

RESOLUTION NO. R-97- 16

RESOLUTION APPROVING ZONING PETITION **DOA75-72(E)**
DEVELOPMENT ORDER AMENDMENT
PETITION OF EQUITY TRUST GROUP, INC.
BY ROBERT BENTZ, AGENT
(FACTORY STORES OF PALM BEACH)

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 **DOA75-72(E)** 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 DOA75-72(E), ~~the~~ petition of Equity Trust Group, Inc., by Robert Bentz, agent, for a Development Order Amendment Reconfigure site plan and add Indoor Flea Market (requested use) 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 Marcus moved for the approval of the Resolution.

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

Burt Aaronson, Chair	--	Aye
Maude Ford Lee, Vice Chair	--	Absent
Ken Foster	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Aye
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

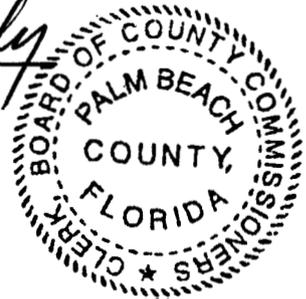


EXHIBIT A
LEGAL DESCRIPTION

DESCRIPTION OF PROPERTY SURVEYED

THE WEST **1/2** OF THE NORTHEAST **1/4** OF THE NORTHWEST **1/4** OF SECTION **26**, TOWNSHIP **43** SOUTH, RANGE **42** EAST, PALM BEACH COUNTY, FLORIDA, TOGETHER WITH AN EASEMENT FOR UNDERGROUND UTILITIES OVER AND ACROSS THAT CERTAIN PROPERTY SET FORTH IN AN EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORD BOOK **5695**, PAGE **1191**, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND TOGETHER WITH AN EASEMENT FOR UNDERGROUND UTILITIES OVER THE PROPERTY SET FORTH IN THAT CERTAIN EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORD BOOK **5695**, PAGE **1195**, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS RIGHT-OF-WAY OF THE NORTH **39** FEET FOR OKEECHOBEE BOULEVARD (S.R. **704**) AND THE SOUTH **35** FEET TO THE LAKE WORTH DRAINAGE DISTRICT AND LESS AND EXCEPT THAT PROPERTY SET FORTH IN THAT CERTAIN RIGHT-OF-WAY WARRANTY DEED FROM MARVIN M. ROSENBERG, TRUSTEE IN FAVOR OF PALM BEACH COUNTY AS RECORDED IN OFFICIAL RECORD BOOK **5385**, PAGE **800**, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING: **18.22** ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS AND RIGHTS OF WAY AS SHOWN HEREON.

EXHIBIT B
VICINITY SKETCH

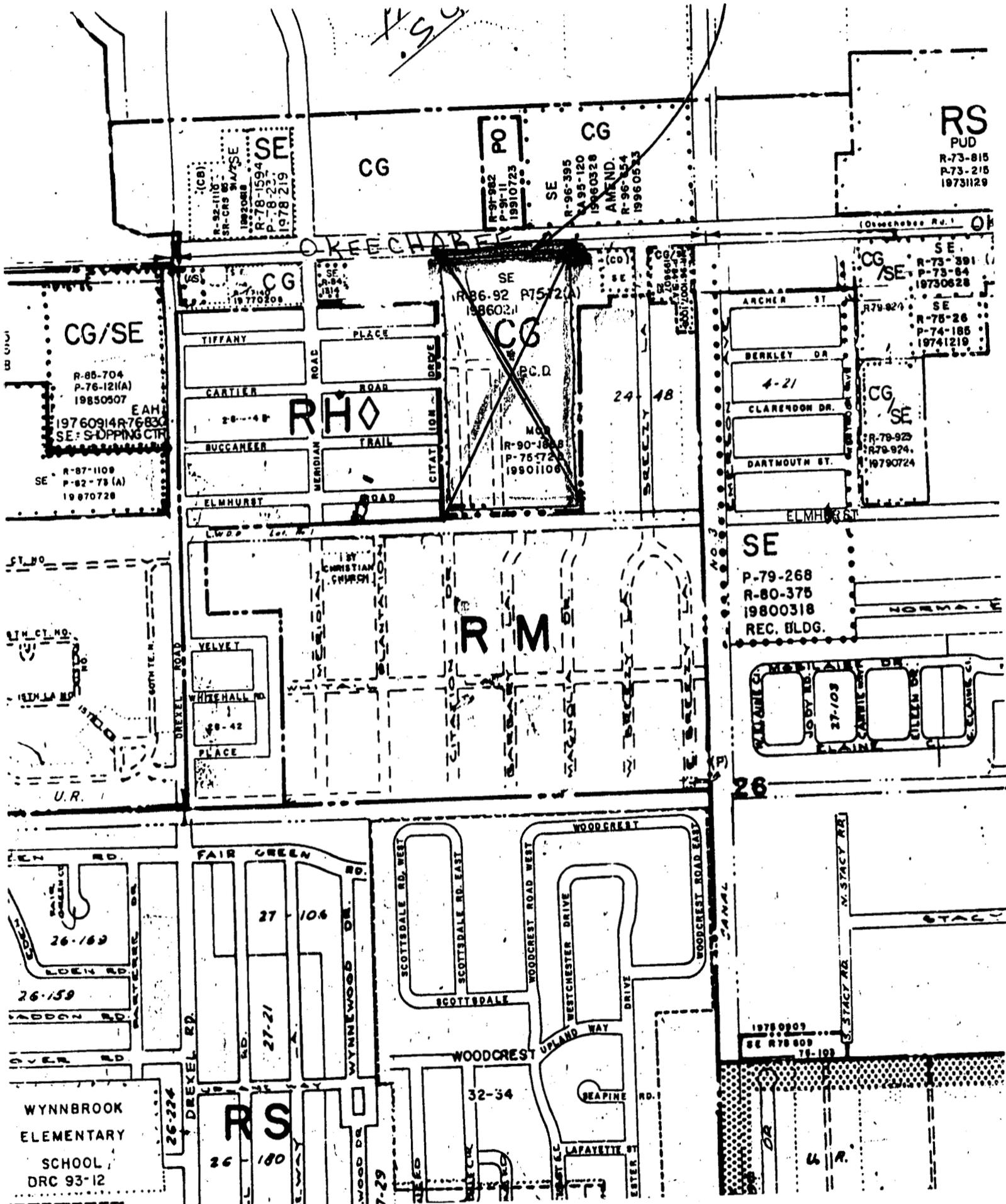


EXHIBIT C

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. **The** petitioner shall present a notarized Affidavit of Disclosure **at the Zoning** Authority meeting. (Previously Condition 22 of Resolution R-86-92, Petition 75-72(A))

2. Condition 1 of Resolution R-90-1888, Petition 75-72(D) ~~with~~ currently states:

The petitioner shall be subject to all previous conditions of approval, unless expressly modified herein.

~~It~~ hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-75466, (Petition 75-72), R-86-92 (Petition 75-72(A)), and R-90-1888 (Petition 75-72(D)), 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 site plan is dated November 26, 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 DESIGN

1. Developer shall provide seventy-five (**75**) percent opaque screening around the sewer plant site when built. (Previously Condition 3 of Resolution R-75466, Petition 75-72)

2. All mechanical and air conditioning equipment shall be roof **mounted** and screened with parapets or be contained within the enclosed loading and service area. (Previously Condition 3 of Resolution R-86-92, Petition 75-72(A))

3. All facades of the shopping center shall be given architectural treatment consistent with the front of the center **to** avoid an incompatible industrial appearance impact upon nearby residential development. (Previously Condition 4 of Resolution R-86-92, Petition 75-72(A))

4. No stock loading or dumpster pickup will be permitted between the hours of **8:00 p.m.** and **8 am.** (Previously Condition 5 of Resolution R-86-92, Petition 75-72(A))

5. Condition 6 of Resolution R-86-92, Petition 75-72(A) ~~which~~ currently states:

No storage or placement of any materials, refuse, equipment, or accumulated debris shall be permitted in the rear of the shopping center.

~~Is~~ hereby amended to read:

No storage ~~or~~ placement of any materials, refuse, equipment, trucks, trailers, U-Hauls, or accumulated debris shall be permitted in the rear of the shopping center. (ONGOING: CODE ENF)

6. Security lighting shall be directed away from nearby residences. (Previously Condition 7 of Resolution R-86-92, Petition 75-72(A))

7. Condition 23 of Resolution R-86-92, Petition 75-72(A), which currently states:

Exact copies of all graphics presented at the Planning Commission and Board of County Commissioner's public hearings shall be submitted to the Zoning Division for inclusion in the permanent petition file.

~~Is~~ hereby deleted. [REASON: Code Requirement]

8. Should the site immediately east of this site, currently zoned R1M, be developed with residential uses, the developer shall place a six (6) foot wall along the eastern property line, supplemented with trees planted 30' on center. (Previously Condition 24 of Resolution R-86-92, Petition 75-72(A))

9. Condition 3 of Resolution R-90-1888, which currently states:

No certificate of occupancy shall be issued for Phase II of project prior to July 1, 1991.

~~Is~~ hereby deleted. [REASON: No longer applies.]

C. HEALTH

1. Condition 8 of Resolution R-86-92, Petition 75-72(A) which currently states:

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.

~~Is~~ hereby deleted. [REASON: Code requirement.]

2. Condition 9 of Resolution R-86-92, Petition 75-72(A) which currently states:

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

~~Is~~ hereby deleted. [REASON: Code requirement]

3. Condition **10** of Resolution R86-92, Petition 75-72(A) which currently states:
Any fuel **or** chemical storage tanks shall be installed with **protection** against leakage or spillage due to corrosion, breakage, structural failure or other means. The design and installation plans will be submitted to the Health Department for approval prior to installation.

~~Is~~ hereby deleted. [REASON: condition complied with]

4. Condition **11** of Resolution R86-92, Petition 75-72(A) which currently states:
Any toxic **or** hazardous waste generated at this site shall **be** properly handled and disposed of in accordance with Chapter **17-30, F.A.C.**

~~Is~~ hereby deleted. [REASON: Code requirement]

D. SIGNS --

1. New freestanding point of purchase sign for eastern outparcel fronting on Okeechobee Boulevard shall be limited as follows:
- a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - **100** square feet;
 - c. Maximum number of signs - one (1);
 - d. Style - monument style only; and,
 - e. Constructed simultaneous with issuance of building permit for eastern outparcel structure. (CO: BLDG)

E. ENGINEERING

1. Developers shall construct **the** following improvements at Citation Drive and Okeechobee Boulevard in proportion to his share of the **approach** volume on Citation Drive:
- a. Expand the left turn lane on the east approach to **facilitate** the existing, plus development's traffic (NOTE: complete)
 - b. Right turn lane, west approach (**NOTE**: complete)
 - c. Left and right turn lanes south approach (NOTE: complete)
 - d. Signalization, if and when warranted. (Previously Condition 1 of Resolution R-75-466, Petition 75-72) (ONGOING: ENG)
2. Developer shall construct at the development's east entrance and Okeechobee Boulevard, a left turn lane on the east **approach**. (Previously Condition 2 of Resolution R-75-466, Petition 75-72)
3. Condition 12 of Resolution R-86-92, Petition 75-72(A) **which** currently states:
The development shall retain onsite **85%** of the storm water **runoff** generated by a three (3)**year-one** hour storm per requirements **of** the Permit Section, Land Division.

~~Is~~ hereby deleted. [REASON: code requirement]

4. The property owner shall convey for the ultimate right of way of:
- a) Okeechobee Boulevard, **70** feet from centerline; and,
 - b) Citation Drive, **40** feet from centerline.
- c) The additional right-of-way required for the construction of a right turn lane, west approach on Okeechobee Boulevard at the project's entrance road with the ultimate **8** lane section. This right-of-way shall be a minimum of **150** feet long by **12** feet wide plus the appropriate tapers. **All** within **90** days of adoption of the Resolution by the Board of County Commissioner; and conveyances must be accepted by Palm Beach County prior to issuance of first Building Permit. (Previously Condition **13** of Resolution R-86-92, Petition **75-72(A)**)

NOTE: Date base indicates compliance with condition **4a**, **4b**, and **4c**

5. The property owner shall construct:
- a) left turn lane, east approach and a right turn lane, west approach on Okeechobee Boulevard at the project's east entrance, (NOTE: condition has now been completed. The right turn lane is no longer existing with the DOT widening of this road)
 - b) lengthen the existing left turn lane, east approach on Okeechobee Boulevard at Citation Drive at the project's west entrance per the County Engineer's approval (proposed length to be a minimum of **200** feet). (NOTE: complete)
 - c) right turn lane, west approach on Okeechobee Boulevard at Citation Drive, (NOTE: condition has now been completed. The right turn lane is no longer existing with the DOT widening of this road)
 - d) reconstruct Citation Drive as a **4** lane section from Okeechobee Boulevard south to a point **200** feet south plus the appropriate tapers, all concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer.
 - e) reconstruct Citation Drive as a **2** lane section from the southern terminus south to the south property line. (Previously Condition **14** of Resolution R-86-92, Petition **75-72(A)**) (NOTE: complete)
6. The property owner shall provide Palm Beach County a road drainage easement within the project's internal lake system for legal positive outfall to accommodate the runoff of Citation Drive along the property frontage. The drainage system within the project shall have sufficient retention/detention capacity to accommodate the ultimate Thoroughfare Plan Section road drainage runoff and be subject to all governmental agency requirements. (Previously Condition **15** of Resolution R-86-92, Petition **75-72(A)**)

7. 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 is **\$241,218.00 (9,007 trips X \$26.79 per trip)**. (Previously Condition 16 of Resolution R-86-92, Petition 75-72(A)) (NOTE: complete)

8. Based on the Traffic Performance Standards (Category "A"), the Developer shall contribute an additional **\$120,649.00** toward Palm Beach County's existing Roadway Improvement Program, these total funds of **(\$361,947.00)** to be paid prior to October 1, 1986. (NOTE: complete)

If the "Fair Share Contribution for Road Improvements Ordinance" is amended to increase the Fair Share Fee, this additional amount of **\$120,649.00** shall be credited toward the increased Fair Share Fee. (Previously Condition 17 of Resolution R-86-92, Petition 75-72(A))

9. Condition 18 of Resolution R-86-92, Petition 75-72(A) which currently states:

The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the application of a Building Permit.

~~It~~ hereby deleted. [REASON: part of permitting process]

10. The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Citation Drive and a permit from the Florida Department of Transportation for access onto Okeechobee Boulevard. (Previously Condition 19 of Resolution R-86-92, Petition 75-72(A))

NOTE: Entrances are now existing.

11. Condition 20 of Resolution R-86-92, Petition 75-72(A) was deleted by Condition 2 of Resolution R-90-1888, Petition 75-72(D).

12. The property owner shall install signalization if warranted as determined by the County Engineer at Okeechobee Boulevard and Citation Drive. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (Previously Condition 21 of Resolution R-86-92, Petition 75-72(A)) (ONGOING: ENG)

13. LANDSCAPE WITHIN MEDIAN
 - a. Prior to issuance of any building permits or interior modification, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median of Okeechobee Boulevard. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards and shall be consistent with the landscaping theme adopted for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards.

If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDG PERMIT: MONITORING - Eng)

- b. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assigns or duly established Property Owner's Association and/or Homeowners' Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (CO: MONITORING - Eng)
- c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (CO: MONITORING - Eng)

F. LANDSCAPING - GENERAL

1. Condition 1 of Resolution R-86-92, Petition 75-42(A) which currently states:

Prior to site plan certification, the site plan shall be amended to reflect the following:

- a) **A ten (10) foot landscape strip or a five (5) foot landscape strip with a six (6) foot wall along the eastern property line.**
- b) **Designation of the required and proposed landscaping.**
- c) **Enclosed loading areas separated from any nearby residential areas by ten foot high wing walls.**
- d) **Breakdown of excluded items of net leasable area calculations.**

~~Is~~ hereby deleted. [REASON: superseded with new conditions]

2. Condition 25 of Resolution R-86-92, Petition 75-72(A), which currently states:

Prior to the issuance of a certificate of occupancy, minimum landscape treatment shall be installed in accordance with Exhibit Number 21.

~~Is~~ hereby deleted. [REASON: superseded with new landscaping conditions]

G. LANDSCAPING ALONG EAST PROPERTY LINE (AREA AFFECTED BY PHASE II)

1. Landscaping and buffering along the east property line shall be upgraded to include:

- a. A Type B landscape buffer extending seventy-two (72) feet from the rear (southeast) corner of the subject property and adjacent to the dry retention area. (DRC / CO: ZONING / LANDSCAPE)

2. Condition 2 of Resolution R-86-92, Petition 75-72(A) which states:

The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect these preservation areas during site clearing and construction.

Is hereby deleted. [Reason: No preserve area on site]

H. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the **south** property line and adjacent to the dry retention area shall be upgraded to include:
- a. A minimum ten **(10)** foot wide Type C landscape buffer strip; and
 - b. A ~~six~~ **(6)** foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development. (DRC / CO: ZONING / LANDSCAPE)

I. 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, license 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 non-compliance, 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)