

RESOLUTION NO. R-95- 1467

RESOLUTION APPROVING ZONING PETITION DOA84-99(F)
DEVELOPMENT ORDER AMENDMENT
PETITION OF MISSION BAY PLAZA ASSOCIATION
BY **SARA** LOCKHART, AICP, AGENT

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

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

WHEREAS, Zoning Petition DOA84-99(F) was presented to the Board of County Commissioners at a public hearing conducted on October 26, 1995; and

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

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

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

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

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition **DOA84-99 (F)**, the petition of Mission Bay Plaza Association by Sara Lockhart, agent, for a Development Order Amendment to amend Condition 9 (square footage limitation) of Resolution R-93-1361 previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on October 26, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 26th day of October 1995.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

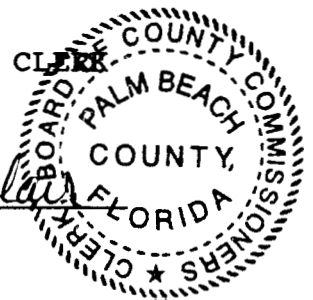


EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION OF MISSION BAY PLAZA:

MISSION BAY PLAZA, being a portion of tracts 7, 8, 9, 49, 50, 51 and 52 of Florida Fruit Lands Company's Subdivision No. 2 as recorded in Plat **Book 1**, Page **102** of the public records of Palm Beach County, Florida, and located in Section **13**, Township **47** South, Range **41** East, being more particularly described as follows:

Commencing at the Southeast Corner of said Section **13**; Thence North **00° 54' 39"** West, along the East line of said Section **13**, a distance of **1644.81** feet; Thence South **89° 08' 17"** West, a distance of **86.69** feet to the existing West Right-of-way line of State Road **7** and the POINT-OF-BEGINNING; Thence continue South **89° 08' 17"** West, a distance of **259.50** feet; Thence North **00° 51' 43"** West, a distance of **560.64** feet; Thence South **89° 08' 17"** West, a distance of **100.00** feet; Thence South **37° 08' 17"** West, a distance of **100.00** feet; Thence South **00° 51' 43"** East, a distance of **180.00** feet; Thence South **89° 08' 17"** West, a distance of **140.00** feet; Thence South **37° 08' 17"** West, a distance of **180.00** feet; Thence South **89° 08' 17"** West, a distance of **375.00** feet; Thence North **12° 51' 43"** West, a distance of **1100.00** feet; Thence North **39° 14' 42"** East, a distance of **489.88** feet; Thence North **89° 08' 17"** East, a distance of **960.00** feet to the said Right-of-way line of State Road **7**; Thence South **00° 51' 43"** East, along said Right-of-way a distance of **1610.64** feet to the Point-of-Beginning less and except Rights-of-way Record.

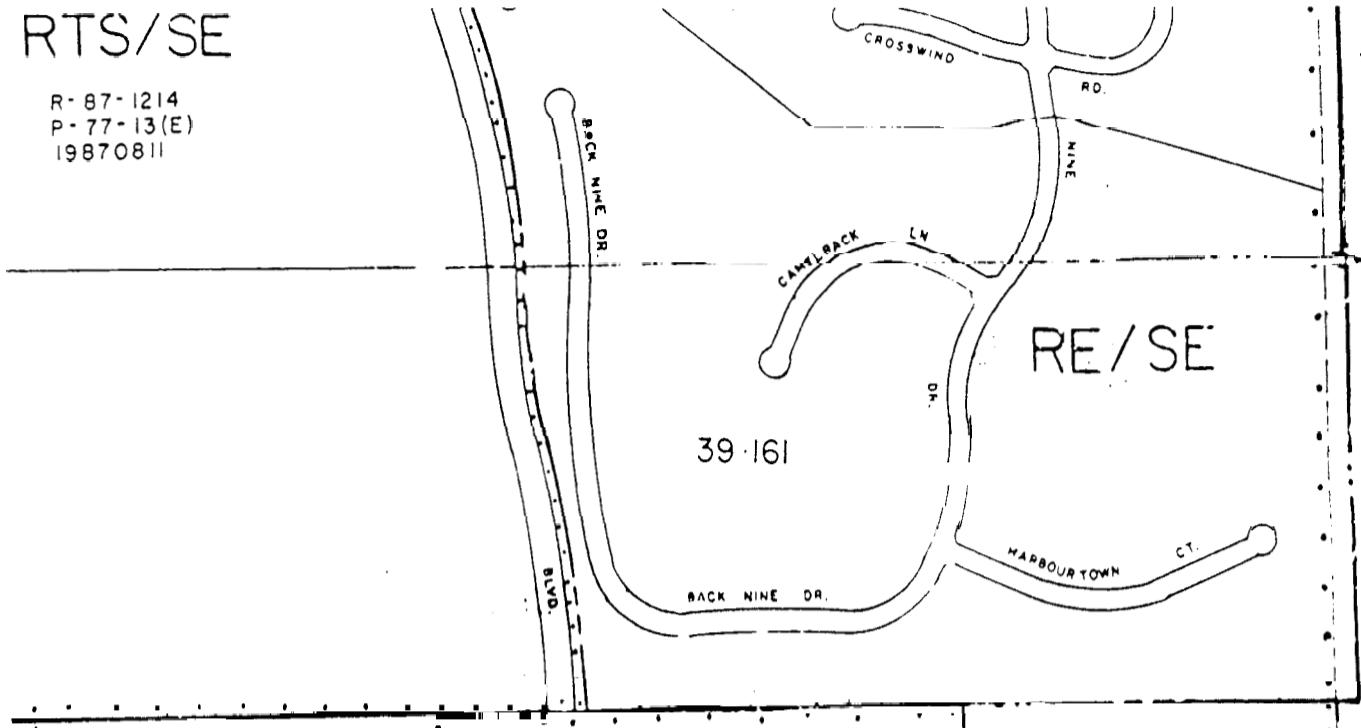
Said lands situate, lying and being in Palm Beach County, Florida
Containing **36.4501** acres more or less.

84 - 99 F

EXHIBIT B
VICINITY SKETCH

RTS/SE

R-87-1214
P-77-13(E)
19870811



RE/SE

39-161

AR.

RTS
PUD/SE

SE
-93-346
-84-95(C)
7930316

1-102

LOSTH AV 30

13.

RTS
PUD/SE

R-84-1831, 1832
P-84-95
19841211

R-89-1055
P-84-95(B)
19890606

CG/SE

SE SE
R-93-1369 R-90-916
EACB4-95(E) P-84-99(C)
19931028 19900522

SF SE
R-93-1360 R-93-1361
DOA84-99(D) DOA84-99(F)
19931028 19931028

RATON WEST RD.

S R 808 EXTENS'CH

SE
R-93-758
EACB4-95(D)
19930624

RTS
PUD/SE

R-84-1831, 1832
P-84-95
19841211

RTS
PUD/SE

SE
R-94-783, 784, 785

EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. 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 **Section 5.8** of the ULDC compliance, as amended, unless expressly modified. (Previously Condition No. A.1 of Resolution R-93-1361, Petition 84-99(E)). (MONITORING)
2. To ensure safe pedestrian access to and from the indoor entertainment use the petitioner shall, prior to site plan approval by the DRC, amend the site plan to indicate a pedestrian crossing to and from the indoor entertainment use and the parking area to the east. In addition the petitioner shall stripe the pedestrian crossing and install the appropriate pedestrian crossing signage indicating a warning for small children in area. (Previously Condition No. A.2 of Resolution R-93-1361, Petition 84-99(E)). (ZONING/BUILDING)
3. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - A. All mechanical and air conditioning equipment to be roof mounted and screened with parapets or be contained within the enclosed loading and service area.
 - B. The north and west facades of the shopping center shall be given architectural treatment consistent with the front of the center to avoid an incompatible appearance and a negative visual impact upon nearby residential development. (Previously Condition No. A.3 of Resolution R-93-1361, Petition 84-99(E)). (ZONING)
4. No storage or placement of any materials, refuse, equipment or accumulate debris in the rear of the shopping area shall be permitted. (Previously Condition No. A.4 of Resolution R-93-1361, Petition 84-99(E)). (CODE ENFORCEMENT)
5. No parking of any vehicles along the rear of the shopping center except in designated spaces or unloading areas shall be permitted. (Previously Condition No. A.5 of Resolution R-93-1361, Petition 84-99(E)). (CODE ENFORCEMENT)
6. Structure in this Planned Commercial Development shall be limited to two stories, and in no event shall the height of the finished roof exceed 30 feet. (Previously Condition No. A.6 of Resolution R-93-1361, Petition 84-99(E)).
7. Prior to site plan certification, the site plan shall be amended to reflect the following:
 - a) Labeling, location, delineation, and dimension of required parking areas convenient to the automobile service station and car wash area.
 - b) A five (5) car stacking distance for each gasoline pump island and the car wash facility.
 - c) Delineation of the handicap spaces. (Previously Condition No. A.7 of Resolution R-93-1361, Petition 84-99(E)). (ZONING) COMPLETED

8. **No off premises signs shall be erected on site.**
(Previously Condition No. A.8 of Resolution R-93-1361, Petition 84-99(E)). (ZONING/BUILDING)
9. Condition A.9 of Resolution R-93-1361, Petition 84-99(E)), which currently states:

The petition shall be limited to a maximum of 278,968 square feet which may not be increased through Site Plan Review Committee.

Is hereby amended to state:

The petition shall be limited to a maximum of 305,928 square feet. (BUILDING-Zoning)

B. LANDSCAPING

1. The petitioner shall install the required landscaping pursuant to Zoning Exhibit 69 (Landscape Plan A) prior to January 31, 1994. All existing landscaping material that does not meet the minimum requirements of the approved Landscape plan shall be replaced with appropriate landscape material and shall meet the minimum requirement of section 7.3 (Landscaping and Buffering) PBC UDC. (Previously Condition No. B.1 of Resolution R-93-1361, Petition 84-99(E)). (ZONING/MONITORING)
2. All trees within the Planned Commercial Development shall be allowed to reach a minimum height of fifteen (15) feet and shall be maintained at a height of no less than fifteen (15) feet. (Previously Condition No. B.2 of Resolution R-93-1361, Petition 84-99(E)). (ZONING)
3. Petitioner shall provide a six (6) foot high berm between car wash area and the north property line, extending a minimum of 150 feet from the west right-of-way line of SR 7. This berm shall be supplemented with canopy trees a minimum of eight (8) feet in height, planted 30 feet on center, and a hedge or wall an additional three (3) feet in height. (Previously Condition No. B.3 of Resolution R-93-1361, Petition 84-99(E)). (ZONING)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Any underground fuel storage tanks shall be installed to provide maximum protection against leakage or spillage due to corrosion, breakage, structural failure, or other means. Acceptable designs for tank construction include cathodically protected steel, glass fiber , reinforced plastic, steel clad with glass fiber-reinforced plastic, double-walled steel or plastic; or other equivalent design. The design and installation plans will be submitted to the Health Department for approval prior to installation. (Previously Condition No. C.1 of Resolution R-93-1361, Petition 84-99(E)). (ERM)
2. The Developer shall relocate and/or preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect any individual trees and/or preservation areas during site clearing and construction. (Previously Condition NO. c.2 of Resolution R-93-1361, Petition 84-99(E)). (ERM)
[COMPLETE]

D. HEALTH

1. No building permit shall be issued for the subject property until such a time that the site is approved for connection to a public sewer system. (Previously Condition No. D.1 of Resolution R-93-1361, Petition 84-99(E)). (HEALTH)

2. Since sewer and water service are available to the property, neither septic tank nor well shall be approved for use on the property. (Previously Condition No. D.2 of Resolution R-93-1361, Petition 84-99(E)). (HEALTH)
3. Since water service is available to the property, a potable water well shall not be approved for use on the property. (Previously Condition No. D.3 of Resolution R-93-1361, Petition 84-99(E)). (HEALTH)
4. The developer shall design the drainage system such that storm water runoff from the parking areas and paved surfaces shall be separate from those areas which may contain hazardous or undesirable waste from the proposed site. (Previously Condition No. D.4 of Resolution R-93-1361, Petition 84-99(E)). (HEALTH)
5. Carwash facility shall have water recycling system. There shall be no connection of this system to the septic tank. (Previously Condition No. D.5 of Resolution R-93-1361, Petition 84-99(E)). (HEALTH)

E. ENGINEERING

1. Petitioner shall retain onsite 100% of the stormwater runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division. In addition, the Developer shall provide legal positive outfall or receive a variance from this requirement. (Previously Condition No. E.1 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING)
2. The developer shall retain 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 three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. 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 No. E.2 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING)
3. The property owner shall convey for the ultimate right-of-way of S.R.7, 240 feet west of the west right-of-way line of the Lake Worth Drainage District E-1 Canal, within ninety (90) days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to the issuance of the first building permit. (Previously Condition No. E.3 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]
4. The property owner shall convey the ultimate right-of-way for Glades Road necessary to provide for a 120 foot ultimate section. This right-of-way alignment shall be per the County Engineer's approval within ninety (90) days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach county prior to the issuance of the first building permit. (Previously Condition No. E.4 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]

5. The property owner shall convey from the subject property the ultimate right-of-way for the "Special Exception" at Glades Road and S.R. 7 per the County Engineer's approval. This right-of-way shall be conveyed within ninety (90) days of adoption of the Resolution by the Board of County Commissioners and accepted by Palm Beach County or prior to the issuance of a building permit. (Previously Condition No. E.5 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]
6. Based on traffic impacts and total traffic projected in the impact area, the project shall be issued a building permit until the 21 months after the approval date by the Board of County Commissioners. (Previously Condition No. E.6 of Resolution R-93-1361, Petition 84-99(D)). (ENGINEERING) [Complete]
7. The petitioner shall provide the construction plans for S.R. 7 as a four-lane, median-divided section (expandable to 6-lanes), compatible with the Department of Transportation typical section from Palmetto Park Road south to the Hillsboro Canal plus the appropriate tapers, per the County Engineer's approval. These plans shall be completed within six (6) months of the approval date by the Board of County Commissioners or prior to the issuance of a Certificate of Occupancy, whichever first occurs. The cost of these plans shall not exceed \$100,000.00. (Previously Condition No. E.7 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]
8. The petitioner shall provide the construction plans for Glades Road as a six-lane, median-divided facility from Powerline/Jog Road to just east of the Florida Turnpike entrance plus the appropriate tapers, per the County Engineer's approval. These plans shall be completed within eighteen (18) months of the resolution date by the Board of County Commissioners. The cost of these plans shall not exceed \$100,000.00. (Previously Condition No. E.8 of Resolution R-93-1361, Petition 84-99(D)). (ENGINEERING) [Complete]
9. The additional right-of-way for S.R. 7, as determined by the Florida Department of Transportation, from Palmetto Park Road to the Hillsboro Canal with the appropriate tapers for the road construction for S.R. 7, shall be acquired by Palm Beach County at the Developer's expense. (Previously Condition No. E.9 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]
10. The Developer shall construct S.R. 7 as a four-lane divided section from Palmetto Park Road South to the Hillsboro canal, plus, the appropriate tapers, per the County Engineer's approval. The construction shall include an asphalt overlay of the two (2) existing lanes on S.R. 7, if required by the County Engineer. This construction shall be completed and accepted by Florida Department of Transportation within nine (9) months of Palm Beach County's acquisition of the right-of-way described in Condition No. 8. (Previously Condition No. E.10 of Resolution R-93-1361, Petition 84-99(D)). (ENGINEERING) [Complete]
11. The Developer shall construct Glades Road as a six-lane divided section from Powerline/Jog Road to just east of the Florida Turnpike entrance in conjunction with the construction of the Florida Turnpike interchange. In addition, the Developer shall provide a cash contribution to the Florida Department of Transportation for their construction of the Florida Turnpike underpass expansion.

The total commitment by the Developer for plan preparation (as noted in Condition No. 7) construction, and Florida Department of Transportation contribution shall not exceed \$1,000,000.00. (Previously Condition No. E.11 of Resolution R-93-1361, Petition 84-99(D)). (ENGINEERING) [Complete]

12. The Developer shall construct concurrent with paving and drainage improvements pursuant to a Paving and Drainage Permit issued from the Office of the County Engineer:
 - A. Glades Road S.R. 7 West to the project's West property line as a four-lane median divided section.
 - B. At the project's North and South entrance road onto S.R.7:
 - (1) Left turn lane, South approach.
 - (2) Right turn lane, North approach.
 - C. At the project's West entrance road and Glades Road a left turn lane, West approach and a right turn lane, west approach.
 - D. The Developer shall also construct at the intersection of Glades Road and S.R. 7 concurrent with the four-laning of S.R.7 fronting this parcel:
 - (1) Right turn lane South approach. (Previously Condition No. E.12 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Not complete]
13. The property owner 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 \$777.00 for the proposed car wash (29 trips X \$26.79 per trip). (Previously Condition No. E.13 of Resolution R-93-1361, Petition 84-99(E)). (ENGINEERING) [Complete]
14. 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 proposed expansion is \$4,290.00 (78 additional trips X \$55.00 per trip). (Previously Condition No. E.14 of Resolution R-93-1361, Petition 84-99(E)). (IMPACT FEE COORDINATOR)
15. The Developer shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently, the Fair Share Fee for this project is \$163,288.00.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, the developer shall pay the increased fee and be entitled to credits towards the construction of State Road 7 and Glades Road.

The construction of S.R. 7 and Glades Road as outlined in conditions 6, 7, 8, 9 & 10, shall be credited toward the Fair Share Impact Fee of \$163,288.00 based upon a Certified Cost Estimates by the Developer's Engineer, subject to review by the County Engineer. Surety must be posted with the County Engineer an amount equivalent to the road construction for S.R. 7 and Glades Road as outlined in Condition Nos. 6, 7, 8, 9 & 10 within ninety (90) days of the adoption of the resolution by the Board of County Commissioners. (Previously Condition No. E.15 of Resolution R-93-1361, Petition 84-99(E)). (IMPACT FEE COORDINATOR)

16. If any of the improvements listed above are complete³ by others prior to the date required by this petition, then the Developer will be relieved of all or part of the respective improvement project. Palm Beach County shall make available other existing Developer commitments which are earmarked for the construction of Glades Road from Jog/Powerline Road to just east of the Florida Turnpike entrance prior to the same being constructed. In the event that another entity other than the property owner of Petition No. 84-95 or Petition No. 84-99 constructs S.R. 7 from the Hillsboro Canal to Palmetto Park Road (or) Glades Road from Jog/Powerline Road to just east of the Florida Turnpike entrance, this Developer shall make a contribution in either cash or construction costs in a total amount not less than \$888,870.00. Notes It is the intent of the Office of the County Engineer that Palmetto Park Road will be constructed as a six-lane median divided section from west of the Florida Turnpike to C-95 at the time of construction for its presently budgeted four-lane divided section. This would be accomplished, provided that the Board of County Commissioners approve, with the use of impact fee money or other developer commitment which may be granted zoning approvals. (Previously Condition No. E.16 of Resolution R-93-1161, Petition 84-99(E)).
17. The property owner shall provide Palm Beach County with a road drainage easement through this project's internal lake system for the road drainage of Cain boulevard, Glades Road, and S.R.7. This drainage easement shall be subject to all Governmental Agency Requirements. (Previously Condition No. E.17 of Resolution R-93-1161, Petition 84-99(E)). (ENGINEERING) [Complete]
18. The property owner 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, Zoning Petition Number 84-99(F), to be paid at the time of issuance of the Building Permit presently is \$97,075 (1765 additional trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)

F. COMPLIANCE

1. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or

- d. Referral to code enforcement; and/or
- e. Imposition of entitlement density or intensity.

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