

RESOLUTION NO. R-2007-0424

RESOLUTION APPROVING ZONING APPLICATION DOA2006-344  
(CONTROL NUMBER 1984-139)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF JEWISH COMMUNITY FACILITIES CORPORATION  
BY LAND DESIGN SOUTH, INC., AGENT  
(RAINBERRY PUD PODS A & B)

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, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), as amended, have been satisfied; and

WHEREAS, Zoning Application DOA2006-344 was presented to the Board of County Commissioners at a public hearing conducted on March 22, 2007 and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (MONITORING), 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations;
3. 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;
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) 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 Application DOA2006-344, the application of Jewish Community Facilities Corporation, by Land Design South, Inc., agent, for a Development Order Amendment to modify a condition of approval 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 March 22, 2007, 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 Newell and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-Aye
John F. Koons, Vice Chair	-Aye
Karen T. Marcus	-Aye
Warren H. Newell	-Aye
Mary McCarty	-Absent
Burt Aaronson	-Aye
Jess R. Santamaria	-Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on March 22, 2007.

Filed with the Clerk of the Board of County Commissioners on 22nd day of March, 2007.

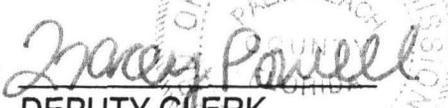
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON BOCK,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK

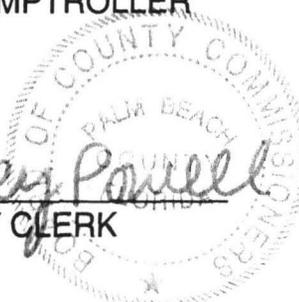
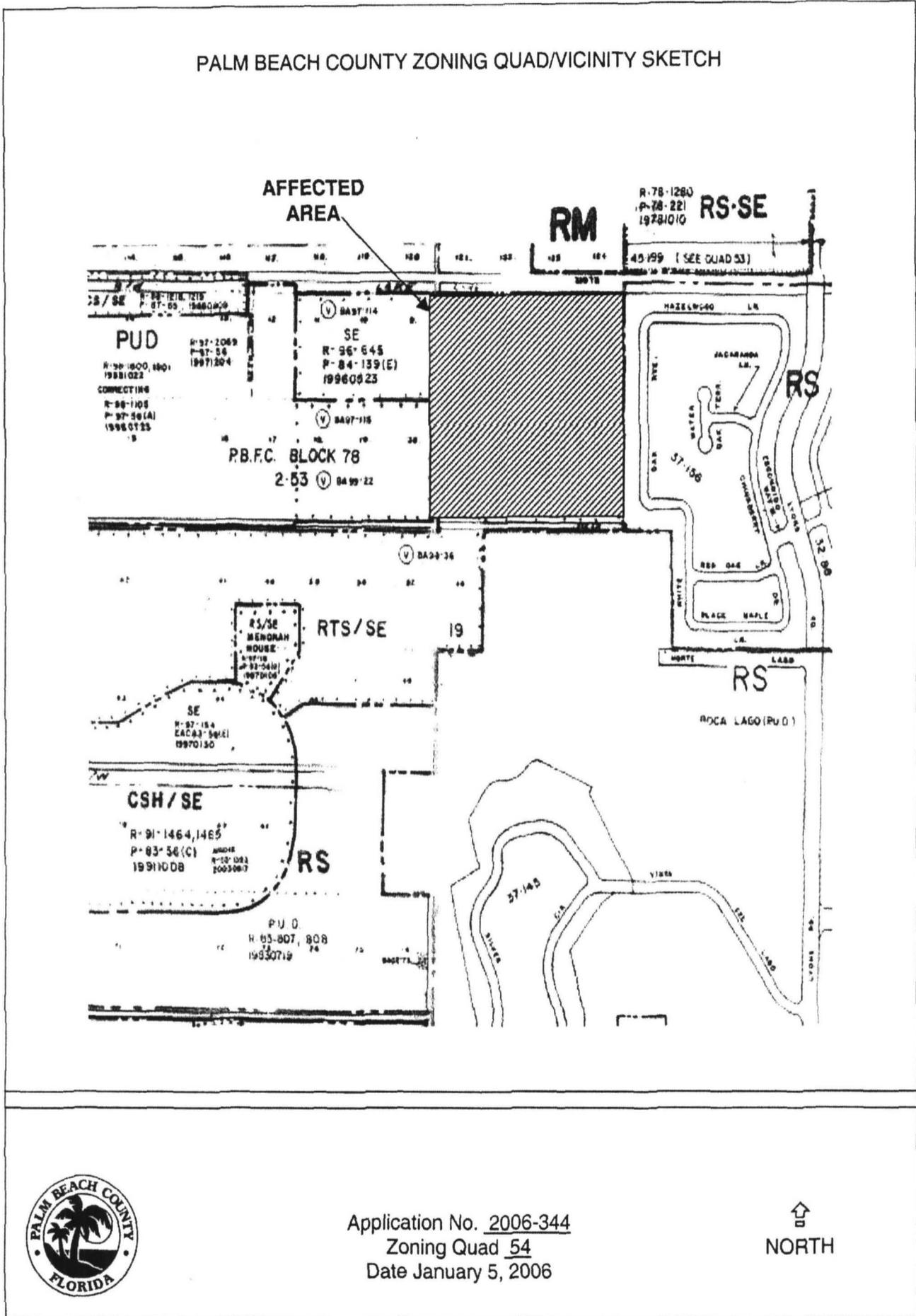


EXHIBIT A  
LEGAL DESCRIPTION

KNOWN AS A PORTION OF POD "A" AND TRACT B, RAINBERRY P.U.D., PODS A,B, AND C ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 80, PAGES 24 THRU 26 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF TRACT "H, OF THE RICHARD AND CAROLE SIEMENS J.C. PLAT AS RECORDED IN PLAT BOOK 64, PAGES 136 THRU 138 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.00°D01'09"W ALONG THE EAST LINE OF PROPOSED RAINBERRY POD "D" A PORTION OF PONTE VERDE P.U.D. AND THE WEST LINE OF SAID RAINBERRY P.U.D., PODS A,B, AND C A DISTANCE OF 370.31 FEET TO A POINT ON THE ARC OF CURVE WHO'S RADIUS IS 65.00 FEET AND BEARS N.27°D25'21"E.; THENCE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 102°D24'59", AN ARC DISTANCE OF 116.19 FEET TO A POINT ON THE NORTH LINE OF SAID POD "A"; THENCE N.89°D59'40"E ALONG THE NORTH LINE OF SAID POD "A" FOR A DISTANCE OF 167.29 FEET TO A POINT ON THE WEST LINE OF THE EAST 400 FEET OF SAID POD "A"; THENCE S.00°D00'57"E. ALONG THE WEST LINE OF THE EAST 400 FEET OF SAID POD "A" FOR A DISTANCE OF 411.14 FEET TO A POINT ON THE SOUTH LINE OF SAID POD "A"; THENCE S.89°D59'21"W. ALONG THE SOUTH LINE OF SAID POD "A" FOR A DISTANCE OF 260.00 FEET TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition A.1 of Resolution 1999-0017, Control 1984-139, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-85-280 (Petition 84-139), R-89-751 (Petition 84-139(A), R-92-183 (Petition 84-139(B), R-93-1359 (Petition 84-139(C), Resolution 95-1321.14, (Petition 84-139(D), R-96-645, (Petition 84-139(E), and R-96-1953, (Petition 84-139(F) have been consolidated 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-1999-0017, (Control 1984-139) and Resolution R-99-0518, (Control 1984-139), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

2. Condition A.2 of Resolution 1999-0017, Control 1984-139, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan for the Rainberry PUD is dated October 29, 1998. 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)

Is hereby amended to read:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master plan for the Rainberry PUD is dated February 24, 1999 and the approved site plan for Pods A & B is dated October 24, 2006. 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-Zoning)

#### BUILDING AND SITE DESIGN

1. All buildings, structures, mechanical equipment, lights, paving, parking, vehicular use areas and outdoor activity areas adjacent to the north property line, east of 95th Avenue South, and the east property line, adjacent to the Timbers Subdivision, shall be setback a minimum of seventy five (75) feet from all exterior perimeter property lines. (BLDG PERMIT:BLDG-Zoning) (Previous Condition B.1 of Resolution 1999-0017, Control 1984-139.) [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C]
2. The maximum height for all structures within Pod B, measured from finished grade to highest point, shall be thirty-five (35) feet. (BLDG PERMIT:BLDG-Zoning) (Previous Condition B.2 of Resolution 1999-0017, Control 1984-139.) [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C].

3. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure, or equivalent landscape material. (BLDG PERMIT:BLDG-Zoning) (Previous Condition B.3 of Resolution 1999-0017, Control 1984-139. [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C].
4. All areas or receptacles for the storage and disposal of trash, garbage, vegetation or recyclable material, including dumpsters and trash compactors, but excluding trash containers for the convenience of pedestrians, shall not be located within 100 feet of the north property line, east of 95th Avenue South, or east property line, adjacent to the Timbers Subdivision, and shall be confined to the areas designated on the certified site plan. (BLDG PERMIT:BLDG-Zoning) (Previous Condition B.4 of Resolution 1999-0017, Control 1984-139.) [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C].
5. The petitioner shall submit the site plan presented to the Board of County Commissioners on September 28, 1995 for the JCC Campus (Zoning Petition 84-139D) to the Development Review Committee (DRC) for certification. Prior to certification, this plan shall be revised to reflect consistency with the conditions of approval and requirements of the ULDC. Modifications to this plan may be made by the DRC in accordance with Section 5.4.E.13. of the ULDC. Any other modifications shall be subject to approval by the Board of County Commissioners. (DRO:ZONING-Zoning) (Previous Condition B.5 of Resolution 1999-0017, Control 1984-139.) [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C]. [NOTE: COMPLETED]

#### ENGINEERING

1. Condition E.1 of Resolution R-96-1953, Petition DOA84-139(F) which currently states:  
  
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 at the time of the Building Permit is \$415,800.00 (2,520 trips X \$165.00 per trip). (IMPACT FEE COORDINATOR) (Previous Condition E.1 Resolution R-96-1953, Petition DOA84-139(F).  
  
Is hereby deleted. Reason: Impact fees are now a code requirement.
2. Condition E.3 of Resolution R-96-1953, Petition DOA84-139(F) which currently states:  
  
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. (ENG) (Previous Condition E.3 Resolution R-96-1953, Petition DOA84-139(F).  
  
Is hereby deleted. Reason: Impact fees are now a code requirement.
3. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
  - a) Building Permits for more than 219 dwelling units shall not be issued until construction has begun for the 6 laning of Glades Road from Lyons Road to Boca Rio Road plus the appropriate paved tapers. (ENG) (Previous Condition E.3.a of Resolution R-96-1953, Petition DOA84-139(F). (COMPLETED)

4. The property owner shall fund any required signal modifications in conjunction with roadway improvements. Funding shall include design and construction of the signal modifications as required by the Palm Beach County Traffic Division. (ENG) (Previous Condition E.4 of Resolution R-96-1953, Petition DOA84-139 (F).

5. Condition E.5 of Resolution R-96-1953, Petition DOA84-139(F) which currently states:

The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision and Required Improvements Regulations 90-8 as amended. The platting of this property may be phased in accordance with a phasing plan acceptable to the office of the County Engineer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (ENG) (Previous Condition E.5 Resolution R-96-1953, Petition DOA84-139(F).

Is hereby deleted. Reason: Platting is now a code requirement.

6. Prior to master plan certification, the petitioner shall convey to the Lake Worth Drainage District the West 45 feet of the subject property for the right-of-way for the E-1 Canal by Quit Claim Deed or an Easement Deed in the form provided by the District. (ENG) (Previous Condition E.6 of Resolution R-96-1953, Petition DOA84-139(F).

7. LANDSCAPE WITHIN MEDIAN

a. Prior to issuance of a Building Permit, the petitioner 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 consist of a minimum of one (1) fourteen (14) foot tall native tree for each 30 linear feet of the adjacent median to be planted and appropriate ground cover. Trees may be planted singly or in clusters. All landscaping and maintenance shall be subject to the standards as set forth by the Palm Beach County Engineering and Public Works Department. All landscape material shall be selected for the following list:

Trees:     Ground cover:  
Laurel Oak   Wedilia  
Live Oak   Bahia Grass  
Slash Pine  
Sabal Palmetto

Alternative species may be allowed subject to approval by the County Engineer. All plant material shall be installed and selected according to xeriscape principles and conform with the following:

- 1) All plants shall be container grown or field collected and transplanted from the project site.
- 2) All plantings shall be done in accordance with detailed planting plans and specifications to be submitted and approved by the County Engineer concurrent with Site Plan certification. (BLDG PERMIT:MONITORING - Eng)

b. All required median landscaping, including watering, shall be the perpetual maintenance obligation of the petitioner and its successors, legal heirs or assignees or duly established Property Owner's Association and/or Homeowner's Association, and shall be installed on or before issuance of the first Certificate of Occupancy or filing of the first plat, whichever occurs first. (CO/PLAT:MONITORING - Eng)

- c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to receiving the first building permit or filing of the first plat, whichever occurs first, to reflect this obligation. Maintenance shall be in accordance with the issued permits. (BLDG PERMIT:ENG – County Atty) (Previous Condition E.7 of Resolution R-96-1953, Petition DOA84-139(F). (Note a, b, and c are completed)
8. The property owner shall construct a right turn lane west approach and left turn lane east approach at the intersection of 95th Avenue and Glades Road. This construction shall be completed concurrent with the paving of 95th Avenue South. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. Permits required by the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit for Phase II of the project. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for Phase II of the project. Phase II is defined as any buildings generating more than 1330 new net external trips per day. (BLDG:MONITORING - Eng) (Previous Condition E.10 of R-96-1953, Petition DOA84-139(F). (COMPLETED)
  9. Condition E.11 of Resolution R-96-1953, Petition DOA84-139(F) which currently states:
 

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 this project, Zoning Petition Number 84-139(D), to be paid at the time of issuance of the Building Permit presently is \$250,635.00 (4,557 additional trips X \$55.00 per trip). (IMPACT FEE COORDINATOR) (Previous Condition E.11 of Resolution R-96-1953, Petition DOA84-139(F).

Is hereby deleted. [REASON: Impact fees are now a code requirement]
  10. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
    - a. Building Permits which will permit more than 1330 new net external trips per day to be generated from the site shall not be approved until construction has begun for improvements at the intersection of Palmetto Park Road and Lyons Road necessary to meet the required Level of Service identified in the Traffic Performance Standards. Required Intersection improvements at Palmetto Park Road and Lyons Road as part of this condition are to be funded and constructed by Palm Beach County. (ENG) (Previous Condition E.12.a of R-96-1953, Petition DOA84-139(F). (COMPLETED)
    - b. Building Permits which will permit more than 1330 new net external trips per day to be generated from the site shall not be approved until construction has begun for 95th Avenue South from Glades Road to the South County Jewish Federation West Boca Campus. Construction shall be completed prior to the first C.O. for this phase. (ENG/ BLDG) (Previous Condition E.12.b of Resolution R-96-1953, Petition DOA84-139(F). (COMPLETED)
    - c. Building Permits which will permit more than 2930 new net external trips per day to be generated from the site shall not be approved until construction has begun for the widening of SR 7 as a 4-lane section from Yamato Road to Clint Moore Road plus the appropriate paved tapers. (ENG) (Previous Condition E.12.c. of Resolution R-96-1953, Petition DOA84-139(F)). (COMPLETED)

- d. Building Permits which will permit more than 3429 new net external trips per day to be generated from the site shall not be approved until construction has begun for the following improvements at the intersection of SR 7 and Central Park Road:
- 1) addition of a second left turn lane north approach plus any right of way costs to complete this construction. This shall include any appropriate widening of SR 7 as approved by the Florida Department of Transportation and the Office of the County Engineer; and
  - 2) construction of an acceptable cross section on Central Park Blvd. eastbound to receive the dual left turn lanes plus the appropriate paved tapers. This shall include any bridge widening for Central Park Boulevard over the E-1 Canal as determined by the County Engineer. Construction shall be completed prior to the first C.O. for this phase. The intersection improvements listed in E.12.d above shall receive impact fee credit. (BLDG - Eng) (Previous Condition E.12.d of Resolution R-96-1953, Petition DOA84-139(F). (COMPLETED)
11. A complete phasing plan and schedule which is to be made part of the applicants regulating plan, shall be submitted to the DRC for final approval. This phasing plan shall be approved concurrent with the first site plan approval by the DRC which includes building square footages. (ONGOING:ENG - Eng) (Previous Condition E.13 of R-96-1953, Petition DOA84-139(F).
12. This property owner shall post the required acceptable surety to guarantee the construction as outlined on Conditions Numbers E.12.d. above. This surety shall be posted with the Office of the Land Development Division on or before March 28, 1996 in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. (DATE: MONITORING - Eng) (Previous Condition E.14 of Resolution R-96-1953, Petition DOA84-139(F).
13. The property owner shall provide for the acquisition by funding any required right-of-way for the construction of intersection improvements required at SR 7 and Central Park Road as referenced in the above conditions. Property Owner shall provide surety acceptable to the Office of the County Engineer and the County Attorney. This developer shall enter into a written agreement with the Right of Way Acquisition Section on or before January 1, 1996 or prior to the certification of the Master Plan whichever shall first occur. Notification shall be given to Land Development Division. (DATE:MONITORING - Eng) (Previous Condition E.15 of Resolution 96-1953, Petition DOA84-139(F). (COMPLETED)
14. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at:
- a. Glades Road and 95th Avenue South; and
  - b. SR 7 and Central Park Boulevard.
- The funding for this signalization shall be provided within 60 days notice by Palm Beach County. (ENG) (Previous Condition E.16 of Resolution R-96-1953, Petition DOA84-139(F). (Note a. COMPLETED)
15. Condition E.17 of Resolution R-96-1953, Petition DOA84-139 which currently states:  
The 18 multi-family dwelling units identified in POD A shall be limited to JARC housing.

Is hereby amended to state:

The twenty (20) multi-family dwelling units identified in POD A shall be limited to JARC housing. (ONGOING: ZONING - Eng)

16. Palm Beach County shall acquire the additional right of way, if required through an eminent domain procedure, for 95th Street South. Right of way obtained shall be a minimum of 100 feet in width to provide for a 90 foot right-of-way and a 10 foot buffer strip. This acquisition shall extend from the subject property to Glades Road. The Developer shall prepare and provide to the County all necessary construction plans for this roadway. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum construction plan standards as they exist at the time of the submittal. Construction plans shall be submitted prior to September 1, 1996. Notification shall be given to Land Development Division. (MONITORING/ENG) (Previous Condition E.18 of Resolution R-96-1953, Petition DOA84-139(F).
17. The developer shall fund all necessary right of way acquisition documents including, but not limited to, surveys, property owners map, legal descriptions for acquisition documents, and parceled right of way maps for the construction of 95th Street South from the subject property to Glades Road. These documents shall also include a title search for a minimum of 25 years. These documents shall be provided on or before, September 1, 1996. Notification shall be given to Land Development Division. (MONITORING/ENG) (Previous Condition E.19 of Resolution R-96-1953, Petition DOA84-139(F). (COMPLETED)
18. The Developer shall provide all funding inherent with the provisions outlined in condition requiring eminent domain procedures herein. Funding of all necessary right of way costs shall include, but not be limited to, the actual cost of right of way acquired, all legal costs incurred by the County in the acquisition of said right of way. These costs shall also include the costs of all expert witness fees and attorney fees. Any funds required to be expended by the County shall be advanced to the County by the Developer. Funding for this right of acquisition shall be provided within 60 days notice by PBC. (ENG) (Previous Condition E.20 of R-96-1953, Petition DOA84-139(F). (COMPLETED)
19. The Property owner shall construct a roundabout on 95th Avenue South north of the existing Guard House as shown on Wantman Group Inc, Guardhouse Improvement Plan dated February 16, 2006 or alternative plans approved by the County Engineer.
  - A) Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and dedication/acquisition of any additional required right-of-way.
  - B) Construction shall be completed prior to issuance of a building permit for the new guard house. (BLDG PERMIT: MONITORING-Eng)
20. The Property owner shall modify the campus traffic program to include a minimum of one of the following traffic improvements. The County Engineer shall approve the traffic improvement program prior to final DRO approval for the Elementary/Middle/High School currently approved on Pod B. Any necessary implementing conditions of approval will be added to the site plan for Pod B. (DRO:ENG – Eng)
  - A) Extension of the existing turn lane east approach on Glades Road at 95<sup>th</sup> Ave. South.
  - B) Opening the campus access point on Central Park Boulevard to coincide with the operation hours of the Elementary/Middle/High School uses.
  - C) Staggering of the hours of operation for the Elementary/Middle/High School uses.

- D) Any and all costs associated with any construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way and the cost of construction of receiving lanes on 95th Avenue South. (ONGOING:ENG – Eng)
- E) Permits required Florida Department of Transportation and Palm Beach County for this construction shall be obtained prior to Construction. (ONGOING:ENG – Eng)

ENVIRONMENTAL

- 1. Preserve areas located on-site shall be labeled on the site plan and identified on a certified metes and bounds survey by a registered land surveyor. Preserve areas shall be preserved with intact canopy, understory and ground cover and maintained without significant surface alteration or infringement by drainage or utility easements. Preserve areas shall be identified on any plat required for development. A management plan that addresses the maintenance of the preserve area as well as the continued removal of invasive exotic species shall be submitted to the Department of Environmental Resources Management concurrent with the application to the Site Plan Review Committee and approved by the Department prior to site plan certification. (Previous Condition D.1 of Resolution R-99-0017, Petition DOA84-139(G) Delete) ERM.
- 2. A Closure Assessment Report for all Pollution storage tanks on the property shall be performed according to the Florida Department of Environmental Protection "Pollution Storage Tank Closure Assessment Requirements", June 1994. All Assessments reports shall be submitted to and receive approval from the Department of Environmental Resources Management prior to DRC Master, Site or Subdivision Plan certification. (Previous Condition D.2 of Resolution R-99-0017, Petition DOA84-139(G) Delete). (ERM)

HEALTH

- 1. Condition F.1, of Resolution R-99-0017, Control No. 1984-139, which currently states:  
  
Since sewer service is available to the property, septic tank shall not be approved for use on said property. (HEALTH)  
  
Is hereby deleted. [REASON: Code Requirement]
- 2. Condition F.2. of Resolution R-99-0017, Control No. 1984-139, which currently states:  
  
Since water service is available to the property, a potable water well shall not be approved for use on said property. (HEALTH)  
  
Is hereby deleted. [REASON: Code requirement.]
- 3. Condition F.3. of Resolution R-99-0017, Control Number 1984-139, which currently states:  
  
Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Public Health Unit in accordance with Chapter 10D-24 FAC prior to issuance of a building permit. (HEALTH)  
  
Is hereby amended to read:  
  
Prior to final site plan approval by the Development Review Officer, the property owner shall submit site plans and architectural plans for the proposed day care facility to the Palm Beach County Health Department (PBCHD), and meet with staff

of the PBCHD to discuss the plans for establishing and operating the facility. (DRO: HEALTH - Health)

4. Condition F.4. of Resolution R-99-0017, Control No. 1984-139, which currently states:

Location of fenced play area and square footage for day care center shall be indicated on final site plan. (DRC: HEALTH)

Is hereby deleted. [REASON: Code requirement].

#### ZONING - LANDSCAPING-STANDARD

1. Prior to site plan certification, the Master Plan for the 360-unit development shall be amended to comply with Section 7.3 (Landscape Code) of the Unified Land Development Code. (DRO:ZONING-Zoning) (Previous Condition G.1 of Resolution 1999-0017, Control 1984-139. [NOTE: COMPLETED]
2. All trees required to be planted by the approval of Petition 84-139(D) 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 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. (BUILDING PERMIT:LANDSCAPE - Zoning) (Previous Condition G.2 of Resolution 1999-0017, Control 1984-139. [NOTE: COMPLETED]
3. A minimum twenty-five (25) foot wide landscape buffer strip shall be provided around the entire external perimeter of the land area added to the Rainberry West PUD by Petition 84-139(D), except as required below. All perimeter landscape buffer strips shall be free and clear of all improvements, including, but not limited to, structures, buildings, lighting, paving, and parking, excluding landscaping, irrigation, required utility improvements and drainage.
  - a. The petitioner may receive a Board of Adjustment variance from this requirement along the west and south property lines of Pod A. (ONGOING:ZONING-Zoning) (Previous Condition G.3 of Resolution 1999-0017, Control 1984-139. [NOTE: COMPLETED, BA 98-36]
4. Prior to certification of the preliminary development plan for Petition 84-139(D), the petitioner shall modify the Regulating Plan to include typical cross sections for the following landscape buffers and buffers adjacent to Rainberry Park Plat No.4 and the Boca Lago PUD. All landscaping shall be installed in accordance with the Regulating Plan and conditions of approval. (DRO:ZONING-Zoning) (Previous Condition G.4 of Resolution 1999-0017, Control 1984-139. [NOTE: COMPLETED]

#### ZONING - LANDSCAPING-ALONG NORTH AND EAST PROPERTY LINES

5. Landscape and buffering along the north property line, east of 95th Avenue South, and east property line, abutting the Timbers Subdivision, shall be upgraded to include:
  - a. A minimum seventy five (75) foot wide landscape buffer strip.
  - b. A six (6) foot high chain link fence with black vinyl coating, setback a minimum of eight (8) feet from the property line.
  - c. A double row of canopy trees planted twenty (20) feet on center installed on the interior side of the required fence. 100% of the canopy trees shall be native species.

- d. Thirty-six (36) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation to be maintained at a minimum height of seventy-two (72) inches. This shrub or hedge material shall be installed on the exterior side of the required fence and be setback a minimum of five (5) feet from the exterior property line.
  - e. Notwithstanding the conditions above, if the petitioner, adjacent residents and the County agree to a different mix of tree species/types, that written agreement shall be attached as an addendum to the conditions and shall supersede the requirement for 100% native canopy trees. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition H.1 of Resolution 1999-0017, Control 1984-139. [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C] [NOTE: COMPLETED])
6. The improvements required by Condition H.1. above shall be installed and completed prior to the issuance of the first building permit within Pod B. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition H.2 of Resolution 1999-0017, Control 1984-139.) [to be applied to land area added to PUD by Petition 84-139(D) only Pod A, B, and C] [NOTE: COMPLETED]

**ZONING - LANDSCAPING-ALONG EAST SIDE OF NINETY (90) FOOT RIGHT-OF-WAY (PROVIDING ACCESS TO GLADES ROAD)**

7. The petitioner shall provide a landscape buffer tract 10 feet in width along the east side of the 90 foot right-of-way (95th Avenue South) providing access to the PUD from Glades Road. This landscape buffer tract shall include:
- a. a minimum ten (10) foot wide landscape buffer strip;
  - b. a minimum eight (8) foot high concrete wall;
  - c. a minimum two (2) foot high berm;
  - d. Native canopy trees planted a minimum of twenty (20) foot on center; and
  - e. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight inches. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Condition I.1 of Resolution 1999-0017, Control 1984-139.) [NOTE: COMPLETED]
8. The improvements required by Condition I.1. above shall be installed and completed prior to construction of any portion of 95th Avenue South as a 90 foot right-of-way. (BLDG PERMIT:BLDG-Eng) (Previous Condition I.2 of Resolution 1999-0017, Control 1984-139). [NOTE: COMPLETED]

**LIGHTING**

1. Condition J.1 of Resolution 1995-0117, Control 1994-081, which currently states:
- All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG/CODE ENF-Zoning) (Previous Condition J.1 of Resolution 1999-0017, Control 1984-139).  
Is hereby deleted. [REASON: Code requirement]
2. Tennis court and baseball field lighting shall be extinguished by 11:00 P.M. (ONGOING:CODE ENF- Zoning) (Previous Condition J.2 of Resolution 1999-0017, Control 1984-139).
3. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point, within 100 feet of the north property line, east of 95th Avenue South, and east property line, adjacent to the Timbers Subdivision. (ONGOING:CODE ENF- Zoning) (Previous Condition J.3 of Resolution 1999-0017, Control 1984-139).

4. All outdoor lighting within 100 feet of the north property line, east of 95th Avenue South, and east property line, adjacent to the Timbers Subdivision, shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING:CODE ENF- Zoning) (Previous Condition J.4 of Resolution 1999-0017, Control 1984-139).

#### LAKE WORTH DRAINAGE DISTRICT

1. Prior to site plan certification, the petitioner shall obtain permission, if possible, from the Lake Worth Management District to sod, irrigate and perpetually maintain the adjacent bank of all abutting canals. (DRO:ZONING-Zoning) (Previous Condition C.1 of Resolution 1999-0017, Control 1984-139. [NOTE: COMPLETED]

#### MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to Plat Recordation or issuance of the first Building Permit, whichever shall first occur, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT/BLDG PERMIT: ENG-Monitoring)

#### PALM TRAN

1. Condition K.1 of Resolution 1995-0117, Control 1994-081, which currently states:
  - 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 constructed by the petitioner within three (3) years, December 1999, in a manner and location 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. (Previous Condition K.1 of R-96-1953, Petition DOA84-139(F). (DATE: MONITORING - Eng)

Is hereby deleted. [REASON: Replaced by Mass Transit 1 and Mass Transit 2]

#### PARKS

1. Prior to Master Plan certification, the Master Plan shall be amended to indicate that this development will provide recreational areas within the 32.124 acre residential pod that meet or exceed the recreational areas requirement of the Subdivision and Required Improvements Regulations (Ordinance 90-8). (Previous Condition K.1 of Resolution R-96-1953, Petition DOA84-139(F). (PARKS)

## SCHOOL BOARD

1. Previous Condition N.1 of R-99-0017, Petition DOA84-139(G) that states: "Petitioner, his assigns, heirs, and all future parties in interest, shall include in all sales and notice literature on the within development, a statement that public school students may not be assigned to the nearest school and that all prospective buyers are encouraged to contact the Palm Beach County School Board to determine which school assignment will apply to their children"

is hereby amended to read

The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s).

2. Previous Condition N.2 of R-99-0017 Petition DOA84-139(G) that states:

"Prior to site plan certification, the petitioner, his assigns, heirs, and all future parties in interest shall demonstrate through written notification from the School Board that they have met with the School Board and discussed the potential of entering into an agreement to help achieve racial balance goals and allow the children who reside in the development to attend the nearest available public schools."

Is hereby deleted. [REASON: Is no longer applicable]

## SITE DESIGN

1. Prior to Site Plan Certification a revised Master Plan shall be submitted reflecting the circulation pattern throughout the Planned Unit Development. (DRO:ZONING-Zoning) (Previous Condition O.1 of Resolution 1999-0017, Control 1984-139). [NOTE: COMPLETED]
2. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements of Palm Beach County. (DRO:ZONING-Zoning) (Previous Condition O.2 of Resolution 1999-0017, Control 1984-139). [NOTE: COMPLETED]

## USE LIMITATIONS-(TO BE APPLIED TO LAND AREA ADDED TO THE PUD BY PETITION 84-139(D) ONLY POD A, B, AND C)

1. Condition P.1 of Resolution 1999-0518, Control 1984-139 which currently states:

Pod A shall be limited to:

- a. A 105 bed congregate living facility.
- b. Twenty (20) multifamily units. (JARC housing) (BLDG/ZONING)
- c. 22,126 square feet and 97 JARC students (32 on site 65 outside) for assembly/resource institutional center. (BLDG/ZONING)

Is hereby amended to read:

Pod A shall be limited to:

- a. A 105 bed congregate living facility.

- b. Twenty (20) multifamily units. (JARC housing)
  - c. 97 JARC students (32 on site 65 outside) for assembly/resource institutional center. (ONGOING:BLDG-Zoning)
2. Pod B shall be limited to a maximum of:
    - a. 220,000 square feet and 1,328 students for the elementary, middle and high schools.
    - b. 23,000 square feet and 90 adults and 20 employees for the adult daycare facility.
    - c. 80,000 square feet for shared facilities (library, dining, etc.). (Previous Condition P.2 of Resolution 1999-518, Control 1984-139.) (DRO:ZONING-Zoning)
  3. Pod C shall be limited to 130,000 square feet and 684 students for the Hebrew school. (Previous Condition P.3. of Resolution 1999-0017, Control 1984-139). (DRO:ZONING-Zoning)
  4. Pod C daycare center shall be limited to a maximum of 200 children. (Previous Condition P.4 of Resolution 1999-0017, Control 1984-139). (ONGOING: HEALTH - Zoning)
  5. The outdoor speaker system shall not be used except for emergency purposes only.(Previous Condition P.5 of Resolution 1999-0017, Control 1984-139). (ONGOING:CODE ENF-Zoning)
  6. External school bells shall not be permitted. (Previous Condition P.6 of Resolution 1999-0017, Control 1984-139). (ONGOING:CODE ENF-Zoning)

#### COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. 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; revocation of any concurrency; 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.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions

of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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.