

RESOLUTION NO. R-95- 1724

RESOLUTION APPROVING ZONING PETITION PDD95-22
OFFICIAL ZONING MAP AMENDMENT (REZONING)
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
PETITION OF METRODRAMA JOINT VENTURE
BY WILLIAM R. BOOSE, ESQ., 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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD95-22 was presented to the Board of County Commissioners at a public hearing conducted on December 4, 1995; and,

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 PDD95-22, the petition of Metrodrama Joint Venture by William R. Boose, Esq., agent, for an Official Zoning Map Amendment (Z) from the General Commercial (CG) Zoning District to the Multiple Use Planned Development (MUPD) District (MUPD), on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on December 4, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

Ken Foster, Chair	--	AYE
Burt Aaronson	--	AYE
Maude Ford Lee	--	ABSENT
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 December 4, 1995.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Dorothy H. Wilken*
COUNTY ATTORNEY

BY: *Janet Hawley*
DEPUTY CLERK

DEC 6 1995

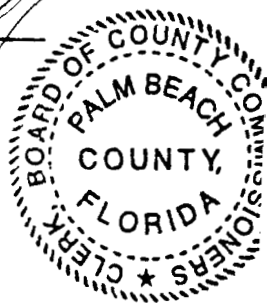


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 27, TOWNSHIP 43 SOUTH, RANGE 42 EAST PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING PART OF PALM BEACH FARMS COMPANY PLAT NO. 3 AND PART OF PALM BEACH FARMS COMPANY PLAT NO. 9 ACCORDING TO THE PLATS THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 4 THROUGH 54 AND IN PLAT BOOK 5, PAGE 58, RESPECTIVELY, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 27; THENCE, SOUTH $88^{\circ}16'11''$ EAST, ALONG THE NORTH LINE OF SAID SECTION 27, A DISTANCE OF 2225.19 FEET, MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE NORTHERLY PROLONGATION OF THE WEST LINE OF EAST ONE-HALF OF TRACT 28 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 9; THENCE, SOUTH $02^{\circ}16'39''$ WEST, ALONG SAID WEST LINE AND ITS NORTHERLY PROLONGATION, A DISTANCE OF 105.00 FEET TO POINT ON THE SOUTH RIGHT OF WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL L-1, AS RECORDED IN OFFICIAL RECORDS BOOK 1732, PAGE 612 PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID POINT BEING THE POINT OF BEGINNING (P.O.B.);

THENCE, CONTINUE SOUTH $02^{\circ}16'39''$ WEST, ALONG SAID WEST LINE OF THE EAST ONE-HALF OF TRACT 28, A DISTANCE OF 760.20 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF SAID TRACT 28; THENCE, CONTINUE SOUTH $02^{\circ}16'39''$ WEST A DISTANCE OF 15.02 FEET TO THE CENTERLINE OF THE CERTAIN 30 FOOT PLATTE ROAD RIGHT OF WAY LYING SOUTHERLY AND CONTIGUOUS TO SAID TRACT 28; THENCE SOUTH, $89^{\circ}32'23''$ WEST, ALONG SAID CENTERLINE, A DISTANCE OF 87.23 FEET MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE NORTHERLY PROLONGATION OF THE WEST LINE OF THE EAST ONE-QUARTER OF TRACT 1 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 3; THENCE, SOUTH $00^{\circ}27'37''$ EAST, ALONG SAID NORTHERLY PROLONGATION, A DISTANCE OF 15.00 FEET TO THE NORTHWEST CORNER OF THE EAST ONE-QUARTER OF SAID TRACT 1; THENCE, CONTINUE SOUTH $00^{\circ}27'37''$ EAST, ALONG THE WEST LINE OF THE SAID EAST ONE-QUARTER OF TRACT 1, A DISTANCE OF 519.30 FEET, MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF THE SUNSHINE STATE PARKWAY (FLORIDA'S TURNPIKE) AS SHOWN ON FLORIDA STATE TURNPIKE AUTHORITY RIGHT OF WAY MAPS, CONTRACT NO. 4.1, SHEETS 1, 2, & 3, OF 12 SHEETS, DATED 8/5/51; THENCE, NORTH $41^{\circ}08'34''$ EAST, ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 1691.44 FEET TO THE INTERSECTION THEREOF WITH THE SOUTHERLY RIGHT OF WAY LINE OF OKEECHOBEE ROAD, AS SHOWN ON SAID TURNPIKE AUTHORITY RIGHT OF WAY MAPS; THENCE, NORTH $88^{\circ}12'07''$ WEST, ALONG SAID OKEECHOBEE ROAD RIGHT OF WAY LINE; AND ALONG A LINE 110 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID SECTION 27, A DISTANCE OF 279. FEET; THENCE, NORTH $82^{\circ}29'39''$ WEST, CONTINUING ALONG SAID OKEECHOBEE ROAD RIGHT OF WAY LINE, A DISTANCE OF 51.74 FEET TO THE INTERSECTION THEREOF WITH THE SOUTH RIGHT OF WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL L-1; THENCE, NORTH $88^{\circ}12'07''$ WEST, ALONG SAID SOUTH RIGHT OF WAY LINE OF L-1 CANAL, AND ALONG A LINE 105 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID SECTION 27, A DISTANCE OF 199. FEET, MORE OR LESS, TO THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 27; THENCE, NORTH $88^{\circ}16'11''$ WEST, CONTINUING ALONG THE SOUTH RIGHT OF WAY LINE FOR L.W.D. LATERAL CANAL L-1 AND ALONG A LINE 105 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINE OF SAID SECTION 27 A DISTANCE OF 469.89 FEET TO THE POINT OF BEGINNING (P.O.B.).

CONTAINING: 15.08 ACRES

SUBJECT TO EASEMENTS, RESERVATIONS, AND RIGHTS OF WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH

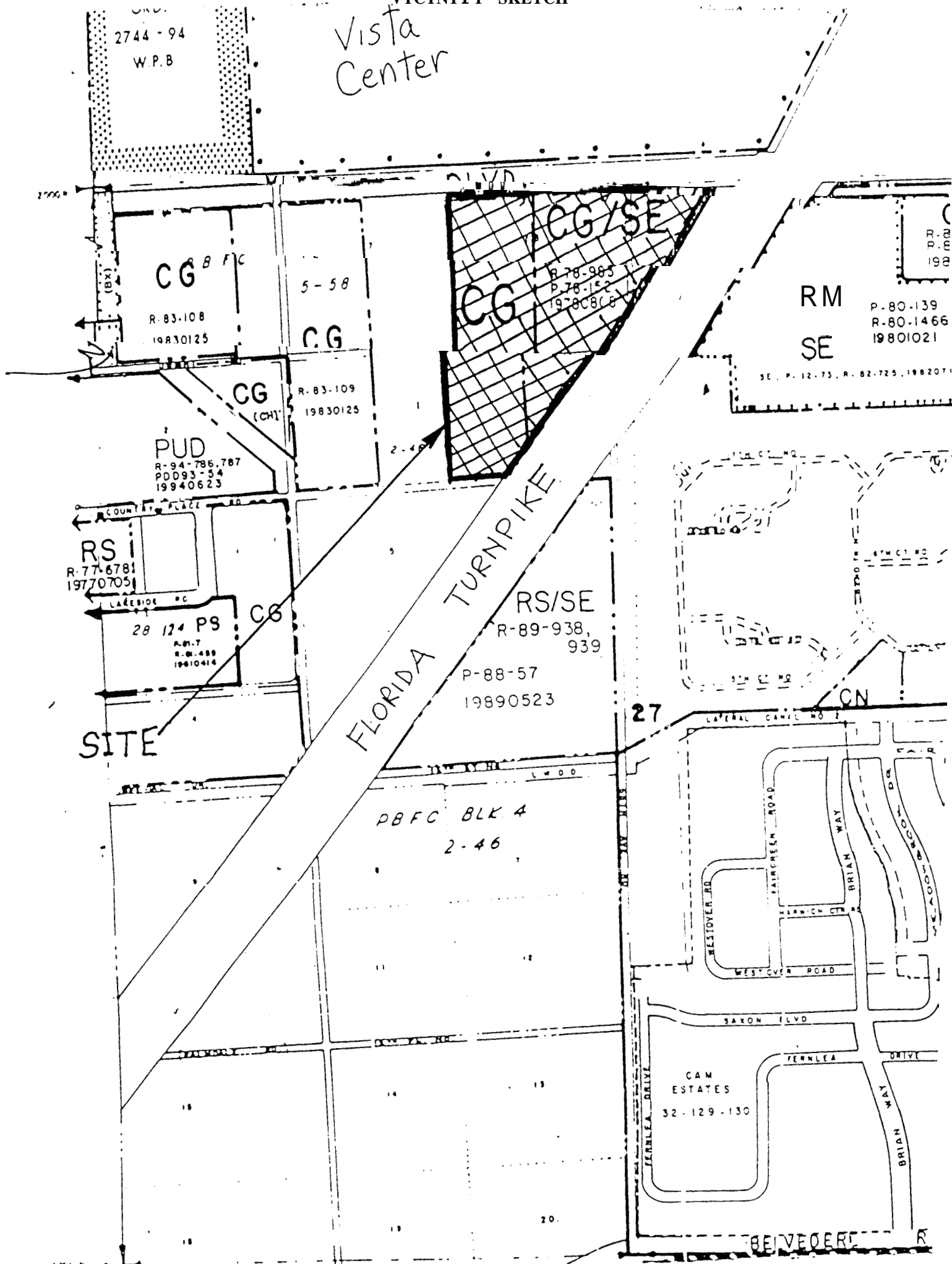


EXHIBIT C

CONDITIONS OF APPROVAL

A. GENERAL

1. All previous approvals on the subject property, as contained in Resolutions R-74-337 (Petition 74-51) and R-78-983 (Petition 78-152), are hereby revoked. (ONGCING: MONITORING-Zoning)

B. BUILDING AND SITE DESIGN

1. Prior to site plan certification by the Development Review Committee (DRC), the petitioner shall record in the public records a covenant ensuring architectural compatibility between all buildings and signage for the entire subject property. The covenant shall be in a form acceptable to the County Attorney. (COUNTY ATTORNEY)
2. All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure. (CO: BUILDING-Zoning)
3. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall be screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure and shall be confined to areas designated on the site plan. (CO: BUILDING-Zoning)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A Wellfield Affidavit of Notification shall be submitted to the Department of Environmental Resources Management prior to DRC Site Plan certification. (ERM)

D. LAKE WORTH DRAINAGE DISTRICT

1. The north 75' of the east $\frac{1}{2}$ of Tract 28, Block 1, Palm Beach Farms Company Plat No.9, recorded in Plat Book 5, Page 58 and the easterly extension thereof to the east line of the west $\frac{1}{2}$ of Section 27, Township 43S, Range 42E for the right-of-way for Lateral Canal No.1 (L-1) shall be required prior to issuance of the first building permit. (BUILDING-LWDD)

E. ENGINEERING

1. The property owner shall construct a right turn lane west approach on Okeechobee Boulevard at the project's west entrance. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. a) Permits required by the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit. b) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BUILDING - Engineering).

2. The property owner shall fund the cost of the signalization upgrade presently installed at the project's west entrance at Okeechobee Boulevard as warranted and as determined by the County Engineer based upon the project's traffic generation. Vista Center shall contribute the remaining pro rata share of such signalization upgrade cost pursuant to Condition 10(e)(5) of Palm Beach County Zoning Resolution R-92-695 approving the Vista Center DRI. Should signalization not be warranted after 12 months of the final Certificate of Occupancy for this project, this property owner shall be relieved from this condition. (ENGINEERING)

3. LANDSCAPE WITHIN MEDIAN
 - a. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way, excluding the Florida Turnpike. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. All landscape material, installation, and maintenance requirements shall be subject to the standard; set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG. PERMIT: MONITORING-Engineering)

 - b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING-Engineering)

 - c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING-Engineering)

4. 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 95-22 to be paid at the time of issuance of the Building Permit presently is \$543,785.00 (9887 trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)

5. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

- A. Building Permits for no more than the **4500** square foot fast plus **96,250** square feet of general retail shall be issued until construction has begun for dual left turn lanes west approach and dual left turn lanes north approach on Okeechobee Boulevard and Jog Road plus the appropriate paved tapers. (BUILDING - Engineering).
- B. Building Permits for no more than the **4500** square foot fast plus **167,600** square feet of general retail shall be issued until the construction has begun for the road construction of Roebuck Road from Jog Road to Haverhill Road. (BUILDING - Engineering).

The mix of allowable commercial uses listed above **may** be adjusted by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

- 6. The Property owner shall construct dual left turn Lanes west approach and dual left turn lanes north approach on Okeechobee Boulevard and Jog Road plus the appropriate paved tapers. Surety for these turn lanes shall be based upon a certified cost estimate from the Developers Engineer, and approved by the County Engineer. Surety for the construction of these turn lanes shall be completed prior to June 4, 1996 and shall be based upon **110%** of the approved cost estimate plus any additional right of way required for this turn lane construction. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. Should any other agencies construct these improvements prior to the applicant then this property owner shall not be required to be constructed by this applicant. (MONITORING - Engineering)

F. LANDSCAPING - GENERAL

- 1. All trees required to be planted on site by this approval shall meet the following minimum standard; at installation:
 - a. Tree height: fourteen (14) feet.
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (CO: BUILDING)

G. LANDSCAPING - INTERIOR

- 1. Landscape planting areas shall be provided along the front and side facades of all structures. The minimum width of required landscape planting areas shall be five (5) feet. The combined length of the required planting areas shall be no less than **40%** of the total length of the applicable side of the structure. All required landscape planting areas shall be planted with a minimum of one (1) tree every 20 feet on center and appropriate groundcover. (BLDG PERMIT; BUILDING-Zoning)
- 2. All interior parking and vehicular use areas shall be landscaped in accordance with the Regulating Plan dated August 24, 1995. (CO: BUILDING-Zoning)

H. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING OKEECHOBEE BOULEVARD)

1. Landscaping and buffering along the north property line shall be upgraded to include:
 - a. One (1) canopy tree planted every twenty (20) feet on center.
 - b. One (1) palm tree or pine tree for each twenty (20) linear feet of frontage, with a maximum spacing of sixty (60) feet on center. A group of three or more palm and/or pine trees may supersede the requirement for a canopy tree in that location,
 - c. Thirty (30) inch high shrub or hedge material, or decorative plant material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (CO: BUILDING-Zoning)

I. MURD

1. Total gross floor area shall be limited to a maximum of 283,500 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. (BLDG. PERMIT: BUILDING-Zoning)

J. PARKING

1. All delivery and/or loading areas shall be screened from view from the east property line by a twelve (12) foot high wing wall, measured from finished grade to highest point. The wing wall shall be constructed in a manner consistent with the color, character and architectural style of the principle structure. (CO: BUILDING-Zoning)
2. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas or in the rear of the principal structure. (ONGOING: CODE ENFORCEMENT)
3. Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to include shopping cart storage and retrieval corrals in all parking areas. (DRC: ZONING)

K. SIGNS

1. Freestanding point of purchase signs fronting on Okeechobee Boulevard, excluding out parcels, shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - twenty (20) feet;
 - b. Maximum sign face area per side - 150 square feet;
 - c. Maximum number of signs - two (2); and
 - d. Style - monument style only. (CO: BUILDING-Zoning)
2. Freestanding point of purchase signs for each out parcel shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. Maximum sign face area per side - 100 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BUILDING-Zoning)

L. WATER UTILITIES

1. The developer shall be required to design and construct a sewer lift station per P.B.C. Water Utilities

Department specifications and with a capacity and access to serve the area east of Jog Road, west of the Florida Turnpike and south of Okeechobee Boulevard. (PBCWUD)

M. 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)