

RESOLUTION NO. R-2009-1228

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-01196
(CONTROL NUMBER 1992-00014)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF Okeelanta Corp
BY Kilday & Associates, Inc., AGENT
(Okeelanta CO-Generation Plant)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2008-01196 was presented to the Board of County Commissioners at a public hearing conducted on July 23, 2009; and

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

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives, and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
6. 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.
7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

8. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans in accordance with BCC policy;
8. This Development Order Amendment has a concurrency determination and complies with Article 2.F Concurrency - Adequate Public Facility Standards of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 Application DOA-2008-01196, the application of Okeelanta Corp, by Kilday & Associates, Inc., agent, for a Development Order Amendment to to add land area, reconfigure the site plan and modify conditions of approval 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 December 4, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	¥	Aye
Commissioner Burt Aaronson, Vice Chairman	¥	Aye
Commissioner Karen T. Marcus	¥	Aye
Commissioner Shelley Vana	¥	Aye
Commissioner Steven L. Abrams	¥	Aye
Commissioner Jess R. Santamaria	¥	Aye
Commissioner Priscilla A. Taylor	¥	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 23, 2009.

Filed with the Clerk of the Board of County Commissioners on August 31, 2009.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:


COUNTY ATTORNEY

SHARON BOCK, CLERK &
COMPTROLLER

BY:


DEPUTY CLERK

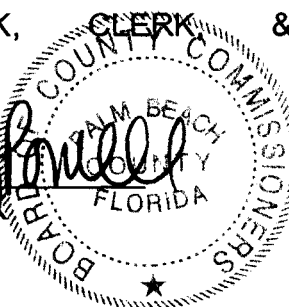


EXHIBIT A

LEGAL DESCRIPTION

Legal Description of Amended Leased Premises described in Exhibit A of Amendment to Amended Memorandum of Ground Lease Agreement, recorded in O. R. Book 22626, at Page 79, Palm Beach County, Florida.

The "Power Plant Site" consisting of Parcels A and B below:

Parcel A:

A parcel of land in the Northeast Quarter of Section 16, Township 45 South, Range 36 East, Palm Beach County, Florida, described as follows:

Commencing at the Northeast corner of the Northeast Quarter of Section 16, Township 45 South, Range 36 East, said corner being the same as the Northeast corner of Section 16, Township 45 South, Range 36 East;

Thence South 0°51'19" East 793.03 feet along the East line the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 50.00 feet to the point of beginning of the hereinafter described parcel:

Thence South 0°51'19" East 1170.01 feet along a line parallel with and 50 feet West of the East line of the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 1700.00 feet;

Thence South 0°51'19" East 680.26 feet along a line parallel with the East line of the Northeast Quarter of said Section 16;

Thence South 89°36'38" West 864.13 feet;

Thence North 0°40'35" West 1809.16 feet along the West edge of a paved road;

Thence North 89°36'38" East 130.00 feet;

Thence North 0°51'19" West 41.00 feet along a line parallel with the East line of the Northeast Quarter of said Section 16;

Thence North 89°36'38" East 2428.43 feet to the point of Beginning.

LESS AND EXCEPT the following parcel (Florida Power & Light Substation) parcel as described as follows:

Commencing at the Northeast corner of Section 16, Township 45 South, Range 36 East,

Thence South 0°51'19" East 793.03 feet along the East line of said Section 16;

Thence South 89°36'38" West 50.00 feet

Thence South 89°36'38" West 2022.43 feet

Thence South 42°05'52" West 124.65 feet;

Thence South 89°36'38" West 402.64 feet;

Thence South 0°56'16" East 75.00 feet

Thence North 89°36'38" East 145.00 feet; to the point of beginning of the hereinafter described parcel, thence

South 0°56'16" East 148.00 feet;

Thence North 89°36'38" East 248.00 feet;

Thence North 0°56'16" West 148.00 feet

Thence South 89°36'38" West 248.00 feet to the point of beginning.

The net area of Parcel A 81.22 Acres.

NOTE: Bearings shown on these descriptions are Grid Bearings of the Florida State Plane Coordinate System, East Zone, on the 1927 North American Datum, 1972 Free Adjustment."

Parcel B: (New Fuel Yard Parcel):

A parcel of land in Section 16, Township 45 South, Range 36 East, Palm Beach County, Florida, described as follows:

Commencing at the Northeast corner of said Section 16, Township 45 South, Range 36 East, Thence South 0°50'24" East (previously recorded bearing South 0°51'19" East) 1963.04 feet along the East line of said Section 16,

Thence South 89° 37'33" West 50.00 feet to the southeast corner of the parcel described in the Amended Memorandum of Ground Lease Agreement recorded in O. R. Book 18017, at Page 1380, Palm Beach County, Florida ("**Former Power Plant Parcel**") as described in Official Records Book 18017, Page 1380, public records of Palm Beach County, Florida,

Thence continue South 89°37'33" West 644.81 feet along the South line of the Existing Power Plant Parcel to the West edge of pavement of the existing asphalt paved road and the Point of Beginning of the hereinafter described parcel, Thence South 0°23'03" East 899.39 feet along the West edge of pavement of the aforementioned road, to the beginning of a curve concave to the

West having a radius of 152.00 feet,
Thence Southwesterly 80.67 feet along said edge of pavement and the arc of said curve through a central angle of 30°24'31". The subtended chord bears South 14°49'13" West 79.73 feet,
Thence South 89°37'33" West (previously recorded bearing South 89°36'38" West) 414.92 feet to the Northeast corner of the Distribution Center parcel designated as Parcel "D" of Exhibit "A" as recorded in Official Records Book 19090, Page 826, public records of Palm Beach County, Florida ("Distribution Center Parcel"),
Thence continue South 89°37'33" West (previously recorded bearing South 89°36'38" West) 1,476.66 feet along the North line of the Distribution Center Parcel and its Westerly extension to the East edge of pavement of the existing North-South road,
Thence North 0°39'34" West (previously recorded bearing North 0°40'35" West) 296.10 feet along said edge of pavement to the Southwest corner of the Former Power Plant Parcel,
Thence North 89°37'33" East (previously recorded bearing North 89°36'38" East) 864.13 feet along the southernmost line of the Former Power Plant Parcel,
Thence North 0°50'24" West (previously recorded bearing North 0°51'19" West) 680.26 feet to the South line of the Former Power Plant Parcel,
Thence North 89°37'33" East (previously recorded bearing South 89°36'38" West) 1055.19 feet along said South line to the Point of Beginning.
Containing: 29.4287 Acres, more or less.

This bearings of this description use NAD'83.(SEE SURVEYOR'S NOTE 2)

Mono-Ash Fill Parcel

The NW 1/4 of Section 5, Township 45 S, Range 36 E, palm Beach County, Florida, less and except the right-of-way of Bolles Canal. Containing 150.698 Acres, more or less.

Connecting Corridor Parcel:

The centerline of a 300-foot wide corridor, running through the Northeast Quarter of Section 16, Township 45 South, Range 36 East, and through the South 182 feet of the East 921 feet of Section 9, Township 45 South, Range 36 East, and through the East 300 feet of said Section 9, and through the North 240 feet less the East 300 feet of said Section 9, and through the South 60 feet of Section 4, Township 45 South, Range 36 East which is the same as the South 60 feet of lots 113 through 128, of the OKEECHOBEE FRUITLANDS COMPANY'S subdivision as recorded in Plat Book 1, Page 101, public records of Palm Beach County, Florida; and through the South 210 feet of the Southeast Quarter of Section 5, Township 45 South, Range 36 East and through the West 150 feet of said Southeast Quarter of Section 5, and through the East 150 feet of the Southwest Quarter of Section 5; and through the North 90 feet of that part of Section 8, Township 45 South, Range 36 East through Lots 1 through 8 and the East Half of the North 90 feet of Lot 9, all said lots of the OKEECHOBEE FRUITLANDS COMPANY'S subdivision of Section 8, Township 45 South, Range 36 East, as recorded in Plat Book 1, Page 114, public records of Palm Beach County, Florida.

The centerline of the 300 feet-wide corridor, terminates at the Center of Section 5, Township 45 South, Range 36 East.

Described as follows:

Beginning at a point on the **North line of Parcel A of the Power Plant Site** as recorded in O. R. Book 22626 at Page 79, Palm Beach County, Florida, in the Northeast Quarter of Section 16, Township 45 South, Range 36 East, said point located

South 89°37'33" West 723.02 feet from the **Point of Beginning of Parcel A of the Power Plant Site,**

Thence North 0°42'30" West 793.20 feet along the centerline of the Cogeneration Entrance Road as recorded in Official Record Book 8056, P.889, said centerline being the same as the centerline of the hereinafter described 300-foot wide corridor, to a point on the North line of Section 16, Township 45 South, Range 36 East;

Thence North 89°38'21" East 621.19 feet along the North line of said Section 16, which is the same as the South line of Section 9 Township 45 South, Range 36 East, to a point which lies South 89°38'21" West 150.01 feet from the Northeast corner of Section 16 Township 45 South, Range 36 East, which is the same as the Southeast corner of Section 9, Township 45 South, Range 36 East;

Thence through said Section 9, North 1°07'23" West 5195.06 feet, said centerline being 150.00 feet West of and measured at right angles to the East line of said Section 9,

Thence South 89°38'31" West 5141.12 feet through said Section 9 along a line parallel with and 90 feet South of, measured at right angles to the North line of said Section 9 to the West line of said Section 9;

Thence North 45°21'29" West 212.20 feet into the Southeast Quarter of Section 5, Township 45 South, Range 36 East;

Thence South 89°39'46" West 2494.76 feet through the South 210 feet of the Southeast Quarter of said Section 5 and through the North 90 feet of the East-half of Section 8, Township 45 South,

Range 36 East , to the North-South Quarter-Section line of Section 5, Township 45 South, Range 36 East, which is the same as the West line of the Southeast Quarter of said Section 5 and the East line of the Southwest Quarter of said Section 5; thence along said North-South Quarter line to the Center of Section 5, Township 45 South, Range 36 East and the terminus of the herein above described centerline.

The sidelines of the proposed corridor to be extended or shortened to meet at angle points, To begin at the North line of the Cogeneration Plant Site Parcel and to terminate at the East-West Quarter-Section line of Section 5, Township 45 South, Range 36 East. Containing 117.364 Acres, more or less."

AREA TABULATION:

PARCEL	ACRES	SQUARE FEET
A*	81.22	3,537,943
B	29.4287	1,281,914
C*	117.364	5,112,376
D*	150.698	6,564,405
TOTAL	378.711	16,496,638

NOTE *: PARCEL A IS THE EXISTING PLANT SITE,
PARCEL C IS THE CONNECTING CORRIDOR
PARCEL D IS THE ASH MONOFIL

EXHIBIT B
VICINITY SKETCH

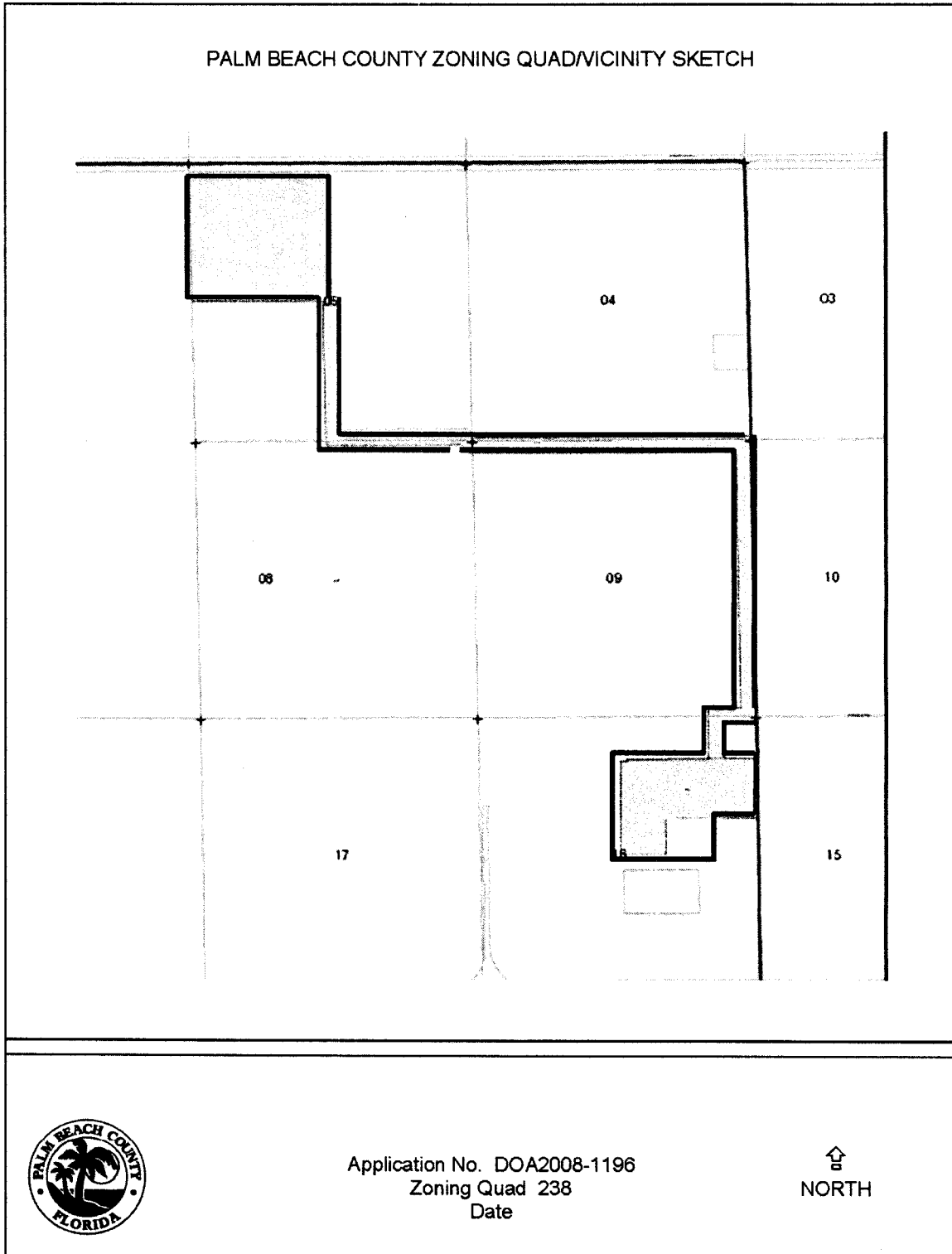


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1.All Petitions Condition 1 of Resolution R-2007-1440, Petition 1992-014(B) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2004-1372 (Petition 1992-014(B) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2007-1440 (Petition 1992-014(B) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2.All Petitions Condition 2 of Resolution R-2007-1440, Petition 1992-014(B)) which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated May 25, 2007. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)

Is hereby amended to read:

The approved site plan is dated August 25, 2008. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

BUILDING AND SITE DESIGN

1.Maximum total floor area shall be limited to 10% of the total lot area of the subject property. (BUILDING: ZONING-Zoning) (Previous Building And Site Design Condition 1 of Resolution R-2007-1440, Petition 1992-014(B)

2.Building And Site Design Condition 2 of Resolution R-2007-1440, Petition 1992-014(B) which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate a 8.12 acre building envelope on the site and the square footage to be contained therein. All construction and development of the principal structure and accessory facilities shall occur within this envelope. All accessory uses indicated on the site plan outside of the building envelope shall be subject to the requirements and regulations of Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review). Uses and building locations within the envelope shall not be subject to this requirement. (DRO:ZONING-Zoning)

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate a 11.1 acre building envelope on the site and the square footage to be contained therein. All construction and development of the principal structure

and accessory facilities shall occur within this envelope. All accessory uses indicated on the site plan outside of the building envelope shall be subject to the requirements and regulations of Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review). Uses and building locations within the envelope shall not be subject to this requirement. (DRO:ZONING-Zoning)

3.The maximum height from finished grade to highest point, for all fuel storage structures/areas, shall not exceed fifty (50) feet. (BLDG. PERMIT BLDG. -Zoning) (Previous Building And Site Design Condition 3 of Resolution R-2007-1440, Petition 1992-014(B)).

4.With the exception of clearing for access roads, survey lines, construction trailers, equipment staging areas, fencing, and specific building sites, construction shall commence within 90 days after completion of clearing and grading. Any cleared zones or areas not necessary to the operation of the site shall be planted in grass within 90 days after establishment of finished grade. (CO:LANDSCAPE-Zoning) (Previous Building And Site Design Condition 4 of Resolution R- 2007-1440, Petition 1992-014(B)).

ENGINEERING

1.Condition E.1 of Resolution R-99-4, Control No. 1992-00014, which stated:
The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater 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. 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. (ONGOING:CODE-Eng)
was deleted by Resolution R-2007-1440. [REASON: drainage is now a code requirement]

2.If required by the County Engineer or the South Florida Water Management District the Property Owner shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site (ONGOING:MONITORING- Eng) (Previous Condition E.2 of Resolution R-2007-1440, Control No. 1992-00014)

ENVIRONMENTAL

1.Plans for all underground and above ground storage tanks must be approved by the Department of Environmental Resources Management prior to installation. The petitioner shall perform all necessary preventative measures to reduce the chances of contamination of the groundwater. Double walled tanks and piping with corrosion protection or their equivalent shall be a part of those measures. (BLDG. PERMIT ERM- ERM) (Previous Condition C.1 of Resolution R-2004-1372, Petition 1992-014(B) is hereby deleted.) CODE REQUIREMENT

2.Secondary containment for stored Regulated Substances, including but not limited to fuels, oils, solvents, or other hazardous chemicals, is required. Department of Environmental Resources Management staff are willing to provide guidance on appropriate protective measures. (BLDG. PERMIT ERM- ERM) (Previous Condition C.2 of Resolution R-2004-1372, Petition 1992-014(B)) is hereby deleted. COMPLETED

3.All new excavated lakes shall possess a littoral shelf area. A littoral shelf shall be an area with a slope not greater six (6) feet horizontal to one (1) foot vertical, ranging in depth from ordinary high water (OHW) or the controlled water level (CWL) to four feet below OHW or CWL. A minimum of 30% of the surface area of all lakes shall be planted with native aquatic vegetation on a minimum of three foot centers.

a. A littoral shelf planting plan and maintenance plan shall be submitted to the Department of Environmental Resources Management concurrent with Site Plan Review application

and approved by ERM prior to Site Plan certification. This information shall also be provided on a mylar for the Zoning Division as part of the site plan application. (ERM)

b. Prior to the issuance of a Certificate of Occupancy and within three working days of the completion of littoral plantings ERM shall be notified. This planting shall not be credited as compensation required by wetland permits. (BLDG. PERMIT ERM- ERM) (Previous Condition C.3 of Resolution R-2004-1372, Petition 1992-014(B)) is deleted. Superseded by code.

4.Areas disturbed as a result of the construction of the cogeneration facility and transmission lines shall be continually maintained to be free of Brazilian Pepper, Australian Pine and Melaleuca. (BUILDING-Zoning) (Previous Condition C.4 of Resolution R-2004-1372, Petition 1992-014(A)) is deleted. Superseded by code.

HEALTH

1.This facility shall operate and maintain, all air pollution control devices and processes required by the Florida Department of Environmental Protection (FDEP) and the United States Environmental Protection Agency (EPA). (ONGOING: HEALTH-Health) (Previous Condition HEALTH 1. of Resolution R-2007-1440, Control 1992-014)

2.Previous condition Health 2. of Resolution R-2007-1440 which reads:

Continuous Emission Monitors shall be operated in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP. (ONGOING: HEALTH-Health)

Is hereby amended to read:

Continuous emission monitors shall be operated in accordance with Air Permit No. PSD-FL-196 issued by FDEP. (ONGOING:HEALTH-Health)

3.Previous condition Health 3. of Resolution R-2007-1440 which reads:

Stack tests shall be conducted in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP. (ONGOING: HEALTH-Health)

Is hereby amended to reads:

Stack tests shall be conducted in accordance with Air Permit No. PSD-FL-196 issued by FDEP. (ONGOING:HEALTH-Health)

4.Previous condition HEALTH 4. of Resolution R-2007-1440 which reads:

The total annual emissions for this facility shall be in accordance with Air Permit No. PSD-FL-196 (O), Project No. 0990332-016-AC issued on October 29, 2003 by FDEP. The property owner shall not deviate from the emission limiting requirements specified in permit PSD-FL-196(O) without prior authorization from the Board of County Commissioners. (ONGOING: HEALTH-Health) (Previous Condition D.5 of Resolution R-2004-1372, Petition 1992-014B)

Is hereby amended to read:

The total annual emissions for this facility shall be in accordance with Air Permit No. PSD-FL-196 issued by FDEP. The property owner shall not deviate from the annual emission limiting requirements specified in Air Permit No. PSD-FL-196 without prior authorization from FDEP. (ONGOING:HEALTH-Health)

5.During land clearing and site preparation, wetting operations or other soil treatment techniques appropriate for controlling unconfined particulates, including grass seeding and mulching of disturbed areas, shall be undertaken and implemented by the Petitioner to

comply with state and federal air standards. (ONGOING: HEALTH-Health) (Previous Condition HEALTH 5. of Resolution R-2007-1440, Control 1992-014)

6.The petitioner shall comply at all times with the requirements of all permits issued by all agencies having jurisdiction over the facility. (ONGOING:CODE ENF-Health/Erm) (Previous Condition HEALTH 6. of Resolution R-2007-1440, Control 1992-014)

7.Potable water supply for the proposed project is to be provided by a reverse osmosis non-transient non-community water supply system in accordance with Chapter 62-550 & 62-555, F.A.C. (ONGOING: HEALTH-Health) (Previous Condition HEALTH 7. of Resolution R-2007-1440, Control 1992-014)

8.The industrial waste stream generated by this site shall be disposed of in accordance with all applicable Florida DER regulations. (ONGOING: HEALTH-Health) (Previous Condition HEALTH 8. of Resolution R-2007-1440, Control 1992-014)

9.

Cogeneration boiler fuels shall be limited to Biomass Waste as defined in condition Health 15, and approved fossil fuels.

a. The use of Biomass Wastes shall include provisions for the substantial exclusion of painted and chemically treated wood, household garbage, toxic or hazardous materials or wastes and special wastes. (ONGOING: MONITORING- Health)

b. The use of fossil fuels shall be limited to pipeline natural gas or new low sulfur distillate with sulfur content not more than 0.05% sulfur by weight. The facility will consider replacing this fuel with ultra low sulfur fuel of sulfur content not greater than 0.0015 % by weight as secondary fuel when it becomes available. The burning of coal as an alternate fuel shall be prohibited. [Note: It is expected that ultra low sulfur distillate fuel will be widely available by 2006 due to federal regulations for highway fuel as outlined in Federal Register / Vol. 66, No. 12 / Thursday, January 18, 2001 / Rules and Regulations, on the Fuel Quality Standards.1]. (ONGOING: MONITORING-Health) (Previous Condition HEALTH 9. of Resolution R-2007-1440, Control 1992-014)

10.All fly ash and bottom ash from the facility which is produced during any period in which fossil fuels are used, and thereafter for a reasonable time shall be segregated and managed as set forth in the ash management plan. (ONGOING:HEALTH-Health) (Previous Condition HEALTH 10. of Resolution R-2007-1440, Control 1992-014)

11.The facility shall revise the current fuel management plan to incorporate "The Inclement Weather Operating Procedures" and "Wood, Bagasse and Ash, Inspection and Testing Plan" as submitted to the Palm Beach County Health Department on March 30, 2004. The facility shall request that the revised fuel management plan be included in the Title V operating permit. Revisions to this plan shall be made in concurrence with Palm Beach County Health Department. (DRO: HEALTH-Health) (Previous Condition D.13 of Resolution R-2004-1372, Petition 1992-014B)

12.The facility shall revise the current ash management plan to incorporate the revised testing procedures for the ash as submitted to the Palm Beach County Health Department. The facility shall request that the revised ash management plan be included in the Title V operating permit. (DRO: HEALTH-Health) (Previous Condition HEALTH 12. of Resolution R-2007-1440, Control 1992-014)

13.Previous condition Health 13. of Resolution R-2007-1440 which reads:

Onsite storage shall be contained within the area designated on Exhibit 48 and shall be processed and stored in a manner which controls fugitive and dust particulate emissions. (ONGOING:CODE ENF-Health)

Is hereby amended to read:

Onsite storage for theash monofil shall be contained within the area designated on Exhibit 48 and shall be processed and stored in a manner which controls fugitive and dust particulate emissions.(ONGOING:CODE ENF-Health)

14.The storage of fuel on site shall be limited to the areas designated on the certified site plan and shall be limited to the storage of bagasse and biomass waste only. (ONGOING:CODE ENF-Health) (Previous Condition HEALTH 14. of Resolution R-2007-1440, Control 1992-014)

15."Biomass Waste", as referred to herein, shall mean bagasse, vegetative and woody matter, including material resulting from landscaping, maintenance, land clearing operations, clean wood, cellulose material, tree and shrub trimmings, grass clippings, palm fronds, trees, tree stumps, wood from land development operations, clean wood debris from demolition operations; it shall not include trash, garbage or sludge (FAC 62-701), biohazardous waste (62-712 FAC), or biological waste (62-712 FAC). (ONGOING:CODE ENF-Health) (Previous Condition HEALTH 15 of Resolution R-2007-1440, Control 1992-014)

16.The existing boilers at the adjacent sugar mill facility shall be subject to the conditions contained within the permits issued by the State of Florida Department of Environmental Protection (FDEP). (ONGOING: DERM /HEALTH - Zoning) (Previous Condition HEALTH 16 of Resolution R-2007-1440, Control 1992-014)

17.The ashfill shall be constructed with liner and leachate collection systems that comply with the requirements established by the Florida Department of Environmental Protection (FDEP) for Class I landfills.

Before the County issues its building permit for the ashfill, the property owner shall (a) submit an application to FDEP demonstrating compliance with these requirements, (b) obtain an appropriate construction permit from FDEP, and (c) provide a copy of the FDEP permit to the Palm Beach County Health Department. (BLDG PERMIT:HEALTH-Health) (Previous conditon HEALTH 17. of Resolution R-2007-1440, Control 1992-014)

18.Prior to the installation of the fourth boiler, the property owner shall obtain and provide the Palm Beach County Health Department's Air Pollution Section with copies of the PSD Air Construction Permit issued by the Florida Department of Environmental Protection (FDEP), and conditions of certification issued pursuant to the Florida Electrical Power Plant Siting Act which authorize construction of the fourth boiler. (BLDG PERMIT:HEALTH-Health)

USE LIMITATIONS

1.Use Limit Condition 1 of Resolution R-2007-1440, Petition 1992-014(B) which currently states:

a. Use of the site shall be limited as follows:

Land Area 349.34 acres
Total Floor Area 354,055 square feet
Maximum Floor Area 10%
Electrical Production 140 net mega watt maximum
Fuel Yard 45 acre max. net land area

b. Prior to site plan approval by the Development Review Officer (DRO), the site plan shall be revised to reflect the most updated condition consistent with the use limitation condition as identified on J.1.a. (DRO/BUILDING PERMIT: ZONING/BUILDING-Zoning)

Is hereby amended to read:

a. Use of the site shall be limited as follows:

Land Area 378.71 acres
Total Floor Area 483,516 square feet
Maximum Floor Area 10%
Electrical Production 140 net mega watt maximum
Fuel Yard 74.4-acre max. net land area

b. Prior to site plan approval by the Development Review Officer (DRO), the site plan shall be revised to reflect the most updated condition consistent with the use limitation condition as identified on 1.a. (DRO/BUILDING PERMIT: ZONING/BUILDING-Zoning)

2. There shall be no repair or maintenance of vehicles on site. (ONGOING: CODE ENF-Zoning) (Previous Use Limit Condition 2 of Resolution R-2007-1440, Petition 1992-014(B)).

3. No outside storage of disassembled vehicles, or parts thereof, shall be permitted on site. (Previous Use Limit Condition 3 of Resolution R-2007-1440, Petition 1992-014(B)). (ONGOING: CODE ENF-Zoning)

4. All vehicles utilizing public rights-of-way to carry biomass waste (i.e. vegetative matter) to the site shall be equipped, at a minimum, with covering or screens over top of the open bed of the vehicle to prevent the loss of material during transportation to the facility. (ONGOING: CODE ENF-Zoning) (Previous Use Limit Condition 4 of Resolution R-2007-1440, Petition 1992-014(B)).

UTILITIES

1. All transmission lines required by this facility are to be constructed in accordance with the National Electric Safety Code. (BLDG.PERMIT: BLDG-Zoning) (Previous Utility Condition 1 of Resolution R-2007-1440, Petition 1992-014(B)).

2. All transmission lines leaving the site and required by this facility shall not exceed 138 KV. (BLDG.PERMIT: BLDG-Zoning) (Previous Utility Condition 2 of Resolution R-2007-1440, Petition 1992-014(B)).

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

2. 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; revocation of any concurrency; 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.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in

accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)