

RESOLUTION NO. R-2008-0260

RESOLUTION APPROVING ZONING APPLICATION DOA2007-528
(CONTROL NUMBER 2005-597)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF HARVEY GELLER
BY LAND DESIGN SOUTH, INC., AGENT
(YAMATO COURT MUPD)

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 Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2007-528 was presented to the Board of County Commissioners at a public hearing conducted on February 28, 2008; 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. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. 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 DOA2007-528, the application of Harvey Geller, by Land Design South, Inc., agent, for a Development Order Amendment to reconfigure site plan 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 February 28, 2008, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	-	Aye
Jeff Koons, Vice Chair	-	Aye
Karen T. Marcus	-	Aye
Robert J. Kanjian	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Jess R. Santamaria	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 28, 2008.

Filed with the Clerk of the Board of County Commissioners on March 14, 2008.

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

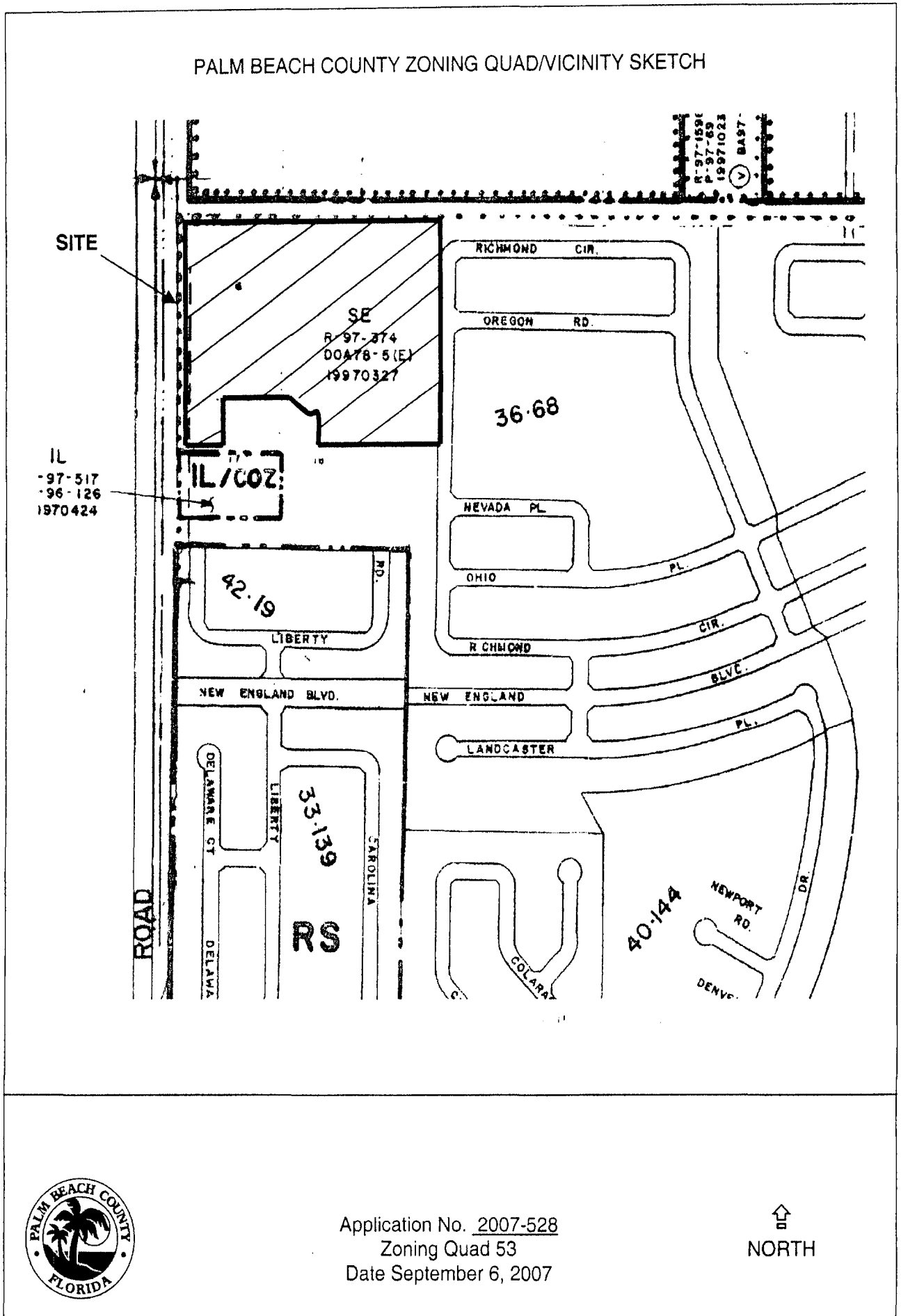
A PARCEL OF BEING A PORTION OF TRACTS 14, 15, 16, 17, 18 AND 19, BLOCK 74, AND A PORTION OF THE ABANDONED 25.00 FOOT PALM BEACH FARMS COMPANY PLAT NO. 3 RIGHT-OF-WAY LYING WESTERLY OF, AND CONTIGUOUS TO, SAID TRACTS 16 AND 17, ALL IN PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PLAT OF FOUR FORTY ONE ASSOCIATES, AS RECORDED IN PLAT BOOK 81, PAGE 177, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 00°50'56" WEST, ALONG THE EAST RIGHT-OF-WAY LINE OF STATE ROAD 7 (US 441), A DISTANCE OF 800.03 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT L-42 CANAL; THENCE NORTH 89°36'59" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, AND ALONG A LINE 50 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, THE NORTH LINES OF SAID TRACTS 14, 15 AND 16 AND THEIR WESTERLY PROLONGATION, A DISTANCE OF 1004.61 FEET TO A POINT ON A LINE 215.00 FEET EAST OF, AS MEASURED AT RIGHT ANGLES TO, THE WEST LINE OF THE SAID TRACTS 14 AND 19; THENCE SOUTH 00°23'01" EAST ALONG SAID LINE AND ALONG THE WEST RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-1 CANAL, A DISTANCE OF 834.40 FEET; THENCE SOUTH 89°36'59" WEST, DEPARTING SAID LINE AND SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 264.31 FEET; THENCE, NORTH 06°22'44" WEST, A DISTANCE OF 68.38 FEET; THENCE, NORTH 16°12'28" WEST, A DISTANCE OF 52.05 FEET; THENCE, NORTH 64°22'45" WEST, A DISTANCE OF 110.27 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 35.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 63°47'05", A DISTANCE OF 38.96 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 00°35'40" WEST, A DISTANCE OF 78.62 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 55°55'24", A DISTANCE OF 34.16 FEET TO THE POINT OF TANGENCY; THENCE, NORTH 56°35'35" WEST, A DISTANCE OF 39.76 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE, WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°55'47", A DISTANCE OF 21.95 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 87°28'38" WEST, A DISTANCE OF 39.05 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 35.00 FEET; THENCE, SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 42°51'40", A DISTANCE OF 26.18 FEET TO THE POINT OF TANGENCY; THENCE, SOUTH 44°36'58" WEST, A DISTANCE OF 62.51 FEET; THENCE, NORTH 45°23'02" WEST, A DISTANCE OF 108.89 FEET; THENCE, SOUTH 89°36'59" WEST, A DISTANCE OF 223.00 FEET; THENCE, SOUTH 00°50'56" EAST, A DISTANCE OF 320.01 FEET, MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE NORTH LINE OF SAID PLAT OF PLAT OF FOUR FORTY ONE ASSOCIATES; THENCE, SOUTH 89°36'59" WEST, ALONG SAID NORTH LINE, A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING.

CONTAINING: 15.00 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESERVATIONS AND/OR RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH



Application No. 2007-528
Zoning Quad 53
Date September 6, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2006-1205 (Control 2005-597), 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: MONITORING - Zoning)
2. All Petitions Condition 1 of Resolution R-2006-1205, Control No. 2005-597 which currently states:

Development of the site is limited to the site design and uses approved by the Board of County Commissioners. The approved site plan and regulating plans are dated April 13, 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)

Is hereby amended to read:

Development of the site is limited to the site design and uses approved by the Board of County Commissioners. The approved site plan and regulating plans are dated July 13, 2007. 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)

ARCHITECTURAL REVIEW

1. Design of gutters and downspouts shall be integrated into the architectural design. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW -Zoning) (Previous Architectural Review Condition 1 of Resolution R-2006-1205, Control No. 2005-597).
2. At time of submittal for final Development Review Officer (DRO) approval, architectural elevations shall be submitted for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW-Zoning) (Previous Architectural Review Condition 2 of Resolution R-2006-1205, Control No. 2005-597).

ENGINEERING

1. Condition E1 of Zoning Resolution R-2006-1205 currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

- a. No Building Permits for the congregate living facility or general commercial buildings may be issued after January 1 2009.
- b. Building Permits for no more than the 32 bed congregate living facility and more than 14900 square feet of gross leasable commercial shall not be issued until contract has been awarded for the construction of turn lane improvements at Yamato Road and Lyons Road which will provide for dual left turn lanes east approach. Construction shall include appropriate receiving lanes. (BLDG PERMIT: MONITORING-Eng)

- c. A time extension for dates within this condition of approval may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request.

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

- a. No Building Permits for the site may be issued after January 1, 2010. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)
- b. Building Permits for more than 32 bed congregate living facility and more than 14900 square feet of gross leasable commercial shall not be issued until contract has been awarded for the construction of intersection improvements at Yamato Road and Lyons Road which will provide for:
 - dual left turn lanes north approach.
 - dual left turn lanes east approach

Monitoring of this condition will not begin until the Zoning Resolution has been signed by the Deputy Clerk. Construction shall include appropriate receiving lanes. (BLDG PERMIT: MONITORING-Eng)

The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DATE:MONITORING-Eng)

2. Prior to issuance of a Building Permit the Property owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng) (Previous Condition Engineering 2 of Resolution R-2006-1205, Control No. 2005-597)
3. The Property owner shall:
 - a. construct a left turn lane east approach on Yamato Road at the projects entrance road. Construction shall include a restricted median opening subject to the approval of the Florida Department of Transportation.
 - b. This construction shall be concurrent with the paving and drainage improvements for the site. 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.
 - c. Permits required by the Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
 - d. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng) (Previous Condition Engineering 3 of Resolution R-2006-1205, Control No. 2005-597)

4. Landscape Within the Median of Yamato Road and SR 7
 - a. The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Yamato Road and SR 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by property owner shall be perpetually maintained by the property owner, his successors and assigns, without recourse to Palm Beach County, unless property owner provides payment for maintenance as set forth in Paragraph d below.
 - b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)
 - c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)
 - d. At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the property owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the property owner. The property owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property owner.
 - e. Alternately, at the option of the property owner, and prior to the issuance of a Building Permit, the property owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Yamato Road and SR7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDG PERMIT: ENG-Eng) (Previous Condition Engineering 4 of Resolution R-2006-1205, Control No. 2005-597)
5. The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for Yamato Road an additional 15 feet of right of way along this projects north property line prior to the issuance of a building permit. Right of way conveyance shall be free of all encumbrances and encroachments. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and Corner Clips." (BLDG. PERMIT: MONITORING-Eng) (Previous Condition Engineering 5 of Resolution R-2006-1205, Control No. 2005-597)

6. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along Yamato Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG. PERMIT: MONITORING-Eng) (Previous Condition Engineering 6 of Resolution R-2006-1205, Control No. 2005-597)

7. Condition Engineering 7 of Resolution R-2006-1205, Control No. 2005-597 which currently states:

Acceptable surety required for the offsite road improvements as outlined in the Traffic Performance Standards Condition E1b above shall be posted with the Office of the Land Development Division on or before December 22, 2006. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)

Is hereby amended to read:

Acceptable surety required for the offsite road improvements as outlined in the Traffic Performance Standards Condition E1b above shall be posted with the Office of the Land Development Division on or before August 28, 2008. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Property owner's Engineer. (TPS - Maximum 6 month time extension) (DATE:MONITORING-Eng)

8. Condition Engineering 8 of Resolution R-2006-1205, Control No. 2005-597 which currently states:

Prior to February 1, 2007 the Property owner shall complete construction plans of the offsite Traffic Performance Standards intersection improvements outlined in condition E1 b above. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (DATE:MONITORING-Eng)

Is hereby amended to read:

Prior to November 3, 2008 the Property owner shall complete construction plans of the offsite Traffic Performance Standards intersection improvements outlined in condition E1 b above. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (DATE:MONITORING-Eng)

9. Prior to March 1, 2009 the Property owner shall complete construction of the offsite Traffic Performance Standards intersection improvements outlined above in Condition E1b. (DATE:MONITORING-Eng)

10. The Property owner shall construct:

- a. right turn lane west approach on Yamato Road at the projects entrance road.
- b. right turn lane south approach on SR 7 at the projects entrance road.
- c. This construction shall be concurrent with the paving and drainage improvements for the site. 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.

- d. Permits required by Palm Beach County for the Yamato Road turn lane and the Florida Department of Transportation turn lane shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
- e. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. No grade changes, or the toe of proposed grade changes, shall occur within the dripline of existing native vegetation depicted to remain. (ONGOING:ERM - ERM) (Previous Condition ERM 1 of Resolution R-2006-1205, Control No. 2005-597)

ZONING – LANDSCAPING

1. Prior to the issuance of building permit, the property owner shall submit a Landscape Plan for the entire development to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE- Zoning) (Previous Condition Landscape Standards 1 of Resolution R-2006-1205, Control No. 2005-597).
2. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. tree height: Fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Condition Landscape Standards 2 of Resolution R-2006-1205, Control No. 2005-597).
3. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Condition Landscape Standards 3 of Resolution R-2006-1205, Control No. 2005-597).
4. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Condition Landscape Standards 4 of Resolution R-2006-1205, Control No. 2005-597).
5. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Condition Landscape Standards 5 of Resolution R-2006-1205, Control No. 2005-597).

ZONING - LANDSCAPING—INTERIOR

6. Condition Landscape Interior 1 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

Prior to final approval by the Development Review Officer (DRO), the proposed landscape focal points located between Retail Buildings 2 and 3 shall be redesigned to accommodate the following requirements:

- a. the focal point located at the north end shall be designed as an architectural feature, including but not limited to a foundation, arcade, gazebo etc. Details of this focal point shall include elevations, dimensions and construction/decorative materials shall be submitted to the Architectural Review Section for review and approval;
- b. focal points located at the center and the south end of Buildings 2 and 3 may remain as landscape focal points. The proposed plant materials shall be of specimen specie(s) and size(s) subject to the review and approval by the Landscape Section; and,
- c. the Regulating plan(s) dated April 13, 2006 shall be revised to include all approved details. (DRO: ARCH REVIEW Zoning) (Previous Condition Landscape Interior 1 of Resolution R-2006-1205, Control No. 2005-597).

Is hereby amended to read:

Landscape focal points shall be located between Retail Buildings 2 and 3 and shall consist of the following requirements:

- a. the focal point located at the north end shall be designed as an architectural fountain feature. Details of this focal point, which include elevations, dimensions and construction/decorative materials shall be submitted to the Architectural Review Section for review and approval at final site plan approval by the Development Review Officer (DRO);
- b. focal points located at the center and the south end of Buildings 2 and 3 may remain as landscape focal points. The proposed plant materials shall be of specimen specie(s) and size(s) subject to the review and approval by the Landscape Section at final site plan approval by the DRO. (DRO: ARCH REVIEW/LANDSCAPE -Zoning)

7. Condition Landscape Interior 2 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

Prior to final approval by the Development Review Officer (DRO), the proposed landscape focal point located between Retail Buildings 4 and 5 shall be redesigned to accommodate the following requirements:

- a. the proposed plant materials shall be of specimen specie(s) and size(s) subject to the review and approval by the Landscape Section;
- b. a minimum of four (4) benches shall be provided adjacent to the landscape focal point. Bench details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval; and,
- c. the Regulating plan(s) dated April 13, 2006 shall be revised to include all approved details. (DRO:LANDSCAPE Zoning) (Previous Condition Landscape Interior 2 of Resolution R-2006-1205, Control No. 2005-597).

Is hereby amended to read:

The landscape focal point located between Retail Buildings 4 and 5 shall consist of the following requirements:

- a. the proposed plant materials shall be of specimen specie(s) and size(s) subject to the review and approval by the Landscape Section; and

- b. a minimum of four (4) benches shall be provided adjacent to the landscape focal point. Bench details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval prior to final approval by the Development Review Officer (DRO). (DRO: ARCH REVIEW/LANDSCAPE - Zoning)

- 8. Condition Landscape Interior 3 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

The Trellis detail as shown on the Regulating Plan dated April 13, 2006 shall be redesigned to include architectural design features of the proposed buildings within the MUPD. The trellis shall be supported of columns with a minimum circumference of twelve (12) inches. Trellis details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval prior to final approval by the Development Review Officer (DRO). The Regulating plan(s) dated April 13, 2006 shall be revised to include all approved details. (DRO:ARCH REVIEW-Zoning)

Is hereby amended to read:

The Trellis detail shall be designed to include architectural design features of the proposed buildings within the MUPD. Trellis details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval prior to final approval by the Development Review Officer (DRO). (DRO:ARCH REVIEW-Zoning)

- 9. Condition Landscape Interior 4 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

The bus stop shelter detail as shown on the Regulating Plan dated April 13, 2006 shall be redesigned to include architectural design features of the proposed buildings within the MUPD. The bus stop shelter details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval prior to by the Development Review Officer (DRO). The Regulating plan(s) dated April 13, 2006 shall be revised to include all approved details. (DRO:ARCH REVIEW Zoning) (Previous Landscape Interior Condition 4 of Resolution R-2006-1205, Control No. 2005-597).

Is hereby amended to read:

The bus stop shelter detail shall be designed to include architectural design features of the proposed buildings within the MUPD. The bus stop shelter details, which include elevations, dimensions and construction/decorative materials, shall be submitted to the Architectural Review Section for review and approval prior to final approval by the Development Review Officer (DRO). (DRO:ARCH REVIEW - Zoning)

ZONING - LANDSCAPING- - ALONG THE EAST AND SOUTH PROPERTY LINES (ABUTTING RESIDENTIAL)

- 10. Condition Landscaping – Along The East And South Property Lines 1 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

In addition to code requirements, landscaping along the east and south property lines (adjacent to the Hamptons PUD) shall be upgraded to include:

- a. A continuous two (2) foot high berm;
- b. a six (6) foot high opaque concrete wall, to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
- c. one additional palm or pine shall be planted every twenty (20) linear feet on alternating sides of the wall; and,

- d. 3 layers of shrubs required to be planted on both sides of the wall. (BLDG PERMIT: LANDSCAPE-Zoning) (Previous Condition Landscaping – Along The East And South Property Lines 1 of Resolution R-2006-1205, Control No. 2005-597).

Is hereby amended to read:

In addition to code requirements, landscaping along the east and south property lines (adjacent to the Hamptons PUD) shall be upgraded to include:

- a. A continuous two (2) foot high berm;
- b. a six (6) foot high opaque concrete wall to be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
- c. one additional palm or pine shall be planted every twenty (20) linear feet on alternating sides of the wall. (BLDG PERMIT: LANDSCAPE-Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning) (Previous Condition Lighting 1 of Resolution R-2006-1205, Control No. 2005-597).
2. Condition Lighting 2 of Resolution R-2006-1205, Control No. 2005-597), which currently states:

All outdoor freestanding lighting fixtures be setback fifty (50) feet from the south and east property lines adjacent to residential property. (BLDG PERMIT: BLDG Zoning)

Is hereby amended to read:

All outdoor freestanding lighting fixtures be setback fifty (50) feet from the east property line adjacent to residential property. (BLDG PERMIT: BLDG Zoning)

3. Condition Lighting 3 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

No outdoor lighting shall be installed at the school over the recreation fields, excluding security lighting only. (ONGOING: CODE ENF - Zoning)

Is hereby amended to read:

No outdoor lighting shall be installed at the outdoor activity area at the southeast corner of the site, excluding security lighting only. (ONGOING: CODE ENF - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, the property owner shall convey an additional 10 feet along the east property line, and adjacent to the existing 100 foot right-of-way, for the ultimate right-of-way of the E-1 Canal. (PLAT: ENG - LWDD)

PALM TRAN

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, 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 not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT: ENG-Palm Tran)

PARKS

1. Prior to final plat approval the property owner shall enter into a lake maintenance easement agreement in a form acceptable to PalmBeach Countys Property and Real Estate Management Division for the perpetual upkeep of the shoreline of the existing lake and any submerged plantings, where it abuts Yamato Courts southerly property boundary. (PLAT: PARKS - PREM) (Previous Condition Parks 1 of Resolution R-2006-1206, Control No.2005-597) (NOTE: COMPLETED)

PLANNING

1. Non-residential development on the CL/8 portion of the site shall be limited to a maximum of 50,000 square feet. (Previous Condition Planning 1 of Resolution R-2006-1206, Control No.2005-597) (DRO/ONGOING: PLANNING - Planning)
2. Development on INST/8 portion of the site shall be limited to school uses with a maximum of 72,000 square feet and a Congregate Living Facility (CLF) with a maximum of 94 beds. If the site develops alternatively with residential uses (other than a CLF), the site shall be governed by the density allowed under the HR-8 land use designation. (Previous Condition Planning 2 of Resolution R-2006-1206, Control No.2005-597) (DRO/ONGOING: PLANNING - Planning)

SIGNS

1. Freestanding signs fronting on Yamato Road and SR-7/US 441 shall be limited as follows:
 - a. maximum sign face area per side - one hundred (100) square feet per sign;
 - b. maximum number of signs two (2) for the overall site (one sign at each entrance);
 - c. style - monument style only;
 - d. location within fifty (50) feet of each entrance drive. (BLDG PERMIT: BLDG - Zoning)

SITE DESIGN

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within seventy-five (75) feet of any property line, and shall be confined to the areas designated on the site plan. (DRO: ZONING-Zoning) (Previous Condition Site Design 1 of Resolution R-2006-1205, Control No. 2005-597)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are aq direct or indirect result of the development, the'developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING:PBCWUD-PBCWUD) (Previous Condition Utilities 1 of Resolution R-2006-1205, Control No. 2005-597)

COMPLIANCE

1. In granting this approval, the Zoning Commission 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 Zoning Commission for review under the

compliance condition of this approval. (ONGOING: MONITORING - Zoning) (Previous Condition Compliance 1 of Resolution R-2006-1205, Control No. 2005-597).

2. Condition Compliance 2 of Resolution R-2006-1205, Control No. 2005-597, which currently states:

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.

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. (ONGOING: MONITORING - Zoning)

Is hereby amended to read:

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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)