

RESOLUTION NO. R-94-1069

RESOLUTION APPROVING ZONING PETITION **EAC77-13 (M)**
REQUESTED (R) USE
PETITION OF NEW 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 Board of County Commissioners, pursuant to Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach **County** Land Development Code (Ordinance 92-20) is authorized and empowered to approve, approve with conditions or deny Requested Uses within a Planned Development District; and

WHEREAS, the notice and hearing requirements, as provided for in Article 6, Section 6.8, of the Palm Beach County Land Development Code have been satisfied; and

WHEREAS, Zoning Petition **EAC77-13 (M)** was presented to the Board of County Commissioners at a public hearing conducted on August 25, 1994; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use is consistent with the requirements of the Palm Beach County Land Development Code.
3. This Requested Use is consistent with all requirements of Article 6, Section 6.8 (Planned Development District Regulations) of the **Palm** Beach County Land Development Code, Ordinance 92-20.
4. This Requested Use is consistent with all other applicable local land development regulations.

WHEREAS, Article 6, Section 6.8, 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 (M)**, the petition of **EAC77-13 (M)** for a REQUESTED USE allowing a veterinary clinic in the Residential Estates (RE) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on August 25, 1994, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Newell 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	-- Aye
Burt Aaronson	-- Aye
Ken Foster	-- Aye
Maude Ford Lee	-- Aye
Karen T. Marcus	-- Aye
Warren Newell	-- Aye
Carol A. Roberts	-- Absent

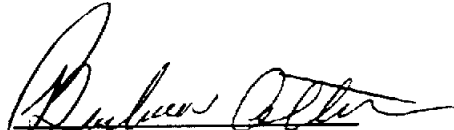
The Chair thereupon declared that the resolution was duly passed and adopted this 25th day of August, 1994.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

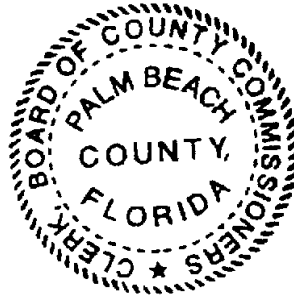
DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

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EXHIBIT B

VICINITY SKETCH

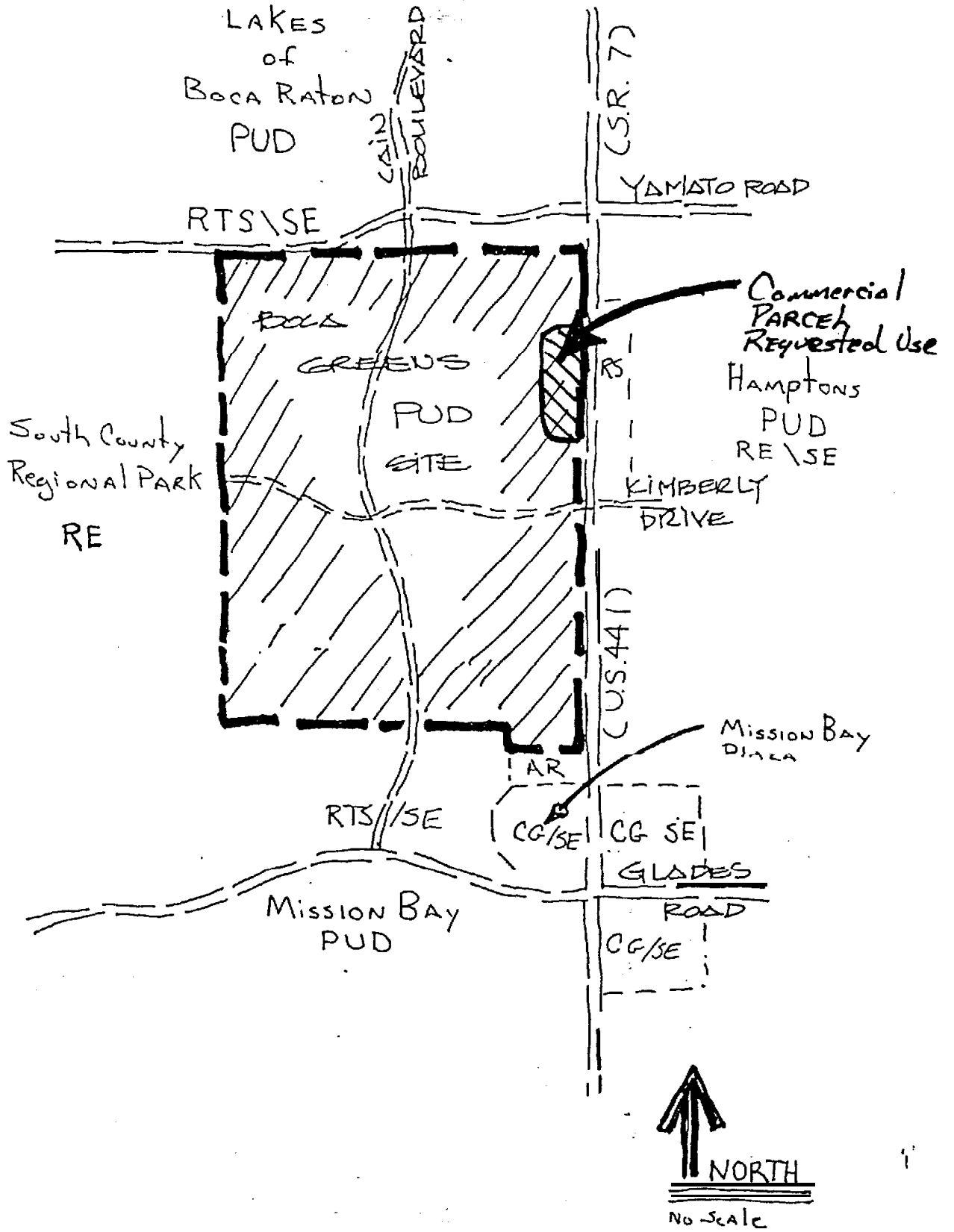


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Previous Condition No. A.1 of Resolution 94-357, Petition No. 77-13(L) which states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-77-145, R-77-1250, **R-85-703**, R-86-847, 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)**

Is hereby 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-86-847, R-87-1201, R-88-1211, R-90-1427, and R-94-357 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)

2. 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 lake 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. **(Previously Condition No. A.2 of Resolution 94-357, Petition No. 77-13(L) (ZONING/ENGINEERING)**
3. **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 spaae. **(Previously Condition No. A.3 of Resolution 94-357, Petition No. 77-13(L). (ZONING)**
4. 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. **(Previously Condition No. A.4 of Resolution 94-357, Petition No. 77-13(L). (ZONING)**

5. 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 features and similar pedestrian and **bikeway** features of surrounding recreational and residential areas. (Previously Condition No. A.5 of Resolution 94-357, Petition No. 77-13 (L). (ENGINEERING)

B. COMMERCIAL POD

1. The Veterinary Clinic shall be limited to a maximum of 5,000 square feet of floor area. Additional Square footage may be allowed pursuant to Section **6.8.A.15.b(9)** (Square Footage Increases) (ZONING)
2. The Veterinary Clinic shall be limited to indoor functions, no outdoor runs, walks, kennels, pens, cages, or exercise areas shall be permitted. (CODE **ENFORCEMENT-Zoning**)
3. The veterinary clinic shall be limited to the care of small domestic animals no livestock or equestrian care is permitted. (CODE ENFORCEMENT-Zoning)
4. 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. B.1 of Resolution 94-357, Petition No. 77-13(L). (ZONING/BUILDING)
5. 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 **figus** 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. B.2 of Resolution 94-357, Petition No. 77-13(L). (ZONING)
6. Waste paper and other debris shall not be permitted to accumulate on site. (Previously Condition No. B.3 of Resolution 94-357, Petition No. 77-13(L). (CODE ENFORCEMENT)
7. Building height shall be limited to a maximum of 25 feet. (Previously Condition No. B.4 of Resolution 94-357, Petition No. 77-13(L). (ZONING/BUILDING)

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13. Prior to **Site** Plan approval by the Bite Plan Review Committee the property owner shall **record** a Unity of Control on the subjeat property subjeat to approval by the County Attorney. (Previously Condition No. B.10 of Resolution 94-357, Petition No. 77-13(L). (COUNTY ATTORNEY)
14. If the State permits landscaping within the median, the petitioner shall obtain appropriate permits for all landscaping and irrigation within the **441** 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. B.11 of Resolution 93-357, Petition No. 77-13(L). (ENGINEERING)
15. 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 dimension8 indicated on Exhibit 269. (Previously Condition No. B.12 of Resolution 94-357, Petition No. 77-13(L). (ZONING)
16. 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. (Previously Condition No. B.13 of Resolution 94-357, Petition No. 77-13(L). (BUILDING/ZONING)
17. **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. (Previously Condition No. B.14 of Resolution 94-357, Petition No. 77-13(L). (CODE ENFORCEMENT/ZONING)
18. All canopy trees **required** to be planted on out parcel8 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 point8 measured from the trunk to the outermost **branch** tip. Each **radius** shall measure at **least** 3.5 feet in length. (Previously Condition No. B.15 of Resolution 94-357, Petition No. 77-13(L). (ZONING)
19. 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 abut8 landscape areas to the maximum **extent** possible. **This** condition shall apply to out parcel8 2 and 4 only. (Previously Condition No. 8.16 of Resolution 94-357, Petition No. 77-13(L). (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 lam. (Previously Condition No. C.1 of Resolution 94-357, petition No. 77-13(L). (ZONING)
2. Prior to Site Plan certification the Site Plan shall be amended to reflect the required 100 foot stacking for vehicles. (Previously Condition No. **C.5** of **Resolution** 94-357, Petition No. 77-13(L). (ZONING)
3. **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. C.3 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING)
4. 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. C.4 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING)
5. Prior to issuance **of** building permits for the Day Care Center, the existing nonconforming sign shall be removed from the site. (Previously Condition No. C.5 of Resolution 94-357, Petition No. 77-13(L). (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. (Previously Condition No. D.1 of Resolution 94-357, Petition No. 77-13(L). (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. (Previously Condition No. D.2 of Resolution 94-357, Petition No. 77-13(L). (BUILDING-ERM)

E. **ENGINEERING**

1. Prior to site plan approval of the first **plat** the Developer shall convey to Pals Beach County two hundred (200) feet for the ultimate right-of-way for State Road **No. 7**. (Previously Condition No. E.1 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING)
2. 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. E.2 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING)

3. **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. E.3 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
4. Developer shall align North **Shopping Center entrance** with the north entrance to American homes, east of **State** Road no. 7. (Previously Condition No. E.4 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
5. 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. E.5 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
6. 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. E.6 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
7. The buffer zone shall be platted with the first plat. (Previously Condition No. E.7 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
8. 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. (Previously Condition No. E.8 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
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. (Previously Condition No. E.9 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
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. (Previously Condition No. E.10 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
11. **The** Developer shall design and construct **Yamato** Road (**2-12** foot travel lanes) including air (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 Parka Department and the county Engineer. (Previously Condition No. E.11 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))

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- a) No more than 471 building permits shall be obtained until **SR7** 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 SR7 to Lyons Road.
 - c) No **more** than 471 building permits shall be obtained until Palmetto Park Road has been constructed **from** Powerline Road to **SR7**.
 - d) No more than 625 building permits shall be obtained until Yamato Road has been **constructed** as a two (2) lane section **from SR7 to Powerline Road**. (Previously Condition No. E.19 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))
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, 1967** whichever shall first occur. Construction plan costs shall be approved by the County Engineer. (Previously Condition No. E.20 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING/BUILDING))
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. (Previously Condition No. E.21 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING))

22. Surety required for the aforementioned plans and construction shall be posted with the County Engineer's office prior to December 1, 1986. (Previously Condition No. E.22 of Resolution **94-357**, Petition No. 77-13(L). (ENGINEERING))
23. Credit for the impact fee shall be given for the **work** performed in Condition Nos. 11, 20, and 21 as permitted in the *Fair Share Ordinance*. (Previously Condition No. E.23 of Resolution 94-357, Petition No. 77-13(L). (IMPACT FEE COORDINATOR))
24. Previous Condition No. E.24 of Resolution 94-357, Petition No. 77-13(L) which currently states:

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

Is hereby Deleted. Reason: This density condition included the south county regional park acreage in the calculation. The park acreage has now been dedicated to PBC. The current density shown on the PDP is consistent with this condition.

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. F.1 of Resolution 94-357, Petition No. 77-13(L). (HEALTH))
2. 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 BCR-I. (Previously Condition No. F.2 of Resolution 94-357, Petition No. 77-13(L). (HEALTH))
3. 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. (Previously Condition No. F.3 of Resolution 94-357, Petition No. 77-13(L). (HEALTH))
4. 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. (Previously Condition No. F.4 of Resolution 94-357, Petition No. 77-13(L). (HEALTH))
5. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previously Condition No. F.5 of Resolution 94-357, Petition No. 77-13(L). (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)**. (Previously Condition No. G.1 of Resolution 94-357, Petition No. 77-13(L). (ENGINEERING/LWDD))

H. MAXIMUM DWELLING UNITS

1. **Maximum** allowable number of units shall not **exceed** one thousand seven hundred and **fifty nine** (1759) total **units**. (Previously Condition No. H.1 of Resolution 94-357, Petition No. 77-13(L). (BUILDING-Zoning))
2. The Land Area **donated** for the County Park shall **continue** to be counted towards the **gross** land area **of** the development for the purposes of calculating **maximum** residential density and to satisfy the other **requirements of Zoning Code** section 500.21 (Planned Unit Developments). (Previously Condition No. H.2, of Resolution 94-357 Petition No. 77-13(L))

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. I.1 of Resolution 94-357, Petition No. 77-13(L). (PARKS/ENGINEERING))
2. Within sixty (60) days of the Special Exception approval the Developer shall dedicate the "**County Park**" shown on the Raster Plan which contains two hundred eight (280) acres more or less. (Previously Condition No. I.2 of Resolution 94-357, Petition No. 77-13(L). (MONITORING/PREM-Parks))

3. 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. I.3 of Resolution 94-357, Petition No. 77-13(L). (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. J.1 of Resolution 94-357, Petition No. 77-13(L). (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. K.1 of Resolution 94-357, Petition No. 77-13(L). (MONITORING)