

RESOLUTION NO.: 92-128

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA AMENDING RESOLUTION NO.: 91-200 AND RESOLUTIONS NO.: 92-49 AND 92-28 BY EXTENDING THE DATE OF RECORDATION OF THE PLAT OF OLD PALM VALLEY

WHEREAS, on December 17, 1991, the Board of County Commissioners of St. Johns County, Florida, (the "Board of County Commissioners") passed Resolution No.: 91-200 approving subdivision plat for Old Palm Valley (the "Plat"); and

WHEREAS, Section 5 of Resolution No.: 91-200 provides the Clerk shall not sign or accept the Plat for recordation until it has been signed and approved in accordance with Section 5 and that, if the Plat is not accepted for recording within ninety (90) days from the date of Resolution No.: 91-200, the approval automatically terminates; and

WHEREAS, Section 2 of Resolution No.: 91-200 requires a Construction Bond in the amount of \$717,209.00; and

WHEREAS, on March 10, 1992, the Board of County Commissioners passed Resolution No.: 92-49 amending Section 5 of Resolution No.: 91-200 by extending the time for signing and acceptance by the Clerk of the Plat for recording to one hundred eighty (180) days; and

WHEREAS, on June 9, 1992, the Board of County Commissioners passed Resolution No.: 92-28 which further amended Section 5 of Resolution No.: 91-200, as amended by Resolution 92-49, by extending the time for signing and acceptance by the Clerk of the Plat for recording to two hundred and forty (240) days; and

WHEREAS, the Owner, BAT of Palm Valley, Inc., has requested additional time to secure and submit the Construction Bond; and

WHEREAS, to avoid the automatic termination set out in Section 5 of Resolution No.: 91-200, as amended by Resolution No.: 92-49 and 92-28, the Owner has requested the time for signing and acceptance by the Clerk of the Plat for recording by an extended additional forty-five (45) days.

NOW THEREFORE BE IT RESOLVED, by the Board of County Commissioners of St. Johns County that:

Section 1. Section 5 of Resolution No.: 91-200, as amended by Resolutions No.: 92-49 and 92-28, is hereby further amended by changing the time for signing and acceptance by the Clerk of the Plat for recording to three hundred (300) days (instead of the 240 days authorized in Resolution No.: 92-28 from the effective date of Resolution No.: 91-200.

Section 2. In all other aspects, Resolution No.: 91-200, as amended by Resolutions No.: 92-49 and 92-28, shall remain in full force and effect.

PASSED AND ADOPTED by the Board of County Commissioners this 11 th day of August, 1992.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: J. L. B. [Signature]
Its Chairman

ATTEST: CARL "BUD" MARKEL, CLERK

By: [Signature]
Deputy Clerk

TOM WEST HOMES, Inc.

August 4, 1992

Mr. Andy Campbell
County Administrator
St. Johns County
P. O. Drawer 349
St. Augustine, Fl. 32085-0349

Dear Mr. Campbell:

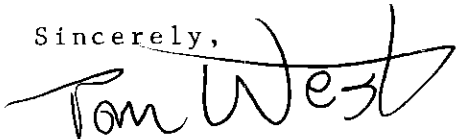
Due to the vast amount of documentation required to close the development loan for Old Palm Valley, it is with regret that I am forced to ask the County for an additional 45 (Forty Five) days extension on the Plat.

I had originally budgeted \$117,000.00 for Utility tax, (CIAC Tax). We have just been informed that this number will increase to approximately \$196,000.00.

It will be necessary for Barnett Bank to approve this increase and it is for this reason that I respectfully request an extension of the plat so that it will not self-destruct.

You and your staff have been very understanding and it is not my intention to continue to ask for extensions, but because of the complexity of this development loan, it has become necessary.

Sincerely,



Tom West

TW:ml

To:
Peter Casuk



**Barnett Bank of
Jacksonville, N.A.**

50 Laura Street
Post Office Box 990
Jacksonville, Florida 32202/32231-5000

May 26, 1992

Mr. Tom West
B.A.T. of Palm Valley, Inc.
P.O. Box 1155
Ponte Vedra Beach, Fl 32082-1156

Re: \$1,480,000 Land Development Loan,
Old Palm Valley Subdivision

Dear Tom:

Pursuant to your application, I am pleased to advise that the Barnett Bank of Jacksonville, N.A., is in a position to extend credit to finance the development of 54 acres of land located on the east side of Palm Valley Road, into 61 Phase I lots of a subdivision to be known as Old Palm Valley. The loan will be made consistent with the bank's standard mortgage lending policy with the following specific terms and conditions:

The loan will be evidenced and secured by:

- A. A Promissory note in the amount of \$1,480,000 executed by B.A.T. of Palm Valley, Inc. The note shall provide for the accrual of interest on the funds outstanding from time to time on an actual over 360-day basis at a rate equal to 1% greater than the prime rate of the Barnett Bank as it fluctuates from time to time and change on the date such the prime rate changes. The prime rate is defined as the interest rate announced by the Barnett Bank as its prime rate. The note shall provide for minimum principal reductions of \$200,000 per four month period beginning four months after the completion of the project but not later than 13 months from the closing of the loan. Lots sold and closed, reducing the principal amount of the loan prior to the first four month period will be included in the required \$ 200,000 reduction. Should borrower exceed the required four month, \$ 200,000 reduction during any set period the amount in excess of \$ 200,000 will be applied to the next required period reduction. The note shall provide

Commitment Letter B.A.T. Of Palm Valley
Page 2 May 26, 1992

for payment in full at the end of 36 months, if not sooner paid, with no penalty for pre-payment. The note shall further provide for a 5% late fee for any payment not received within 15 days of the due date and for waiver of trial by jury should litigation be initiated by either borrower or lender.

- B. A first mortgage in an amount of \$1,480,000 sufficient to convey a valid first lien on the fee simple title to 54 acres located on the east side of Palm Valley Road and 35 acres located across Palm Valley Road on its west side. The 54 acres will be the same 54 acres shown on a preliminary plat of Old Palm Valley dated 12/17/91 showing a total of 81 lots. The mortgage may provide for the release of individual lots upon payment of principal in an amount equal to 90% of the net proceeds of sale of the lot but not less than \$32,000 provided no default exists in the terms of the note, mortgage, or loan agreement.
- C. A UCC-1 and Financing Statement encumbering any property associated with the collateral property which might be considered to be personal property.
- D. A collateral assignment of Borrower's interest in contracts, plans, permits, and approvals related to the proposed subdivision.
- E. A continuing joint and several guarantee of the debt by Thomas W. West and Tom West Homes, Inc.
- F. Conditional assignment of binder deposits associated with sale of binder deposits.

Prior to disbursement of loan proceeds, the lender shall have received:

- A. The above described documents executed in form satisfactory to the Bank.
- B. A construction loan agreement in form and content satisfactory to the Bank. Said agreement will include a line item cost breakdown to serve as a budget and funding guide.
- C. A mortgage title insurance policy from a mortgage title insurance company acceptable to the bank insuring the lien of the mortgage as a first lien on the fee simple title to the collateral property and showing no conditions or exceptions unacceptable to the Bank.

Commitment Letter B.A.T. Of Palm Valley
Page 3 May 26, 1992

- D. Final plans and specifications, soil tests, and a line item cost breakdown of both hard and soft costs for the improvements to the property to yield 61 single family lots in Phase I and 20 single family lots in Phase II as shown on a plan of the property provided to the bank dated 12/17/91. Said documents to be approved by the Bank and its consulting engineer.
- E. Evidence of the availability of water, sewer, and storm drainage along with access to the site, environmental approval, concurrency vesting, and such other approval as may be required, all satisfactory to the bank. Approval by the Bank's consulting engineer and the Bank's legal counsel as to these matters will be required.
- F. A current survey of the property by a licensed Florida surveyor showing boundary lines, easements, encroachments, and flood zones and showing no conditions unacceptable to the title company or the lender. The survey will be certified to the Bank, closing attorney, and title insurance company.
- G. Fully executed contract(s) in form satisfactory to the bank to build all improvements required to produce 61 lots being known as Phase I of Old Palm Valley Subdivision.
- H. An agreement from the general contractor and/or project manager to cooperate with the Bank in completing the construction in case of default in the terms of the note, mortgage, or loan agreement.
- I. Formal permission by the design engineer allowing the Bank to use the plans and agreeing to co-operate with the Bank in the event of default by the borrower.
- J. An agreement with a consulting engineer satisfactory to the Bank to provide services in reviewing the plans, specifications, and environmental approvals in conjunction with the project budget for feasibility. The Bank's consulting engineer will also assess and approve the final bids and contractors in the interest of the bank. The consulting engineer will also represent the Bank in progress inspection and progress payment approval. The consulting engineer's fee will be the responsibility of the Borrower.

Commitment Letter B.A.T. Of Palm Valley
Page 4 May 26, 1992

- K. A building permit or such approval as the jurisdiction may require for the improvements herein contemplated from the St. Johns County Building Authority.
- L. An appraisal of the subject collateral assuming 61 fully improved lots by a bank approved appraiser showing a loan to value of not greater than 70% of retail value or 80% of discounted value. The appraisal shall be addressed to the Barnett Bank of Jacksonville and the fee associated with the appraisal shall be the responsibility of the Borrower.
- M. Evidence satisfactory to the Bank that all 47 of the 61 proposed lots are under contract of sale with non-refundable cash binder deposits of not less than \$47,000.
- N. Evidence of owner's liability insurance in limits approved by the Bank.
- O. Such corporate documents as the Bank may require showing good standing and corporate control by Tom West.
- P. Opinion letters from the Borrower's, Design Engineer, Environmental Consultant, and Legal Counsel as to the accuracy, adequacy and sufficiency of the documents provided for the transaction herein contemplated.
- Q. Examination and approval by counsel for the lender of all matters relating to the title and to the form, substance, and due execution of all documents deemed necessary for this transaction.

The loan proceeds will be disbursed from time to time as follows:

- A. At closing the Bank's fee, attorney's fee, title insurance fees, \$75,000 of principal payment on a prior debt, and certain other costs will be disbursed from the loan proceeds. At all times during the term of this commitment, the Bank shall retain funds sufficient in its sole opinion to pay for all the costs to be incurred in completing the project.
- B. Monthly, the accrued interest associated with the loan will be disbursed from loan proceeds until such time as the funds earmarked for interest reserve (\$75,000) have been exhausted, provided there is no default in the terms of the note, mortgage, or loan

agreement. Thereafter, the borrower will be billed for and will be responsible for interest payments from its own resources.

- C. Periodically as work progresses upon presentation to the Bank of a satisfactory draw request endorsed by the Borrower as accurate as to work in place in a good and workman-like fashion provided such draw request is further approved as appropriate by the Bank's consulting engineer. Both hard costs net of retainage and soft costs will be disbursed from time to time upon presentation of invoices satisfactory to the Bank and such other documentation, such as lien waivers, as the Bank may require. Disbursements will be controlled based on pro-forma job cost figures incorporated in the loan agreement and approved by the Bank's consulting engineer. Changes in the magnitude of the line item budgeted figures will be made only with the Bank consulting engineer's approval. Periodic title insurance updates may be required during the term of the loan.

It is contemplated that the Bank will be called upon to provide a letter of credit in the amount of \$717,209 for the purpose of bonding the plat with St. Johns County. Such letter of credit will be issued upon complete documentation of the loan herein contemplated providing the Borrower completes such additional documentation as may be required. A fee of \$5,379 will be assessed for this service.

It is understood and agreed that the loan herein contemplated will be closed and administered without expense to the Bank. All expenses incidental to the loan, including but not limited to the Bank's attorney's fee, title insurance premiums, recording fees and expenses, appraisal fees, inspection fees, and brokerage fees, if any, will be the responsibility of the Borrower. It is also agreed that the Borrower will cause or permit a sign showing financing by the Barnett Bank of Jacksonville, N.A., to be erected on the site with such sign to be approved by or provided by the bank.

For its services in providing the \$1,480,000 herein committed, the Barnett Bank of Jacksonville, N.A. shall be entitled to a fee of \$14,800 (1% of the amount committed). On acceptance of this commitment, the fee shall be fully

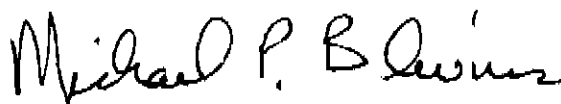
earned and payable at closing. Please indicate your acceptance of the terms hereof by signing in the place provided and returning a copy of this commitment on or before June 1, 1992. If this commitment is not accepted by June 1, 1992 and closed by June 28, 1992 it shall become null and void. Upon acceptance, I will instruct our attorney to close this transaction as soon as possible.

Respectfully,



Gary Hollifield
Vice President
Commercial Real Estate

Respectfully,




Michael P. Blevins
Senior Vice President
and Manager
Commercial Real Estate

Acknowledged and accepted this 2 day of June, 1992.

B.A.T. OF PALM VALLEY, INC.

BY:


Tom West, President

GEH/paa