

FILE COPY

RESOLUTION NO. R-97-21

RESOLUTION APPROVING ZONING PETITION DOA93-57(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF K. HOVNANIAN AT DELRAY BEACH II, INC.
BY ROBERT BENTZ, AGENT
(POLO TRACE II)

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

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

WHEREAS, Zoning Petition **DOA93-57(A)** was presented to the Board of County Commissioners at a public hearing conducted on January 6, 1997; and

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition DOA93-57(A), the petition of K. Hovnanian at Delray Beach II, Inc., by Robert Bentz, agent, for a Development Order Amendment (DOA) to add land area (+20.6 acres) and units (+69 ZLL) 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 January 6, 1997, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Foster moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted on January 6, 1997.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

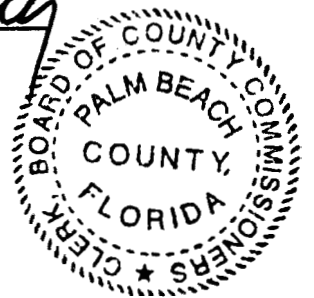


EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THAT PART OF BLOCK 9, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING WESTERLY OF THE RIGHT-OF-WAY FOR HAGEN RANCH ROAD AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PART OF TRACTS 8 THROUGH 25 INCLUSIVE, AND 41 THROUGH 56 INCLUSIVE, SAID BLOCK 9, PALM BEACH FARMS COMPANY PLAT NO. 1; TOGETHER WITH THE NORTH ONE-HALF OF THAT CERTAIN 30 FOOT PLATTED ROAD RIGHT-OF-WAY LYING SOUTH OF AND CONTIGUOUS TO SAID TRACTS 49 THROUGH 56, INCLUSIVE; TOGETHER WITH THE EAST ONE-HALF OF THAT CERTAIN 30 FOOT PLATTED ROAD RIGHT-OF-WAY LYING WEST OF AND CONTIGUOUS TO SAID TRACTS 16, 17, AND 49; TOGETHER WITH THAT CERTAIN 30 FOOT ROAD RIGHT-OF-WAY LYING EAST OF AND CONTIGUOUS TO SAID TRACTS 9, 24, 41, AND 56; TOGETHER WITH THAT CERTAIN 30 FOOT PLATTED ROAD RIGHT-OF-WAY LYING SOUTH OF AND CONTIGUOUS TO SAID TRACTS 17 THROUGH 24 INCLUSIVE.

EXCEPTING HOWEVER THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT L-30 CANAL AS PER CHANCERY CASE NO. 407; ALSO EXCEPTING HOWEVER THE WEST 35.00 FEET OF SAID TRACT 48 AND EXCEPTING THE SOUTH ONE-HALF OF THAT CERTAIN 30 FOOT ROAD RIGHT-OF-WAY LYING NORTH OF AND CONTIGUOUS TO THE SAID WEST 35.00 FEET OF TRACT 48.

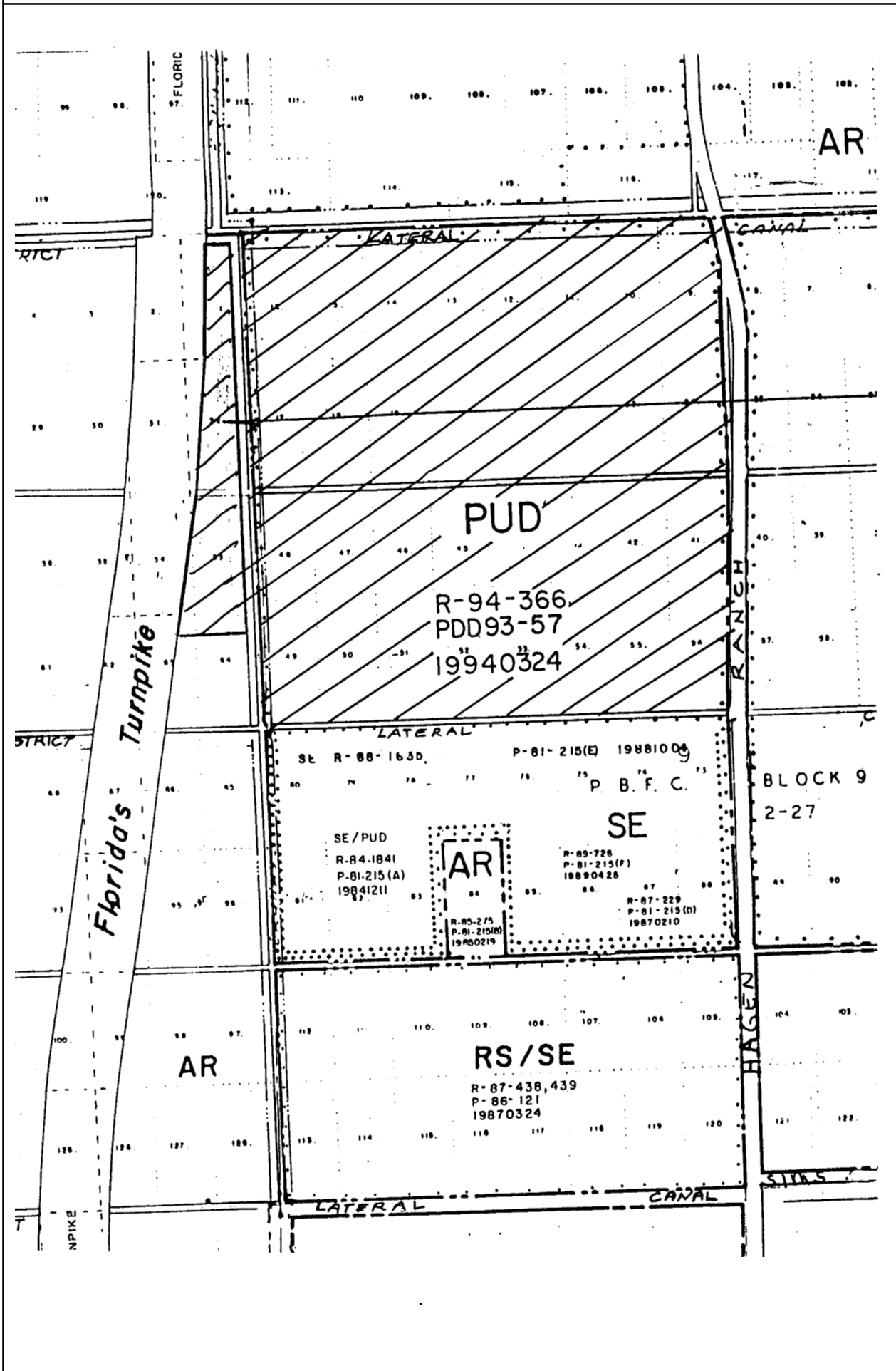
TOGETHER WITH ALL OF THE PLAT OF MONTERA, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 66, PAGE 190, SAID PUBLIC RECORDS.

CONTAINING 234.97 ACRES MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS, RESTRICTIONS, AND RIGHT-OF-WAY OF RECORD.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH/ZONING



Petition Number: DOA 93-57(A)

Zoning Quad Page 51

Date: _____



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: ~~All~~ previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. **To** ensure compliance with the requirements of this approval, Resolution R-82-628, **R-84-1841**, **R-85-275**, R-87-229, **R-88-1635**, and R-89-726 approving zoning petition 81-125 for a special exception to allow a PUD and R-87-1944 approving a Developers Agreement for zoning petition **81-125** are hereby revoked. (ZONING) (Previously Condition A.1 of Resolution R-94-366, Petition 93-57)
2. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-94-366 (Petition 93-57), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)
3. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. the approved master plan is dated October 25, 1996. 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)

B. BUILDING AND SITE

1. **To** ensure compliance with the requirements of the ULDC, prior to certification of the Preliminary Development Plan (PDP) by the DRC, the petitioner shall apply and obtain approval of a master plan for the Polo Trace PRD, Zoning Petition **DOA89-19(C)**, which complies with all applicable sections of the ULDC and conditions of approval. (ZONING) (Previously Condition A.6 of Resolution R-94-366, Petition 93-57)
2. **To** ensure that the proposal will comply with the requirements of the ULDC the petitioner shall, prior to certification of a Preliminary Development Plan (PDP) by the Development Review Committee (DRC), amend the Preliminary Development Plan to include a minimum of **two** unit types or obtain a variance from the Board of Adjustment. In the event the ULDC **is** amended to delete the requirement for **PUD's** to provide a minimum of **two** housing types the petitioner shall be relieved **of this requirement**. (ZONING) (Previously Condition A.7 of Resolution R-94-366, Petition 93-57)
3. The five (5) billboards on site adjacent to the Florida Turnpike shall be removed prior to January 1, 1998. No extension on the lease agreements shall be permitted. (DATE: MONITORING - Zoning/Bldg)

C. HEALTH

1. 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) (Previously Condition C.1 of Resolution R-94-366, Petition 93-57)
2. 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) (Previously Condition C.2 of Resolution R-94-366, Petition 93-57)
3. When irrigation quality water is available within **500** feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (UTILITIES) (Previously Condition B.I of Resolution R-94-366, Petition 93-57)

D. LANDSCAPING- GENERAL

1. All trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (**14**) feet.
 - b. Trunk diameter: **3.0** 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 outmost branch tip. Each radius shall measure at least **3.5** feet in length.
 - d. Clear trunk: five (**5**) feet. (ZONING) (Previously Condition F.I of Resolution R-94-366, Petition 93-57)

E. ENGINEERING

1. Prior to the issuance of a Technical Compliance Letter the property owner shall submit and receive approval from the Florida Department of Transportation and the County Engineer a detailed plan of the signalization, **geometrics**, and striping plan for this project's entrance. (ENG) (Previously Condition E.I of Resolution R-94-366, Petition 93-57)
2. Prior to the certification of the Master Plan by the DRC the property owner shall revise the Master Plan to be in compliance with Article 8 of the ULDC including but not limited to right of way widths of the internal road network based upon projected **ADTs**, and minimum centerline radii based upon street classification. (ENG) (Previously Condition E.2 of Resolution R-94-366, Petition 93-57)
3. Property owner shall construct a left turn lane south and a left turn west approach at the projects entrance and Hagen Ranch Road. This construction shall be concurrent with the paving and drainage improvements with the first plat. **Any** and all costs associated with the construction shall be paid by the property owner. These costs shall include, but not be limited to, utility relocations.

- a) **Permits** required by the Florida Department of **Transportation** for this construction shall be obtained prior to the **issuance** of Technical Compliance issued from the Office of the **County Engineer**.
 - b) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDG - Eng) (Previously Condition E.3 of Resolution R-94-366, Petition 93-57)
4. The Property owner shall fund the construction of a pedestrian pathway from the north right-of-way line of the LWDD L-30 Canal south ~~to~~ the **north** right-of-way line of Mansfield Hallow. Funding for this construction shall be completed prior to July **15 1994**. (~~ENG~~) (Previously Condition ~~E.4~~ of Resolution R-94-366, Petition 93-57)
 5. The Developer shall pay a Fair Share Fee in the amount and **manner** required by the "Fair Share Contribution for Road **Improvements Ordinance**" as it presently exists or as it may from time to **time** be amended. The Fair Share Fee for this project presently at the **time** of the Building Permit is **\$1650** per approved single family dwelling unit and **\$1155** per approved multi family dwelling unit. Credit for any previously paid impact fees shall be given as provided for in the **Impact Fee Ordinance**. (IMPACT FEE COORD). (Prev Cond. **E.5** of Reso. R-94-366, Pet. 93-57)
 6. The Property owner shall fund the cost of installation **of** a traffic signal at the projects entrance and Hagen Ranch Road when warranted as determined by the County Engineer. Should warrants for this signalization not be met after five years after issuance of the final certificate occupancy, then this petitioner shall be relieved **from** this obligation. (ENG) (Previously Condition E.6 of Resolution R-94-366, Petition 93-57)
 7. Prior to site plan certification the developer shall:
 - a. Provide Palm Beach County Water Utilities Department (**utility**) with **two** production well sites, locations of which are **to** be determined by mutual agreement;
 - b. Provide utility with necessary easements for well sites **and** raw water mains as required for the maintenance and **operation** of said wells and mains as provided in 3a above.
 - c. Provide utility with an easement adjacent **to** the L-30 **Canal** for utility lines required for operation of the Southern **Region** Wastewater Treatment Plant;
 - d. Enter into an agreement with the utility on the utilization of irrigation quality treated effluent for all or a portion **of** golf course area irrigation, subject to regulatory approvals, permits, statutory governing authorities having jurisdiction over such matters prior to making applications for an irrigation **system**. It **is** recognized that the operation **of** the wellfield to be **provided** for in 3a and 3b above may affect ~~or limit~~ the area **to** be considered for irrigation. It is not the intention of the **utility** to require expensive, unnecessary dual irrigation of said areas. (Prev Cond E.7 of Reso R-94-366, Pet. 93-57)

8. In the event there is joint use of the golf courses on the East and West side of Hagen Ranch Road, the Petitioner shall construct the **required** grade separated golf cart crossing in a manner and form **acceptable** to the County Engineer.
 - a. The Petitioner shall reserve an area for future construction of 72 parking spaces for the golf course on the East side of **Hagen Ranch Road**. These spaces shall be required to be **constructed** if the golf course on the East side of **Hagen Ranch Road** is developed without providing the required golf course parking.
 - b. The existing golf course maintenance facility shall be **available** for use by the golf course East of Hagen Ranch Road if a separate East side maintenance facility is not provided.
 - c. None of the conditions set forth herein are intended to **eliminate** any legal Land Development Code requirements for the development of the Polo Trace PRD on the East side of **Hagen Ranch Road**. (ENG)(Previously Condition E.8 of Resolution R-94-366, Petition 93-57)
9. The developer shall be eligible to receive reimbursement for up to **50%** of the cost of constructing the pedestrian bicycle path **required** in Condition E-4. These reimbursement funds shall be collected by **Palm Beach County** from any other developer requesting development approval from the Board of County Commissioners for property **located** adjacent to the **Hagen Ranch Road** bicycle path. Reimbursement shall be limited to a time period ending March 31, 2001. (DATE: ENG)(Previously Condition E.9 of Resolution R-94-366, Petition 93-57)
10. Median landscaping, subject to permitting by the County Engineer, shall be provided within all rights-of-way. Median landscaping shall, at a minimum, include:
 - a. One (1) native tree for every thirty feet (30) of median;
 - b. One (1) shrub for every one hundred fifty (150) square feet or one groundcover for every seventy five (75) square feet of median area;
 - c. Lawn area planted by sod; and
 - d. Detail median landscaping plans shall be submitted, installed and maintained pursuant to the standards set forth in Article 6.8.23.d(2)(a) of the Palm Beach County Unified Land Development Code. (ZONING/ENG) (Previously Condition A.3 of Resolution R-94-366, Petition 93-57)
11. Prior to Master Plan approval by the DRC, the Master Plan shall be amended to reflect minimum standards for; centerline radii, minimum right of way width, and roadway geometry in accordance with the County Engineer's approval. (DRC: ENG)

G. LANDSCAPING ALONG WESTERN PROPERTY LINE

1. To ensure adequate buffering from the Florida Turnpike, the minimum buffer requirements along the west property line shall be **upgraded** to include the following:

- a. one **(1)** native canopy tree planted every twenty **(20)** feet on center;
- b. One **(1)** native palm tree for each thirty **(30)** linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location, No more than twenty five percent of the required trees may be superseded by this requirement; and
- c. A minimum thirty **(30)** inch high hedge planted **two (2)** feet on center, at time of planting. (ZONING) (Previously Condition C.1 of Resolution R-94-366, Petition 93-57)

H. MASS TRANSIT

- 1. A. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board or Palm Tran. (DRC: ZONING)

B. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner within three (3) years, January 1 2000, in a manner and location acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to accommodate the requirement for mass transit access and/or bus shelters, if requested by the County Engineer. Mass transit access shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, and a bicycle rack. (DATE: MONITORING - Eng)

I. PLANNED UNIT DEVELOPMENT

- 1. Street lights a maximum of twenty five **(25)** feet in height shall be installed along all platted access tracts, easements, and right-of-ways. Light fixtures shall be directed away from residences. (Co: BLDG - Eng) (Previously Condition A.2 of Resolution R-94-366, Petition 93-57)
- 2. Street trees shall be planted no more than **fifty (50)** feet on center along both sides of all streets within all platted rights-of-way, access tracts, and easements that are interior to the **PUD** subject to approval by the County Engineer. All required landscaping shall be installed prior to release of the performance bond or issuance of a certificate of completion, whichever occurs first, for the road intended to be landscaped. (CO: LANDSCAPE - Eng) (Previously Condition A.4 of Resolution R-94-366, Petition 93-57)
- 3. All utilities shall be underground pursuant to Article 6.8.23.d(5) of the Palm Beach County Unified Land Development Code. (PLAT: ENG - Zoning) (Previously Condition A.5 of Resolution R-94-366, Petition 93-57)

J. RECYCLE SOLID WASTE

- 1. All residential, recreational and civic parcels (i.e. clubhouse, civic site) shall participate in a recycling program. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA) (Previously Condition D.1 of Resolution R-94-366, Petition 93-57)

K. SCHOOL BOARD

1. Prior to site plan certification, the petitioner shall demonstrate that they have met with the School Board staff and discussed the **potential of** entering into an agreement to help achieve racial balance and **allow** the children who reside within the development to attend the nearest available school. (SCHOOL BOARD) (Previously Condition **H.1** of Resolution R-94-366, Petition 93-57)
2. **All** sales and notice literature and purchase agreements for within the development shall include a **statement/** notice that students may not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School **Board** to determine which school assignment will apply to their children. (SCHOOL BOARD) (Previously Condition **H.2** of Resolution R-94-366, Petition **93-57**)

L. COMPLIANCE

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

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