to Garden Oaks PUD for the widening of the intersection of Military Trail and Blue Heron Boulevard identified in Conditions E5, E6, E7, and E8. (ENGINEERING)

5. The Property owner shall fund construction plans for:
 - a. The construction of dual left turn lanes, east and west approaches on Blue Heron Boulevard at Military Trail and,
 - b. Right turn lane, south approach on Military Trail at Blue Heron Boulevard plus appropriate tapers to provide for the following geometrics:
 - 1) Dual lefts, 1 thru and 1 thru/right lane west approach.
 - 2) Dual lefts, 1 thru and 1 right turn lane east approach.
 - 3) One (1) right, 2 thrus and 1 left turn lane north approach.
 - 4) One (1) left, 2 thrus and 1 right turn lane south approach.

* The intersection improvements shall be designed to be compatible with the road improvements to be constructed by the Veterans Administration Hospital on Blue Heron Boulevard between Military Trail and Beeline Highway. The right turn lane on this approach shall therefore be capable of being redesignated as a thru right turn lane upon completion of the Veterans Administrator road improvement requirement.

Upon posting for 5a and 5b of surety, prior to January 1, 1992, County Engineer shall prepare the construction plans. The plans shall include all canal crossings (bridges and/or culverts) within the project limits constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division and funded by this property owner. Plans shall also include all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parcelled right-of-way maps required for the construction of the turn lanes as referenced above. These documents shall include a title search for a minimum of 25 years. Previously Condition E.5. of Resolution R-91-1711. (MONITORING-Engineering)

6. The property owner shall provide for the acquisition by funding any necessary right-of-way for the construction as referenced in the Condition above prior to January 1, 1992. This developer shall enter into a written agreement with the Right of Way Acquisition Section for this right-of-way acquisition upon completion of plans and request for funding by the County Engineer. Notification shall be given to Land Development Division. Previously Condition E.6. of Resolution R-91-1711. (MONITORING-Engineering)

7. The property owner shall fund the construction of the improvements including traffic signal modifications at the intersection of Military Trail and Blue Heron Boulevard to accomplish the geometrics described in Condition No. E.5.

Surety for the road construction shall be posted upon the completion of the plans required to let the road construction or prior to January 1, 1993, whichever shall first occur. The type and amount of surety shall be approved by the County Engineer.

Construction of these improvements shall be accomplished by Palm Beach County after receipt of the funds. All canal crossings within the project limits shall be constructed to their ultimate configuration. Previously Condition E.7. of Resolution R-91-1711. (ENGINEERING)

8. The Developer shall install signalization if warranted as determined by the County Engineer at the project's entrance road and Military Trail. 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 E.8. of Resolution R-91-1711. (ENGINEERING)
9. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. Previously Condition E.9. of Resolution R-91-1711. (ENGINEERING)
10. Condition E.10. of Resolution R-91-1711, which currently states:

Petitioner shall include in all written solicitations, 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. These include future Park Avenue.

Is hereby amended to state:

Petitioner shall include in homeowners documents as well as all written sales brochures, Master Plans and related Site Plans a disclosure statement identifying Park Avenue/North Lake reliever as a planned roadway adjacent to this property. This disclosure shall include mention of the proposed bridge over I-95 for Park Avenue/North Lake reliever. The Developer/Property Owner shall submit documentation of compliance with this condition which shall continue on an annual basis to the Monitoring Section of the Planning Zoning and Building Department. The next report shall be submitted prior to October 15, 1993, and shall continue on an annual basis thereafter until all units within the development have been sold or the developer relinquishes control to the homeowners association. (MONITORING - Engineering)

11. The Developer shall provide discharge control and treatment for the storm water 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 on site the first one inch of storm water 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.7. of Resolution R-89-2232. (ENGINEERING)

12. Prior to August 15, 1989, the property owner shall convey to Palm Beach County **Land Development Division** by road right-of-way warranty deed for:

- a. Military Trail, 60 feet from centerline; and,
- b. The construction of a right turn lane, south approach at the project's entrance road. This turn lane shall be a minimum of 150' in length with a taper length of 180 feet (which is in addition to the 60' dedication) 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.8. of Resolution R-89-2232. (MONITORING-Engineering)

13. The Property owner shall construct or fund the construction of (to be included in Palm Beach County's 4/6 lane Military Trail reconstruction):

- a. Right turn lane, south approach; and,
- b. Left turn lane, north approach

all concurrent with on site paving and drainage improvements. Construction shall be completed prior to the issuance of any Certificates of Occupancy. Palm Beach County will then have the option of requiring construction of these turn lanes concurrent with the 4/6 laning of Military Trail or added onto the existing 2 lanes. Should these turn lanes be required concurrent with the reconstruction of Military Trail this property Owner shall be responsible for any Change Orders. Previously Condition No.9. of Resolution R-89-2232. (ENGINEERING)

14. 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 out fall 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. 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.10. of Resolution R-89-2232. (ENGINEERING)

15. The petitioner 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. The Fair Share Fee

for this project presently is \$804.00 single family home under 2,000 square feet and \$562.00 per approved multiple family dwelling unit. Previously Condition No.11. of Resolution R-89-2232. (IMPACT FEE COORDINATOR-Engineering)

16. The Developer shall install signalization if warranted as determined by the County Engineer at Military Trail. 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.12. of Resolution R-89-2232. (COUNTY ENGINEER)
17. 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.13. of Resolution R-89-2232. (COUNTY ENGINEER)
18. Condition F.1. of Resolution R-91-1711, Petition 89-15(A), which amended Condition No.14. of Resolution No. 89-2232, Petition 89-15, which presently states:

Building Permits for more than 236 Category A and 184 Category B units shall only be available upon future approval by the Board of County Commissioners subject to meeting all future ordinances including but not limited to Traffic Performance Standards and the Comprehensive Land Use Plan. Building Permits for dwelling units generating **no** more than a total of 2,289 trips per day, which was derived from the entitlement density phase of the project, shall be issued until intersection improvements identified in condition E5a and E5b are under construction. Entitlement density shall be defined as being equivalent to a total **of** 2,289 trips, based on a generation rate of 9.7 trips per day for a single family dwelling unit and 7.0 trips per day for multi-family dwelling units.

Is hereby amended to read:

This project shall be limited to a total of 418 dwelling units which consists of 236 zero-lot-line (Category A) and 182 townhomes (Category B). (BUILDING-Engineering)

19. If the alignment of Park Avenue is determined to cross this property, the petitioner shall dedicate necessary Right-of-way as determined by the County Engineer. Right-of-Way dedication shall take place within ninety (90) days of Board of County Commission (Zoning Authority) approval, adopting the resolutions for this project and after the alignment has been established. Previously Condition No.15. of Resolution R-89-2232. (COUNTY ENGINEER)
20. Prior to Master Plan Certification, the petitioner shall submit a revised survey and master plan **reflecting** the net acreage of the site resulting from the County's ten (10) foot Right-of-way. Condition No. 14 will then be revised appropriately. Previously Condition No.16. of Resolution R-89-2232. (COUNTY ENGINEER)
21. **If** Park Avenue is determined to be within the project limits all prospective homeowners shall be advised of the existence of future Park Avenue thoroughfare and a bridge over I-95. These home owners shall be advised through any sales brochures **or** prospectus. Previously Condition No.17. of Resolution R-89-2232. (COUNTY ENGINEER)

F. PROPERTY OWNERS ASSOCIATION

1. **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 PUD. Previously Condition G.1. of Resolution R-91-1711. (COUNTY ATTORNEY)

G. RECYCLE SOLID WASTE

1. The petitioner shall encourage homeowners to participate in a recycling program for paper, plastic, metal and glass products when the program is available to the area. Previously Condition H.1. of Resolution R-91-1711. (SWA)

H. SCHOOL BOARD

1. **All** sales contracts on 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. Previously Condition I.1. of Resolution R-91-1711. (SCHOOL BOARD)
2. Prior to site plan certification, the petitioner(s) shall demonstrate that they have met with the Palm Beach County 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. Previously Condition I.2. of Resolution **R-91-1711**. (SCHOOL BOARD)

I. SITE SPECIFIC

1. Prior to certification, the Master Plan shall be revised to reflect the correct tabular information in conformance with the requirements **of** Section **6.8. of the** ULDC relating to planned unit developments, and the conditions **of** this approval. The revisions shall also include the following:
 - a. The developed area and each undeveloped tract shall be identified on the Master Plan, including the number **of** units, densities and acreage.
 - b. The tabular information shall clearly indicate the total number of units for which the project is approved, the total number **of** units the developer is permitted to build by this approval, the number of remaining units, the overall density and the densities for each tract (existing and proposed). Previously Condition **J.1.** of Resolution R-91-1711. (ZONING)

2. Prior to master plan certification, the master plan shall be revised to reflect the following:
 - a. Protection from development of all possible alignments and rights-of-way of Park Avenue. If this right-of-way is determined to fall within the project boundary, the site shall be redesignated to accommodate it;
 - b. Acreage of all lakes;
 - c. A minimum of **12.5** acres of recreation area or a combination of amenities and land area equal in value to the **12.5** acres of recreational area. Recreational facilities shall be approved by the Parks Department prior to Site Plan Review Committee master plan approval for Phase 1, a minimum of **3.5** acres shall be provided;
 - d. A detailed list of all amenities proposed for the recreation area;
 - e. A minimum of a **20** foot PUD buffer adjacent to all PUD buffers abutting canals (north and northeast) or the relocation of this area to the southern and eastern buffer to enhance preservation in these areas;
 - f. Clear delineation of area contained and to be developed in Phase I and Phase II and the delineation of Phase II as subject to future Board of County Commission approval; and,
 - g. The **2.35** acre civic site shall be deeded directly to the School Board of Palm Beach County, at no cost to the School Board, within 90 days of master plan approval by the Site Plan Review Committee. This total acreage of the **2.35** acre civic site shall be adjacent to the existing elementary school's east property line in a configuration acceptable to the petitioner and the Palm Beach County School Board. If the Park Avenue Right-of-Way is determined to run along the southern boundary of the property, a minimum of **2.35** acres of civic site dedication shall be maintained. No reduction in civic site area shall be permitted as a result of the Park Avenue dedication. Previously Condition No.1. of Resolution R-89-2232. (PARKS/SCHOOL BOARD/ZONING)

J. VEGETATION PRESERVATION

1. At the time of Site Plan Review Committee application for each of the site plans, the following vegetative information shall be submitted:
 - a. A detailed vegetation preservation, relocation, donation and removal program. This program shall include a site plan at the same scale as the tree survey (1" = 40' at the same scale). This plan shall clearly identify all oak, slash pine, and cypress and whether or not they are to be preserved, relocated, or removed. At a minimum, this plan shall incorporate all oaks greater than thirty inches in diameter, unless in the opinion of the Zoning Director, such tree imposes undue constraints on the efficiency planning or engineering of the property at which time the developer shall relocate said tree in accordance with Arbor Society Standards; relocate all oaks between five and twenty-nine inches in diameter,

preserve or relocate all cypress that can be moved with a tree spade, preserve or relocate all slash pine that may be moved with a tree spade. This program shall include justification for all relocation or removal, it shall also detail methods to be used in relocation, preservation and removal.

- b. Palms growing within required buffer areas and preserve areas shall be preserved, where possible. Those palms growing within the developable portions of the site shall not be removed until a relocation program is developed and approved. This program shall require that the School Board, Parks Department and other municipal government agencies be contacted and assisted in relocating the palms to public works sites in the area. This program shall be developed prior to the first site plan approval. Previously Condition No. 2, of Resolution R-89-2232. (ZONING)

2. Prior to issuance of a vegetation removal permit for this site the following shall be completed:

- 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. No clearing shall be permitted in Phase I: until after Phase II receives appropriate development approval excepting utility and infrastructure development; and,
- d. no vegetation removal or development activity such as trenching, grade changes or grubbing that may cause injury to the vegetation shall be permitted in required buffer areas or preservation areas. Previously Condition No. 3. of Resolution R-89-2232. (ZONING)

3. As part of vegetation preservation effort a minimum of a double row of native trees planted an average of thirty (30) feet on center shall be established within the southern twenty-five (25) foot PUD buffer. Existing materials may be credited toward this requirement. A landscape plan conforming to these specifications shall be submitted prior to Site Plan Review Committee approval for the southern pod.

- a. The petitioner shall provide within the northern and northeastern PUD buffers, where the facility abuts residential properties, a minimum of:

- (1) One, twelve (12) foot in height, six (6) foot spread native canopy tree for each thirty (30) lineal feet of buffer. Preserved or relocated vegetation may be credited towards this and the following conditions. These materials may be planted on the interior of the wall.

The following plants shall be planted on the exterior of the wall:

- (2) One (1) native understory plant (saw palmetto, wax myrtle, coco plum), a minimum of thirty-six (36) inches in height, for each ten (10) lineal feet of buffer;
- (3) One (1) drought tolerant vine for each five (5) lineal feet of buffer;
- (4) All ground area shall receive appropriate coverage with a minimum of two (2) inch layer of pine straw or appropriate seeding;
- (5) A minimum of a five (5) foot wide landscape easement shall be provided permitting the continued maintenance of these materials. Maintenance shall be provided by the Home Owners Association.
- (6) A complete set of landscape plans shall be submitted, prior to Site Plan Review Committee, demonstrating conformance to this condition. These plans shall employ xeriscape principles. Previously Condition No 4. of Resolution R-89-2232. (ZONING)

K. COMPLIANCE

- 1. Condition K.1. of Resolution R-91-1711, which presently states:

As provided in 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 deleted. REASON: Code requirement.

2. Condition K.2. of Resolution R-91-1711, which currently states:

The approval of this petition shall not affect any Zoning Code Section 402.9 (Mandatory Review of Development Approval) review date established as the result of a previous approval for this property.

Is hereby deleted. REASON: Repetitive condition. See Condition **A.I.**

3. Condition No. 18. of Resolution R-89-2232, which presently 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: Code requirement.