

RESOLUTION NO. R-92- 183

RESOLUTION APPROVING ZONING PETITION NO. 84-139(B)
SPECIAL EXCEPTION PETITION OF AMERICAN SECURITIES FINANCIAL, INC.

WHEREAS, the Board of County Commissioners, as the governing body, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 84-139(B) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on October 24, 1991; and

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

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 84-139(B), the petition of AMERICAN SECURITIES FINANCIAL, INC., BY RUSSELL C. SCOTT, AGENT, for a SPECIAL EXCEPTION TO AMEND THE MASTER PLAN FOR THE RAINBERRY PUD TO REDESIGNATE RETIREMENT HOUSING AS CONVENTIONAL HOUSING AND TO EXTINGUISH A PREVIOUSLY APPROVED NURSING CARE FACILITY on a parcel of land lying situated in Section 19, Township 47 South, Range 42 East, being a portion of Block 78 of the PALM BEACH FARMS COMPANY'S PLAT NO. 3, as recorded in Plat Book 2, Pages 45 through 54, being more particularly described as follows: BEGINNING at the Northwest corner of Tract 42 of said Block 78; thence N89°37'02"E, along the north line of said Tract 42, and the north line of Tracts 39 through 41, of said Plat, a distance of 1,656.71 feet; thence S00°22'58"E a distance of 435.45 feet; thence S89°37'02"W a distance of 458.56 feet; thence S00°22'58"E a distance of 460.65 feet to the proposed north right-of-way line of Central Park Boulevard North; thence along said proposed north right-of-way line the following five courses and distances 1) S89°37'02"W a distance of 223.09 feet to the beginning of a curve, having a radius of 438.81 feet from which a radial line bears S00°22'58"E; thence 2) westerly and southwesterly along the arc of said curve, subtending a central angle of 28°29'44", a distance of 218.24 feet; thence 3) S61°07'18"W a distance of 198.25

feet to the beginning of a curve, having a radius of 348.81 feet from which a radial line bears N28°52'42"W; thence 4) southwesterly and westerly along the arc of said curve, subtending a central angle of 28°29'44", a distance of 173.48 feet; thence 5) S89°37'02"W a distance of 415.01 feet to the west line of said Block 78; thence N00°53'32"W, along the west line of said Block 78, a distance of 1,086.14 feet to the POINT OF BEGINNING, and being located ON THE E SIDE OF SR 7, APPROX. .5 MILE S OF GLADES RD., IN THE RM ZONING DISTRICT, was approved on October 24, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. 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.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 65). Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Zoning Code Section 402.7(E)2(b) (Site Plan Review Committee Powers and Standards of Review) or required by the conditions of approval contained herein.
3. The petitioner shall submit an application to the Site Plan Review Committee for the certification of the Master Plan approved by the Board of County Commissioners for this site prior to February 7, 1992.

B. CANAL BANK MAINTENANCE

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.

C. ENVIRONMENTAL RESOURCES MANAGEMENT

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.

D. HEALTH

1. Since sewer service is available to the property, septic tank shall not be approved for use on said property. (Previously Condition 4 of Resolution No. R-89-751, Petition No. 84-139(A)).
2. Since water service is available to the property, a potable water well shall not be approved for use on said

property. (Previously Condition 5 of Resolution No. R-89-751, Petition No. 84-139(A)).

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.
2. 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.
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 132 dwelling units shall not be issued until construction has begun for the 6 laning of State Road 7 from Glades to Palmetto Park Road plus the appropriate paved tapers.
 - b) Building Permits for more than 271 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.
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.
5. 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.
6. This development shall retain on-site the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended. (Previously Condition 4 of Resolution No. R-85-280, Petition No, 84-139).

7. The developer shall construct concurrent with construction of each of the project's entrance roads onto North Central Boulevard a Left Turn Lane, West approach. (Previously Condition 5 of Resolution No. R-85-280, Petition No. 84-139).
8. 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. Presently, the Fair Share Fee for this project is \$16,500.00. (Previously Condition 6 of Resolution No. R-85-280, Petition No. 84-139).
9. Condition No. 7, Resolution R-85-280, which currently states:

"No building permits, other than for the life care facility (510 units), shall be issued for this project until S.R. 7 if four (4) laned from Palmetto Park Road through the intersection of Glades Road, plus the appropriate tapers per the County Engineer's approval. This construction shall also include an overlay of the existing lanes if required by the County Engineer."

is hereby deleted.
10. Condition No. 8, Resolution R-85-280, which currently states:

"The petitioner shall expand \$77,000.00 on the landscaping of the median of S.R. 7, from Glades Road to the Hillsboro Canal. The landscaping shall include a six-inch non-mountable curb, and be subject to approval of the Department of Transportation."

is hereby deleted.
11. 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 presently is \$2,813.00 (105 trips x \$26.79 per trip). (Previously Condition 6 of Resolution No. R-89-751, Petition No. 84-139 (A)).
12. 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. (Previously Condition 7 of Resolution No. R-89-751, Petition No. 84-139(A)).
13. Building permits may be issued after January 1, 1995, without further approval by the Board of County Commissioners, if the developer submits a traffic study that is approved by the County Engineer or his designee that demonstrates the project can meet the current traffic performance standards ordinance.

F. LANDSCAPING

1. Prior to site plan certification, the Master Plan for the 360 unit development shall be amended to comply with Section 500.35 (Landscape Code) of the Zoning Code.
2. Prior to site plan certification, the petitioner shall obtain, if possible, permission from the Florida State Department of Transportation (FDOT) or the County Engineer to landscape the median of all abutting rights-of-way. This landscaping shall consist of a minimum of one (1) twelve (12) foot tall native tree for each thirty (30) linear feet of the adjacent median and appropriate ground cover. Trees may be planted singly or in clusters, with a maximum spacing of sixty (60) feet on center. All landscape material shall be selected according to xeriscape principles from the following list:

<u>Trees</u>	<u>Ground cover</u>
Turkey Oak	Wedilia
Live Oak	Bahia Grass
Slash Pine	
Sabal Palmetto	

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

- a. All plants shall be container grown.
- b. The bottom cushion of the planting area shall include a minimum four (4) inch thick, high moisture retaining, marl based soil.
- c. Potting soil shall be placed around the plant root balls at time of planting.

This landscaping shall be the daily maintenance obligation of the property owner, including irrigation, for ninety (90) days from installation and shall be installed prior to the issuance of the first certificate of occupancy within the 360 unit portion of the PUD. This landscaping shall remain the perpetual maintenance obligation of the property owner(s) until such time another entity assumes this maintenance obligation.

G. LIGHTING

1. All lighting shall be directed away from the adjacent residential area. (Previously Condition 8 of Resolution No. R-89-751, Petition No. 84-139(A)).
2. Tennis court and baseball field lighting shall be extinguished by 11:00 P.M. (Previously Condition 9 of Resolution No. R-89-751, Petition No. 84-139(A)).

H. PARKS AND RECREATION

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).

I. SCHOOL BOARD

1. 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.
2. 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.

J. SITE DESIGN

1. Prior to Site Plan Certification a revised Master Plan shall be submitted reflecting the circulation pattern throughout the Planned Unit Development. (Previously Condition 1 of Resolution No. R-85-280, Petition No. 84-139)
2. Condition No. 2 of Resolution No. R-85-280, Petition No. 84-139 which currently states:

"Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties."

is hereby deleted.

3. Condition 3 of Resolution No. R-85-280, Petition No. 84-139 which currently states:

"Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters."

is hereby deleted.

K. VEGETATION PRESERVATION

1. Prior to master plan certification, the master plan shall be amended to indicate the following:
 - a. The area of Cypress mitigation as specified in Condition No. 3, below.
 - b. Acreage of the maintenance area and the proposed use.
 - c. Open space breakdown in the tabular data.

(Previously Condition 2 of Resolution No. R-89-751, Petition No. 84-139(A)) .

2. A representative of the petitioner, the Zoning Division, the Department of Environmental Resources Management and South Florida Water Management District shall meet on site to define and determine the Cypress preservation boundaries on the west side of the Lake Worth Drainage District Lateral Canal No. 47. The boundaries shall be designated on the master plan. Intrusion into the area, other than for the removal of prohibited species, shall be limited to the one pedestrian link shown on the master plan. The removal of the Cypress on the east side of the L-47 Canal shall be mitigated by relocating the existing trees, or planting new Cypress near the entrance road. A report detailing the mitigation plan shall be submitted to the Zoning Division and approved as a supplement to the vegetation removal information simultaneously with the site plan review application. (Previously Condition 3 of Resolution No. R-89-751, Petition No. 84-139(A)).
3. Concurrent with the application for site plan approval of the site plan, the petitioner shall submit a tree preservation, relocation and removal program which corresponds to the tree survey. This program shall demonstrate methods in which significant native vegetation shall be incorporated into the site design.

L. TREE SURVEY

1. Prior to site plan certification for additional **Category "C"** apartments, the petitioner shall submit a tree survey for the 360 unit development drawn at the same scale as the site plan. This survey shall number, size and identify all hardwood, cypress, pine and palm trees over four (4) inches in diameter in a tabular form.
2. The trees allocated to meet the minimum tree planting requirements within the active recreation area shall be distributed along the property lines adjacent to residential lots or residentially zoned **property**. (Previously Condition 10 of Resolution No. R-89-751, Petition No. 84-139(A)).
3. The petitioner shall preserve canopy and understory vegetation within the twenty five (25) foot buffer along the southern and western property lines on the five (5) acre outdoor recreation parcel. (Previously Condition 11 of Resolution No. R-89-751, Petition No. 84-139(A)).

M. COMPLIANCE

1. Condition 1 of Resolution No. R-89-751, Petition No. 84-139(A) which currently states:

"The developer shall comply with all previous conditions of approval unless expressly modified herein."

is hereby deleted.
2. As provided in Zoning Code Sections 400.2 and 432.6, failure to comply with any of these conditions of approval at any time may result in one or more of the following:
 - a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a

stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;

- b. The addition or modification of conditions, possibly including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - c. Citation of the property owner for violation of the Zoning Code.
3. Other actions as permitted in Chapter 120, Section 380.11 or Section 380.06, Florida Statutes.
 4. Appeals of any **departmental-administrative** actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of special exception, rezoning, or other actions based on a Board of County Commissioners decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Roberts moved for approval of the Resolution.

The motion was seconded by Commissioner McCarty and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	--	Aye
Carole Phillips	--	Aye
Carol A. Roberts	--	Aye
Carol J. Elmquist	--	Aye
Mary McCarty	--	Aye
Ken Foster	--	Aye
Maude Ford Lee	--	Aye

The Chair thereupon declared the resolution was duly passed and adopted this 4th day of February, 1992.

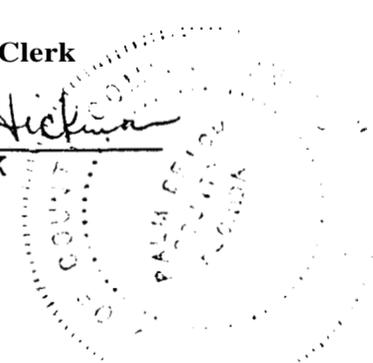
APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

Milton T. Bauer, Clerk

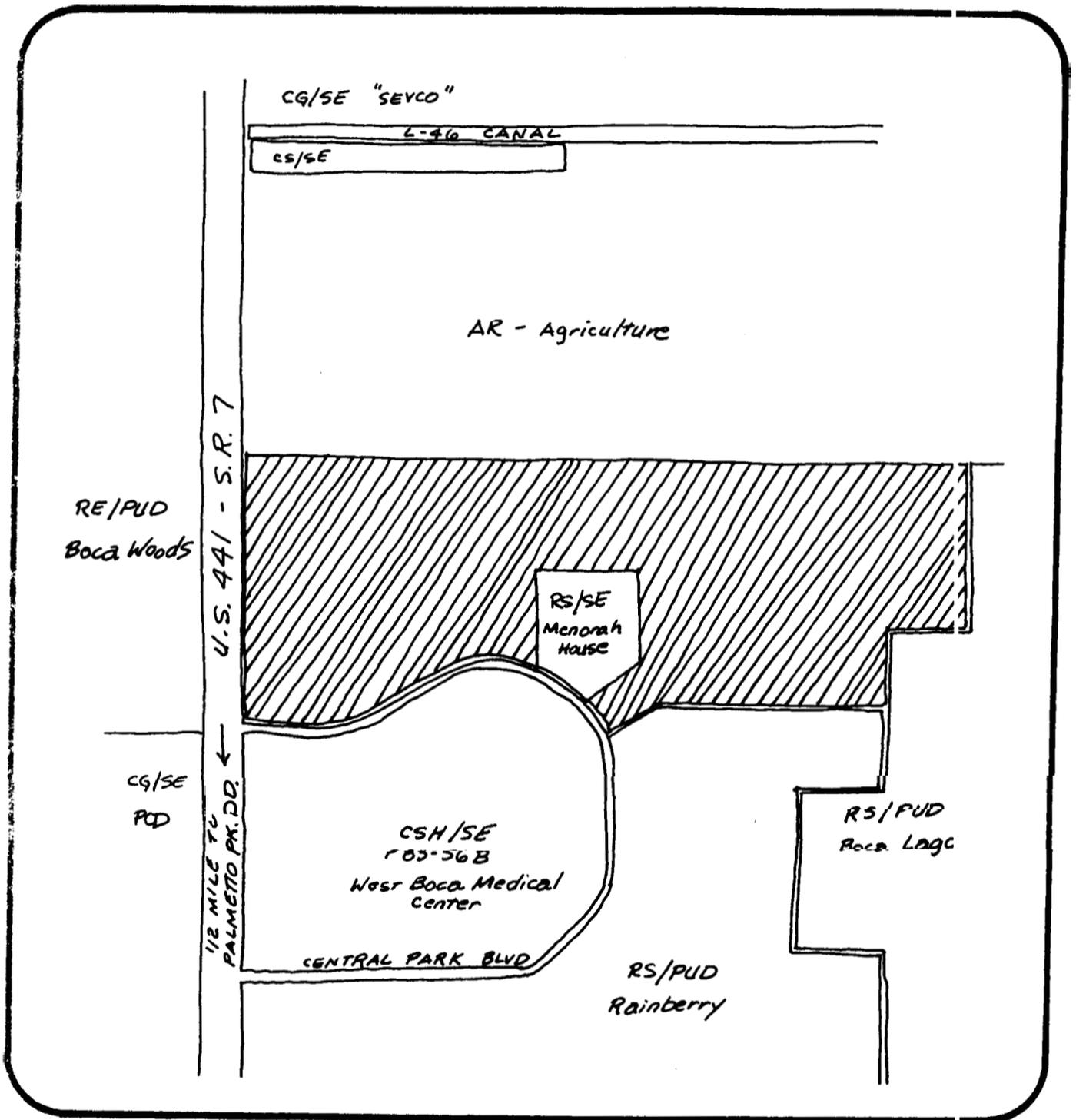
BY: *Robert Olt*
COUNTY ATTORNEY

BY: *Linda C. Hickman*
DEPUTY CLERK



Sec. 19 Twp. 47 Rng. 42
Quadrant Sheet: 54
Aerial Page: 405

Vicinity Sketch



Request:

A SPECIAL EXCEPTION to amend the Master Plan for the Rainberry PUD to redesignate retirement housing as conventional housing. If approved, this will extinguish a previously approved nursing care facility.

PETITION NO: 84-139 (A)

BCC DISTRICT: 4