

RESOLUTION R-97- 158

RESOLUTION AMENDING RESOLUTION R-96-1944
RESOLUTION APPROVING ZONING PETITION OF JEFFERY ROSENBERG
PETITION PDD96-84

WHEREAS, **Jeffery Rosenberg**, Trustee, petitioned ~~the~~ Palm Beach County Board of County Commissioners on **October 24, 1996** for Planned Unit Development; **and**

WHEREAS, Resolution R-96-1944, adopted **on** December 2, 1996 **confirming** the **action of** the Board of County Commissioners inadvertently contained an **error** in Condition A.2 of Exhibit C; **and**

WHEREAS, Exhibit C of Resolution R-96-1944 should have read as **shown** on attached Exhibit C.

NOW, THEREFORE, BE **IT** RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF **PALM BEACH** COUNTY, FLORIDA, that:

1. The foregoing recitals **are** hereby affirmed and ratified.
2. Exhibit C of Resolution R-96-1944 is hereby amended.

Commissioner McCarty 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:

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

The Chair thereupon declared the resolution was duly passed and adopted on January 30, 1997.

APPROVED **AS** TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Bertram C. [Signature]*
COUNTY ATTORNEY

BY: *Joan Haverly*
DEPUTY CLERK

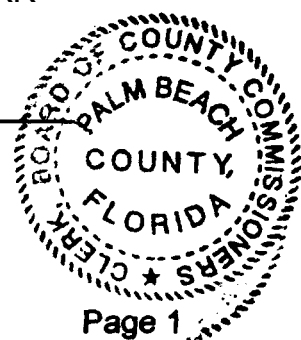


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. 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 **August 30, 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)
2. ~~The~~ approvals granted in Resolution R-78-226, Petition 78-17, ~~and~~ Resolution R-88-129, Petition ~~§86-5~~, are hereby revoked. (MONITORING)

B. HEALTH

1. Reasonable precautions shall be taken during development to insure that ~~unconfined~~ particulates (dust particles) from the property ~~do~~ not ~~become~~ a nuisance to neighboring properties. (ONGOING: HEALTH/CODE ENF)

C. LANDSCAPING ALONG THE EAST PROPERTY LINE (EXCLUDING THE ADJACENT REQUIRED PRESERVE AREA)

1. Landscaping and ~~buffering~~ along the east property line ~~excluding~~ the preserve area ~~shall be~~ upgraded to include:
 - a. **One** (1) canopy tree for each thirty (30) linear feet of frontage.
 - b. **One (1) shrub** for each fifty (**50**) square feet. (DRC: LANDSCAPE - Zoning)

D. MASS TRANSIT

1. **A.** Prior to final certification of the master plan or site plan by ~~the~~ Development Review Committee, whichever ~~occurs~~ first, the petitioner ~~shall~~ amend the plan to indicate mass transit access, mass transit ~~shelter(s)~~ ~~and/or a bus stop(s)~~ ~~on or adjacent~~ to the ~~subject~~ property, if required by ~~the~~ Palm Beach County School Board or Palm Tran. (DRC: ZONING)

B. Mass transit access, shelters and/or bus stops, if required, shall ~~be~~ located and ~~constructed~~ by ~~the~~ petitioner within three (**3**) years (November **1, 1999**) in a manner acceptable to the Palm Beach County ~~School~~ Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to ~~accommodate the~~ requirement for mass transit access and/or ~~bus~~ ~~shelters~~, if requested by ~~the~~ County Engineer. Mass transit access shall ~~include, at~~ a minimum, a covered shelter, continuous paved pedestrian ~~and~~ ~~bicycle access~~ from ~~the subject~~ property ~~or use to the shelter~~, and a bicycle rack. (DATE: MONITORING - Eng)

E. ENGINEERING

1. In order to comply with ~~the~~ mandatory Traffic Performance Standards, ~~the~~ Developer shall ~~be restricted~~ to ~~the~~ following phasing schedule:

- a) **No Building Permits** may be issued until construction has begun for State Road 7 as a 6 lane section from Belvedere Road to Forest Hill Boulevard plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)

2. LANDSCAPE WITHIN MEDIAN

- A Prior to **technical compliance** by the Land Development Division, the property owner **shall** apply to the Palm Beach County Engineering and Public Works Department for a permit to **landscape all adjacent median(s)** of all ~~abutting~~ **rights-of-way**. 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** landscaping installation and maintenance requirements **shall be** subject to the standards as **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. (TC: ENG)
- B. **All** required median landscaping including an irrigation system, if required, shall **be** at the property owners expense. All landscape material shall **also be** the perpetual maintenance obligation of the property owner its **successors**, heirs **or** assignees **or** duly established Property Owner's Association and/or Homeowners's 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 concurrent with the improvements with **the** first plat **or** within 6 months of receipt of notice to proceed from the County Engineer. (ENG)
- C. Declaration of Covenants and Restriction Documents shall **be** established **or** amended as required, prior to recordation of the first plat to reflect this obligation. (PLAT: ENG)

3. The developer, the Property Owner's Association and/or Homeowners Association may add an **access** onto Dillman Road. The **cost** for this access ~~with~~ includes, but **not** limited to, Permitting and Design costs, bridge **construction** costs, and roadway **construction** costs shall be provided by the:
- a. PUD Developer, if any dwelling unit lots are still owned by the developer at the time of **the** request. (*or*)
- b. Property Owner's Association and/or Homeowners Association of the PUD should **there be** no remaining lots owned by **the** developer at the time of the request of **the** additional access.

If a **connection** to Dillman Road is provided, a physical barrier with **landscaping** at the eastern terminus of Dillman Road at **the project's entrance**, **shall be** provided limiting vehicular traffic to **the** improved portion of Dillman Road only. The landscaping material shall consist of canopy trees and understory planting as permitted by the County Engineer. (ONGOING: ENG)

4. Prior to the recordation of the first plat, **the** property owner shall include in the homeowners documents, sales contracts, all sales brochures, Master Plans and related Site Plans a disclosure statement identifying that the Property Owner's Association and/or Homeowners Association will **be responsible for the cost of the** access onto Dillman Road Extension, if it is requested, **and there is no** Developer as outlined in the condition above. The Information which **appears** in written form shall appear in **bold print**. (PLAT: ENG)
5. The **property owner shall** submit documentation of compliance with this **condition on an annual** basis to the Monitoring Section of Planning, Zoning and the Building Department. **The next report shall be** submitted on or before July 1, 1998 **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.** (DATE: MONITORING- Eng)

F. PREM

1. The property owner shall provide Palm Beach County Board of County Commissioners with a warranty deed by **October 1, 1997** for a **2.56** acre civic site, in a **location and** form acceptable to Facilities, Development & Operations Department (FD&O), **and the County Attorney's** office. Direct **access over canals to either SR 7 or Dillman Road** shall be provided by the Petitioner. Developer to Plat and dedicate the Civic site to Palm Beach County **prior to conveying the deed, and shall** have satisfied each of the **following** conditions prior to deed conveyance.
 - a. Developer to provide a title policy insuring marketable title to Palm Beach County for **the** civic site. Policy is subject to Property & Real Estate Management Department's (PREM) and County Attorney's approval. The title policy to **be** insured to Palm Beach County for a dollar value based on current market appraisal of the proposed civic site. The appraisal to **be** obtained by the Developer. The County to have the option, at their discretion, to release all **or part of the Declarations of Covenants and Conditions of the P.U.D., as it would apply to the civic site.**
 - b. **All ad valorem real estate taxes and assessments for the year of closing shall be pro-rated at the day of acceptance of the deed for the civic site; acceptance date to be determined by PREM and the County Attorney's Office** after receiving Board approval.
 - c. Civic site to **be** free and clear of all trash and debris at the time of acceptance of the warranty deed.
 - d. Developer **shall** provide all retention, detention, and drainage required for any future development of the proposed civic site by the County. Developer **shall specifically** address the following issues:
 - 1) The discharge **of surface** water from **the** proposed civic site into **the** Developer's water retention basins.
 - 2) **As easement** across Developer's property from the proposed civic site to **the** retention basins, if required.
 - e. By acceptance **of these** conditions developer agrees to allow **the** County to **perform any on site inspections** deemed appropriate to **support the** acquisition of **the** civic site.

- f. Developer to prepare civic site to buildable grade under the direction of **the** Facilities Development & Operations Department.
 - g. Developer to provide water and sewer stubbed out to the property ~~line~~. (DATE: MONITORING - PREM)
2. The **property owner** shall provide the County with a certified survey of **the** proposed civic site by **August 1, 1997**. Survey shall **reflect the boundary and topographical areas** of the site and the surveyor shall use **the following** criteria:
- a. The survey ~~shall~~ meet Minimum Technical Standards for a **Boundary Survey** as prescribed by F.A.C. **21HH.6**.
 - b. if this parcel is a portion of Palm Beach Farms, sufficient **data** to **make a** mathematical overlay should **be** provided.
 - c. The survey **should include** a ~~location~~ of any proposed water retention area that will border the civic site.

Survey **is also** subject to the County's approval of any proposed ~~or~~ existing easements within **the** proposed civic site. (DATE: MONITORING - PREM)

3. The **property owner** shall provide PREM with an Environmental **Assessment** of the proposed civic site by **August 1, 1997**. The minimum **assessment** which is required is commonly called a "Phase I Audit". The audit shall describe **the** environmental conditions of **the** property and identify ~~the~~ past **and** current land **USE**.

The assessment will include but not **be** limited to the following:

- a. Review of property **abstracts** for all historical ownership **data** for evidence of current and past land use **of** the proposed civic site.
- b. Review of local, state, and federal regulatory agency's **enforcement and permitting records** for indication of ~~prior groundwater or~~ soil contamination. **Also, a** review of the neighboring property that **borders** the proposed civic site will **be** required. The review ~~shall~~ include, but not **be** limited to, Palm Beach County **Environmental Resources Management Department** Records, and Florida Department of Regulation Records.

The **assessment** shall ~~reflect~~ whether ~~the~~ civic site **or** any bordering property is ~~on~~ the following lists:

- 1) EPA's National Priorities list (NPL)
 - 2) Comprehensive Environmental Response Compensation **and** Liability **Act** System List (CERCLA)
 - 3) **Hazardous** Waste Data Management System List (HWDMS).
- c. Review of current and historical aerial photographs of **the proposed** civic site. Provide a recent aerial showing site and **surrounding** properties.

- d. The results of **an** on-site survey to describe site conditions and to identify potential area of contamination.
 - e. Review of Wellfield Protection **Zone** maps to determine if property is located in a **Wellfield Zone**. (DATE: MONITORING - PREM)
4. Prior to **October 1, 1997**, the Petitioner may request to exchanges the required on-site dedication of land for ~~cash~~ of **equal** value **or** off-site land equal in acreage, however, this option **shall be** used only upon County approval. ~~In addition,~~ should ~~the off-site land~~ *option* ~~be~~ chosen, **each** PREM *condition* **listed** in numbers 1, 2 & 3 above **will also** apply. ~~If the land off-site is of less cash value than the on-site dedication the petitioner shall contribute cash equal to the difference in values. Valuation of the on-site and off-site land shall be subject to the County appraisal process and be at the cost of the petitioner. If off-site land or cash contribution is accepted by Palm Beach County, the petitioner shall be deemed to have satisfied the intent of ULDC 6.8B.6a (2).~~ (DATE: MONITORING - PREM)

G. PLANNED UNIT DEVELOPMENT

- 1. Street lights shall **be** provided pursuant to **Section 6.8.A.23.d(1)** of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
- 2. Street trees ~~shall~~ **be** planted in **or** adjacent to all rights-of-way, pursuant to **Section 6.8.A.23.d(3)** of the ULDC, subject to approval by the County Engineer. (CO: LANDSCAPE - Eng)
- 3. Street bike lanes shall **be** provided in **or** adjacent to all **rights-of-way** over fifty (50) feet **in width**, pursuant to **Section 6.8.A.23.d(4)** of the ULDC, subject to approval by the County Engineer. (CO: BLDG - Eng)
- 4. **All** utilities shall be underground, pursuant to **Section 6.8.A.23.d(5)** of the ULDC. (PLAT: ENG - Zoning)
- 5. All property included in the legal description of ~~the~~ petition **shall be** subject to a Declaration of Restrictions and Covenants **acceptable** to ~~the~~ County **Attorney's office** which shall, among other things, provide for: formation of a **single** "master" property **owner's** association, automatic voting **membership** in the master association by any party holding title to any portion of the **subject** property, and assessment of all members of the master association **for** the cost of maintaining all **common** areas.

The property shall not **be** subjected to ~~the~~ Declaration of Restrictions in phases. Approval of ~~the~~ Declaration must **be obtained** from the County Attorney's office **prior** to the issuance of ~~the~~ first building **permit**, **or** recordation of the first plat for any portion of the planned development, whichever **occurs** first. (BLDG PERMIT / PLAT: MONITORING / ENG - Co Att)

H. 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)