

RESOLUTION NO. R-94-8

RESOLUTION APPROVING ZONING PETITION EAC73-52F)
DEVELOPMENT ORDER AMENDMENT
PETITION OF THE RESORT AT INDIAN SPRINGS, INC.

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 EAC73-52(F) was presented to the Board of County Commissioners at a public hearing conducted on January 3, 1994; 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 complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Land Development Code.
4. This Development Order Amendment, with conditions as adopted, 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.
5. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by applicable provisions of the Palm Beach County 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.
 - a. This Development Order Amendment has a concurrency exemption and therefore complies with Art. 11 (Adequate Public Facility Standards) of the Palm Beach County 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 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 **EAC73-52(F)** the petition of The Resort at Indian Springs for a DEVELOPMENT ORDER AMENDMENT in the Single-Family Residential (RS) Zoning District, to amend Condition E.18 of Resolution R-93-512, 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 January 3, 1994, 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 Newell and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted this 3rd day of January, 1994.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

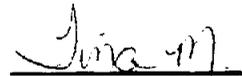
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

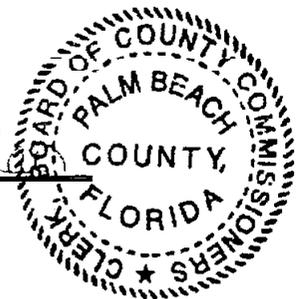


EXHIBIT A
LEGAL DESCRIPTION

PLATTED PARCEL on a parcel of land being all of Bannock at Indian Spring, in **Section** 35, Township 45 South, Range 42 East, as recorded in **Plat** Book 41, Pages 35 and 36, together with, a portion of Tract C-2, of Indian Springs, **Plat** No. 3, as recorded in Plat Book 41, pages 6 through 8, Inclusive, said parcel being more particularly described as follows:

Beginning at the most **Southerly** corner of said plat of Bannock at Indian Springs; thence, bear South 65 degrees 09'50" West, a distance of 120.00 feet; thence, North 32 degrees 11'25" West, a distance of 570.19 feet to a point of curvature of a curve to the right having a radius of 1500.00 feet; **thence** Northerly **along said curve**, and along the Westerly boundary, line of **said** Plat of Bannock at Indian Spring, through a **central** angle of 24 degrees 11'26", a distance of 633.30 feet to a point on a curve Northerly, having a **radius** of 840.00 feet, and whose radius point bears North 02 degrees 30'00" **East**; thence, Easterly, along said curve and along the North boundary line of said plat of Bannock at Indian Spring, through a **central** angle of 03 degrees 00'00", a distance of 43.98 feet to the end of said curve; thence, North 88 degrees 17'50" **East**, continuing **along** said line, non-tangent to said 040.00 foot radius curve, a **distance** of 51.70 feet to a **Point** on a **curve** concave Northerly, having a **radius** of 840.00 feet, and whose radius point bears North 09 degrees 00'00" **West**; thence, Easterly, along said curve, and continuing along said North **boundary** line, through a central angle of 15 degrees 50'10", a distance, of 233.55 feet to the point of tangency; thence, North 65 degrees 09'50" **East**, **continuing** along **said** North boundary **line**, a distance of 75.00 feet; thence, South 69 degrees 50'10" **East**, continuing along said North **boundary** line, a distance of 35.36 feet; thence, South 24 degrees 10'50" **East**, along the East boundary line of said plat of Bannock at Indian Spring, **a distance of 467.22** feet to a point of **curvature** of a **curve** to the right, **having** a **radius** of 845.00 feet; thence, **Southerly**, **continuing along** said East boundary line, through a central angle of 42 degrees 44'07", a distance of 630.26 feet to the point of **tangency**; thence South 17 degrees 53'57" **East**, continuing along said East boundary line, a distance of 79.36 feet to the Point of Beginning.

EXHIBIT B
 (location sketch)

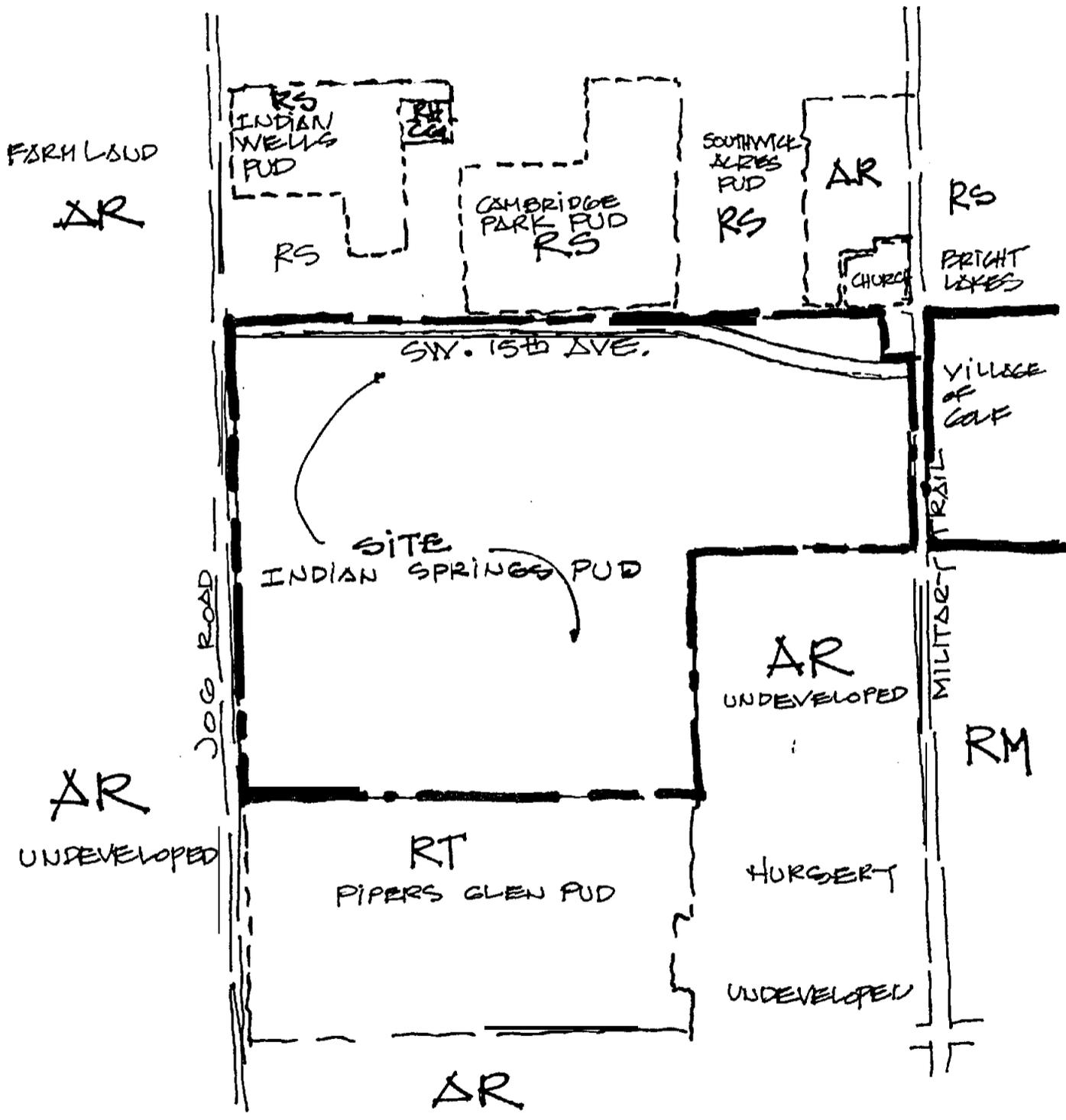


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. All previously conditions of approval applicable to the subject property have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval, including original deadlines for the Palm Beach County Land Development Code Article 5.8 compliance, as amended, unless expressly modified. (Previously Condition No. A.3 of Resolution R-93-512). (MONITORING)

B. BUILDING AND SITE DESIGN

1. Prior to site plan certification the site plan shall be amended to reflect the following:
 - a) Tract B shall have pedestrian linkage to the sidewalk along Indian Spring Trail.
 - b) Preservations, and integration of existing landscaping where possible including berms, into the overall site development plan.
 - c) Supplemental landscaping consistent in landscape character, growth habit, and spacing with existing ornamental improvements, along the southwest site perimeter to effectively screen on-site recreation facilities from the adjacent golf course.
 - d) A continuous solid hedge or six (6) foot fence along all property lines abutting adjacent residential lots.
 - e) Relocation of proposed tennis courts to meet setback requirements. (Previously Condition No. B.1 of Resolution R-93-512). (ZONING)
2. Prior to certification, the master plan shall be amended to indicate the following:
 - a) The tabular data shall reflect the civic Site dedication acreage for the entire Planned Unit Development. (Previously Condition No. B.2 of Resolution R-93-512). (ZONING)

C. CIVIC USES

1. The petitioner may exchange the required on-site dedication of land for civic uses, either a parcel of land off-site in acreage or the cash value. In addition, in the event that the off-site land dedication is of less cash value than the on-site dedication, petitioner shall also contribute an amount in cash equal to the difference between the value of the on-site and off-site dedications. The value of the on-site land dedication shall be based upon its value as a civic site. This contribution shall be used to off-set the identifiable impacts directly attributable to this project. If an off-site land or cash contribution is accepted by Palm Beach county, petitioner shall be deemed to have satisfied the intent of Zoning code Section 500.21.H. Pending the BCC's adoption of a resolution vacating the Civic Tract the developer shall have no more than six months to file an application to replat the site previously known as the Civic Tract. Upon filing of the application for replatting the developer shall pay the County \$524,818.64. A Cashier's Check made payable to

Palm Beach County Board of County Commissioners shall be processed through the Property & Real Estate Management **(PREM)** Division. This payment shall have the effect of satisfying the intent of Zoning **Code Section 500.21.B** and the agreement approved June 9, 1992 between the **BCC** and THE RESORT AT INDIAN SPRING, INC. (Previously **Condition** No. C.1 of Resolution R-93-512).

D. HEALTH

1. Sewer service is available to the property. Therefore, **no** septic tank shall be permitted on the site. (Previously Condition No. D.1 of Resolution R-93-512). (HEALTH)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition No. D.2 of Resolution R-93-512). (HEALTH)

E. ENGINEERING

1. Prior to the issuance of any permits, the developer shall convey to Palm Beach County the additional right-of-way required to provide sixty (60) feet of right-of-way from the centerline of Military Trail (S.R. 809). (**Previously** Condition No. **E.1** of Resolution R-93-512). (ENGINEERING-BUILDING)
2. 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. (Previously Condition No. E.2 of Resolution R-93-512). (ENGINEERING)
3. No mounding or berming **is** to extend into the dedicated right-of-way. (Previously Condition No. E.3 of Resolution R-93-512). (ENGINEERING-BUILDING)
4. The existing plat of record for this tract shall be replatted as a recreation **facility, prior** to commencement of construction of the **tennis courts** (Previously Condition No. E.4 of Resolution R-93-512). (ENGINEERING-BUILDING)
5. The developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. **However**, at a minimum, this development shall retain **onsite the** first one inch of stormwater runoff. In the event that the subject site abuts a Florida Department of Transportation maintained roadway, concurrent approval from the **Florida** Department of Transportation will also be required. The drainage system shall be maintained in an acceptable **condition as** approved by the County Engineer. (Previously **Condition** No. E.5 of Resolution R-93-512). (ENGINEERING)
6. Within 90 days of approval of this project, the **property** owner shall convey to Palm Beach County by road **right-of-way** warranty deed for Military Trail, 60 feet **from** centerline and Jog Road an additional 40 feet of **right-of-way** free of all encumbrances and encroachments. Petitioner shall provide Palm Beach county with sufficient documentation acceptable to the **Right of Way** Acquisition Section to ensure that the property is **free of** all encumbrances and **encroachments**. Right-of-way conveyances shall also include **"Safe Sight** Corners" where appropriate at intersections as determined by the County Engineer. (Previously Condition No. E.6 of Resolution R-93-512). (ENGINEERING)

7. The property owner shall construct:
- a) at the intersection of Golf Road and Military Trail a left **turn** lane, south approach:
 - b) at the intersection of S.W. 15th Avenue and the project's entrance road a left turn lane, east approach
- all concurrent with **onsite** paving and drainage improvements. Construction shall be completed concurrent with paving and drainage improvement **for Pod "8"**. (Previously Condition No. E.7 of Resolution R-93-512). (ENGINEERING-BUILDING)
8. The property owner shall convey to Palm Beach County within 90 days of the approval of this project adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall for all runoff from those segments of S.W. 15th Avenue and Jog Road along the property frontage and for a maximum 400 ft. distance each side of the property boundary lines along S.W. 15th Avenue and Jog Road. Said easements shall be no less than 20 feet in width. The drainage system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements of the applicable County Water Control District and South Florida Water Management for the combined runoff from the project and District the ultimate Thoroughfare Plan Road Section(s) of the included segment. (Previously Condition No. **E.8** of Resolution R-93-512). (ENGINEERING)
9. The property owner shall construct:
- a. El Clair Ranch Road from Piping Rock Drive to the north side of the proposed crossing of the Lake Worth Drainage District L-28 Canal.
- This construction shall be completed upon thirty (30) day notice by the county Engineer. (Previously Condition No. E.9 of Resolution R-93-512). (ENGINEERING)
10. Petitioner shall contribute the sum of **\$500,000.00** towards roadway improvements within the project area. These fund shall be paid in annual payments of **\$125,000.00** beginning November **1**, 1989 and ending November **1**, 1992. All funds paid under this condition shall be credited towards this property owner's roadway impact fees as it may from time to time be amended. (Previously Condition No. E.10 of Resolution R-93-512). (MONITORING/IMPACT FEE COORDINATOR)
11. Prior to February 1, 1990 or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for the construction of a right turn lane, north approach oa Military Trail at the project's entrance road. This right-of-way shall be a minimum of 12 feet in width, 150 feet in length with a taper length of 180 feet, free of all encumbrances and encroachments. property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. Right-of-way conveyances shall also include **"Safe Sight Corners"** where appropriate at intersections as determined by the county Engineer. (Previously Condition No. E.11 of Resolution R-93-512). (MONITORING-Building/Engineering)

12. The Property owner shall fund the construction of a right turn lane, north approach on Military Trail concurrent with the construction of the 6 laning of Military Trail. **Should** the developer wish to construct this turnout prior to a twelve (12) month time period that Military Trail is upgraded, then this petitioner shall construct this right turn lane as part of the existing **4** lane roadway at his expense. These funds shall be made available to the County *Engineer* prior to July **1**, 1990. The property owner shall also be responsible **for** any change orders associated with this construction. (Previously Condition **No. E.12** of Resolution R-93-512). (ENGINEERING)
13. *The* Property owner shall convey to Palm Beach County prior to February 1, 1990, adequate road drainage easements through the project's internal surface water management system to provide legal positive outfall **for** all runoff from those segments of Military Trail along *the* property frontage and for a maximum 400 ft. distance each side of the property boundary lines along Military Trail. Runoff shall be limited to that portion from **a 4** lane to a 6 lane roadway. said easements shall be no less than 20 feet in width. The **drainage** system within the project shall have sufficient retention/detention capacity to meet the storm water discharge and treatment requirements **of** the applicable County Water Control District and South Florida Water Management District for the combined runoff from the project and the ultimate Thoroughfare Plan Road section(s) of *the* included segment. (Previously Condition No. E.13 of Resolution **R-93-512**). (ENGINEERING/MONITORING)
14. The Developer shall install signalization if warranted as determined by the County Engineer at:
 - a. Golf Road and Military Trail; and,
 - b. Military Trail and the project's entrance roadShould signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (Previously Condition No. E.14 of Resolution R-93-512). (ENGINEERING-Building)
15. *The* Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended. (Previously Condition No. E.15 of Resolution R-93-512). (ENGINEERING)
16. The proposed entrance onto Military Trail shall be **right-turn-in** and right-turn-out Only. No median **openings** shall be permitted. (Previously Condition No. E.16 of Resolution R-93-512). (ENGINEERING-BUILDING)
17. The Property owner shall construct a left turn lane, east approach on S.W. 15th Avenue at **Wingfoot** Road. This construction shall be concurrent with the paving and drainage improvements for this proposed parcel known as Brookside. Permits required by Palm Beach County for this construction shall be obtained prior to the **issuance** of the first Building Permit. Construction shall **be** completed prior to the issuance **of** the first certificate of Occupancy for the Brookside POD. (Previously Condition No. E.17 of Resolution R-93-512). (ENGINEERING)

18. Condition No. **E.18** of Resolution R-93-512, which currently states:

Petitioner shall include in all written solicitations, advertisements, inducements, and other methods or attempts to encourage any person to purchase a legal or equitable interest in property which is the subject of this petition (**or** amendment hereto) a disclosure statement identifying all planned roadways adjacent or through the petition property which are included in the County's Thoroughfare Plan or Five Year Road Program. The roadways are continuity for Jog Road, **S.W. 15th** Avenue and El Clair Ranch Road.

Is hereby amended to state:

Petitioner shall include in the homeowners documents and all sales contracts as well as all written sales brochures, Master Plans and related Site Plans a disclosure statement identifying Jog Road, S. W. 15th Avenue and El Clair Ranch Road as a planned thoroughfare roadway adjacent to or through this property. Information which appears in written form shall appear in bold type. The Developer/Property Owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building Department. The next report shall be submitted prior on or before July 1, 1994 and shall continue on an annual basis until all units within the development have been sold or the developer relinquishes control to the homeowners association whichever shall first occur.
(ENGINEERING)

F. LWDD

1. The property owner shall not make use of the property described as the south 132 feet of the subject property on a plat until the ownership of that 132 feet is determined either by court order or by agreement between the property owner **and** Lake Worth Drainage District. The unit density shall be revised accordingly, based upon available land area. The site plan shall be noted accordingly. (Previously Condition No. F.1 of Resolution R-93-512). **(ENGINEERING/LWDD)**

G. LANDSCAPING

1. The twenty-five **(25)** foot buffer along the southern property line of parcel **8** shall be upgraded with landscape plantings consisting of a berm and hedge combination, to reach six (6) feet in height within one **(1) year**, and minimum ten (10) foot native canopy **trees** planted a maximum of twenty (20) feet on center. (Previously Condition No. G.1 of Resolution R-93-512). (ZONING)
2. 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: 3.5 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) (Previously Condition No. G.2 of Resolution R-93-512).

3. Prior to issuance of any Certificate of Occupancy within parcel 7, the petitioner shall provide a minimum twenty **(20)** foot landscape buffer tract with a six (6) foot opaque hedge. The required landscape buffer tract shall consist of the following:
 - a. One (1) native canopy tree planted every **twenty** (20) feet on center.
 - b. One **(1)** native palm tree **for** every thirty (30) linear feet. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location.
 - c. Forty-eight (48) inch high shrub or hedge material spaced no more than twenty-four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches.

(Previously Condition No. G.3 of Resolution R-93-512).

4. Prior to site plan certification, the petitioner shall revise the landscape tabular data on the site plan to reflect conformance to minimum Landscape code requirements and all landscape/vegetation preservation conditions of approval. (Previously Condition No. G.4 of Resolution R-93-512). (ZONING)

H. LEGAL

1. All property included in the legal description of this petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's Office which shall provide, among other things, for: Formation of a single 'master' property **owner's** association, and automatic membership in the 'master' association by **any** party holding title to any portion of the property included in the Planned Unit Development. (Previously Condition No. H.1 of Resolution R-93-512). (COUNTY ATTORNEY)

I. LIGHTING

1. The new tennis courts (those permitted pursuant to this approval) shall not be lighted. (Previously Condition No. I.1 of Resolution R-93-512). (ZONING-Building/Code Enforcement)

J. RECYCLE SOLID WASTE

1. The property owner and/or lessees shall participate in a recycling program when available in the area. Material to **be** recycled shall **include**, but not be limited to, paper, plastic, metal and glass products. (Previously Condition No. J.1 of Resolution R-93-512). (SOLID WASTE AUTHORITY)

K. USE LIMITATIONS

1. No density shall be allocated for the subject 9.88 acre site. (Previously Condition No. K.3 of Resolution R-93-512). (ZONING)
2. Prior to site plan certification the petitioner shall obtain variance relief from the Board of Adjustment **for** substandard side interior yard setbacks for the residential unit and recreation building. (Previously Condition No. **K.4** of Resolution R-93-512). (ZONING)

3. There shall be no bleachers or viewing stands in excess of one hundred and twenty-five (125) seats, and there shall be no public tournament-typed activities held at the subject recreation site (Parcel **B**). (Previously Condition No. K.7 of Resolution R-93-512). (**ZONING-Building/Code Enforcement**)
4. a) When Phase I of tennis courts is completed, new parking lot at clubhouse shall be completed. (Phase I is 5 new courts).
 - b) Phase II (10 courts) will not be constructed until an additional 250 units are built in the development.
 - c) Phase **III** (4 courts) will not be built until an additional 750 units are built in the development. (This includes the 250 units referenced in paragraph b, above.) (Previously Condition No. K.8 of Resolution R-93-512). (**ZONING-Building**)
5. No change from this particular recreational use shall be permitted by administrative approval. Any such change must be presented to the Board of County Commissioners in a modification petition. (Previously Condition No. K.9 of Resolution R-93-512). (**ZONING-Building**)
6. Parcel 8 building height shall be limited to three (3) stories. (Previously Condition No. K.6 of Resolution **R-93-512**). (**ZONING-Building**)

L. COMPLIANCE

1. **As** provided in Palm Beach County Land Development Code Article 5.8, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop **work** order; the denial or suspension of any work permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any 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;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time **of** the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code. (Previously Condition No. L.3 of Resolution R-93-512). (**MONITORING**)
2. 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 Commissioners decision, shall be by petition for Writ Of certiorari to the Fifteenth Judicial Circuit. (Previously Condition No. L.4 of Resolution R-93-512). (**MONITORING**)