

RESOLUTION NO. R-93- 556

RESOLUTION APPROVING ZONING PETITION EAC77-13(K)
DEVELOPMENT ORDER AMENDMENT/
EXPEDITED APPLICATION CONSIDERATION
PETITION OF M & M CORPORATION

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

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

WHEREAS, Zoning Petition EAC77-13(K) was presented to the Board of County Commissioners at a public hearing conducted on April 29, 1993; and

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

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

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

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment is consistent with all requirements of Article 5, Section 5.4 (Conditional Uses) of the Palm Beach County Land Development Code, Ordinance 92-20.
3. This Development Order Amendment complies with all relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
4. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
5. This Development Order Amendment is compatible as defined in the Palm Beach county Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
6. This Development Order Amendment complies with all standards imposed on it by all other applicable provisions of the Palm Beach County Land Development Code for use, layout, function, and general development characteristics.
7. This Development Order Amendment is consistent with all other applicable local land development regulations.
8. This Development Order Amendment minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

9. This Development Order Amendment complies with Art. 11, Adequate Public Facility Standards.
10. This Development Order Amendment minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
11. This Development Order Amendment will result in logical, timely and orderly development patterns.
12. This Development Order Amendment is consistent with applicable neighborhood plans.

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition EAC77-13 (K), the petition of M & M CORPORATION for a DEVELOPMENT ORDER AMENDMENT/EXPEDITED APPLICATION CONSIDERATION in the RE Zoning District, to amend a previously approved site plan to allow Repair and maintenance, general and amend previous conditions of approval, previously approved on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located on a vicinity sketch as shown on EXHIBIT B, attached hereto and made a part hereof, was approved on April 29, 1993, 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 Aaronson and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted this 29th day of April, 1993.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: *Daniel Alt*
COUNTY ATTORNEY

BY: *Jina M. Blair*
DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

A parcel lying in Section 12 Township 47 South, Range 41 East, Palm Beach County, Florida being all of Tract "B-1" of "BOCA GREENS PLAT NO. 1" as recorded in Plat Book 36, Page 122 of the Public Records of Palm Beach County, Florida;

Together with: All of "BOCA GREENS COMMERCW" as recorded in Plat Book 40, Page 74 of the said Public Records;

LESS the following described Not Included Parcel 1; Commencing at the Southeast corner of said "BOCA GREENS COMMERCIAL": thence North $00^{\circ}52'10"$ West along the East line of said "BOCA GREENS COMMERCIAL" for 192.30 feet to the POINT OF BEGINNING of Not Included Parcel 1; thence following along the perimeter of that certain parcel described in Official Record Book 5640, Page 302 of the said Public Records the following courses;

thence South $89^{\circ}08'06"$ West, for 165.22 feet;
thence North $00^{\circ}51'54"$ West, for 20.00 feet;
thence North $01^{\circ}32'49"$ East, for 99.90 feet;
thence North $03^{\circ}53'02"$ East, for 103.33 feet;
thence North $12^{\circ}13'15"$ East, for 37.05 feet;
thence Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 5.00 feet and a central angle of $77^{\circ}23'34"$, for 6.75 feet;
thence North $89^{\circ}36'49"$ East along a line tangent to last described curve, for 139.14 feet to a point of intersection with the said East line of "BOCA GREENS COMMERCW";
thence South $00^{\circ}52'10"$ East along the said East line of "BOCA GREENS COMMERCW", for 261.58 feet to the POINT OF BEGINNING of Not Included Parcel 1;

AND LESS the following described Not Included Parcel 2; Commencing at the said Southeast corner of "BOCA GREENS COMMERCW"; thence North $00^{\circ}52'10"$ West along the said East line of "BOCA GREENS COMMERCW", for 492.50 feet to the POINT OF BEGINNING of Not Included Parcel 2; thence following along the perimeter of that certain parcel described in Official Record book 5814, Page 518 of the said Public Records the following courses;

thence South $89^{\circ}07'50"$ West, for 140.00 feet
thence Southwesterly and Northwesterly along the arc of a tangent curve concave to the Northeast having a radius of 5.00 feet and a central angle of $90^{\circ}00'00"$, for 7.85 feet;
thence North $00^{\circ}52'10"$ West along a line tangent to last described curve, for 290.50 feet
thence Northwesterly and Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 5.00 feet and a central angle of $90^{\circ}00'00"$, for 7.85 feet;
thence North $89^{\circ}07'50"$ East along a line tangent to last described curve, for 140.04 feet to a point of intersection with the said East line of "BOCA GREENS COMMERCIAL";
thence South $00^{\circ}45'30"$ East along the said East line of "BOCA GREENS COMMERCW", for 17.60 feet;
thence South $00^{\circ}52'10"$ East along the said East line of "BOCA GREENS COMMERCW", for 282.90 feet to the POINT OF BEGINNING of Not Included Parcel 2;

AND LESS the following described Not Included Parcel 3; Commencing at the Northeast corner of said "BOCA GREENS COMMERCIAL"; thence South $00^{\circ}45'30"$ East along the said East line of "BOCA GREENS COMMERCW", for 89.34 feet to the POINT OF BEGINNING of Not Included Parcel 3; thence following along the perimeter of that certain parcel described in Official Record Book 6086, Page 674 of the said Public Records the following courses;

thence South $00^{\circ}45'30"$ East along the said East line of "BOCA GREENS COMMERCW", for 160.80 feet to the Northeast corner of Tract "B-1" of "BOCA GREENS PLAT NO. 1" as recorded in Plat Book 36, Page 122 of the said Public Records;
thence South $89^{\circ}14'30"$ West along a line common to said Tract "B-1" and "BOCA GREENS COMMERCIAL", for 50.00 feet to the Northwest corner of said Tract "B-1";

thence South $00^{\circ}45'30"$ East along the said East line of "BOCA GREENS COMMERCW", for 80.94 feet;
thence South $89^{\circ}14'30"$ West, for 135.76 feet;
thence North $00^{\circ}42'58"$ West, for 148.14 feet;
thence Northwesterly and Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 25.00 feet and a central angle of $47^{\circ}12'04"$, for 20.60 feet;
thence Northeasterly along the arc of a compound curve concave to the Southeast having a radius of 23224 feet and a central angle of $18^{\circ}19'26"$, for 74.27 feet;
thence North $64^{\circ}48'32"$ East along a line tangent to last described curve, for 57.64 feet;
thence Northeasterly along the arc of a tangent curve concave to the Southeast having a radius of 116.56 feet and a central angle of $24^{\circ}12'21"$, for 49.24 feet;
thence North $89^{\circ}00'53"$ East along a line tangent to last described curve, for 15.79 feet to the POINT OF BEGINNING of Not Included Parcel 3.

All of described lands containing 19.17 Net Acres, more or less.

EXHIBIT B
VICINITY SKETCH

RE/SE
BOCA GREENS
P.U.D.
1057.0 AC.
DENSITY = 1.66

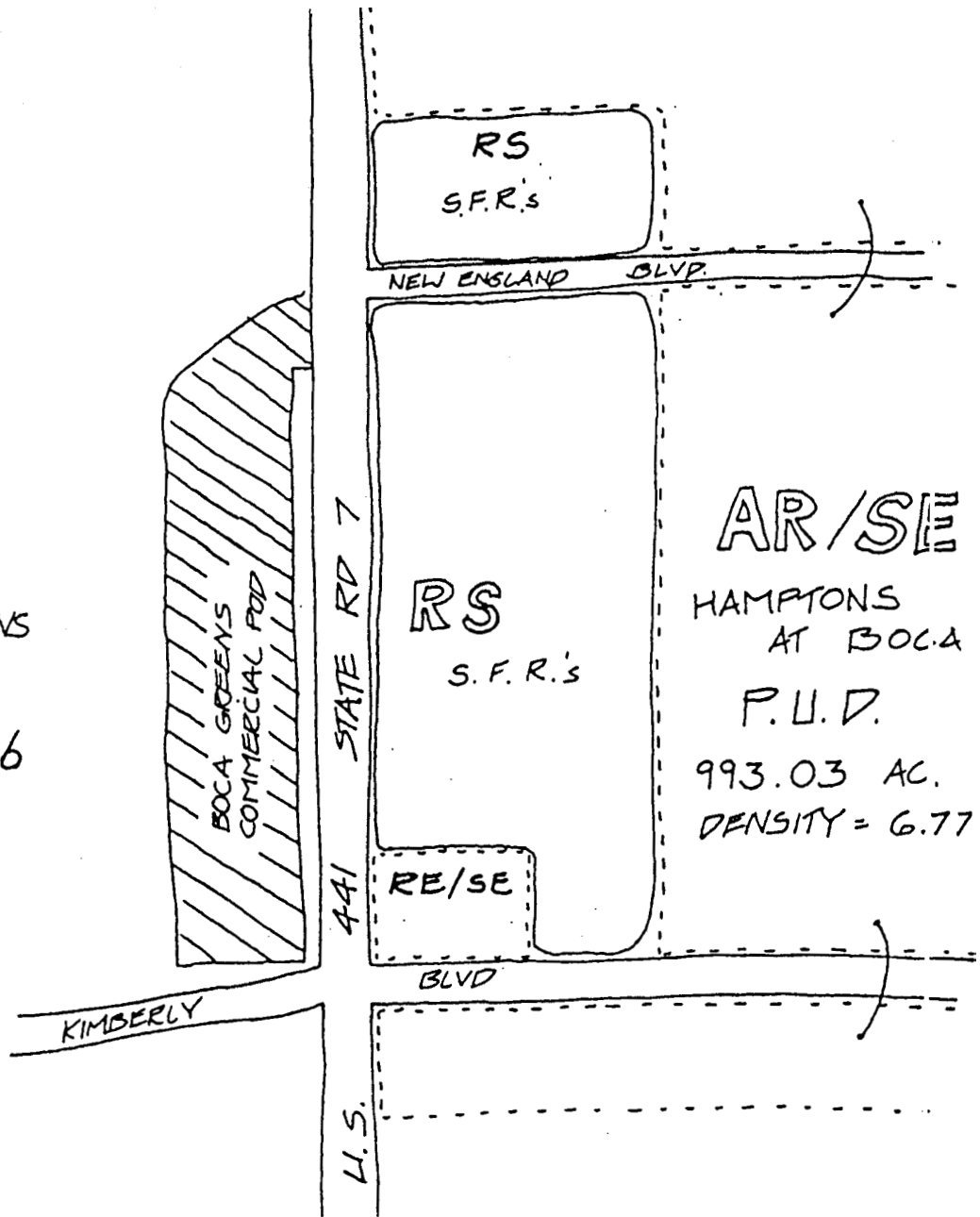


EXHIBIT C

CONDITIONS OF APPROVAL

Staff recommends the following conditions:

A. ALL PETITIONS

1. Condition No. 1 of Resolution No. R-87-1201, Zoning Petition No. 77-13(E), which currently states:

The developer shall comply with all previous conditions of approval.

Is hereby deleted. (REASON: Conditions consolidated)

2. Condition No. 1 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I), which currently states:

The petitioner shall comply with all previous conditions unless expressly modified herein.

Is here by amended to state:

All previous conditions of approval applicable to the subject property, **as** contained in Resolutions R-77-145, R-77-1250, R-85-703, R-87-1201, R-88-1211, and R-90-1427, have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for ULDC Section 5.8 compliance, as amended, unless expressly modified.

MONITORING

Conditions should be included in next Amendment.

Note:
Consolidated conditions
do not include
77-13 (D) o Amended.

B. COMMERCIAL POD

1. **The shopping center shall be limited to one hundred thirty seven thousand one hundred twenty-two (137,122) square feet and provide a one hundred (100) foot setback from the ultimate right-of-way line of State Road No. 7. (Previously Condition No. 2 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) ZONING/BUILDING**
2. **Landscaping along the northern and western property lines (adjacent to the out parcels) of the commercial center shall be upgraded to include:**
 - a. **Twelve (12) foot tall native canopy trees twenty (20) feet on center and a thirty-six (36) inch ficus hedge placed on the exterior of the required wall.**
 - b. **A six foot masonry wall.**
 - c. **A 10 foot wide landscape strip.**
 - d. **Fifty percent (50%) of the existing landscape terminal islands and landscape medians shall be upgraded to meet current Landscape Code requirements within nine (9) months of Board of County Commissioners approval (January 30, 1991). (Previously Condition No. 3 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) ZONING**
3. **Waste paper and other debris shall not be permitted to accumulate on site. (Previously Condition No. 4 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) CODE ENFORCEMENT**

4. Building height shall be limited to a maximum of 25 feet. (Previously Condition No. 5 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) ZONING/BUILDING
5. Lighting on the northwestern out parcels of the shopping center shall be low intensity, directed away from surrounding residential properties with reflective shields and a maximum of twelve (12) feet in height. Existing mast lighting shall be shielded to direct lighting away from residential properties to the west. (Previously Condition No. 6 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) BUILDING/CODE ENFORCEMENT
6. The petitioner shall complete construction of the pedestrian/bicycle path from the paved portions of the shopping center to Kimberly Boulevard by January 30, 1991 or prior to any further Certificates of Occupancy for any out parcels. (Previously Condition No. 11 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) MONITORING/BUILDING-Engineering
7. A fifty (50) foot landscaped buffer zone, shall be provided within the one hundred (100) foot setback. Vehicular access to the commercial tract shall be limited to three access points onto State Road 7 as follows, at the property owners expense:
 - a. New England Boulevard access point
 - b. Central median opening access point with the construction of the following:
 - 1) a left turn lane, south approach,
 - 2) a right turn lane, north approach,
 - 3) a left turn lane, and a right turn lane, west approach; and
 - 4) signalization, when warranted by the County Engineer.
 - c. Southern access point with the construction of the following:
 - 1) a right turn lane, north approach.

This construction shall be included in Palm Beach County's Road Program for State Road 7 adjacent to this site. Funding shall be made available when requested by Palm Beach County. This petitioner may construct any of the above turn lanes in accordance with permits from the Florida Department of Transportation. Should these turn lanes be constructed, it shall not be funded by Palm Beach County and not exempt this property owner from funding required above. (Previously Condition No. 12 of Resolution R-90-1427, Zoning Pet. 77-13(I).) ENGINEERING

8. Condition No. 13 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I), which currently states:

The property owner shall replat the subject property to reflect all associated out parcels prior to March 1, 1991.

Is hereby amended to state:

The property owner shall replat the subject property to reflect all associated out parcels prior to March 1, 1994. MONITORING/ENGINEERING

9. 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 additional square footage presently is \$24,090.00 (438 trips X \$55.00 per trip). (Previously Condition 14 of Resolution No. R-90-1427, Zoning Petition No. 77-13 (I).) IMPACT FEE COORDINATOR-Engineering
10. Prior to Bite Plan approval by the Bite Plan Review Committee the property owner shall record a Unity of Control on the subject property subject to approval by the County Attorney. (Previously Condition No. 15 of Resolution No. R-90-1427, Zoning Petition No. 77-13 (I).) COUNTY ATTORNEY
11. If the State permits landscaping within the median, the petitioner shall obtain appropriate permits for all landscaping and irrigation within the 41 median in front of the site. Landscaping shall consist of one (1) 10 foot (10') tall native canopy tree for each thirty (30) linear feet and appropriate ground cover. All planting shall comply with Xeriscape Principles. All landscaping and irrigation shall be the maintenance obligation of the property owners. (Previously Condition No. 16 of Resolution No. R-90-1427, Zoning Petition No. 77-13 (I).) ENGINEERING
12. Prior to certification of a site plan for out parcel 2 or 4, the petitioner shall provide a master sign program consistent with the height and sign face area dimensions indicated on Exhibit 269. ZONING
13. All mechanical and air conditioning equipment shall be roof mounted and completely screened from view on all sides in a manner and color consistent with the architectural character of the principal structure. This condition shall apply to out parcels 2 and 4 only. ZONING
14. No outdoor storage or display of any type of material or product shall be permitted on site. This condition shall apply to out parcels 2 and 4 only. ZONING
15. All canopy trees required to be planted on out parcels 2 and 4 shall meet the following minimum standards 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. (ZONING)
16. Twenty four (24) inch high shrub or hedge material planted twenty four (24) inches on center shall be provided along the perimeter of each building where the building abuts landscape areas to the maximum extent possible. This condition shall apply to out parcels 2 and 4 only. (ZONING)

C. DAY CARE

1. Prior to site plan certification, the site plan shall be amended to indicate the following:
 - a. To clearly outline which stalls are allocated for this use per lease agreement.
 - b. Required drop-off area with adequate stacking and bypass lane. (Previously Condition No. 1 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G).) ZONING
2. Condition No. 2 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G), which currently states:

Since sewer service is available to the property, septic tank shall not be approved for use on said property.

Is hereby deleted. (REASON: Duplicate condition.,)
3. Condition No. 3 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G), which currently states:

Since water service is available to the property, a well shall not be approved for use on said property.

Is hereby deleted. (REASON: Duplicate condition.)
4. Condition No. 4 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G), which presently states:

The property owner shall comply with all previously approved conditions of Petition 77-13 and subsequent approvals.

Is hereby deleted. (REASON: Conditions consolidated)
5. Prior to Site Plan certification the Site Plan shall be amended to reflect the required 100 foot stacking for vehicles. (Previously Condition No. 5 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G).) ZONING
6. 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 on site 85% of the stormwater runoff generated by a three (3) year-one hour storm (3.0 inches) per requirements of the Permit Section, Land Development Division. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. (Previously Condition No. 6 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G).) ENGINEERING
7. 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 the proposed day care center presently is \$9,055.00 (338 trips X \$26.79 per trip). (Previously Condition No. 7 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G).) ENGINEERING
8. Prior to issuance of building permits for the Day Care Center, the existing nonconforming sign shall be removed from the site. (Previously Condition No. 8 of Resolution No. R-88-1211, Zoning Petition No. 77-13(G).) BUILDING

D. ENVIRONMENTAL RESOURCES MANAGEMENT

1. Secondary containment for stored Regulated Substances as described in Section 9.3 ULDC is required. Department of Environmental Resources Management staff are willing to provide guidance **on** appropriate protective measures. **(BUILDING-ERM)**
2. Plans for any underground 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. **(BUILDING-ERM)**

E. ENGINEERING

1. **Prior to site plan approval of the first plat the Developer shall convey to Palm Beach County two hundred (200) feet for the ultimate right-of-way for State Road No. 7.** (Previously Condition No. 1 of Resolution No. R-77-145, Zoning Petition No. 77-13.) **ENGINEERING**
2. Condition No. 1 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:
Prior to approval of the first plat the Developer shall convey to Palm beach County two hundred (200) feet for the ultimate right-of-way for State Road No. 7.
Is hereby deleted. (REASON: Duplicates Condition No. 1, Resolution No. R-77-145, Zoning Petition No. 77-13.)
3. Condition No. 1 of Resolution No. R-77-1250, Zoning Petition No. 77-154, which modified Condition No. 2 of Resolution No. R-77-145, Zoning Petition No. 77-13, to state:
Prior to Site Plan approval of the first plat the Developer shall convey to Palm Beach County eight (8) feet for the ultimate right-of-way for Cain Boulevard.
Is hereby deleted. (REASON: Superseded by Condition 2 of Resolution No. R-85-703, Zoning Petition No. 77-13(B).)
4. **Prior to approval of the first plat the Developer shall convey to Palm Beach County one hundred six (106) feet for the ultimate right-of-way for Cain Boulevard.** (Previously Condition No. 2 of Resolution No. R-85-703, Zoning Petition No. 77-13(B).) **ENGINEERING**
5. **Developer shall align the centerline of the main entrance road with the centerline of Kimberly Boulevard as shown on the Plat of Kimberly Homes, Section One, Plat Book 29, Page 229.** (Previously Condition No. 3 of Resolution No. R-77-145, Zoning Petition No. 77-13.) **ENGINEERING**
6. Condition No. 3 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:
Developer shall align the centerline of the main entrance road with the centerline of Kimberly Boulevard as shown on the Plat of Kimberly Homes, Section One, Plat Book 29, Page 229.
Is hereby deleted. (REASON: Duplicates Condition No. 3, Resolution No. R-77-145, Zoning Petition No. 77-13.)

7. **Developer shall align North Shopping Center entrance with the north entrance to American homes, east of State Road No. 7. (Previously Condition No. 4 of Resolution No. R-77-145, Zoning Petition No. 77-13.) ENGINEERING**

8. **Condition No. 4 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:**

Developer shall align North Shopping Center entrance with the north entrance to American Homes, east of State Road NO. 7.

Is hereby deleted. (REASON: Duplicates Condition No. 4, Resolution No. R-77-145, Zoning Petition No. 77-13.)

9. **Developer shall provide the following roadway improvements at the Development's south entrance and State Road No. 7:**

- a. left turn lane, south approach.
- b. right turn lane, north approach.
- c. right turn and left turn lanes, west approach.
- d. traffic control signal when warranted, as determined by the County Engineer. (Previously Condition No. 5 of Resolution No. R-77-145, Zoning Petition No. 77-13.) ENGINEERING

10. **Condition No. 5 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:**

Developer shall provide the following roadway improvements at the Development's south entrance and State Road No. 7.

- a. left turn lane, south approach.
- b. right turn lane, north approach.
- c. through right turn and left turn lanes, west approach.
- d. traffic control signal when warranted, as determined by the County Engineer.

Is hereby deleted. (REASON: Duplicates Condition No. 5, Resolution No. R-77-145, Zoning Petition No. 77-13.)

11. **Developer shall provide the following roadway improvements at the development's north entrance and State Road No. 7:**

- a. left turn lane, south approach.
- b. right turn lane, north approach.
- c. traffic control signal when warranted as determined by the County Engineer. (Previously condition No. 6 of Resolution No. R-77-145, Zoning Petition No. 77-13.) ENGINEERING

12. **Condition No. 6 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:**

Developer shall provide the following roadway improvements at the development's north (New England Boulevard) entrance and State Road No. 7.

- a. left turn lane, south approach.
- b. right turn lane, north approach.
- c. traffic control signal when warranted, as determined by the County Engineer.

Is hereby deleted. (REASON: Duplicates Condition No. 6, Resolution No. R-77-145, Zoning Petition No. 77-13.)

13. Condition No. 10 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:

The buffer zone shall be platted with the first plat.

Is hereby deleted. (REASON: Duplicates Condition No. 9, Resolution No. R-77-145, Zoning Petition No. 77-13.)

14. **The buffer zone shall be platted with the first plat.** (Previously Condition No. 9, Resolution No. R-77-145, Zoning Petition No. 77-13.) ENGINEERING

F. HEALTH

1. **Generation and disposal of hazardous effluents into sanitary sewerage system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Regulation (FDER) and agency responsible for sewage works are constructed and used by project tenants or owners generating such effluents.** (Previously Condition No. 7 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).) HEALTH

2. Condition No. 8 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I), which currently states:

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

Is hereby amended to state:

Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. All existing on-site sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC and Palm Beach County ECR-I. HEALTH

3. Condition No. 9 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I), which currently states:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

Is hereby amended to state:

Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing on-site potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. HEALTH

G. LAKE WORTH DRAINAGE DISTRICT

1. The petitioner shall convey right-of-way for the L43W Canal to the LWDD prior to the certification of a site plan for out parcel 2 or 4, in accordance with Zoning Petition 77-13(J), ENGINEERING/LWDD

H. MAXIMUM DWELLING UNITS

1. Condition No. 11 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:

Maximum allowable density shall not exceed one thousand fifty seven (1057) units.

Is hereby deleted. (REASON: Duplicates Condition No. 10, Resolution No. R-77-145, Zoning Petition No. 77-13),

2. **Maximum allowable density shall not exceed one thousand fifty seven (1057) units.** (Previously Condition No. 10 of Resolution No. R-77-145, Zoning Petition No. 77-13.) BUILDING-Zoning

I. PARKS

1. **Developer shall provide access to the 94.5 acres for future County Park located in the northwest corner of the project.** (Previously Condition No. 7 of Resolution No. R-77-145, Zoning Petition No. 77-13.) PARKS/ENGINEERING

2. Condition No. 7 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:

Developer shall provide access to the 94.5 acres for future County Park located in the northwest corner of the project.

Is hereby deleted. (REASON: Duplicates Condition No. 7, Resolution No. R-77-145, Zoning Petition No. 77-13.)

3. **Within sixty (60) days of the Special Exception approval the Developer shall dedicate the "County Park" shown on the Master Plan which contains two hundred eight (280) acres more or less.** (Previously Condition No. 11 of Resolution No. R-77-145, Zoning Pet. No. 77-13.) MONITORING/PREM-Parks

4. Condition No. 12 of Resolution No. R-85-703, Zoning Petition No. 77-13(B), which currently states:

Within sixty (60) days of the Special Exception approval the Developer shall dedicate the "County Park" shown on the Master Plan which contains two hundred eighty (280) acres more or less.

Is hereby deleted. (REASON: Duplicates Condition No. 11, Resolution No. R-77-145, Zoning Petition No. 77-13.)

5. **The land area donated for the County Park shall continue to be counted gross land area of the development for the purpose of calculating maximum residential density and to satisfy the other requirements of Zoning Code Section 500.21 (Planned Unit Developments).** (Previously Condition No. 2 of Resolution No. R-87-1201, Zoning Petition No. 77-13(E).) ZONING

J. RECYCLE

1. **All property owners shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available.** (Previously condition No. 10 of Resolution No. R-90-1427, Zoning Pet. No. 77-13(I).) SWA

K. COMPLIANCE

1. **As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:**
 - a. **The denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or structure; or the denial or revocation of any permit or approval for any developer-owner, commercial-owner, lessee, or user of the subject property; and/or**

- b. The revocation of the Special Exception and any zoning which was approved concurrently with the special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
- c. A requirement of the development to conform with updated standards of development, applicable at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. Previously Condition No. 17 of Resolution No. R-90-1427, Zoning Petition No. 77-13(I).)

RESOLUTION NO. R-86-847.

RESOLUTION APPROVING ZONING PETITION 77-13(D), Special Exception

WHEREAS, the Board of County Commissioners, as the governing body, 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 Chapter 402.5 of the Palm Beach County Zoning Code Ordinance No. 73-2 have been satisfied; and

WHEREAS, Petition No. 77-13(D) was presented to the Board of County Commissioners of Palm Beach County at its public hearing conducted on the 5th May 1986; and

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

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

1. This proposal is consistent with the requirements of the Comprehensive Plan and Zoning Code. The School Board of Palm Beach County has demonstrated that schools serving Petition No. 77-13(D) are currently at or above capacity.
2. The School Board has demonstrated the potential exists for Petition No. 77-13(D) to generate public school students.

In efforts to mitigate the public school impact from Petition No. 77-13(D), the petitioner has agreed to voluntarily participate in the School Site Acquisition Program by contributing \$250.00 per dwelling unit, total dwelling unit count of 700 dwelling units, for a total of \$175,000.00.

These funds shall be used by the School Board for expansion and/or construction of additional facilities to service the subject petition. Payment shall be made to the School Board of Palm Beach County, at time of filing of each plat within the subject petition.

Petitioner shall enter into formal agreement with the School Board to assure timely payment.

3. Petitioner voluntarily agrees for itself and its successors that until the abandonment of Kimberly Boulevard, the Old Cain Boulevard, and internal streets of the Planned Unit Development is

effectuated, it will not be entitled to site plan approval for property lying west of Cain Boulevard, nor shall it be entitled to draw residential building permits for that area of the Planned Unit Development west of Cain Boulevard.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, assembled in regular session this the 5th of May 1986, that Petition No. 77-13(D) the petition of BOCA GREENS, INC., By Carl Palmisiano, President for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR A PLANNED UNIT DEVELOPMENT PREVIOUSLY APPROVED UNDER ZONING PETITION NO. 77-13 TO ALLOW THE INCREASE OF DENSITY AND UNITS AND TO CHANGE THE HOUSING TYPE OF THE WEST 361 ACRES on land situate in sections 11, 12, 13 and 14, Township 47 South, Range 41 East, being more particularly described as follows:

Lands in Section 12, Township 47 South, Range 41 East:

Bounded on the North: By a line 88.00 feet South of and parallel with as measured at right angles to, the North line of said Section 12. Said parallel line also being the South line of the Lake Worth Drainage District Right-of-Way, as recorded in Official Record Book 2979, Page 144.

Bounded on the East: By the East Right-of-Way line of Cain Boulevard as recorded in Official Record Book 2934, Page 1758.

Bounded on the South: By the South line of said Section 12.

Bounded on the West: By the West line of said Section 12.

Lands in Section 13, Township 47 South, Range 41 East:

Tracts 17 through 20 inclusive and Tracts 29 through 31 inclusive of said Section 13 as shown on the Plat of Florida Fruit Lands Company's Subdivision No. 2, as recorded in Plat Book 1, Page 182. Said lands being bounded on the East by the East Right-of-Way of Cain Boulevard as recorded in Official Record Book 2934, Page 1758.

Lands in Section 14, Township 47 South, Range 41 East:

The East 170.00 feet of the North 1/2 of the Northeast 1/4 of said Section 14.

Lands in Section 11, Township 47 South, Range 41 East:

The East 155.00 feet of Tracts 1 through 6 inclusive and the adjacent platted road being 15.00 feet in width, as shown on the Plat of

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Florida Fruit Lands Company's Subdivision No. 2, as recorded in Plat Book 1, Page 102, less and excepting therefrom the North 80.00 feet for Lake Worth Drainage District Right-of-way, as recorded in Official Record Book 2979, Page 344, together with the East 155.00 feet of Tracts 51 & 52 and the adjacent platted road being 15.00 feet in width, as shown on the Plat of Florida Fruit Lands Company's Subdivision No. 2, as recorded in Plat Book 1, Page 102, together with the East 155.00 feet of Tracts 54 through [redacted] inclusive and the adjacent platted road being 15.00 feet in width, as shown on the Plat of Florida Fruit Lands Company's Subdivision No. 2, as recorded in Plat Book 1, Page 102. Said property located on the west side of Cain Boulevard and on the north and south side of Kimberly Boulevard was approved as advertised subject to the following conditions:

1) Prior to site plan certification the master plan shall be revised to reflect the following:

a) Description of the features of the recreation packages.

b) A twenty five (25) foot landscape buffer along the outside perimeter of the proposed (150) foot wide drainage system, landscaped buffer abutting the west right-of-way line of Cain Boulevard and the north and south right-of-way lines of Kimberly Boulevard shall not be disturbed during site development, except in enhancing the buffering qualities of said twenty five-(25) foot landscaped buffer.

c) Phase lines if the project is to be developed with more than one plat.

2) Master-planned areas designated for patio home development shall be developed pursuant to the provisions of zoning code Section 500.21.K.4.C.; and the individual patio home lots shall be site planned to incorporate both the existing and created views, and the required private outdoor space.

3) Lots shall be site planned to ameliorate negative visual impact of the Florida Power and Light Company easement along the west perimeter of the site.

4) Pedestrian and/or bike trails shall be constructed along New Cain Boulevard in a manner traversing the areas north and south of Kimberly Boulevard, ensuring safe and convenient pedestrian and/or bikeway circulation connections between residential and recreation area features within Boca Greens P.U.D., and between residential and recreation areas and similar pedestrian and bikeway features of surrounding recreational and residential areas.

5) Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.

6) Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters.

7) Condition No. 7 which states:

"7. Developer shall provide access (24 feet in width) to the 94.5 acres for future County Park located in the northwest corner of the project."

is hereby amended to state:

"7. The property owner shall provide paved access (24 feet of pavement) and six (6) inch water main and four (4) inch sewer force main to the proposed Palm Beach County Park located in the southwest corner of this PUD from Cain Boulevard west to the Park's east property line per the Palm Beach County Park and Engineering Department's approval and shall dedicate to Palm Beach County 80 foot right-of-way for this roadway."

8) Condition No. 10 which states:

"10. Maximum allowable density shall not exceed one thousand fifty seven (1,057) units."

is hereby deleted.

9) This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended.

10) The property owner shall convey for the ultimate right-of-way required for a 120' ultimate section of Yamato Road on an alignment approved by the County Engineer within 90 days of adoption of the Resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first Building Permit.

11) The Developer shall design and construct Yamato Road (2-12 foot travel lanes) including six (6) inch water main and four (4) inch sewer force main from Cain Boulevard to the proposed Palm Beach County Park's east property line when required by the Parks Department and the County Engineer.

12) The property owner shall provide Palm Beach County with a road drainage easement with sufficient retention/detention capacity through this project's internal lake system to legal positive outfall for the road drainage of Cain Boulevard and Yamato Road.

This drainage easement shall be subject to all governmental agency requirements.

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 \$726,716.00.

14) Based on the amount of traffic generated by this development, the Developer has agreed to contribute an additional \$353,358.00 toward Palm Beach County's existing Roadway Improvement Program, these total funds of (\$1,080,074.00) to be paid prior to January 1, 1988.

If the Fair Share Contribution for Road Improvements Ordinance is amended to increase the Fair Share Fee, this additional amount of \$353,358.00 shall be credited toward the increased Fair Share Fee.

15) The property owner shall construct at the intersection of Yamato Road and SR 7:

- a) Left Turn Lane South Approach
- b) Right Turn Lane North Approach
- c) Left Turn Lane West Approach

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d) Signalization when warranted as determined by the County Engineer.

16) The property owner shall construct at the intersection of Cain Boulevard and Yamato Road:

a) Left Turn Lane East Approach

b) Right Turn Lane South Approach

c) Signalization when warranted as determined by the County Engineer.

17) The final alignment of the proposed Cain Boulevard shall be approved by the County Engineer.

18) The property owner shall construct Cain Boulevard from Yamato Road to the project's south property line at the time of the filing of the adjacent plats or when required by the County Engineer, for paved continuity for Cain Boulevard.

19) In order to comply with the mandatory traffic performance standards the property owner shall be subject to the following phasing plan:

a) No more than 471 building permits shall be obtained until SR 7 has been constructed as a four (4) lane section from Kimberly Boulevard to Glades Road.

b) No more than 471 building permits shall be obtained until Glades Road has been constructed as a four (4) lane section from SR 7 to Lyons Road.

c) No more than 471 building permits shall be obtained until Palmetto Park Road has been constructed from Powerline Road to SR 7.

d) No more than 625 building permits shall be obtained until Yamato Road has been constructed as a two (2) lane section from SR 7 to Powerline Road.

20) The property owner shall provide the construction plans for Yamato Road as a six (6) lane, median divided section from Jog Road/Powerline Road east to SR 441 (excluding the bridge over the Florida Turnpike). These construction plans shall be per Palm Beach County minimum construction plan standards as they presently exist or as they may from time to time be amended. These construction plans shall be completed prior to the issuance of 200 building permits or April 1, 1987 whichever shall first occur. Construction plan costs shall be approved by the County Engineer.

21) The property owner shall construct or fund the construction of Yamato Road as a two (2) lane section from the east right-of-way line of the Florida Turnpike to Jog/Powerline roads prior to January 1, 1988 or when required for paved continuity for Yamato Road as determined by the County Engineer.

NOTE: This property owner has requested that Palm Beach County assume the obligation to fund the Yamato Road overpass over the Florida Turnpike. The estimated cost of a three-lane structure is 3 million dollars (\$3,000,000). The property owner is requesting the Board of County Commissioners assume this obligation by the Fiscal Year 1992-1993.

22) Surety required for the aforementioned plans and construction shall be posted with the County Engineer's office prior to December 1, 1986.

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23) Credit for the impact fee shall be given for the work performed in Condition No. 11, 20, and 21 as permitted in the Fair Share Ordinance.

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24) The maximum density shall be limited to 1.66 du/acre.

Commissioner Wilken moved for approval of the petition. The motion was seconded by Commissioner Owens and upon being put to a vote, the vote was as follows:

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|-------------------------------|-----|--------|
| Karen T. Marcus, Chairman | --- | ABSENT |
| Jerry L. Owens, Vice Chairman | --- | AYE |
| Ken Spillias, Member | --- | NAY |
| Dorothy Wilken, Member | --- | AYE |
| Kenneth M. Adams, Member | --- | ABSENT |

The foregoing resolution was declared duly passed and adopted

this 10th day of June, 1986 confirming action of the 5th May 1986.

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOHN B. DUNKLE, CLERK

BY: *[Signature]*
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

[Signature]
County Attorney

FILED THIS DAY OF
 AND RECORDED IN 19 ..
 MAPS BOOK NO. 187 AT
 PAGE 33 RECORD VERIFIED
 JOHN B. DUNKLE, CLERK
 JUNE 10 1986

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