

RESOLUTION NO. R-2013- 1521

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R-2013-01069
(CONTROL NO. 1973-00085)
a Development Order Amendment
APPLICATION OF Boca Wharfside LLC by TJAC Wharfside LLC - Zvi Schwarzman
BY RKB Architects Planners Inc., AGENT
(Wharfside at Boca Pointe)

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 applications relating to zoning; and

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

WHEREAS, Zoning Application ZV/DOA/R-2013-01069 was presented to the Board of County Commissioners at a public hearing conducted on October 24, 2013; 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, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment; and

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law; and

WHEREAS, Article 2.A.1.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 ZV/DOA/R-2013-01069, the petition of Boca Wharfside LLC by TJAC Wharfside LLC - Zvi Schwarzman, by RKB Architects Planners Inc., agent, for a Development Order Amendment to reconfigure the Master Plan and Site Plan to add a new use; and, add square footage to the Site Plan in the Single Family Residential with a Special Exception for a Planned Unit Development (RS/SE) Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part

hereof, was approved on October 24, 2013, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

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

Commissioner Steven L. Abrams, Mayor	-	Abstained
Commissioner Priscilla A. Taylor, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on October 24, 2013.

Filed with the Clerk of the Board of County Commissioners on November 1, 2013.

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

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

Tract T-2 of Boca Pointe No. 4, according to the plat thereof as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida.

PARCEL 2:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida being a portion of Tracts 19 and 20 of The Palm Beach Farms Company Plat No. 6, as recorded in Plat Book 5, at Page 75; of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows: Beginning at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of South 00° 27 minutes, 48 seconds East along the West line of said Tract T-2, a distance of 305.23 feet to the Northeast corner of Tract T-1 of the aforementioned plat of Boca Pointe No. 4; thence with a bearing of South 89° 32 minutes, 12 seconds West along the North line of said Tract T-1, a distance of 42.00 feet to a point; thence with a bearing of North 00° 27 minutes, 48 seconds West, a distance of 70.00 feet to a point; thence with a bearing of South 89° 32 minutes, 12 seconds West, a distance of 38.00 feet to a point; thence with a bearing of North 00° 27 minutes, 48 seconds West, a distance of 50.00 feet to a point; thence with a bearing North 89° 32 minutes, 12 seconds East, a distance of 38.00 feet to a point; thence with a bearing of North 00° 27 minutes, 48 seconds West, a distance of 165.23 feet to a point; thence with a bearing of North 45° 27 minutes, 48 seconds West, a distance of 29.70 feet to a point; thence with a bearing of North 00° 27 minutes, 48 seconds West, a distance of 54.09 feet to a point; thence with a bearing of North 89° 36 minutes, 55 seconds East, a distance of 54.04 feet to a point; thence with a bearing of South 00° 27 minutes, 48 seconds East, a distance of 25.00 feet to a point; thence with a bearing North 89° 36 minutes, 55 seconds East, a distance of 74.00 feet to a point; thence with a bearing of South 45° 23 minutes, 05 seconds East, a distance of 42.43 feet to a point lying on the North line of the aforesaid Tract T-2; thence with a bearing of South 89° 36 minutes, 55 seconds West, along said North line of Tract T-2, a distance of 95.00 feet, more or less, to the Point of Beginning.

PARCEL 3:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida, being a portion of Tracts 18 and 19 of the Palm Beach Farms Co. Plat No. 6, as recorded in Plat Book 5, at Page 75, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows: Commencing at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of North 89° 36 minutes, 55 seconds East, along the North line of said Tract T-2, a distance of 210.00 feet to the Point of Beginning; thence with a bearing of North 00° 23 minutes, 05 seconds West, a distance of 30.00 feet to a point; thence with a bearing of North 89° 36 minutes, 55 seconds East, a distance of 60.00 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 30.00 feet to a point lying on the North line of the aforesaid Tract T-2; thence with a bearing of South 89° 36 minutes, 55 seconds West, along said North line of Tract T-2, a distance of 60.00 feet, more or less, to the Point of Beginning.

PARCEL 4:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida, being a portion of Tract 18 of Palm Beach Farms Co. Plat No. 6, as recorded in Plat Book 5, at Page 75, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows: Commencing at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of North 89° 36 minutes, 55 seconds East, along the North line of said Tract T-2, a distance of 300.00 feet to the Point of Beginning; thence with a bearing of North 00° 23 minutes, 05 seconds West, a distance of 110.00 feet to a point; thence with a bearing of North 89° 36 minutes, 55 seconds East, a distance of 150.00 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 110.00 feet

to a point lying on the North line of the aforesaid Tract T-2; thence with a bearing of South 89° 36 minutes, 55 seconds West, along said North line of Tract T-2, a distance of 150.00 feet, more or less, to the Point of Beginning.

PARCEL 5:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, being a portion of Tract 17 of Palm Beach Farms Co. Plat No. 6, as recorded in Plat Book 5, at Page 75, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

Commencing at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of North 89° 36 minutes, 55 seconds East, along the North line of said Tract T-2, a distance of 532.89 feet to the Point of Beginning; thence with a bearing of North 00° 23 minutes, 05 seconds West, a distance of 42.50 feet to a point; thence with a bearing of North 89° 36 minutes, 55 seconds East, a distance of 25.00 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 42.50 feet to a point lying on the North line of the aforesaid Tract T-2; thence with a bearing of South 89° 36 minutes, 55 seconds West, along said North line of Tract T-2, a distance of 25.00 feet, more or less, to the Point of Beginning.

PARCEL 6:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida, being a portion of Tract 17 of Palm Beach Farms Co. Plat No. 6, as recorded in Plat Book 5, at Page 75, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

Commencing at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of North 89° 36 minutes, 55 seconds East, along the North line of said Tract T-2; a distance of 649.89 feet to the Northeast corner of said Tract T-2; thence with a bearing of South 00° 23 minutes, 05 seconds East, along the East line of said Tract T-2, a distance of 44.00 feet to the Point of Beginning; thence with a bearing of North 89° 36 minutes, 55 seconds East, a distance of 32.50 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 28.00 feet to a point; thence with a bearing of South 89° 36 minutes, 55 seconds West, a distance of 32.50 feet to a point lying on the East line of the aforesaid Tract T-2; thence with a bearing of North 00° 23 minutes, 05 seconds West, along said East line of Tract T-2, a distance of 28.00 feet, more or less, to the Point of Beginning.

PARCEL 7:

A parcel of land lying in the North half of Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida, being a portion of Tract 17 of Palm Beach Farms Co. Plat No. 6, as recorded in Plat Book 5 at Page 75, of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

Commencing at the Northwest corner of Tract T-2 of Boca Pointe No. 4, as recorded in Plat Book 43, at Pages 194-196, of the Public Records of Palm Beach County, Florida; thence with a bearing of North 89° 36 minutes, 55 seconds East along the North line of said Tract T-2, a distance of 649.89 feet to the Northeast corner of said Tract T-2; thence with a bearing of South 00° 23 minutes, 05 seconds East, along the East line of said Tract T-2, a distance of 148.56 feet to the Point of Beginning; thence with a bearing of South 45° 23 minutes, 05 seconds East, a distance of 61.52 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 42.50 feet to a point; thence with a bearing of South 89° 36 minutes, 55 seconds West, a distance of 33.50 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 94.00 feet to a point; thence with a bearing of North 89° 36 minutes, 35 seconds East, a distance of 35.00 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 16.00 feet to a point; thence with a bearing of South 89° 36 minutes, 55 seconds West, a distance of 35.00 feet to a point; thence with a bearing of South 00° 23 minutes, 05 seconds East, a distance of 91.00 feet to a point; thence with a bearing of South 89° 36 minutes, 55 seconds West, a distance of 10.00 feet to a point lying on the East line of the aforesaid Tract T-2; thence with a bearing of North 00° 23 minutes, 05 seconds West, along said East line of Tract T-2, a distance of 287.00 feet, more or less, to the Point of Beginning.

Also known as the following:

A parcel of land lying in Section 34, Township 47 South, Range 42 East, Palm Beach County, Florida, said parcel being all of Tract T-2, Boca Pointe No. 4, according to the plat thereof as recorded in Plat Book 43, Pages 194-196 of the Public Records of Palm Beach County, Florida, together with a portion of Tract W-5, Boca Pointe No. 3, as recorded in Plat Book 46, Pages 123-125 of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

Beginning at the Southeast corner of said Tract T-2; Thence with a bearing of S 89° 36'55" W, along the South Line of said Tract T-2 for a distance of 515.79 feet to a point; Thence with a bearing of N 83° 15'39" W, along the South Line of said Tract T-2 for a distance of 134.33 feet to the Southwest corner of Tract T-2; Thence with a bearing of N 00° 27'48" W, along the West Line of said Tract T-2 for a distance of 281.07 feet to a point; Thence with a bearing of S 89° 32'12" W, along the North Line of Tract T-1, said plat of Boca Pointe No. 4, for a distance of 42.00 feet to a point; Thence with a bearing of N 00° 27'48" W, for a distance of 70.00 feet to a point; Thence with a bearing of S 89° 32'12" W, for a distance of 38.00 feet to a point; Thence with a bearing of N 00° 27'48" W, for a distance of 50.00 feet to a point; Thence with a bearing of N 89° 32'12" E, for a distance of 38.00 feet to a point; Thence with a bearing of N 00° 27'48" W, for a distance of 165.23 feet to a point; Thence with a bearing of N 45° 27'48" W, for a distance of 29.70 feet to a point; Thence with a bearing of N 00° 27'48" W, for a distance of 54.09 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 54.04 feet to a point; Thence with a bearing of S 00° 27'48" E, for a distance of 25.00 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 74.00 feet to a point; Thence with a bearing of S 45° 23'05" E, for a distance of 42.43 feet to a point lying on the North Line of said Tract T-2; Thence with a bearing of N 89° 36'55" E, along the North Line of said Tract T-2 for a distance of 115.00 feet to a point; Thence with a bearing of N 00° 23'05" W, for a distance of 30.00 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 60.00 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 30.00 feet to a point lying on the North Line of said Tract T-2; Thence with a bearing of N 89° 36'55" E, along the North Line of said Tract T-2 for a distance of 30.00 feet to a point; Thence with a bearing of N 00° 23'05" W, for a distance of 110.00 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 150.00 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 110.00 feet to a point lying on the North Line of said Tract T-2; Thence with a bearing of N 89° 36'55" E, along the North Line of said Tract T-2 for a distance of 82.89 feet to a point; Thence with a bearing of N 00° 23'05" W, for a distance of 42.50 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 25.00 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 42.50 feet to a point lying on the North Line of said Tract T-2; Thence with a bearing of N 89° 36'55" E, along the North Line of said Tract T-2 for a distance of 92.00 feet to a point, said point being the Northeast corner of Tract T-2; Thence with a bearing of S 00° 23'05" E, along the East Line of said Tract T-2 for a distance of 44.00 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 32.50 feet to a point; Thence with a bearing of S 00° 23'05" E., for a distance of 28.00 feet to a point; Thence with a bearing of S 89° 36'55" W, for a distance of 32.50 feet to a point lying on the East Line of said Tract T-2; Thence with a bearing of S 00° 23'05" E, along the East Line of said Tract T-2 for a distance of 76.56 feet to a point; Thence with a bearing of S 45° 23'05" E, for a distance of 61.52 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 42.50 feet to a point; Thence with a bearing of S 89° 36'55" W, for a distance of 33.50 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 94.00 feet to a point; Thence with a bearing of N 89° 36'55" E, for a distance of 35.00 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 16.00 feet to a point; Thence with a bearing of S 89° 36'55" W, for a distance of 35.00 feet to a point; Thence with a bearing of S 00° 23'05" E, for a distance of 91.00 feet to a point; Thence with a bearing of S 89° 36'55" W, for a distance of 10.00 feet to a point lying on the East Line of said Tract T-2; Thence with a bearing of S 00° 23'05" E, along the East Line of said Tract T-2 for a distance of 167.40 feet, more or less, to the Point of Beginning.

Said lands situated in Palm Beach County, Florida. Containing 436,701 square feet (10.025 acres) more or less.

EXHIBIT B

VICINITY SKETCH

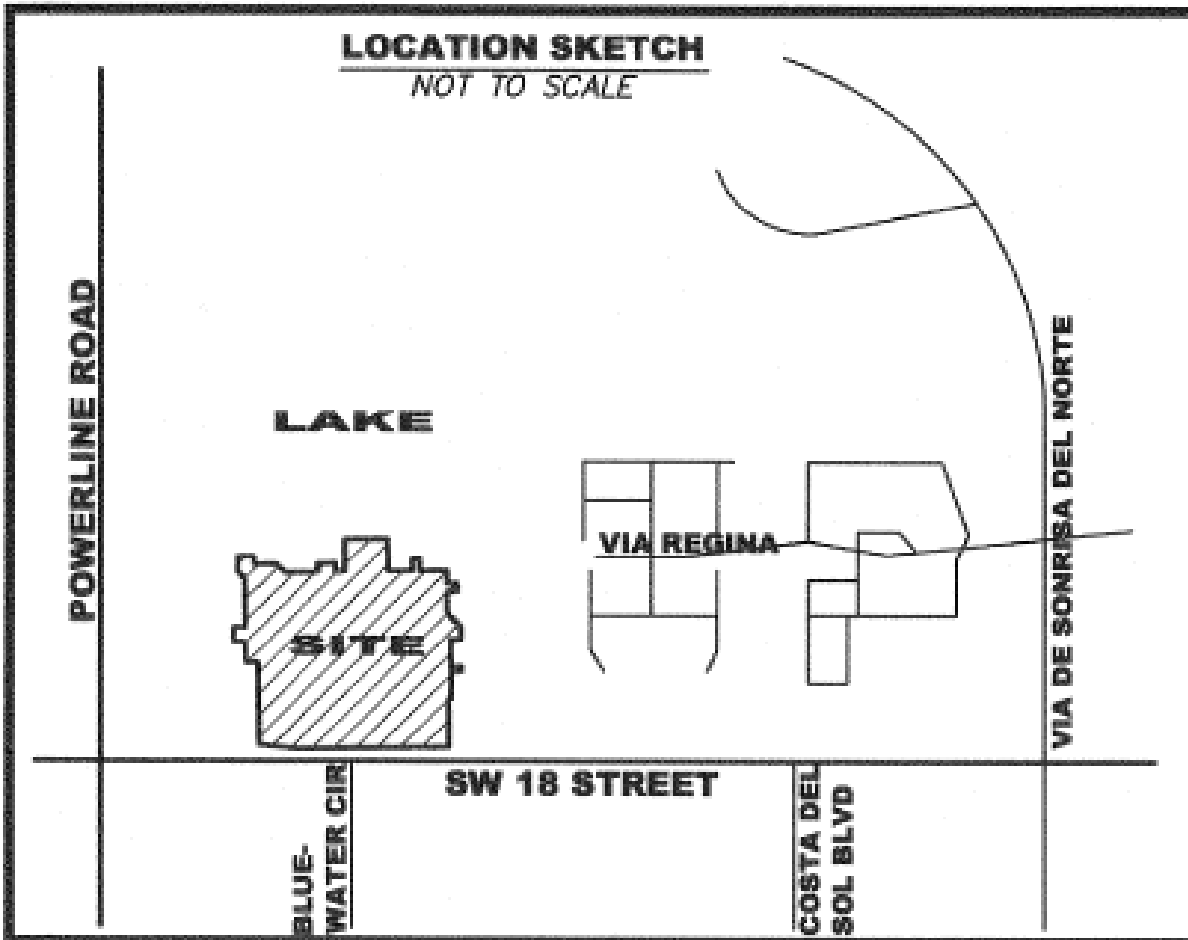


EXHIBIT C

CONDITIONS OF APPROVAL

EXHIBIT C-2

Development Order Amendment

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-73-380 (Control No. 1973-085), R-83-1032 (Control No. 1973-085(A)), R-89-1153 (Control No. 1973-085(B)), R-89-1154 (Control No. 1973-085(C)), R-90-516 (Control No. 1973-085(D)), R-91-237 (Control No. 1973-085(E)), and R-2007-0004 (Control No. 1973-085), shall remain in effect unless expressly modified herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. The Conditions of Approval as contained herein shall apply to Tract T-2 of the Commercial Pod only (the Affected area of Application ZV/DOA/R-2013-1069), unless expressly stated. The approved Preliminary Master Plan is dated August 15, 2013. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the ULDC, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

3. Development of Tract T-2 is limited to the uses and/or site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated August 15, 2013 and the approved Preliminary Regulating Plan is dated July 18, 2013. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (DRO: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the retail buildings shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at SW 18th St and Project Entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. The Property Owner shall provide acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division by April 30, 2014. (DATE: MONITORING-Eng).

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING-Eng)

2. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2018. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

3. Prior to issuance of a Certificate of Occupancy for Wharfside at Boca Pointe, the Property Owner shall legally create the lot in accordance with Article 11 of the Unified Land Development Code. Creation of the legal lot shall apply to both Tract W-5 in P.B. 46, PG. 123 and Tract T-2 in P.B. 43, PG. 194 to reflect the current property line.(CO: MONITORING - Eng)

PLANNED DEVELOPMENT

1. Prior to issuance of a Certificate of Completion for Building 1 or Building 2, Buildings E, F, and L shall be demolished and the Demolition Permits completed. (CC: BLDG - Zoning)

SITE DESIGN

1. The site shall be limited to a maximum of 119,500 square feet. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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; the 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 Unified Land Development Code 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 of Approval; 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 Official Zoning Map Amendment, Conditional Use, Requested Use, 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)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.