

RESOLUTION NO. 2010-_____

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE AN AMENDMENT TO STIPULATION, SETTLEMENT AND MASTER PLAN AGREEMENT FOR PALM-AIRE BETWEEN THE CITY OF POMPANO BEACH AND PALM AIRE ASSOCIATES LIMITED PARTNERSHIP; PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That an Amendment to Stipulation Settlement and Master Plan Agreement between the City of Pompano Beach and Palm Aire Associates Limited Partnership, a copy of which Amendment is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

SECTION 2. That the proper City officials are hereby authorized to execute said Amendment between the City of Pompano Beach and Palm Aire Associates Limited Partnership.

SECTION 3. This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2010.

LAMAR FISHER, MAYOR

ATTEST:

MARY L. CHAMBERS, CITY CLERK



CITY OF POMPANO BEACH
DEPARTMENT OF DEVELOPMENT SERVICES



MEMORANDUM NO. 10 - 199

DATE: July 8, 2010

TO: Planning and Zoning Board/ Local Planning Agency

VIA: Robin M. Bird, Development Services Director

FROM: Larry W. Schuster, AICP, Principal Planner

SUBJECT: Amendment to Stipulation, Settlement and Master Plan Agreement
with Palm Aire

This is a companion piece to the Land Use Plan map amendment for Palm Aire Resorts, Ltd. to change the Land Use Designation from Recreation and Open Space to Residential within a dashed line area containing a maximum of 907 dwelling units for 84.88 net acres for both the Broward County Land Use Plan map and the City Land Use Plan map.

The resolution proposes to amend the Stipulation, Settlement and Master Plan Agreement between the City of Pompano Beach and Palm Aire. The attached document would add an updated Exhibit B, which identifies Parcel "BB", north of West Atlantic Boulevard and an updated Exhibit C, which adds Parcel "BB" to the list of parcels with residential units assigned to them in the amount of 907 housing units (same as the Land Use Plan map amendment).

The agreement shall not be effective unless and until it has been approved by a District Court Judge of the U.S. District Court for the Southern District of Florida.

Recommendation
Approval

Debbie M. Orshefsky
Tel. (954) 768-8234
Fax (954) 765-1477
OrshefskyD@gtlaw.com

July 24, 2010

Via Federal Express

Mr. Robin Bird
Development Services Director
City of Pompano Beach
100 West Atlantic Boulevard
Pompano Beach, FL 33061

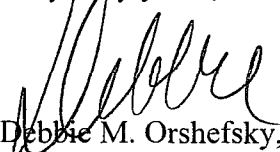
**RE: Amendment to Stipulation, Settlement and Master Plan Agreement
for Palm Aire**

Dear Robin:

Enclosed is the executed Amendment to Stipulation, Settlement and Master Plan Agreement for Palm Aire. Gordon Linn asked that we send this document to you in preparation for the Commission agenda consideration of this Amendment on July 13, 2010.

Thank you for your attention to this request.

Very truly yours,


Debbie M. Orshefsky, Esq.

DMO/kde

Cc: Gordon Linn, Esq.
Mr. Ben Goldman (w/ encl.)
Mr. Rick Weber (w/ encl.)

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PHOENIX
ROME
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SAN FRANCISCO
SHANGHAI
SILICON VALLEY
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2010 JUN 25 AM 8:54
CITY OF POMPAÑO BEACH

**AMENDMENT TO STIPULATION, SETTLEMENT AND
MASTER PLAN AGREEMENT
FOR PALM-AIRE**

By and between

CITY OF POMPANO BEACH, FLORIDA

And

PALM AIRE ASSOCIATES LIMITED PARTNERSHIP

This AMENDMENT TO STIPULATION, SETTLEMENT AND MASTER PLAN AGREEMENT FOR PALM-AIRE is entered into this _____ day of _____, 2009, by and between the City of Pompano Beach, a Florida municipal corporation (“City”) and Palm Aire Associates Limited Partnership, a Delaware limited partnership (“Developer”) successor in part to FPA Corporation, a Delaware corporation now known as “Orleans Homebuilders, Inc.” (“FPA”).

RECITALS:

A. On or about July 25, 1985, the City and FPA entered into that certain Stipulation, Settlement and Master Plan Agreement for Palm-Aire, an executed copy of which was recorded among the public records of Broward County, Florida, at Official Records Book 12707, Page 605 (the “Original Stipulation”).

B. On or about July 25, 1985, the Original Stipulation was submitted to, and upon July 29, 1985, was approved by, Judge Gonzalez of the District Court for the Southern District of Florida, settling and resolving that certain case styled *FPA Corporation, a Delaware corporation v. City of Pompano Beach, Florida, et al.*, Case No. 85 6454, United States District Court, Southern District of Florida.

C. Among other matters, the Original Stipulation addressed the number of dwelling units that were permitted to be developed within a community known as “Palm-Aire,” which is a community located generally east of the Florida Turnpike, west of Powerline Road, north of McNab Road and lying both north and south of Atlantic Boulevard, all within the City of Pompano Beach, Florida (the “Palm Aire Property”).

D. That portion of the Palm Aire Property lying south of Atlantic Boulevard, together with the property described as “Parcel Q” on Exhibit “B” to the Original Stipulation (“Parcel Q”), is herein referred to as the “South Palm Aire Property” and that portion of the Palm Aire Property lying north of Atlantic Boulevard, excluding Parcel Q, is herein referred to as the “North Palm Aire Property”.

E. Pursuant to Ordinance No. 93-25, City of Pompano Beach on February 16, 1993, the City of Pompano Beach Land Use Plan was amended to reduce the number of units permitted within the Palm Aire Property from 10,631 units to 9,724 units. The 907 units eliminated from

the City of Pompano Beach Land Use Plan in 1985 are hereinafter referred to as the "Remaining Units."

F. The Original Stipulation has not been amended since its execution in 1985.

G. Developer is the current owner of the North Palm Aire Property, and, as such, is the successor in interest to FPA as to such lands, which lands were also addressed by the Original Stipulation and comprise the aforesaid North Palm Aire Property legally described on Exhibit A, attached hereto.

H. City and Developer wish to amend the Original Stipulation to reflect current and future land use density and specifically, to expressly allocate the Remaining Units to the North Palm Aire Property, in accordance with the Original Stipulation.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, City and Developer agree as follows:

1. This Amendment to Stipulation, Settlement and Master Plan Agreement shall not be effective unless and until it has been approved by a District Court Judge of the U.S. District Court for the Southern District of Florida.
2. Exhibit "B" to the Original Declaration entitled "Palm-Aire Master Plan," is hereby deleted and replaced by "Updated Exhibit B," attached hereto and incorporated herein.
3. Exhibit "C" to the Original Declaration, entitled "Palm-Aire Unit Summary," is hereby deleted and replaced by "Updated Exhibit C," attached hereto and incorporated herein.
4. Except as modified by this Amendment, all terms and conditions of the Original Stipulation remain in full force and effect.
5. Upon approval of the District Court Judge pursuant to paragraph 1, above, this Amendment to Stipulation, Settlement and Master Plan Agreement for Palm-Aire (hereinafter "Amendment") shall be recorded in the Public Records of Broward County, Florida, and the terms hereof shall be a covenant running with the land comprising Palm Aire and shall be binding upon Developer and all subsequent owners of such lands.
6. The parties hereto do not intend to directly or substantially benefit any third party nor create any rights or obligations in any third party by this Amendment. The only intended beneficiaries to this Amendment are the City and the Developer, its successors and assigns.

IN WITNESS WHEREOF, the parties have made and executed this Amendment to Stipulation, Settlement and Master Plan Agreement for Palm Aire, on the date set forth above.

(Signatures begin on the following page.)

CITY OF POMPANO BEACH

CITY OF POMPANO BEACH, a Florida
municipal corporation

WITNESSES:

Signature

By _____

Title: Mayor

Address:

Witness name typed or printed

Signature

Witness name typed or printed

ATTEST:

Approved as to form:

City Clerk

City Attorney

(Seal)

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009,
by _____ as _____ Mayor _____ of the City of
Pompano Beach, a Florida municipal corporation. He/She is ____ personally known to me or ____
produced _____ as identification.

Notary Public

My commission expires:

Signature

and

By _____

Title: City Manager

Address:

Witness name typed or printed

Signature

Witness name typed or printed

STATE OF FLORIDA)
) SS
COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009,
by _____ as _____ City Manager _____ of the City
of Pompano Beach, a Florida municipal corporation. He/She is ____ personally known to me or
____ produced _____ as identification.

Notary Public

My commission expires:

EXHIBIT A

LEGAL DESCRIPTION:

A PARCEL OF LAND IN THE SOUTH ONE-HALF (S. 1/2) OF SECTION 32, AND IN THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SECTION 33, TOWNSHIP 48 SOUTH, RANGE 42 EAST, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

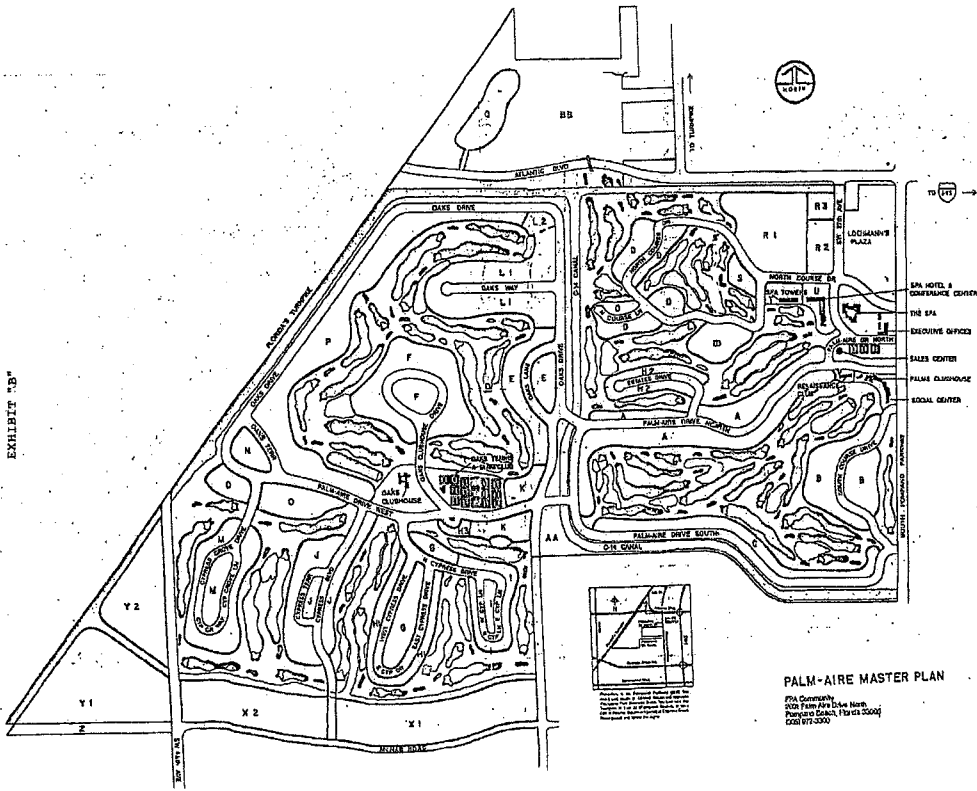
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 32; THENCE NORTH 01°22'47" WEST ALONG THE EAST LINE OF SAID SECTION 32, SAME BEING THE WEST LINE OF SAID SECTION 33, A DISTANCE OF 365.78 FEET TO AN INTERSECTION WITH THE NORTH RIGHT OF WAY LINE OF WEST ATLANTIC BOULEVARD, A 124.00 FOOT RIGHT-OF-WAY ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION MAP NUMBER 410055, SECTION 86130-2504, SHEET 12 OF 18, SAME BEING THE SOUTHWEST CORNER OF TEXACO-POMPANO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 124, PAGE 10, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, SAID POINT ALSO BEING ON THE ARC OF A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 1,587.89 FEET (A RADIAL LINE TO SAID POINT BEARS NORTH 11°21'03" EAST), SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTHWESTERLY ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 02°27'04", AN ARC DISTANCE OF 67.93 FEET; THENCE NORTH 67°56'40" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 164.17 FEET; THENCE NORTH 89°26'43" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 160.24 FEET; THENCE SOUTH 76°08'26" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 54.19 FEET; THENCE SOUTH 82°47'08" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 240.26 FEET; THENCE SOUTH 76°36'32" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 42.62 FEET; THENCE SOUTH 69°19'34" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 238.14 FEET; THENCE SOUTH 73°55'06" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 182.76 FEET; THENCE SOUTH 71°12'48" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 211.47 FEET TO A POINT ON A ARC OF A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 2,231.83 FEET (A RADIAL LINE TO SAID POINT BEARS SOUTH 10°39'02" EAST); THENCE WESTERLY CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 11°32'32", AN ARC DISTANCE OF 449.60 FEET TO A POINT OF TANGENCY; THENCE NORTH 89°06'30" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 0.13 FEET; THENCE NORTH 85°20'44" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 180.40 FEET; THENCE NORTH 89°06'30" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 150.00 FEET; THENCE NORTH 43°17'14" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 43.03 FEET TO A POINT ON THE EAST LINE OF TRACT A, PALM AIRE NORTH COURSE ESTATES 4TH SECTION, ACCORDING TO THE

PLAT THEREOF AS RECORDED IN PLAT BOOK 122, PAGE 21, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 02°32'02" EAST ALONG SAID EAST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 130.51 FEET; THENCE SOUTH 62°23'43" EAST ALONG A SOUTH LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 36.49 FEET; THENCE NORTH 47°31'48" EAST ALONG SAID EAST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 590.60 FEET; THENCE NORTH 30°51'09" EAST CONTINUING ALONG SAID EAST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 405.20 FEET; THENCE NORTH 27°20'21" EAST CONTINUING ALONG SAID EAST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 549.07 FEET TO THE NORTH LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION; THENCE NORTH 77°03'57" WEST ALONG SAID NORTH LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 411.09 FEET TO THE WEST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION; THENCE SOUTH 29°11'22" WEST ALONG SAID WEST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 436.70 FEET; THENCE SOUTH 37°13'57" WEST CONTINUING ALONG SAID WEST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 273.27 FEET; THENCE SOUTH 38°34'48" WEST CONTINUING ALONG SAID WEST LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 711.82 FEET; THENCE SOUTH 62°23'43" EAST ALONG A SOUTH LINE OF SAID PALM AIRE NORTH COURSE ESTATES 4TH SECTION, 266.57 FEET; THENCE SOUTH 02°32'02" WEST, 173.88 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE AFORESAID WEST ATLANTIC BOULEVARD; THENCE SOUTH 46°42'42" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 41.81 FEET; THENCE NORTH 89°06'30" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 187.78 FEET; THENCE NORTH 77°47'54" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 305.94 FEET; THENCE NORTH 84°51'04" WEST CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, 270.92 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF FLORIDA TURNPIKE A 300.00 FOOT RIGHT-OF-WAY ACCORDING TO FLORIDA DEPARTMENT OF TRANSPORTATION MAP NUMBER 410055, SECTION 86130-2504, SHEET 1 OF 18; THENCE NORTH 39°31'03" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, 2,632.45 FEET TO A POINT ON THE WEST LINE OF THE NORTH ONE-HALF (N. 1/2) OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 32; THENCE SOUTH 01°10'12" WEST ALONG SAID WEST LINE, 464.92 FEET TO THE SOUTHWEST CORNER OF THE NORTH ONE-HALF (N. 1/2) OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 32; THENCE NORTH 88°45'32" EAST, 1,332.35 FEET TO THE SOUTHEAST CORNER OF THE NORTH ONE-HALF (N. 1/2) OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) SAID SECTION 32; THENCE NORTH 01°22'47" WEST, 637.52 FEET TO THE NORTHEAST CORNER OF THE NORTH ONE-HALF (N. 1/2) OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 32; THENCE NORTH

88°41'12" EAST, 334.48 FEET TO THE NORTHEAST CORNER OF THE WEST ONE-HALF (W. 1/2) OF THE WEST ONE-HALF (W. 1/2) OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 33; THENCE SOUTH 01°20'18" EAST ALONG THE WEST LINE OF TRACT A, LLOYD E. OLSON PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 103, PAGE 9, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND ALONG THE WEST LINE OF PARCEL A, C.C.H. SUBDIVISION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 84, PAGE 41, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND ALONG THE WEST LINE OF PARCEL G, GIBSON'S PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 99, PAGE 45, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, 1,275.77 FEET TO THE SOUTHEAST CORNER OF THE WEST ONE-HALF (W. 1/2) OF THE WEST ONE-HALF (W. 1/2) OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 33; THENCE SOUTH 88°48'35" WEST ALONG A NORTH LINE OF SAID PARCEL G, GIBSON'S PLAT, 333.56 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST ONE-QUARTER (N.W. 1/4) OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 33; THENCE SOUTH 01°22'47" EAST ALONG THE WEST LINE OF TRACTS 47, 48 AND 49 OF COLLIER CITY LOTS (UNRECORDED) AND ALONG THE WEST LINE OF TRACTS 1-3, PANTON FARMS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 89, PAGE 9, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND ALONG THE WEST LINE OF SAID TEXACO-POMPANO PLAT, 909.26 FEET TO THE POINT OF BEGINNING;

SAID LANDS SITUATED IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 3,697,414 SQUARE FEET, 84.881 ACRES, MORE OR LESS.

Updated Exhibit "B"



Updated Exhibit "C"

SOUTH PALM AIRE

	Parcel	Unit Allocations
A-G,I,J,K	Condo Associations 1-10	4,484
H-1	Cypress Estates #1	36
H-2	Palm-Aire Estates	26
H-3	Cypress Estates #2	3
L-1	Condo Association #11(Oak Crse. Est. #2)	597
L-2	Oaks Course Estates #2 (PB 104/44)	131
M	Condo Association #12	331
N	Condo Association #14	72
O	Palm Aire Cypress Course Est. #3 (PB 108/48)	400
P	Palm Aire Oakes Course Est. #3 (PB 108/1)	1182
Q	Palm Air North Course Est. #4 (PB 122/21)	259
R-1	Palm Aire North Course Est. #3 (PB 114/39)	288
R-2	Palm Aire North Course Est. #3 (PB 114/39) (250 Lifecare Units x ½)	125
R-3	Commercial Parcel (PB 114/39)	
S	Condo Association #52	119
T	Condo Association #53	100
U	Spa Hotel (178 rooms x ½)	89
V	Renaissance Club	18
X-1	Palm Aire Cypress Course Est. #4 (PB 118/36)	511
X-2	Palm Aire Cypress Course Est. #4 (PB 118/36)	417
Y-1	Palm Aire Cypress Course Est. #5 (PB 115/12)	519
Y-2	Palm Aire Cypress Course Est. #5 (PB 115/12)	384
Z	Palm Aire Cypress Course Est. #7 (PB 123/35)	104
AA	Palm Aire Cypress Course Est. #6	100
NORTH PALM AIRE		
BB	(Unplatted)	907

SUMMARY TOTAL

1985 City Land Use Plan Permitted Units	10,631
1993 City Land Use Plan Permitted Units	9,724
Total Units Permitted within Palm Aire Per Original Stipulation	10,631
Total Units Allocated within Palm Aire Per Original Stipulation	10,295
Total Units Permitted within Palm Aire Per Amended Stipulation	10,631