

RESOLUTION NO. R-2007- 0083

RESOLUTION APPROVING ZONING APPLICATION DOA2006-1190  
(CONTROL NUMBER 2004-616)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF KRG/ATLANTIC DELRAY BEACH, LLC  
BY URBAN DESIGN STUDIO, AGENT  
(DELRAY MARKETPLACE TMD)

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 DOA2006-1190 was presented to the Board of County Commissioners at a public hearing conducted on January 25, 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 that require the Development Order Amendment.

WHEREAS, Article 2.A.1.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 DOA2006-1190, the application of KRG/Atlantic Delray Beach, LLC, by Urban Design Studio, agent, for a Development Order Amendment to add land area, reconfigure master plan and modify conditions 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 January 25, 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 Koons 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	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	-

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 25, 2007.

Filed with the Clerk of the Board of County Commissioners on 8th day of February, 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

#### **LEGAL DESCRIPTION: (OVERALL SITE)**

TRACTS 97, 98, 99 AND THAT PORTION OF TRACT 100 LYING WITHIN 365.00 FEET OF THE EAST LINE OF SAID TRACT 99, TRACTS 124, 125, 126 LESS THE SOUTH 40.0 FEET THEREOF; TRACT 127 LESS THE SOUTH 81.0 FEET THEREOF; AND TRACT 128 LESS THE SOUTH 40.00 FEET THEREOF, ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,

AND LESS THAT PORTION OF TRACT 124 DESCRIBED AS FOLLOWS:  
BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°08'50" EAST, ALONG THE NORTH LINE OF SAID TRACT 124, A DISTANCE OF 133.94; THENCE SOUTH 01°03'00" EAST, A DISTANCE OF 669.45 FEET TO A POINT ON A LINE 110.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 133.30 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 668.52 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:  
COMMENCE AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF TRACT 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°02'51" WEST ALONG THE WEST LINE OF SAID TRACT 128, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 62.00 FEET; THENCE ALONG A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 18 NORTH 89°32'49" EAST, A DISTANCE OF 101.83 FEET; THENCE ALONG A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 89°58'59" EAST, A DISTANCE OF 82.45 FEET; THENCE NORTH 44°29'01" EAST, A DISTANCE OF 36.07 FEET TO A POINT ON THE EAST LINE OF THE WEST 210 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 01°02'51" EAST, A DISTANCE OF 87.75 FEET; THENCE NORTH 89°58'59" WEST, ALONG A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17, A DISTANCE OF 109.09 FEET; THENCE SOUTH 89°32'49" WEST ALONG A LINE 40.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 41.18 ACRES, MORE OR LESS.

#### **LEGAL DESCRIPTION: (DEVELOPMENT AREA)**

TRACT 97, LESS THE EAST 195.0 FEET THEREOF, TRACTS 98, 99 AND THAT PORTION OF TRACT 100 LYING WITHIN 365.00 FEET OF THE EAST LINE OF SAID TRACT 99, TRACTS 124, 125, 126 LESS THE SOUTH 40.0 FEET THEREOF; TRACT 127 LESS THE SOUTH 81.0 FEET THEREOF; AND TRACT 128 LESS THE SOUTH 40.00 FEET, EAST 195.00 FEET AND THE SOUTH 240.0 FEET OF THE WEST 210.0 FEET THEREOF ALL BEING IN BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF



PALM BEACH COUNTY, FLORIDA,

AND LESS THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124 AND 125; THENCE ALONG SAID PARALLEL LINE NORTH 89°32'49" EAST, A DISTANCE OF 615.66 FEET; THENCE NORTH 01°04'09" WEST, A DISTANCE OF 12.50 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE NORTH 89°00'55" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 691.41 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE SOUTH 01°02'51" EAST, ALONG SAID EAST LINE, A DISTANCE OF 47.92 FEET TO A POINT ON A LINE 81.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 326.41 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE SOUTH 01°04'09" EAST, ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 980.64 FEET TO THE POINT OF BEGINNING.

AND LESS THAT PORTION OF TRACT 124 DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF TRACT 124, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°08'50" EAST, ALONG THE NORTH LINE OF SAID TRACT 124, A DISTANCE OF 133.94; THENCE SOUTH 01°03'00" EAST, A DISTANCE OF 681.45 FEET TO A POINT ON A LINE 98.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 124; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 133.29 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 680.52 FEET TO THE POINT OF BEGINNING.

CONTAINING 32.45 ACRES, MORE OR LESS.

TOGETHER WITH THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING IN SECTIONS 17 AND 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACT 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 128, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 128, BLOCK 18 NORTH 01°02'51" WEST, A DISTANCE OF 40.00 FEET; THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 88.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID WEST LINE NORTH 0°02'51" WEST, A DISTANCE OF 111.09 FEET TO THE NORTH LINE OF THE SOUTH 240.00 FEET OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG SAID NORTH LINE NORTH 8°32'49" EAST, A DISTANCE OF 103.83 FEET; THENCE CONTINUE ALONG SAID NORTH LINE SOUTH 8°58'59" EAST, A DISTANCE OF 42.44 FEET TO THE WEST LINE OF THE EAST 195.00 FEET OF SAID TRACT 128; THENCE ALONG SAID WEST LINE SOUTH 0°03'00" EAST, A DISTANCE OF 109.38 FEET TO A LINE 1320.00 FEET SOUTH OF AND



PARALLEL WITH THE NORTH LINE OF THE AFOREMENTIONED TRACT 97, BLOCK 18; THENCE ALONG SAID PARALLEL LINE SOUTH 8°00'55" WEST , A DISTANCE OF 146.26 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.37 ACRES, MORE OR LESS.

TOTAL DEVELOPMENT AREA CONTAINING 32.82 ACRES, MORE OR LESS.

**LEGAL DESCRIPTION: (LYONS ROAD)**

A PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACTS 97 AND 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 95.00 FEET OF TRACT 97, BLOCK 18;

TOGETHER WITH THE:

THE EAST 95.00 FEET OF TRACT 128, BLOCK 18 LESS THE SOUTH 164.0 FEET THEREOF;

CONTAINING 2.81 ACRES, MORE OR LESS.

**LEGAL DESCRIPTION: (PROPOSED ATLANTIC AVENUE)**

THAT PORTION OF TRACTS 124, 125, 126 AND 127 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 124; THENCE NORTH 01°06'19" WEST, ALONG THE WEST LINE OF SAID TRACT 124, A DISTANCE OF 40.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°06'19" WEST, ALONG SAID WEST LINE, A DISTANCE OF 70.00 FEET TO A POINT ON A LINE 110.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124 AND 125; THENCE ALONG SAID PARALLEL LINE NORTH 89°32'49" EAST, A DISTANCE OF 615.66 FEET; THENCE NORTH 01°04'09" WEST, A DISTANCE OF 12.50 FEET TO A POINT ON A LINE 1320.0 FEET SOUTH OF AND PARALLEL TO THE NORTH LINE OF TRACTS 98, 99 AND 100, BLOCK 18, OF SAID PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE NORTH 89°00'55" EAST, ALONG SAID PARALLEL LINE, A DISTANCE OF 691.41 FEET TO A POINT ON THE EAST LINE OF SAID TRACT 127; THENCE SOUTH 01°02'51" EAST, ALONG SAID EAST LINE, A DISTANCE OF 47.92 FEET TO A POINT ON A LINE 81.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACT 127; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 326.41 FEET TO A POINT ON THE WEST LINE OF SAID TRACT 127; THENCE SOUTH 01°04'09" EAST, ALONG SAID WEST LINE, A DISTANCE OF 41.00 FEET TO A POINT ON A LINE 40.0 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF SAID TRACTS 124, 125 AND 126; THENCE SOUTH 89°32'49" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 980.64 FEET TO THE POINT OF BEGINNING.

CONTAINING 88,973 SQUARE FEET/2.04 ACRES, MORE OR LESS.

TOGETHER WITH THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF TRACT 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°02'51" WEST ALONG THE WEST LINE OF SAID TRACT 128, A DISTANCE OF 102.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 26.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1.; THENCE ALONG SAID PARALLEL LINE NORTH 8°00'55" EAST, A DISTANCE OF 210.00 FEET TO THE EAST LINE OF THE WEST 240.00 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 0°02'51" EAST, A DISTANCE OF 4.01 FEET; THENCE SOUTH 4°29'01" WEST, A DISTANCE OF 36.07 FEET TO A POINT ON A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE ALONG SAID PARALLEL LINE NORTH 8°58'59" WEST, A DISTANCE OF 82.45 FEET; THENCE ALONG A LINE 102.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 8°32'49" WEST, A DISTANCE OF 101.83 FEET TO THE POINT OF BEGINNING.

CONTAINING 5574 SQUARE FEET/0.13 ACRES, MORE OR LESS.

TOGETHER WITH THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 8°58'59" EAST, A DISTANCE OF 240.96 TO THE SOUTHEAST CORNER OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG THE EAST LINE OF SAID TRACT 128, BLOCK 18 NORTH 0°03'00" WEST, A DISTANCE OF 40.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE EAST LINE OF SAID TRACT 128 NORTH 0°03'00" WEST, A DISTANCE OF 124.02 FEET TO A LINE 164.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG SAID PARALLEL LINE NORTH 8°58'59" WEST, A DISTANCE OF 95.02 FEET TO A LINE 95.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID TRACT 128, BLOCK 18; THENCE SOUTH 4°29'01" WEST, A DISTANCE OF 45.09 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 0°02'51" EAST, A DISTANCE OF 91.76 FEET TO A POINT ON A LINE 40.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG SAID PARALLEL LINE SOUTH 8°58'59" EAST, A DISTANCE OF 131.29 FEET TO THE POINT OF BEGINNING.

CONTAINING 15,630 SQUARE FEET/0.36 ACRES, MORE OR LESS.

TOTAL ATLANTIC AVENUE CONTAINING 2.53 ACRES, MORE OR LESS.

### **LEGAL DESCRIPTION: (RURAL PARKWAY)**

A PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACT 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF TRACTS 97 AND 128, BLOCK 18, PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26, 27 AND 28, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 100.00 FEET OF THE EAST 195.00 FEET OF TRACT 97, BLOCK 18;

TOGETHER WITH THE:

THE WEST 100.00 FEET OF THE EAST 195.00 FEET OF TRACT 128, BLOCK 18 LESS THE SOUTH 40.00 FEET AND THE SOUTH 240.0 FEET OF THE WEST 210.0 FEET THEREOF;

LESS THAT PORTION OF TRACT 128 DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST SOUTH 8°58'59" EAST, A DISTANCE OF 240.96 TO THE SOUTHEAST CORNER OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG THE EAST LINE OF SAID TRACT 128, BLOCK 18 NORTH 0°03'00" WEST, A DISTANCE OF 40.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE EAST LINE OF SAID TRACT 128 NORTH 0°03'00" WEST, A DISTANCE OF 124.02 FEET TO A LINE 164.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG SAID PARALLEL LINE NORTH 8°58'59" WEST, A DISTANCE OF 95.02 FEET TO A LINE 95.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID TRACT 128, BLOCK 18; THENCE SOUTH 4°29'01" WEST, A DISTANCE OF 45.09 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID TRACT 128; THENCE ALONG SAID EAST LINE SOUTH 0°02'51" EAST, A DISTANCE OF 91.76 FEET TO A POINT ON A LINE 40.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG SAID PARALLEL LINE SOUTH 8°58'59" EAST, A DISTANCE OF 131.29 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.86 ACRES, MORE OR LESS.

TOGETHER WITH:

A PARCEL OF LAND LYING IN SECTION 17, TOWNSHIP 46 SOUTH, RANGE 42 EAST, BEING A PORTION OF TRACT 128, BLOCK 18 OF THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

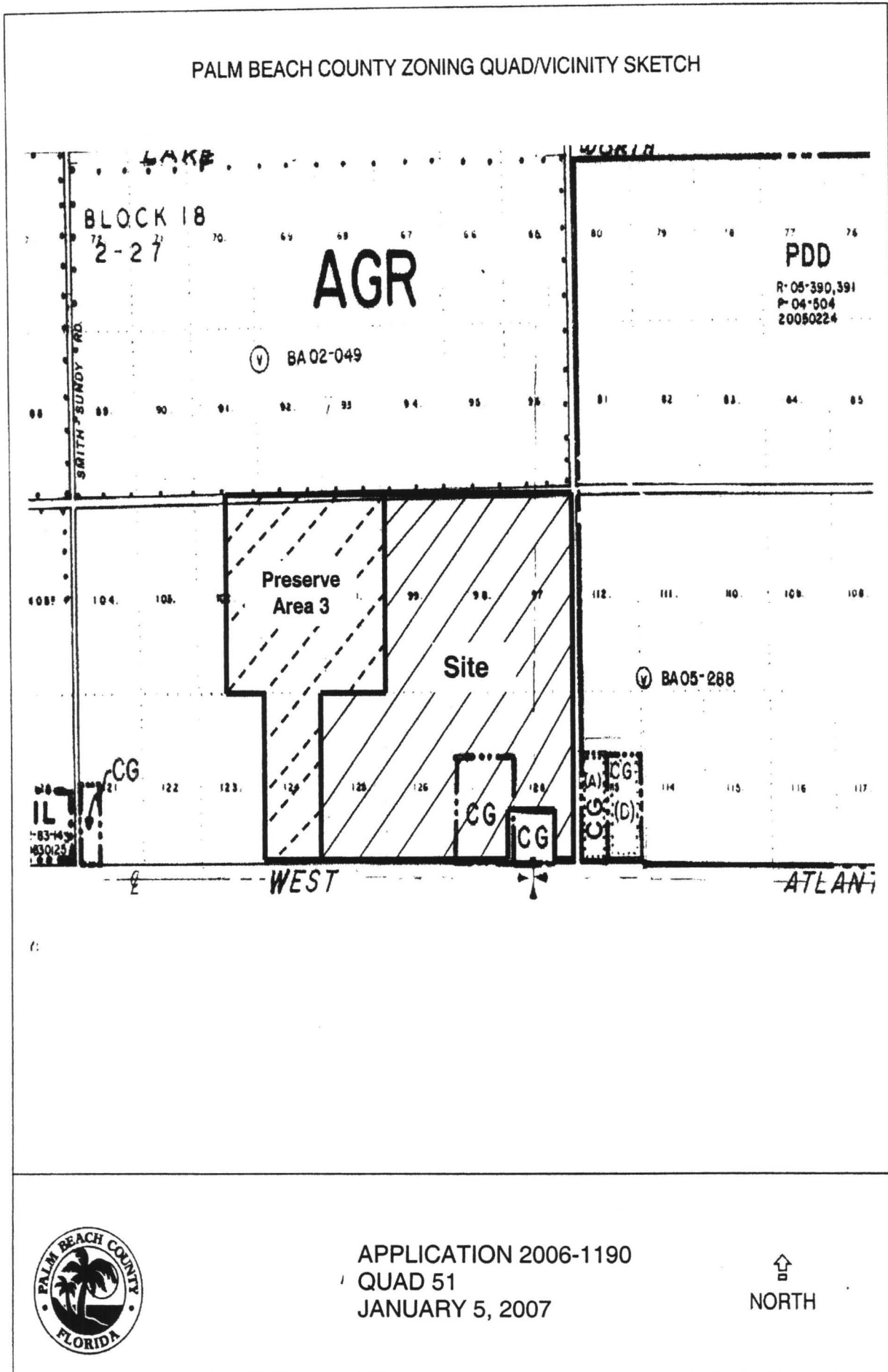
COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°32'49" WEST, ALONG THE SOUTH LINE OF SAID SECTION 18, A DISTANCE OF 100.35 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 128, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 128, BLOCK 18 NORTH 01°02'51" WEST, A DISTANCE OF 40.00 FEET; THENCE CONTINUE ALONG SAID WEST LINE NORTH 01°02'51" WEST, A DISTANCE OF 88.92 FEET TO A POINT ON A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF TRACT 97, BLOCK 18 OF SAID PALM BEACH FARMS COMPANY PLAT NO. 1; THENCE CONTINUE ALONG SAID WEST LINE NORTH 0°02'51" WEST, A DISTANCE OF 111.09 FEET TO THE NORTH LINE OF THE SOUTH 240.00 FEET OF THE AFOREMENTIONED TRACT 128, BLOCK 18; THENCE ALONG SAID NORTH LINE NORTH 8°32'49" EAST, A DISTANCE OF 103.83 FEET; THENCE CONTINUE ALONG SAID NORTH LINE SOUTH 8°58'59" EAST, A DISTANCE OF 42.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE NORTH LINE OF THE SOUTH 240.00 FEET OF SAID TRACT 128, BLOCK 18 SOUTH 8°58'59" EAST, A DISTANCE OF 63.75 FEET TO THE EAST LINE OF THE WEST 210.00 FEET OF SAID TRACT 128; THENCE ALONG THE EAST LINE OF THE WEST 210.00 FEET OF SAID TRACT 128, BLOCK 18 SOUTH 0°02'51" EAST, A DISTANCE OF 108.27 FEET TO A LINE 1320.00 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF THE AFOREMENTIONED TRACT 97, BLOCK 18; THENCE ALONG SAID PARALLEL LINE SOUTH 8°00'55" WEST, A DISTANCE OF 63.74 FEET TO A LINE 195.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID TRACT 128, BLOCK 18; THENCE ALONG SAID PARALLEL LINE NORTH 01°03'00 WEST, A DISTANCE OF 109.38 FEET TO THE POINT OF BEGINNING.

CONTAINING 6,937 SQUARE FEET/0.16 ACRES, MORE OR LESS.

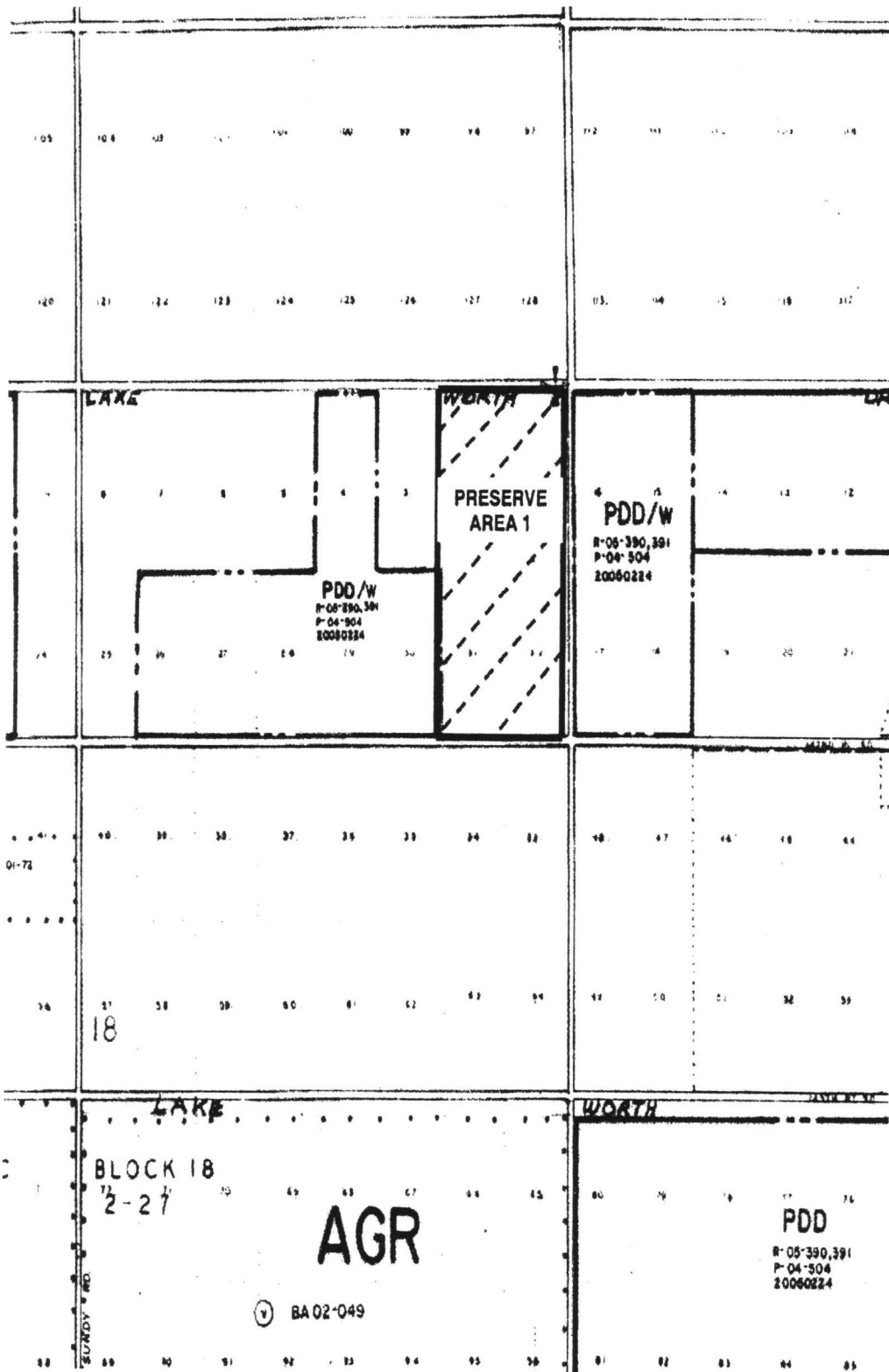
TOTAL RURAL PARKWAY CONTAINING 3.02 ACRES, MORE OR LESS.



EXHIBIT B  
VICINITY SKETCH



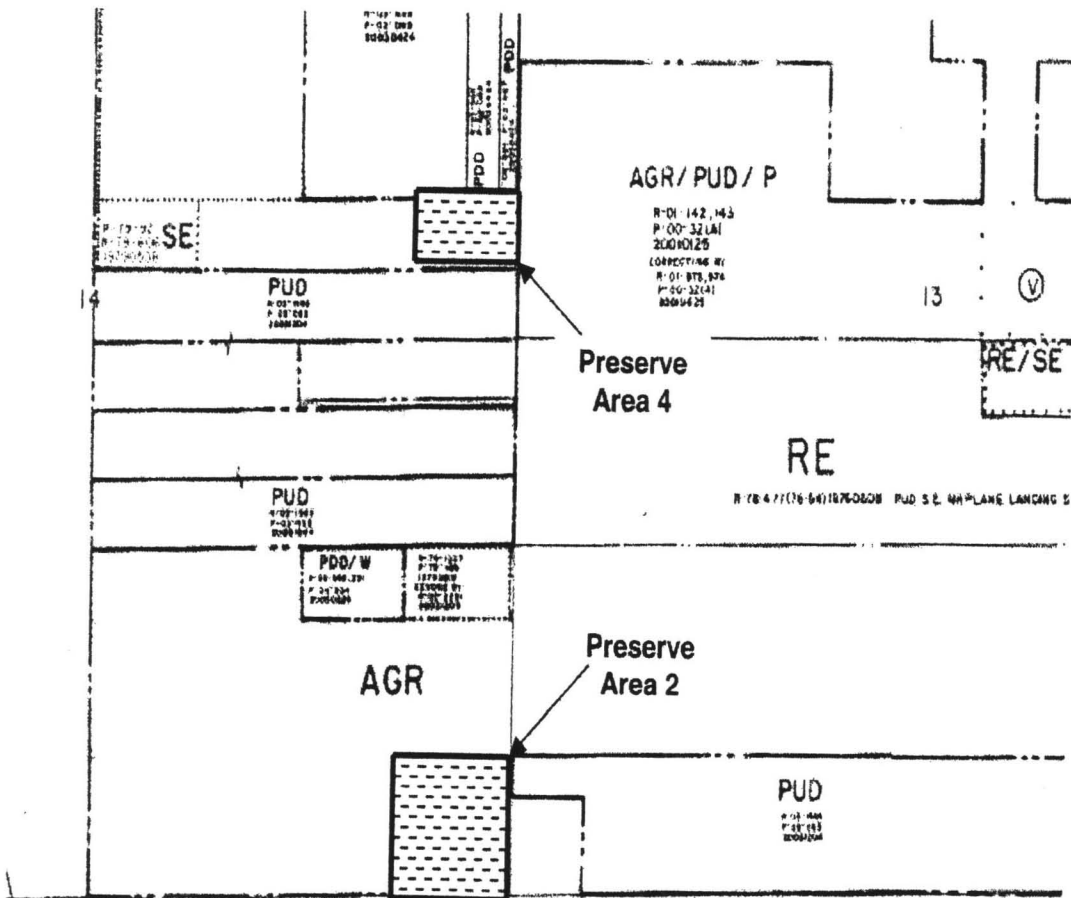
PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



APPLICATION 2006-1190  
 QUAD 51  
 JANUARY 5, 2007



PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



ST BOUND  
R&TE BOUND



B  
C



APPLICATION 2006-1190  
QUAD 64  
JANUARY 5, 2007





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. All Petitions Condition 1, of Resolution 2005-1626, Control 2004-1029 which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved Site Plan is dated June 21, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval, are in accordance with the ULDC, or are authorized by a variance granted in accordance with Article 2.B.3. of the ULDC. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved Site Plan is dated November 9, 2006. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval, are in accordance with the ULDC, or are authorized by a variance granted in accordance with Article 2.B.3. of the ULDC. (ONGOING: ZONING - Zoning)

2. Building And Site Design Condition 2 of Resolution 2005-1626, Control No. 2004-1029 which currently states:

Prior to final approval by the Development Review Officer (DRO), Resolution R-74-344 (Petition 74-61) shall be abandoned or amended to resolve all geographic overlap with the boundaries of the development area of the subject site. Overlap with preservation area associated with this project shall be permitted only if consistent with ULDC use regulations and all other applicable provisions. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Condition completed]

3. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2005-1626 (Control 2004-616), and Resolution R-2005-1627 (Control 2004-616), 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 Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), architectural elevations for all buildings and structures shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations shall be designed to be consistent with ULDC Articles 5.C, 3.F.4.D.3. and 3.F.4.D.9., and shall reflect a character that is generally consistent with the elevations prepared by Scott Partnership dated June 21, 2005. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning) Previous Architectural Review Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. Design of gutters and downspouts shall be integrated into the architectural design of each building, excluding the freestanding multifamily buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH

REVIEW - Zoning) (Previous Architectural Review Condition 2 of Resolution 2005-1626, Control No. 2004-1029)

3. Each freestanding multifamily dwelling unit shall include a garage that exceeds the minimum residential parking dimensions or a separate storage closet for trash receptacles, as deemed acceptable to the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Architectural Review Condition 3 of Resolution 2005-1626, Control No. 2004-1029)

#### BUILDING AND SITE DESIGN

1. Building And Site Design Condition 1 of Resolution 2005-1626, Control No. 2004-1029) Which currently states:

To ensure consistency with the site plan presented to the Board of County Commissioners and dated June 21, 2005, no more than ten (10) percent of the total approved square footage for each building shall be relocated to portions of the site not previously covered. (DRO: ZONING - Zoning)

Is hereby amended to read:

To ensure consistency with the site plan presented to the Board of County Commissioners and dated November 9, 2006, no more than ten (10) percent of the total approved square footage for each building shall be relocated to portions of the site not previously covered. (DRO: ZONING - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the entire length of the following building facades shall be designated as additional primary frontage and designed to primary frontage standards:
  - a. west facade of Building B;
  - b. west facade of Building C;
  - c. north facade of Building G; and,
  - e. north facade of Building H. (DRO: ZONING - Zoning)
3. Previous Building And Site Design Condition 3 of Resolution 2005-1626, Control No. 2004-1029 which currently states:

The service area at the southeast corner of Building A shall be designed to include the following:

- a. a screening wall with a minimum height of fourteen (14) feet and a maximum height of twenty (20) feet measured from finished grade to highest point shall be provided for the entire length of the south and east sides of the service area. These screening walls shall be architecturally consistent with the building;
- b. a pitched roof with a minimum slope of 4:12. No flat roof shall be permitted;
- c. a decorative door, gate, or other acceptable means of screening with a minimum height of eight (8) feet shall be provided along the entire length of the west side of this area, except where a screening wall consistent with the requirements of 3.a. above may be constructed. This screening feature shall remain closed when this service area is not in use;
- d. foundation planting areas with a minimum width of ten (10) feet shall be provided along no less than sixty (60) percent of the length of the screening walls required along the south and east sides of the service area; and,
- e. the final design and details for this service area shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 3 of Resolution 2005-1626, Control No. 2004-1029)

Is hereby amended to state:

The service area at the south side of Building A shall be designed to include the following:

- a. a screening wall with a minimum height of fourteen (14) feet and a maximum height of twenty (20) feet measured from finished grade to highest point shall be provided for the entire length of the south and east sides of the service area. These screening walls shall be architecturally consistent with the building;
  - b. a pitched roof with a minimum slope of 4:12. No flat roof shall be permitted;
  - c. a decorative door, gate, or other acceptable means of screening with a minimum height of eight (8) feet shall be provided along the entire length of the west side of this area, except where a screening wall consistent with the requirements of 3.a. above may be constructed. This screening feature shall remain closed when this service area is not in use;
  - d. foundation planting areas with a minimum width of ten (10) feet shall be provided along no less than sixty (60) percent of the length of the screening walls required along the south side of the service area. (DRO: ARCH REVIEW - Zoning)
4. Decorative gates, doors or other acceptable means of screening shall be provided for the opening to the service areas of Buildings C, F, G and H. These screening features shall:
- a. have a minimum height of eight (8) feet measured from finished grade to highest point;
  - b. have a maximum height no greater than the height of the adjacent building facade;
  - c. be architecturally consistent with the building;
  - d. remain closed when the service areas are not in use; and,
  - e. be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 4 of Resolution 2005-1626, Control No. 2004-1029)
5. The screening walls adjacent to the service areas of Building B shall:
- a. have a minimum height of ten (10) feet measured from finished grade to highest point;
  - b. have a maximum height no greater than the height of the adjacent building facade;
  - c. be attached to the adjacent corners of the building;
  - d. extend a distance no less than the length of each service area;
  - e. be architecturally consistent with the building; and,
  - f. be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 5 of Resolution 2005-1626, Control No. 2004-1029)
6. All drive-thru facilities shall incorporate an overhead canopy designed to the following standards:
- a. a minimum length and width adequate to cover all queuing lanes below;
  - b. a maximum height of twenty-five (25) feet measured from finished grade to highest point;
  - c. a pitched roof with a minimum slope of 4:12. No flat roof shall be permitted;
  - d. lighting for the canopy shall be flush mounted or recessed;
  - e. a maximum of one (1) canopy sign not exceeding eighteen (18) inches in height shall be permitted. Signage shall be limited to the side of the canopy providing vehicle entry only; and,
  - f. the final design and details for these canopies shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 6. of Resolution 2005-1626, Control No. 2004-1029)



7. Prior to final approval by the Development Review Officer (DRO), the design and detail for the following amenities shall be subject to review and approval by the Architectural Review Section and reflected on the Regulating Plan:

- a. plazas;
- b. town square;
- c. event stage;
- d. pedestrian gathering areas;
- e. water features;
- f. architectural focal points;
- g. bus shelters;
- h. trellis;
- i. entry features;
- j. signage;
- k. street furniture; and,
- l. freestanding light fixtures.

All amenities shall be designed to be compatible with the architectural character of the principal buildings and to establish a consistent theme for the project. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 7. of Resolution 2005-1626, Control No. 2004-1029)

8. Prior to final approval by the Development Review Officer (DRO), the design and detail for all garden features shall be:

- a. subject to review and approval by the Landscape Section; and,
- b. reflected on the Regulating Plan. (DRO: LANDSCAPE - Zoning)(Previous Building And Site Design Condition 8. of Resolution 2005-1626, Control No. 2004-1029)

9. Previous Building And Site Design Condition 9 of Resolution 2005-1626, Control No. 2004-1029 which currently states:

Prior to final approval by the Development Review Officer (DRO), the site/regulating plan shall include layout and details of a tot lot, fitness station, rest station, or similar recreation amenity that is acceptable to the Zoning Division within the plaza located south of the multifamily residential buildings. This amenity shall be directly accessible from a paved pedestrian pathway with a minimum width of five (5) feet and provided in addition to minimum code requirements. (DRO: ZONING - Zoning)

Is hereby deleted: [Reason: Indoor recreation has been provided for the residents of Building H]

10. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate an architectural focal point (including, but not limited to, public art, fountain, tower feature, etc.) in:

- a. the open space area located to the southwest of Building I; or,
- b. incorporated into the southeast corner of the parking structure located adjacent to (west of) Building I. (DRO: ZONING - Zoning) (Previous Building And Site Design Condition 10. of Resolution 2005-1626, Control No. 2004-1029)

11. Previous Building And Site Design Condition 9 of Resolution 2005-1626, Control No. 2004-1029 which currently states:

Prior to final approval by the Development Review Officer (DRO), the site/regulating plan shall be revised to indicate the following elements in the area between Building I and the adjacent parking structure to the west:

- a. a minimum four (4) foot wide sidewalk connection leading from the pedestrian connection in the southeast corner of Building I;

- b. a minimum of one (1) freestanding light fixture with a maximum height of twelve (12) feet and a maximum spacing of twenty-five (25) feet on center, alternating on each side of the sidewalk. Alternatively, lighted bollards spaced a maximum distance of ten (10) feet on each side of the sidewalk shall be provided. Lighting shall be located adjacent to the sidewalk;
- c. ground cover or other low-profile vegetation shall be provided along the perimeter of these elements to define the boundaries of pedestrian space; and,
- d. the final design for this area shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning)

Is hereby deleted: [REASON: Redesign of the site makes the condition not applicable. The parking garage is above Building I South West and is now connected on the first floor]

12. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate a trellis with climbing vine or other entry feature acceptable to the DRO as follows:

- a. over each sidewalk at the entryways from West Atlantic Avenue; and,
- b. the final design and detail for these amenities shall be subject to review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Building And Site Design Condition 12. of Resolution 2005-1626, Control No. 2004-1029)

13. Previous Building And Site Design Condition 13. of Resolution 2005-1626, Control No. 2004-1029 which currently states:

Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate additional decorative paving treatment (pre-cast concrete paver blocks or stamped concrete) as follows:

- a. within the intersections located immediately north of the access drives from West Atlantic Avenue; and,
- b. this paving shall cover the entire area of the applicable drive aisle surface. (DRO: ZONING - Zoning)

Is hereby amended to state:

Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate additional decorative paving treatment (pre-cast concrete paver blocks or stamped concrete) as follows:

- a. within the intersections located immediately north of the access drives from West Atlantic Avenue; and,
- b. this paving shall cover the entire area of the applicable drive aisle surface as shown on the approved plan. (DRO: ZONING - Zoning)

14. Previous Building And Site Design Condition 14. of Resolution 2005-1626, Control No. 2004-1029 which currently states:

Subject to approval by the Development Review Officer (DRO), the gross first floor area of Building A may be expanded to 48,000 square feet in order to accommodate a specialized (i.e. boutique or natural food) grocery tenant. A maximum 7,000 square foot second story mezzanine may be permitted for offices, employees, restrooms, storage, and ancillary space. (DRO: ZONING -Zoning).

Is hereby amended to state:

Subject to approval by the Development Review Officer (DRO), the gross first floor area of Building A may be expanded to 55,000 square feet in order to accommodate a specialized (i.e. boutique or natural food) grocery tenant. A maximum 7,000

square foot second story mezzanine may be permitted for offices, employees, restrooms, storage, and ancillary space. (DRO: ZONING -Zoning).

15. In addition to ULDC requirements at least 60% of the Primary Frontages shall have arcades a minimum of 10 feet in width and 12 feet minimum height. The requirement for the arcades to be contiguous may be amended subject to a variance approval. (DRO: ARCH REVIEW - Zoning)
16. Prior to the final approval by the Development Review Officer (DRO), the site plan shall be revised to show a set of trellis/focal point identical to the one currently provided along the eastern edge of the northwest parking area. Design and detail shall be subject to Building and Site Design Condition 7. (DRO:ZONING-Zoning)

## ENGINEERING

1. The Property Owner shall be restricted to the following phasing schedule:
  - a. No Certificates of Occupancy shall be issued until Lyons Road has been constructed and open to traffic, as a 2 lane median divided facility from West Atlantic Avenue to the Project's north driveway. (CO: MONITORING-Eng)
  - b. No Building Permits shall be issued until construction commences for the realignment of Lyons Road south of Atlantic Avenue to include an exclusive left turn lane and shared through/right turn lane on the south approach. (BLDG PERMIT: MONITORING Eng)
  - c. Building Permits for more than 39 multi-family dwelling units shall not be issued until the contract has been awarded by the FDOT for the construction of West Atlantic Avenue as a 4 lane facility from Starkey Road to the Florida Turnpike or commencement of construction by someone other than FDOT plus the appropriate paved tapers (and) (BLDG PERMIT: MONITORING-Eng)
  - d. Building Permits for more than 39 multi-family dwelling units shall not be issued until construction has commenced for West Atlantic Avenue widening as a 4 lane facility from Starkey Road to Lyons Road, plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng)
  - e. Building permits for more than 86 multi-family dwelling units and 3,500 s.f. of Retail (the equivalent of 82 pm peak hour trips) shall not be issued until construction commences for an exclusive right turn lane south approach at the intersection of Atlantic Avenue and Lyons Road. (BLDG PERMIT: MONITORING Eng)
  - f. Building permits for more than 86 multi-family dwelling units and 3,500 s.f. of Retail (the equivalent of 82 pm peak hour trips) shall not be issued until construction commences for the widening of Atlantic Avenue to 6 lanes divided from the Florida Turnpike to Jog Road. (BLDG PERMIT: MONITORING Eng)
  - g. Building permits for more than 86 multi-family dwelling units and 3,500 s.f. of Retail (the equivalent of 82 pm peak hour trips) shall not be issued until construction commences for the following intersection improvements at Atlantic Avenue and SR 7 as follows: (BLDG PERMIT: MONITORING Eng)
    - 1) An additional through lane north approach. The length of this through lane shall be sufficient to provide for a full lane capacity. Final determination of the length shall be subject to the approval of the Florida DOT and the County Engineer.
    - 2) An additional through lane south approach. The length of this through lane shall be sufficient to provide for a full lane capacity. Final determination of the length shall be subject to the approval of the Florida DOT and the County Engineer.
    - 3) A second right turn lane east approach (using existing pavement)
  - h. Building permits for more than 86 multi-family dwelling units and 34,000 s.f. of Retail (the equivalent of 216 pm peak hour trips) shall not be issued until the contract has been let for the widening of Jog Road to 6 lanes divided



from Atlantic Avenue to Lake Ida Road. (BLDG PERMIT: MONITORING Eng)

The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted 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. (ONGOING:Eng) (Previous Engineering Condition 1 of Resolution 2005-1626, Control No. 2004-1029)

2. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: ENGINEERING) (Previous Engineering Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. No Building Permits for the site shall be issued after January 1, 2009. A time extension for this condition may be approved 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. This extension request shall be made pursuant to the requirements of Article 2.E of the Unified Land Development Code. (DATE: MONITORING Eng) (Previous Engineering Condition 3 of Resolution 2005-1626, Control No. 2004-1029)
4. Acceptable surety required for the offsite road improvements as outlined in Engineering Condition 1.a,1.d, 1.e, 1.f, and 1.g, shall be posted with the Office of the Land Development Division on or before February 25, 2006. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING Eng) (Previous Engineering Condition 4 of Resolution 2005-1626, Control No. 2004-1029)
5. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG Eng) (Previous Engineering Condition 5 of Resolution 2005-1626, Control No. 2004-1029)
6. Prior to January 15, 2006, the property owner shall complete construction plans for all improvements identified in Engineering Condition 1.a,1.d, 1.e, 1.f, and 1.g, above. These construction plans shall be approved by the Florida Department of Transportation for 1c and the County Engineer work identified in 1d and 1f. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING Eng) (Previous Engineering Condition 6 of Resolution 2005-1626, Control No. 2004-1029)
7. Prior to September 15, 2006, the property owner shall complete construction for all improvements identified in Engineering Condition 1.a,1.d, 1.e, 1.f, and 1.g, above. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. (DATE: MONITORING Eng) (Previous Engineering Condition 7 of Resolution 2005-1626, Control No. 2004-1029)
8. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the Project's north Entrance and Lyons Road and at the project's west entrance and West Atlantic Ave. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

- A) No Building Permits shall not be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT:MONITORING-Eng).
  - B) In order to request release of the surety for the traffic signals at these intersections the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng) (Previous Engineering Condition 8 of Resolution 2005-1626, Control No. 2004-1029)
9. Prior to December 1, 2005 the Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Lyons Road and West Atlantic Avenue.
- A. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. (BLDG PERMIT:MONITORING-Eng).
  - B) In order to request release of the surety for the traffic signal at this intersection the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING-Eng)(Previous Engineering Condition 9 of Resolution 2005-1626, Control No. 2004-1029)
10. The Property Owner shall obtain FDOT conceptual approval for all driveway connections to West Atlantic Ave. prior to final DRO approval. Pending the FDOT conditions and access configurations allowed, proper throat distances must be provided at these driveways subject to review and approval by the County Engineer. (DRO: ENGINEERING Eng) (Previous Engineering Condition 10 of Resolution 2005-1626, Control No. 2004-1029)
11. Note: The following condition of approval was recommended for deletion by the Zoning Commission. The Engineering Department would request that this condition of approval remain. Back-out angled parking along the main street will affect traffic flow in and out of the site. The Engineering Department feels that traffic flow in and out of the site is improved with the deletion of the back out angled parking.

The location of back-out angled parking on the main streets in the TMD is subject to review and approval by the County Engineer, and may be required to be removed or relocated prior to final DRO approval. (DRO: Engineering Eng) (Previous Engineering Condition 11 of Resolution 2005-1626, Control No. 2004-1029)

12. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for:

- a) Lyons Road 55 feet from centerline;
- b) West Atlantic Avenue an additional 70 feet of right of way to provide for a total of 126 feet of right of way.
- c) Expanded Intersection right of way at West Atlantic Avenue and Lyons Road on an alignment approved by the County Engineer

Right of way shall be dedicated prior to January 1, 2006. All Right of way conveyances shall be free of all encumbrances and encroachments. Developer 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 also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes 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 prior to dedication. 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." (DATE: MONITORING-Eng) (Previous Engineering Condition 12 of Resolution 2005-1626, Control No. 2004-1029)

13. Prior to issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Lyons Road at the project's north entrance road and on West Atlantic Avenue at the both project entrances. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. 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. (BLDG PERMIT: MONITORING Eng) (Previous Engineering Condition 13 of Resolution 2005-1626, Control No. 2004-1029)

14. The Property owner shall construct:

- a. Left turn lane south approach on Lyons Road at the Projects north entrance.
- b. Right turn lane north approach on Lyons Road at both Project's entrances.
- c. Right turn lane east approach on West Atlantic Avenue at both Project Driveways.
- d. Left turn lane west approach on West Atlantic Avenue at the Project's west driveway, subject to FDOT approval.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.

- 1) Permits required by Palm Beach County and/or FDOT for the construction in a, b, c and d. shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition 14 of Resolution 2005-1626, Control No. 2004-1029)

15. Construction for the improvements in a, b, c and d. shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING Eng) (Previous Engineering Condition 15 of Resolution 2005-1626, Control No. 2004-1029)

16. The property owner shall provide for the acquisition funding costs of the right-of-way for Lyons Road required to construct a 2-lane median divided section from West Atlantic Avenue to the project's north driveway. Final alignment for the right of way shall be subject to approval by the County Engineer. Acceptable surety shall be provided to the Office of the County Engineer prior to January 1, 2006. Notification by the developer shall be given to the Land Development Division. (DATE: MONITORING - Eng) (Previous Engineering Condition 16 of Resolution 2005-1626, Control No. 2004-1029)



17. On or before August 1, 2006, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of Lyons Road a minimum of 110 feet in width plus provisions for Expanded Intersection Details at the intersection of Lyons Road and West Atlantic Avenue. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the Land Development Division. (DATE: MONITORING - Eng) (Previous Engineering Condition 17 of Resolution 2005-1626, Control No. 2004-1029)
  
18. The property owner shall fund the construction plans and construction of Lyons Road as a 2-lane median divided section from the north project driveway south to West Atlantic Avenue. Funding of the construction plans and construction including any additional required right of way for this construction shall be completed on or before July 1, 2006. All canal crossings within the project limits shall be constructed to their ultimate configuration. Construction shall also include intersection improvements at the intersection of Lyons Road and West Atlantic Avenue as follows:
  - left turn lane north approach
  - right turn lane north approach
  - through lane north approach(DATE: MONITORING - Eng) (Previous Engineering Condition 18 of Resolution 2005-1626, Control No. 2004-1029)
  
19. Prior to July 1, 2005 the property owner shall convey a temporary roadway construction easement along Lyons Road and West Atlantic Avenue 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. (DATE: MONITORING Eng) (Previous Engineering Condition 19 of Resolution 2005-1626, Control No. 2004-1029)
  
20. On or before January 1, 2006, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of West Atlantic Avenue and Lyons Road along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. (DATE: MONITORING Eng) (Previous Engineering Condition 20 of Resolution 2005-1626, Control No. 2004-1029)

## ENVIRONMENTAL

1. An Exotic Removal Management Plan, covering all of the conservation parcels, shall be approved by ERM prior to final DRC site plan approval. (Previous Environmental Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. All Restricted Covenant Agreements and Conservation Easements for all of the Conservation Parcels, shall be submitted to ERM for review and approval prior to recordation. (Previous Environmental Condition 2 of Resolution 2005-1626, Control No. 2004-1029)

## HEALTH

1. Property owners and operators of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: HEALTH/CODE ENF) (Previous Health Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. The property owner shall utilize Best Management Practices to minimize breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce potential impacts of mosquito control activities on the surrounding natural areas. (ONGOING: HEALTH-ERM/Health) (Previous Health Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. Prior to the issuance of the first building permit the property owner shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of fugitive dust particulates on the site during all phases of site development. The property owner or the representative of the property owner shall be available to meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (BLDG PERMIT: MONITORING HEALTH) (Previous Health Condition 3 of Resolution 2005-1626, Control No. 2004-1029)
4. The property owner(s) and operator(s) of facilities generating industrial, hazardous or toxic waste shall not deposit or cause to be deposited any such waste into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (Previous Condition Health 4. of Resolution R-2005-1626, Control No. 2004-616). (ONGOING: CODE ENF - Health)
5. The property owners shall utilize Best Management Practices to minimize breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce potential impacts of mosquito control activities on the surrounding natural areas. (Previous Condition Health 2. of Resolution R-2005-1626, Control No. 2004-616). (ONGOING: CODE ENF - Health/ERM).
6. Prior to the issuance of the first building permit the property owner shall submit a detailed written plan acceptable to the Palm Beach County Health Department for the control of fugitive particulates on the site during all phases of site development. The property owner or the representative of the property owner shall be available to meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request, to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (Previous Condition Health 3. of Resolution R-2005-1626, Control No. 2004-616). (BLDG PERMIT: MONITORING - Health)



## ZONING - LANDSCAPING-STANDARD

1. A minimum of fifty (50) percent of all trees to be planted in the perimeter landscape buffers shall be native and 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 Zoning-Landscaping-Standard Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. 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 Zoning-Landscaping-Standard Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. 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 Zoning-Landscaping-Standard Condition 3 of Resolution 2005-1626, Control No. 2004-1029)
4. Field adjustment of wall, fence, 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 Zoning-Landscaping-Standard Condition 4 of Resolution 2005-1626, Control No. 2004-1029)
5. At time of submittal for final approval by the Development Review Officer (DRO), a landscape plan(s) for the Rural Parkway shall be submitted simultaneously with the site plan for review and approval. All associated details shall be:
  - a. generally consistent with those presented on the Regulating Plan dated June 21, 2005;
  - b. subject to review and approval by the Landscape and Architectural Review Sections; and,
  - c. reflected on the Regulating Plan prior to final approval by the DRO. (DRO: ZONING - Zoning) (Previous Zoning-Landscaping-Standard Condition 5 of Resolution 2005-1626, Control No. 2004-1029)

## ZONING - LANDSCAPING-INTERIOR

1. Previous Zoning-Landscaping-Interior Condition 1 of Resolution 2005-1626, Control No. 2004-1029) which currently states:

Landscaped diamonds with a minimum planting area of twenty-five (25) square feet shall be provided within all rows of abutting parking. These diamonds shall be located at the common intersection of four (4) parking spaces and be spaced a maximum of four (4) parking spaces apart. A minimum of one (1) canopy tree and appropriate ground cover shall be provided within each diamond. (DRO: LANDSCAPE - Zoning)

Is hereby amended to state:

Landscaped diamonds with a minimum planting area of twenty-five (25) square feet shall be provided within all rows of abutting parking. These diamonds shall be located at the common intersection of four (4) parking spaces and be spaced a maximum of four (4) parking spaces apart. A minimum of one (1) canopy tree, palm, flowering tree, or accent tree and appropriate ground cover shall be provided within each diamond. (DRO: LANDSCAPE - Zoning)

2. Any parking structure(s) shall be subject to the planting requirement of ULDC Article 7.G.2.F. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Zoning-Landscaping-Interior Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. Previous Zoning-Landscaping-Interior Condition 3 of Resolution 2005-1626, Control No. 2004-1029) which currently states:

Notwithstanding ULDC requirements, foundation planting or grade level planters shall be provided along the following:

- a. west facade of Building A;
- b. north facade of Building B;
- c. south facades of Buildings C and D;
- d. west facade of Building H;
- e. north and north 175 feet of the east facade of Building I;
- f. the minimum width of these landscape areas shall be ten (10) feet;
- g. the length of these landscaped areas shall be no less than sixty (60) percent of the total length of the applicable building faade;
- h. landscape areas shall be planted with a minimum equivalent of one (1) canopy tree, pine tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover; and,
- i. trees and/or palms required within the above referenced areas of Buildings A and I only shall have the following minimum height at installation:
  - 1) twenty-four (24) feet or greater: minimum twenty-five (25) percent of all required trees and/or palms;
  - 2) eighteen (18) feet to twenty-four (24) feet: minimum fifty (50) percent of all required trees and/or palms; and,
  - 3) sixteen (16) feet to eighteen (18) feet: maximum twenty-five (25) percent of all required trees and/or palms. (DRO: LANDSCAPE - Zoning)(Previous Zoning-Landscaping-Interior Condition 3 of Resolution 2005-1626, Control No. 2004-1029)

Is hereby amended to state:

Notwithstanding ULDC requirements, foundation planting or grade level planters shall be provided along the following:

- a. west facade of Building A;
- b. north facade of Building B, with the exception of the service area;
- c. south facades of Buildings C and D;
- d. west facade of Building H;
- e. north and north 175 feet of the east facade of Building I;
- f. the minimum width of these landscape areas shall be ten (10) feet;
- g. the length of these landscaped areas shall be no less than sixty (60) percent of the total length of the applicable building faade;
- h. landscape areas shall be planted with a minimum equivalent of one (1) canopy tree, pine tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover; and,
- i. trees and/or palms required within the above referenced areas of Buildings A and I only shall have the following minimum height at installation:

- 1) twenty-four (24) feet or greater: minimum twenty-five (25) percent of all required trees and/or palms;
- 2) eighteen (18) feet to twenty-four (24) feet: minimum fifty (50) percent of all required trees and/or palms; and,  
sixteen (16) feet to eighteen (18) feet: maximum twenty-five (25) percent of all required trees and/or palms. (DRO: LANDSCAPE – Zoning)

#### ZONING - LANDSCAPING-PERIMETER OF DEVELOPMENT AREA

1. In addition to ULDC requirements, all perimeter landscape buffers shall be upgraded to include:
  - a. a minimum of one (1) native palm for each twenty (20) linear feet of the applicable property line with a maximum spacing of sixty (60) feet between clusters. Palms shall be planted alternating on both sides of a wall or fence;
  - b. a minimum of one (1) pine tree for each thirty (30) linear feet of the applicable property line. Pines shall be planted in clusters with a minimum of five (5) pines, and with a maximum spacing of one hundred and fifty (150) feet between clusters. Pines clusters shall be planted alternating on both sides of a wall or fence; and,
  - c. relocation of the above plant materials only shall be permitted only from the ten (10) foot wide landscape buffers to other perimeter landscape buffers, subject to review and approval by the Landscape Section. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Zoning-Landscaping-Perimeter of Development Area Condition 1 of Resolution 2005-1626, Control No. 2004-1029)

#### 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 Lighting Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. All outdoor, freestanding lighting fixtures exceeding twenty (20) feet in height shall be setback a minimum distance of forty (40) feet from the north and west property lines. (BLDG PERMIT: BLDG - Zoning) (Previous Lighting Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. All outdoor, freestanding lighting fixtures shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting only. (ONGOING: CODE ENF - Zoning)(Previous Lighting Condition 3 of Resolution 2005-1626, Control No. 2004-1029)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material or street lighting. (ONGOING: CODE ENF - Zoning) (Previous Lighting Condition 4 of Resolution 2005-1626, Control No. 2004-1029)

#### 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 Preliminary Development Plan and/or final plan prior to final approval of the 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 issuance of the first Building Permit or recordation of the plat, 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.  
(BLDG PERMIT/PLAT: MONITORING-Eng)

## PARKS

1. Prior to final DRO approval a minimum of 800 square feet of indoor recreation space shall be delineated and provided to the tenants and owners of residential units in perpetuity without membership charges. (Previous Parks Condition 1 of Resolution 2005-1626, Control No. 2004-1029)

## PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the applicant shall provide a Rural Parkway Landscape Plan, for the entire Delray MarketPlace TMD Rural Parkway Preserve area, subject to approval by the Planning Division, to include a minimum of 60% native shrubs and a minimum of 90% native trees and palms. (Previous Condition Planning 1 of Resolution R-2005-1626, Control No. 2004-616) (DRO: PLANNING - Planning)
2. Prior to final Master Plan approval by the Development Review Officer (DRO), a management plan for all of the preservation areas shall be submitted. The property owner shall also submit a commitment letter indicating that these preservation properties will remain in their same state from the time of development approval to the final recordation of the conservation easement. The management plan shall contain a legal description and sketch of each parcel, an inventory of existing uses and environmental assets on each site, and a plan approved and enforced by the Department of Environmental Resources (ERM) for exotic removal and maintenance on each of the sites. (DRO: PLANNING/ERM - Planning) (Previous Condition Planning 2 of Resolution R-2005-1626, Control No. 2004-616)
3. Condition Planning 3 of Resolution R-2005-1626, Control No. 2004-616, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall add a "Preservation Area/Proposed Uses" notes section on page 1 of the Master Plan and include the following:

- a. The preservation areas approved, as part of Application # 2004-1029 shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

## PERMITTED USES:

- 1) Crop production, pasture or equestrian purposes;
- 2) Civic purposes, such as schools, libraries or fire stations;
- 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the AgR-TMD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
- 4) Wetland or bona fide agricultural uses per the ULDC;
- 5) Other uses as permitted by the required conservation easements;
- 6) Other uses as may be permitted within the protected area of an AgR-TMD consistent with the Comprehensive Plan and the Unified Land Development Code. (DRO/ONGOING: PLANNING - Planning)

Is hereby amended to read:



Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall add a "Preservation Area/Proposed Uses" notes section on page 1 of the Master Plan and include the following:

- a. The preservation areas approved, as part of this application shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

**PERMITTED USES:**

- 1) Crop production, pasture or equestrian purposes;
  - 2) Civic purposes, such as schools, libraries or fire stations;
  - 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the AgR-TMD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
  - 4) Wetland or bona fide agricultural uses per the ULDC;
  - 5) Other uses as permitted by the required conservation easements;
  - 6) Other uses as may be permitted within the protected area of an AgR-TMD consistent with the Comprehensive Plan and the Unified Land Development Code. (DRO/ONGOING: PLANNING - Planning)
4. Prior to plat recordation for the Delray MarketPlace TMD development area, the conservation easements for all of the Preservation parcels shall be recorded, as approved by the County Attorney's Office, the Department of Environmental Resources Management, and the Planning Division.
- a. The conservation easements for all of these preserve parcels shall contain:
    - 1) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;
    - 2) a list of permitted uses, uses not permitted, and prohibited activities.
  - b. Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENG/PLANNING - Planning) (Previous Condition Planning 4 of Resolution R-2005-1626, Control No. 2004-616)
5. Condition Planning 5 of Resolution R-2005-1626, Control No. 2004-616, which currently states:
- Prior to plat recordation for the Delray Market PlaceTMD Development area, the conservation easement for the 100-foot Lyons Road Rural Parkway Preserve Area shall be recorded, as approved by the County Attorney's Office, the Engineering Department, and the Planning Division. The conservation easement for the 100' Lyons Road Rural Parkway Preserve Area shall contain:
- a. A Landscape Plan that conforms with the approved Rural Parkway Landscape Plan, but not be limited to the following items:
    - 1) 90% native trees and palms, and 60% native shrubs;
    - 2) a multipurpose path and an equestrian path;
    - 3) undulating berms, no taller than five feet; and
    - 4) benches/pedestrian gathering area with a water fountain. At least one (1) pedestrian gathering area shall be provided within the 100-foot wide Lyons Road Rural Parkway along this project frontage.

- b. The Rural Parkway easement shall not include:
  - 1) walls; and,
  - 2) structures with the exception of a bus shelter, benches/pedestrian gathering area, and water fountains.
- c. The Rural Parkway easement may include:
  - 1) A bus stop easement;
  - 2) other drainage/utility easements may only be permitted which transverse (run perpendicular to) the Lyons Road Rural Parkway Easement to place drainage/utilities in the developable portion of the TMD; and,
  - 3) Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division.
- d. A maintenance agreement for continual maintenance of the Rural Parkway that will contain language allowing for the transfer of maintenance to a property owners association or a deed to the County for the County's ownership and maintenance.
- e. Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division.
- f. Should the 100-foot wide Lyons Road Rural Parkway conservation easement not be placed on this property in a form acceptable to the County Attorney, Engineering Department, and Planning Division, prior to July 1st, 2008, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. (DATE: MONITORING - Planning)

Is hereby amended to read:

Prior to plat recordation for the Delray MarketPlaceTMD Development area, the conservation easement for the 100-foot Lyons Road Rural Parkway Preserve Area shall be recorded for the development area and for the preserve Parcel 1 as approved by the County Attorney's Office, the Engineering Department, and the Planning Division. The conservation easement for the 100' Lyons Road Rural Parkway Preserve Area shall contain:

- a. A Landscape Plan that conforms with the approved Rural Parkway Landscape Plan, but not be limited to the following items:
  - 1) 90% native trees and palms, and 60% native shrubs;
  - 2) a multipurpose path and an equestrian path;
  - 3) undulating berms, no taller than five feet; and
  - 4) benches/pedestrian gathering area with a water fountain. At least one (1) pedestrian gathering area shall be provided within the 100-foot wide Lyons Road Rural Parkway along this project frontage.
- b. The Rural Parkway easement shall not include:
  - 1) walls; and,
  - 2) structures with the exception of a bus shelter, benches/pedestrian gathering area, and water fountains.
- c. The Rural Parkway easement may include:

- 1) A bus stop easement;
- 2) other drainage/utility easements may only be permitted which traverse (run perpendicular to) the Lyons Road Rural Parkway Easement to place drainage/utilities in the developable portion of the TMD; and,
- 3) Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division.

d. A maintenance agreement for continual maintenance of the Rural Parkway that will contain language allowing for the transfer of maintenance to a property owners association or a deed to the County for the County's ownership and maintenance.

e. Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENG/PLANNING - Planning)

6. Condition Planning 5.f of Resolution R-2005-1626, Control No. 2004-616, which currently states:

Should the 100-foot wide Lyons Road Rural Parkway conservation easement not be placed on this property in a form acceptable to the County Attorney, Engineering Department, and Planning Division, prior to July 1st, 2008, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. (DATE: MONITORING - Planning)

Is hereby amended to read:

Should the 100-foot wide Lyons Road Rural Parkway conservation easement not be placed on this property in a form acceptable to the County Attorney, Engineering Department, and Planning Division, prior to February 1st, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. (DATE: MONITORING - Planning)

7. Condition Planning 6 of Resolution R-2005-1626, Control No. 2004-616, which currently states:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to July 1st, 2008, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING - Planning)

Is hereby amended to read:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to February 1st, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING - Planning)

8. Prior to the issuance of a building permit for any buildings on site, the property owner shall commence construction of the Rural Parkway. (BLDG PERMIT: MONITORING - Planning) (Previous Condition Planning 7 of Resolution R-2005-1626, Control No. 2004-616)

9. Prior to the issuance of a Certificate of Occupancy for any buildings on site, the property owner shall complete construction of the Rural Parkway. (CO: MONITORING - Planning) (Previous Condition Planning 8 of Resolution R-2005-1626, Control No. 2004-616)
10. Development on the site shall be limited to a maximum of 320,000 square feet of non-residential uses and 86 dwelling units, with a minimum of 18 vertically integrated units. (ONGOING: PLANNING - Planning) (Previous Condition Planning 9 of Resolution R-2005-1626, Control No. 2004-616)

#### SCHOOL BOARD

1. 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). (ONGOING: SCHOOL BOARD) (Previous School Board Condition 1 of Resolution 2005-1626, Control No. 2004-1029)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: MONITORING SCHOOL BOARD/ENG School Board.) (Previous School Board Condition 2 of Resolution 2005-1626, Control No. 2004-1029)

#### SIGNS

1. Wall signs shall be prohibited on the following:
  - a. west facade of Building A;
  - b. north facade of Building I;
  - c. north 135 feet of the east facade of Building I; and,
  - d. all facades of a parking structure. (BLDG: BLDG PERMIT - Zoning) Previous Signs Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. Painted wall signs shall be prohibited. (ONGOING: CODE ENF - Zoning) (Previous Signs Condition 2 of Resolution 2005-1626, Control No. 2004-1029)

#### TRADITIONAL MARKETPLACE DEVELOPMENT

1. Prior to the recordation of the first plat, all property included in the legal description for the development area of this application shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:
  - a. Formation of a single master" property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.



- b. All indoor recreation space shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover to the POA/HOA, the indoor recreation space shall be turned over to the association at no cost to the residents.
  - c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the traditional development. This Declaration shall be amended when additional units or square footage is added to the TMD. (PLAT: CO ATTY - Zoning) (Previous Traditional Marketplace Development Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, and site plans a disclosure statement identifying and notifying of the existence of active agricultural uses in the vicinity of the development. The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on August 25, 2006, and shall continue on an annual basis until all residential units within the development have been sold or the property owner relinquishes control to a homeowners association. (DATE: MONITORING - Zoning) (Previous Traditional Marketplace Development Condition 2 of Resolution 2005-1626, Control No. 2004-1029)

#### USE LIMITATIONS

- 1. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 1 of Resolution 2005-1626, Control No. 2004-1029)
- 2. Repair or maintenance of vehicles shall not be permitted on the property, excluding incidental and emergency repairs. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
- 3. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property, excluding events authorized by a Special Permit. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 4 of Resolution 2005-1626, Control No. 2004-1029)
- 4. One (1) single tenant occupying more than 25,000 square feet shall be permitted within each of the following buildings only, as indicated on the site plan dated June 21, 2005:
  - a. Building A;
  - b. Building B;
  - c. Building H;
  - d. Building I; and,
  - e. an indoor entertainment tenant occupying more than 25,000 square feet within Building B or H shall be considered the approved single tenant exceeding 25,000 square feet for that building. (ONGOING: CODE ENF - Zoning) (Previous Use Limitations Condition 5 of Resolution 2005-1626, Control No. 2004-1029)
- 5. One Type I restaurant that exceeds 1,500 square feet shall be permitted and shall remain in the location as designated on the master plan. Additional Type 1 restaurants shall be allowed subject to the ULDC as amended or whichever is less restrictive. (ONGOING: CODE ENF - Zoning)

#### UTILITIES

- 1. If any relocations/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these

relocations/modifications. (Previous Utilities Condition 1 of Resolution 2005-1626, Control No. 2004-1029)

2. Prior to the first Certification of Completion for the project, the Property Owner shall grant to Palm Beach County a minimum 20 feet wide utility easement crossing the preserve area adjacent to the west boundary of the to be developed parcel. (Previous Utilities Condition 2 of Resolution 2005-1626, Control No. 2004-1029)
3. 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. (Utilities-ONGOING) (Previous Utilities Condition 3 of Resolution 2005-1626, Control No. 2004-1029)

## 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.

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)