

**BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

VILLAGES AT DELRAY, LTD.,

Petitioner,

vs.

FHFC No. 2006-024UC
Application No. 2006-032C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

PETITION FOR REVIEW

Pursuant to Section 120.569 and .57, Florida Statutes (F.S.) and Rule 67-48.005, Florida Administrative Code (F.A.C.), Petitioner, VILLAGES AT DELRAY, LTD. ("Delray") requests an administrative hearing to challenge FLORIDA HOUSING FINANCE CORPORATION's ("FHFC") scoring of Delray's 2006 Universal Application ("Application"). In support of this Petition, Delray provides as follows:

1. Delray is a Florida for-profit limited partnership with its address at 1301 S.W. 10th Avenue, Building J, Delray Beach, FL 33444. Delray is in the business of providing affordable rental housing units.
2. FHFC is the state agency delegated the authority and responsibility for administering and awarding the Housing Credit ("HC") program in the State of Florida pursuant to Chapter 420, F.S., and Rule 67-48, F.A.C.
3. The HC program is a federally funded program which awards project owners a dollar-for-dollar reduction in income tax liability in exchange for the acquisition and substantial rehabilitation or new construction of low and very low income rental housing

units. FHFC is the designated housing credit agency for the allocation of tax credits in the State of Florida.

4. The award of HC funds is made through a competitive process in which project owners apply using the Universal Application.

5. The 2006 Universal Application requests information of each applicant regarding the proposed project. FHFC has adopted the Universal Application by reference in Rule 67-48.002, F.A.C.

6. On February 1, 2006, all applicants, including Delray, submitted applications to FHFC for review. Delray submitted its application in an attempt to obtain funding to assist in the construction of a 192-unit affordable housing apartment complex in Delray Beach, Palm Beach County, Florida, named Villages at Delray.

7. On March 2, 2006, FHFC completed its preliminary review and scoring of Delray's application. At that time Delray was awarded a preliminary score of 61 points out of a possible 66 points and $7\frac{1}{4}$ out of $7\frac{1}{2}$ proximity points. However, FHFC concluded that Delray failed to meet threshold for several reasons, including the failure to provide adequate information to satisfy zoning site plan approval requirements, as well as equity commitment and financing shortage issues. FHFC also raised at the additional comments section an issue regarding a Land Use Restriction Agreement ("LURA") that exists and is related to a previous SAIL award. This additional comment is not a scoring issue and will be considered and resolved in the future. (See Attachment A.)

8. Subsequent to the release of FHFC's preliminary scores, each applicant, pursuant to Rule 67-48-004(4), F.A.C. was allowed to submit to FHFC Notices of Possible Scoring Errors ("NOPSE"). The purpose was to point out errors in FHFC's scoring of

applications. Several NOPSE's were filed which challenged the scoring of Delray's application.

9. In response to the NOPSE's and FHFC's preliminary review, applicants were allowed 15 days to submit revised documentation to correct any errors in their applications pursuant to Rule 67-48-004(6), F.A.C ("cure"). All revised documentation was due to FHFC by April 10, 2006. Delray submitted numerous "cures" in an attempt to gain maximum points possible. Specifically, Delray submitted additional information which addressed (a) the issues raised by FHFC concerning the zoning, site approval and financing of the project and (b) the issues raised by NOPSE's which had been submitted regarding its application.

10. Subsequent to the submittal of the cure information pursuant to Rule 67-48.004(7), F.A.C., each applicant was allowed the opportunity to provide a Notice of Alleged Deficiency in Scoring ("NOAD") with respect to the revised documentation submitted by other applicants. Several NOAD's were filed challenging Delray's cures.

11. On May 3, 2006, FHFC finalized its review of the additional documentation and NOAD's, and issued Final Scores. (See Attachment B.) The Notice of Final Scores was received by Delray on May 5, 2006. Delray's final score was 66 out of a possible 66 points. Delray was also awarded 7½ out of a possible 7½ proximity tie breaker points. However, FHFC continued to conclude that Delray for several limited reasons failed to meet threshold. Based on the alleged failure to meet threshold, Delray will not be eligible receive HC funds.

12. Delray's position in the ranking and its ability to be awarded funding is dependent on not only its own score, but on those of the other applicant as well. The

ability to finance the proposed project will be jeopardized if HC funding is not obtained. Accordingly Delray's substantial interests are affected by this proceeding. In the instant proceeding Delray challenges FHFC's threshold determination regarding zoning, site plan approval and environmental safety.

ZONING AND SITE PLAN APPROVAL

13. The Universal Application at Part III, Subsection (C) requests information concerning the proposed project's ability to proceed. At Part III, Subsection (C)(1), the Applicant is required to provide information concerning the status of site plan or plat approval. To satisfy this threshold requirement, the Applicant must provide a properly executed Local Government Verification of Status of Site Plan Approval ("Verification of Site Plan Approval").

14. Similarly, at Part III, subsection (C)(4), the Universal Application requires an applicant to provide information concerning evidence that the appropriate zoning category is in place for the proposed project site. To satisfy this threshold requirement, the applicant must provide a properly executed Local Government Verification That Development Is Consistent With Zoning and Land Use Regulations ("Verification of Zoning").

15. In response to these application requirements, Delray in its initial application submitted the required Verification Forms (see Attachment C). After conducting its preliminary review and consideration of all NOPSE's, FHFC in a Scoring Summary dated March 1, 2006, found that Delray did not satisfy the mandatory threshold requirements for zoning as follows:

The Universal Application Instructions requires that appropriate zoning be demonstrated as of the end of the cure period. The

Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form provided in the Application states that up to 12 units per acre is currently allowed for the Development site. According to the Purchase and Sale Agreement provided in the Application, the site consists of 9 acres more or less, which, based on the current zoning, would allow construction of 108 units. Since the proposed Development will consist of 192 total units, the Applicant has not demonstrated that the present zoning regulations will allow for the number of units proposed in this Application.

16. Additionally, FHFC found in its Scoring Summary that Delray had failed to satisfy threshold requirements for site plan approval as follows:

The Applicant provided the required Local Government Verification of Site Plan Approval for Multifamily Developments form; however the form calls for a "legally authorized body" to approve/review the Site Plan and not an individual as listed on the form.

17. In response to FHFC's initial review and the specific comments and reasons provided in the Scoring Summary, Delray submitted revised documentation, including a revised contract for sale and a revised site plan Verification Form (see Cure Materials at Attachment D).

18. On May 3, 2006, FHFC issued its Final Scoring Summary which reflected FHFC's consideration of all cure materials and any NOAD's filed to challenge those cure materials. While Delray successfully addressed all of the initial concerns, FHFC, in its scoring summary, determined that Delray failed threshold for the following reasons:

As a cure for Item 1T, the Applicant submitted an Amended and Restated Purchase and Sale Agreement, executed on April 6, 2006, to be effective as of January 31, 2006. This Agreement provides for the purchase of "as much of the approximately 30 acres owned by Seller (more particularly described an [sic] Exhibit "A" attached hereto) . . . as are necessary for construction of 192 residential units . . ." **Since it has not yet been determined which portion of the 30 acres will**

comprise the proposed Development site, it is unclear what site the Local Government Verification That Development is Consistent With Zoning And Land Use Regulations form, executed by the Director of Planning and Zoning on January 26, 2006, is for.

As a cure for Item 2T,, the Applicant submitted a new Local Government Verification of Site Plan Approval for Multifamily Developments form which indicates that the site plan was reviewed by the Site Plan Review and Appearance Board on March 22, 2006. However, as explained in Item 10T above, **since it has not yet been determined which portion of the 30 acres will comprise the proposed Development site, it is unclear what site the site plan that was reviewed by the Board on March 22, 2006, was for.**

(Emphasis added.)

(See Attachment B.)

19. FHFC's threshold determination as it relates to zoning and site plan approval is erroneous for several reasons. Initially, FHFC is not challenging the appropriateness of the Amended and Restated Purchase Agreement ("Agreement"). Instead, FHFC based on the language of the Agreement opines that it is unclear what site is covered by the revised Verification of Site Plan Approval and the previously submitted Verification of Zoning. This conclusion is based on the fact that FHFC has concluded that either more than one development site exists or the location of the development site has not been determined.

20. As the documentation in the application and cure materials makes clear, there is only one "development site" covered by the Verification Forms and Agreement submitted by Delray in its cure. Moreover, the location of the development site has been determined and is readily identifiable. Indeed, a conceptual development plan for that site, including the rental units contemplated here, has been reviewed by the City of

Delray and the appropriate zoning for that site (RM) has been determined. (See Attachment E.)

21. Specifically, the location of the development site as disclosed by both the above-referenced Verification Forms submitted by Delray is the intersection of Auburn Avenue and 8th Street, Delray Beach, Florida. In identical fashion, the Agreement submitted as a cure provides at page 1, paragraph 1, the location of the development site is Auburn Avenue and 8th Street, Delray Beach, FL 32444. The restated contract goes on to provide that the site “shall not change.” This clear and unambiguous language at least reflects that the intent of the parties to the contract was that they did not wish in any way to change the location of the development site by entering into the restated contract.

22. Contrary to FHFC’s conclusion that the development site has not been determined, the site has indeed been determined with the established borders on the east and south being Auburn Avenue and 8th Street. The only issue remaining based on the status of the Delray Work Force Ordinance, which was in the process of being adopted while the application, as well as the cures, were being prepared, was whether 11 or 16 acres would be required for the desired number of units. This issue is clearly explained in the Agreement at Page 1.

23. On April 4, 2006, by passing Ordinance 17-06, the City of Delray Beach passed the Work Force Ordinance which established the density for the proposed project site at 18 units per acre. (See Attachment F.) Accordingly, as represented in the Agreement, 11 acres will be purchased to accommodate the desired 192-unit development.

24. The Verification of Site Plan Approval submitted by Delray as a cure indicates that a site plan has been reviewed which is all that is required by the application. The site plan reviewed, although conceptual in nature, is attached to this Petition. Had FHFC been confused about the status of the Site Plan, it has the ability to verify the status of the site plan.

25. In addressing the Verification of zoning, both the Verification originally submitted, as well as the revised Verification of Site Plan Approval, provide that the zoning for the development site is RM. In fact, the Agreement also indicates that the zoning for the site is RM. As shown, in the attached zoning map the development site is zoned RM which will accommodate the proposed development. (See Attachment G.) FHFC has created an inconsistency as to the appropriate zoning that simply does not exist. Contrary to FHFC's conclusion otherwise, the Verification Forms for site plan approval, as well as zoning, are appropriate and Delray has met threshold.

ENVIRONMENTAL SAFETY

26. At Universal Application Part III, subsection C(5), the Applicant is required to provide information concerning the environmental condition of the proposed development site. To meet the threshold requirement, an Applicant must provide a properly completed and executed Verification of Environmental Safety – Phase I Site Assessment (“Verification Form”). (See Attachment H.) The Verification Form must be executed by the environmental firm that conducts a Phase I environmental site assessment of the development location.

27. In its initial application, Delray submitted a properly executed Verification Form and no scoring issues were raised either as a result of FHFC's preliminary scoring or any NOPSE.

28. Subsequent to Delray submitting its cures, however, FHFC in its Final Scoring Summary raised the following issue:

In its cure, the Applicant stated that **the size of the Development was increased to up to 30 acres**. Since the Environmental Provider performed the Phase I Environmental Site Assessment and executed the Verification of Environmental Safety Phase I Environmental Site Assessment form prior to the increase in the size of the Development, **it is unknown whether the entire Development meets the required ESA standards**.

(Emphasis added)

29. In addressing the environmental safety issue, FHFC opines that an assessment has not been done for the development site. Additionally, FHFC must believe that an additional or new Verification Form must be done to correspond to the submitted cures. This conclusion is erroneous for several reasons.

30. Initially, nothing in the Verification form itself limits its applicability in any way to a particular acreage. In years past, FHFC required that the actual environmental assessments themselves be included as an exhibit to the application. No such requirement is found in this year's Universal Application.

31. The original assessment, which was not required to be included in the application, did indeed address the development which was contemplated at that time. With the creation and submittal as a cure of the Agreement and the density issues raised by FHFC, Delray, in an abundance of caution, requested that an additional assessment be done. This additional assessment was completed and no additional

environmental issues were discovered for the site. Given that no environmental issues were raised as a result of the additional assessment, a new Verification Form was not necessary. (See Attachment I.) As requested by the Universal Application, the Delray development location has been properly assessed for environmental issues and Delray has accordingly met threshold.

WHEREFORE, based on the foregoing, Delray respectfully requests, to the extent the facts are undisputed, the entry of a recommended order which concludes that threshold has been met.

Respectfully submitted,

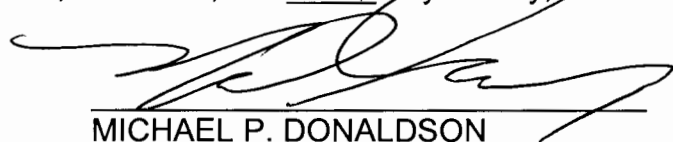


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Counsel for Applicant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, FL 32301; and copies furnished by Hand Delivery to Stephen P. Auger, Deputy Development Officer in the Multi-Family and Development Programs, and Wellington H. Meffert, II, Esq., Florida Housing Finance Corporation, 227 N. Bronough St., Suite 5000, Tallahassee, FL 32301, this 26th day of May, 2006.



MICHAEL P. DONALDSON

2006 MMRB, SAIL & HC Scoring Summary

As of: 03/01/2006

Development Name: Village at Delray

File # 2006-032C

As Of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
03 - 01 - 2006	61	N	7.25	\$60,394.22	%	N
Preliminary	61	N	7.25	\$60,394.22	%	N
NOPSE	0	N	0		0	
Final	0	N	0		0	
Final-Ranking	0	N	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	0	0	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	0	0	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	0	0	0
Set-Aside Commitments									
4S	III	E	1.b.(2)(a)	ELI Set-Aside Commitment	5	5	0	0	0
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	0	0	0
6S	III	E	3	Affordability Period	5	0	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	0	0	0
7S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	0	0	0
Local Government Support									
9S	IV		a.	Contributions	5	5	0	0	0
10S	IV		b.	Incentives	4	4	0	0	0

2006 MMRB, SAIL & HC Scoring Summary

As of: 03/01/2006

File # 2006-032C Development Name: Village at Delray

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
6S	The Applicant failed to specify the number of years committed to set aside units in the proposed Development. Therefore, the Applicant received no points for Affordability Period.	Preliminary	

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	4	Zoning	The Universal Application Instructions requires that appropriate zoning be demonstrated as of the end of the cure period. The Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form provided in the Application states that up to 12 units per acre is currently allowed for the Development site. According to the Purchase and Sale Agreement provided in the Application, the site consists of 9 acres more or less, which, based on the current zoning, would allow construction of 108 units. Since the proposed Development will consist of 192 total units, the Applicant has not demonstrated that the present zoning regulations will allow for the number of units proposed in this Application.	Preliminary	
2T	III	C	1	Site Plan Approval	The Applicant provided the required Local Government Verification of Site Plan Approval for Multifamily Developments form; however the form calls for a "legally authorized body" to approve/review the Site Plan and not an individual as listed on the form.	Preliminary	
3T	V	D		Equity Commitment	One of the requirements for a firm syndication commitment is that the percentage of credit being purchased must be equal to or less than the percentage of ownership interest held by the Limited Partner (page 66 of the 2006 Universal Application Instructions). The Applicant stated at Exhibit 9 of the Application that the Limited Partner's interest in the Applicant entity is 99% and the General Partner's interest is 1%. However, the Syndication Agreement states that 99.9% of the HC allocation is being purchased by the Limited Partner. Because of this inconsistency, the equity commitment is not scored firm and is not counted as a source of financing.	Preliminary	
4T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$15,876,441.	Preliminary	
5T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$18,904,050.	Preliminary	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1	0	0	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	0	0	0

2006 MMRB, SAIL & HC Scoring Summary

As of: 03/01/2006

File # 2006-032C Development Name: Village at Delray

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	0	0	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	0	0	0

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C					Florida Housing is aware that this development site is currently subject to a State Apartment Incentive Loan (SAIL) Mortgage and Land Use Restriction Agreement (LURA). Any activity inconsistent with the terms and conditions of the existing LURA and existing loan documents would require Florida Housing Board approval - which may or may not be granted.	Preliminary	

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-032C

Development Name: Village at Delray

As of:	Total Points	Met Threshold?	Proximity Tie-Breaker Points	Corporation Funding per Set-Aside Unit	SAIL Request Amount as Percentage of Development Cost	Is SAIL Request Amount Equal to or Greater than 10% of Total Development Cost?
05 - 03 - 2006	66	N	7.5	\$60,394.22	%	N
Preliminary	61	N	7.25	\$60,394.22	%	N
NOPSE	61	N	7.25	\$60,394.22	%	N
Final	66	N	7.5	\$60,394.22	%	N
Final-Ranking	0	N	0		0	

Scores:

Item #	Part	Section	Subsection	Description	Available Points	Preliminary	NOPSE	Final	Final Ranking
Optional Features & Amenities									
1S	III	B	2.a.	New Construction	9	9	9	9	0
1S	III	B	2.b.	Rehabilitation/Substantial Rehabilitation	9	0	0	0	0
2S	III	B	2.c.	All Developments Except SRO	12	12	12	12	0
2S	III	B	2.d.	SRO Developments	12	0	0	0	0
3S	III	B	2.e.	Energy Conservation Features	9	9	9	9	0
Set-Aside Commitments									
4S	III	E	1.b.(2)(a)	ELI Set-Aside Commitment	5	5	5	5	0
5S	III	E	1.b.(2)(b)	Total Set-Aside Commitment	3	3	3	3	0
6S	III	E	3	Affordability Period	5	0	0	0	0
Resident Programs									
7S	III	F	1	Programs for Non-Elderly & Non-Homeless	6	6	6	6	0
7S	III	F	2	Programs for Homeless (SRO & Non-SRO)	6	0	0	0	0
7S	III	F	3	Programs for Elderly	6	0	0	0	0
8S	III	F	4	Programs for All Applicants	8	8	8	8	0
Local Government Support									
9S	IV		a.	Contributions	5	5	5	5	0
10S	IV		b.	Incentives	4	4	4	4	0

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-032C Development Name: Village at Delray

Reason(s) Scores Not Maxed:

Item #	Reason(s)	Created As Result	Rescinded as Result
6S	The Applicant failed to specify the number of years committed to set aside units in the proposed Development. Therefore, the Applicant received no points for Affordability Period.	Preliminary	Final

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
1T	III	C	4	Zoning	The Universal Application Instructions requires that appropriate zoning be demonstrated as of the end of the cure period. The Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form provided in the Application states that up to 12 units per acre is currently allowed for the Development site. According to the Purchase and Sale Agreement provided in the Application, the site consists of 9 acres more or less, which, based on the current zoning, would allow construction of 108 units. Since the proposed Development will consist of 192 total units, the Applicant has not demonstrated that the present zoning regulations will allow for the number of units proposed in this Application.	Preliminary	Final
2T	III	C	1	Site Plan Approval	The Applicant provided the required Local Government Verification of Site Plan Approval for Multifamily Developments form; however the form calls for a "legally authorized body" to approve/review the Site Plan and not an individual as listed on the form.	Preliminary	Final
3T	V	D		Equity Commitment	One of the requirements for a firm syndication commitment is that the percentage of credit being purchased must be equal to or less than the percentage of ownership interest held by the Limited Partner (page 66 of the 2006 Universal Application Instructions). The Applicant stated at Exhibit 9 of the Application that the Limited Partner's interest in the Applicant entity is 99% and the General Partner's interest is 1%. However, the Syndication Agreement states that 99.9% of the HC allocation is being purchased by the Limited Partner. Because of this inconsistency, the equity commitment is not scored firm and is not counted as a source of financing.	Preliminary	Final
4T	V	B		Construction Financing Shortfall	The Applicant has a construction financing shortfall of \$15,876,441.	Preliminary	NOPSE
5T	V	B		Permanent Financing Shortfall	The Applicant has a permanent financing shortfall of \$18,904,050.	Preliminary	NOPSE
6T	V	D		Equity Commitment	A NOPSE was provided demonstrating that the Applicant listed in the Application, "Village at Delray, Ltd." was not listed on the Florida Department of State, Division of Corporations website as a registered legal entity until January 30, 2006. The equity commitment was dated January 19, 2006. Therefore, the commitment is not scored firm and is not counted as a source of financing.	NOPSE	Final

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-032C

Development Name: Village at Delray

Threshold(s) Failed:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result of	Rescinded as Result of
7T	V	D		Wachovia Loan Commitment	A NOPSE was provided demonstrating that the Applicant listed in the Application, "Village at Delray, Ltd." was not listed on the Florida Department of State, Division of Corporations website as a registered legal entity until January 30, 2006. The Wachovia loan commitment was dated January 19, 2006. Therefore, the commitment is not scored firm and is not counted as a source of financing.	NOPSE	Final
8T	V	B		Construction Financing Shortfall	The Application has a construction financing shortfall of \$27,660,441.	NOPSE	Final
9T	V	B		Permanent Financing Shortfall	The Application has a permanent financing shortfall of \$30,688,050.	NOPSE	Final
10T	III	C	4	Zoning	As a cure for Item 1T, the Applicant submitted an Amended and Restated Purchase and Sale Agreement, executed on April 6, 2006, to be effective as of January 31, 2006. This Agreement provides for the purchase of "as much of the approximately 30 acres owned by Seller (more particularly described as [sic] Exhibit "A" attached hereto) . . . as are necessary for construction of 192 residential units . . ." Since it has not yet been determined which portion of the 30 acres will comprise the proposed Development site, it is unclear what site the Local Government Verification That Development is Consistent With Zoning And Land Use Regulations form, executed by the Director of Planning and Zoning on January 26, 2006, is for.	Final	
11T	III	C	1	Site Plan Approval	As a cure for Item 2T, the Applicant submitted a new Local Government Verification of Site Plan Approval for Multifamily Developments form which indicates that the site plan was reviewed by the Site Plan Review and Appearance Board on March 22, 2006. However, as explained in Item 10T above, since it has not yet been determined which portion of the 30 acres will comprise the proposed Development site, it is unclear what site the site plan that was reviewed by the Board on March 22, 2006 was for.	Final	
12T	III	C	5	Environmental Safety	In its cure, the Applicant stated that the size of the Development was increased to up to 30 acres. Since the Environmental Provider performed the Phase I Environmental Site Assessment and executed the Verification of Environmental Safety Phase I Environmental Site Assessment form prior to the increase in the size of the Development, it is unknown whether the entire Development meets the required ESA standards.	Final	

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final	Final	Final	Final	Final	Final	Final	Final	Final	

2006 MMRB, SAIL & HC Scoring Summary

As of: 05/03/2006

File # 2006-032C Development Name: Village at Delray

Proximity Tie-Breaker Points:

Item #	Part	Section	Subsection	Description	Available	Preliminary	NOPSE	Final	Final Ranking
1P	III	A	10.a.(2)(a)	Grocery Store	1.25	1	1	1.25	0
2P	III	A	10.a.(2)(b)	Public School	1.25	1.25	1.25	1.25	0
3P	III	A	10.a.(2)(c)	Medical Facility	1.25	0	0	0	0
4P	III	A	10.a.(2)(d)	Pharmacy	1.25	0	0	0	0
5P	III	A	10.a.(2)(e)	Public Bus Stop or Metro-Rail Stop	1.25	1.25	1.25	1.25	0
6P	III	A	10.b.	Proximity to Developments on FHFC Development Proximity List	3.75	3.75	3.75	3.75	0

Additional Application Comments:

Item #	Part	Section	Subsection	Description	Reason(s)	Created As Result	Rescinded as Result
1C					Florida Housing is aware that this development site is currently subject to a State Apartment Incentive Loan (SAIL) Mortgage and Land Use Restriction Agreement (LURA). Any activity inconsistent with the terms and conditions of the existing LURA and existing loan documents would require Florida Housing Board approval - which may or may not be granted.	Preliminary	

LOCAL GOVERNMENT VERIFICATION OF STATUS OF
SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS

Name of Development: Village at Delray
Auburn Avenue and 8th Street, Delray Beach, FL 33444

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city)

Zoning Designation: RM

Mark the applicable statement:

1. The above-referenced Development is new construction or rehabilitation with new construction and the final site plan was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)
2. The above-referenced Development is new construction or rehabilitation with new construction and this jurisdiction provides either preliminary site plan approval or conceptual site plan approval. The preliminary or conceptual site plan was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)
3. The above-referenced Development is new construction or rehabilitation with new construction and requires site plan approval for the new construction work. However, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan was reviewed by Paul Dorling on 11/17/06 **
(Legally Authorized Body*) Date (mm/dd/yyyy)
4. The above-referenced Development is rehabilitation without any new construction and does not require additional site plan approval or similar process.

* "Legally Authorized Body" is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc., with authority over such matters.

CERTIFICATION

I certify that the City/County of Delray Beach has vested in me the authority
(Name of City or County)
to verify status of site plan approval as specified above and I further certify that the information stated above is true and correct.

Paul Dorling
Signature
11/26/06
Date (mm/dd/yyyy)

Paul Dorling
Print or Type Name
Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the Application will fail threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

**See attached letter of explanation.

LOCAL GOVERNMENT VERIFICATION THAT DEVELOPMENT IS CONSISTENT WITH ZONING AND LAND USE REGULATIONS

Name of Development: Village at Delray

Auburn Avenue and 8th Street, Delray Beach, FL 33444

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city)

The undersigned local government official confirms that on or before 1/26/06 :
Date (mm/dd/yyyy)

- (1) The number of units (not buildings) allowed for this development site (if restricted) PH12 U/AC and/or XX if a PUD, the number of units (not buildings) allowed per development site is: _____
or
if not a PUD and development site is subject to existing special use or similar permit, number of units allowed for this development site is: _____; and
- (2) The zoning designation for the referenced Development site is RM; and
- (3) The intended use is consistent with current land use regulations and the referenced zoning designation or, if the Development consists of rehabilitation, the intended use is allowed as a legally non-conforming use. To the best of my knowledge, there are no additional land use regulation hearings or approvals required to obtain the zoning classification or density described herein. Assuming compliance with the applicable land use regulations, there are no known conditions which would preclude construction or rehabilitation (as the case may be) of the referenced Development on the proposed site. **XX**

CERTIFICATION

I certify that the City/County of Delray Beach has vested in me the authority
(Name of City/County)

to verify consistency with local land use regulations and the zoning designation specified above or, if the Development consists of rehabilitation, the intended use is allowed as a "legally non-conforming use" and I further certify that the foregoing information is true and correct. In addition, if the proposed Development site is in the Florida Keys Area as defined in Rule Chapters 67-21 and 67-48, F.A.C., I further certify that the Applicant has obtained the necessary Rate of Growth Ordinance (ROGO) allocations from the local government.

Paul Dorling
Signature Date (mm/dd/yyyy) 1/26/06

Paul Dorling
Print or Type Name
Director of Planning and Zoning
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to comprehensive planning and zoning, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If the certification is applicable to this Development and it is inappropriately signed, the Application will fail threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

**See attached letter of explanation.

CITY OF DELRAY BEACH

CITY ATTORNEY'S OFFICE

200 NW 15th Avenue, Delray Beach, Florida 33441
TELEPHONE 561/243-7091 FAX 561/243-1755
WRITER'S DIRECT LINE 561/243-7091



January 26, 2006



Mr. Tom Hinners
1301 S.W. 10th Avenue – Building J
Delray Beach, FL 33444

1993
2001

Re: Certifications Requested

Dear Mr. Hinners:

I have reviewed the certifications. The certifications are made subject to the following clarifications:

- A) Zoning and Land Use Certification.
- (1) The City currently has a Workforce Housing Ordinance. The number of units allowed will be up to 18 units per acre per the new workforce housing ordinance modifications when passed. Currently, the allowed density is up to 12 units per acre. The actual density is dependent on the site and other amenities as required by code. The ordinance modification is expected to be put before the City Commission the first part of March.
 - (2) Okay.
 - (3) Formal site plan approval is required. Condition use hearings will be required to develop up to 18 units per acre per the Workforce Housing Ordinance modification to be adopted in March.
- (B) Status of Site Plan Approval for Multifamily Developments. The City has a conceptual review, not an approval process to the Site Plan Review and Appearance Board. The process also allows informal review by the Planning & Zoning Department, which occurred here.
- (C) Expediting Permitting for Affordability. SHIP program policy permits expedited processes.

January 26, 2006

Page 2

- (D) Affordable Housing Incentives; Contributions. The City's Renaissance Program provides down payment assistance and provides for donations of lots. SHIP also provides incentives. See Resolution 31-04 and SHIP policy as attached.
- (E) Modification of Fee Requirements for Affordable Housing. There are incentives under the SHIP Program for infrastructure expense modification. See Resolution 31-04 and SHIP policy as attached.
- (F) Impact of Policies, Objectives on Cost of Affordable Housing. The City's Comprehensive Plan encourages housing at very low, low and moderate income levels which includes affordable housing. The City has a workforce housing ordinance that gives incentives for affordable housing. Everything that the City approves in the area of land use must be consistent with the Comprehensive Plan. With this explanation, we could sign and certify the statement.

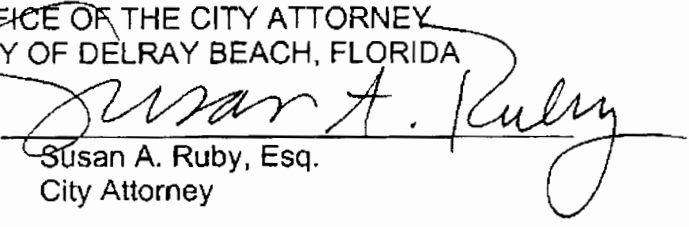
We are eager to assist in any way we can but some of the certifications require explanations. The forms apparently cannot be modified. Thus, this letter must be included with the submittal.

Please call me to discuss this upon receipt.

Sincerely,

OFFICE OF THE CITY ATTORNEY
CITY OF DELRAY BEACH, FLORIDA

By:


Susan A. Ruby, Esq.
City Attorney

SAR:smk

cc: David T. Harden, City Manager
Lula Butler, Director of Community Improvement
Paul Dorling, Planning & Zoning Director

2006 CURE FORM

(Submit a SEPARATE form for EACH reason relative to EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2006-032C** and pertains to:

Part III Section C Subsection 4 Exhibit No. 27 (if applicable)

The attached information is submitted in response to the 2006 Universal Scoring Summary Report because:

- 1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2006 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>1</u> T	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____P	<input type="checkbox"/>	<input type="checkbox"/>

- 2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part ____ Section ____ Subsection ____ Exhibit ____ (if applicable).

Brief Statement of Explanation regarding
Application 2006 – 032C

Provide a separate brief statement for each Cure

In the 2006 MMRB, SAIL, & HC Scoring Summary dated 3/27/2006 for this Application, Florida Housing indicated a Threshold failure, designated as 1T, Part III, Section C, Subsection 4, Zoning. The reason stated by Florida Housing is as follows:

"The Universal Application Instructions requires that appropriate zoning be demonstrated as of the end of the cure period. The Local Government Verification that Development is Consistent with Zoning and Land Use Regulations form provided in the Application states that up to 12 units per acre is currently allowed for the Development site. According to the Purchase and Sale Agreement provided in the Application, the site consists of 9 acres more or less, which, based on the current zoning, would allow construction of 108 units. Since the proposed Development will consist of 192 total units, the Applicant has not demonstrated that the present zoning regulations will allow for the number of units proposed in this Application."

As the submission of the Cure, attached is an Amended and Restated Purchase and Sale Agreement which has been revised to address current and proposed zoning requirements, and which should be placed behind Exhibit 27 in substitution of the Purchase and Sale Agreement submitted in the original Application.

The Applicant has now demonstrated that the present zoning regulations will allow for the number of units proposed in this Application, and therefore, the Application should be deemed to meet threshold for this issue.

Exhibit 27

**AMENDED AND RESTATED
PURCHASE AND SALE AGREEMENT**

THIS AMENDED AND RESTATED PURCHASE AND SALE AGREEMENT (this "Agreement"), effective as of January 31, 2006 (the "Effective Date"), by and between Auburn Trace, Ltd., a Florida limited partnership (hereinafter referred to as "Seller") and Village at Delray, Ltd., a Florida limited partnership, and/or its assigns (hereinafter referred to as "Purchaser").

RECITALS:

A. WHEREAS, Seller and Purchaser entered into that certain Purchase and Sale Agreement dated effective as of January 31, 2006 (the "Original Contract"), for the purchase and sale of certain property located in Delray Beach, Florida.

B. WHEREAS, Seller and Purchaser desire to amend and restate in its entirety the Original Contract as set forth herein.

WITNESSETH:

In consideration of the mutual promises hereinafter set forth, Seller and Purchaser mutually agree as follows:

1. **PURCHASE AND SALE.** Seller agrees to sell and convey and the Purchaser agrees to purchase as much of the approximately 30 acres owned by Seller (more particularly described an Exhibit "A" attached hereto) located at Auburn Circle West, Delray Beach, FL 33444 (the "Premises") as are necessary for construction of 192 residential units together with related amenities (the "Contemplated Improvements"). Based upon current RM 12 zoning the amount of the land that will be conveyed would be approximately 16 acres. The land is in the process of being included under Delray Beach's Workforce Housing Ordinance which would increase the allowable density from a maximum of 12 units per acre to 18 units per acre, and if that should happen the amount of land conveyed hereby would be approximately 11 acres. In all cases, Seller acknowledges that the tract of land to be conveyed to Purchaser shall be designated by Purchaser (and Seller hereby agrees to convey the land as designated by Purchaser), it being understood that the tract of land conveyed to Purchaser (a) shall be sufficient to meet density requirements to construct 192 units on such property as of the Closing Date; (b) shall encompass the Tie-Breaker Measurement Point designated by Purchaser in its 2006 Universal Cycle Application submitted to Florida Housing Finance Corporation, and (c) shall not change the Location of the Development Site (Auburn Avenue and 8th Street, Delray Beach, FL 32444), as indicated in the Purchaser's 2006 Universal Cycle Application submitted to Florida Housing Finance Corporation.

The Premises shall include all of the right, title and interest of Seller in and to the following:

(a) All (if any) easements, access easements, rights of way, air rights, development rights, privileges, licenses, appurtenances and other rights and benefits belonging to the owner of, running with, or in any way related to the Premises;

(b) All consents, authorizations, variances, waivers, licenses, permits and approvals from any governmental authority with respect to the Premises;

(c) All percolation, soil, topographical, traffic, engineering and environmental studies, all riparian, littoral rights, title to submerged lands and other water rights related to or benefiting the Premises;

(d) All utility mains, service laterals, hydrants, connections, hook-ups and valves servicing or available to service the Premises; and

(e) Any and all other agreements, contracts, covenants, variances and benefits related to or benefiting the Premises.

2. PURCHASE PRICE. The total purchase price for the Premises ("Total Purchase Price"), which Purchaser agrees to pay and Seller agrees to accept, is the sum of SIX MILLION FIVE HUNDRED THOUSAND DOLLARS (\$6,500,000.00), irrespective of the acreage Seller conveys to Purchaser pursuant to Section 1 of this Agreement. The Total Purchase Price shall be payable in cash, subject to the adjustments herein provided, by wire transfer of United States Dollars, which shall be payable as follows:

(a) Within three (3) business days of Purchaser's signing hereof, Purchaser shall deliver to the law firm of Richard Carlson, Esq., Trust Account, as escrow agent ("Escrow Agent"), the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) by check, the proceeds of which shall be held in trust as an earnest money deposit (the "Deposit") in an interest bearing account by Escrow Agent, and disbursed only in accordance with the terms of this Agreement.

(b) Upon termination of the "Inspection Period", as defined below, Purchaser shall deposit an additional FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) by check with the Escrow Agent the proceeds of which shall also be held in trust as an earnest money deposit (the "Additional Deposit") by Escrow Agent, and disbursed only in accordance with the terms of this Agreement. The Deposit and the Additional Deposit are collectively, the Deposits.

(c) On the Closing Date, Escrow Agent shall deliver the Deposits to Seller and Purchaser shall pay to Seller the balance of the Total Purchase Price subject to the adjustments herein provided, by a cashier's check or by wire transfer of United States Dollars.

(d) The Deposit shall be invested as Purchaser so directs, but only after Purchaser has executed all necessary governmental forms, including a W-9 and delivered such form to Escrow Agent. Any and all interest earned on the Deposit shall be reported to Purchaser's federal tax identification number. The Escrow Agent shall have no responsibility in case of failure or suspension of business of the institution holding the Deposit. Interest earned, if any, shall be credited to the Purchaser upon closing, or in the event of Purchaser's default, to the Seller.

3. INSPECTION PERIOD. From the period beginning with the Effective Date and continuing for a period of 200 business days thereafter (the "Inspection Period"), Seller hereby grants to Purchaser the right to make whatever investigations Purchaser deems necessary with respect to the Premises.

(a) During the Inspection Period, Seller hereby grants to Purchaser and its agents, servants, employees, contractors and representatives a right of entry upon every portion of the Premises and a right to examine all records or other matters pertaining to the Premises (and Seller hereby agrees to make such records or other matters available to Purchaser) from time to time at all reasonable times for the purpose of making surveys, engineering studies, drainage studies, appraisals, zoning and land use studies, impact studies, surface and subsurface explorations, tests, excavations, borings and such other investigations and inspections as Purchaser may elect to make. Seller shall deliver to Purchaser, within five (5) days from the Effective Date, copies of any and all title insurance policies, environmental, soil, zoning, land use, appraisal and feasibility studies, reports, and assessments and governmental orders, approvals, exemptions, waivers and permits relating to the Premises and any proposed use thereof which are in Seller's custody or control.

(b) The Purchaser assumes liability for all acts of its agents who enter onto the Premises and agrees to indemnify and hold harmless the Seller from any loss, damage, cost or expense incurred by Seller as a result of such acts of Purchaser and its agents that cause injury to persons or damage to the Premises.

(c) After such investigations, (i) if Purchaser, in its sole and absolute discretion, is not willing to consummate this Agreement, Purchaser shall give written notice thereof to Seller on or before the end of the Inspection Period, in which event this Agreement shall be terminated and the Escrow Agent shall forthwith return to Purchaser the Deposit(s) delivered pursuant to Section 2 hereof, or (ii) if Purchaser does not give said written notice to Seller, the Deposit(s) shall, except upon Seller's default and subject to other provisions of this Agreement, become non-refundable.

(d) Notwithstanding any provision in this Agreement to the contrary, during the Inspection Period, Purchaser may, without liability to Seller and for any reason whatsoever, cancel this Agreement and Escrow Agent shall return the Deposit(s) together with interest earned on it to Purchaser; upon such cancellation and return of the Deposit(s), both parties shall be released from all further obligations under this Agreement.

4. CONDEMNATION. In the event that any portion of the Premises shall be threatened by or taken in condemnation or under the right of eminent domain after the Effective Date hereof and prior to the Closing Date, Seller shall promptly provide Purchaser with written notice enclosing a copy of the threatened or proposed condemnation (the "Condemnation Notice"). Within twenty (20) days of Purchaser's receipt of the Condemnation Notice, this Agreement, at the option of Purchaser, may either: (i) be declared null and void with respect to the Premises; or (ii) continue in effect and the proceeds received from such condemnation or eminent domain proceeding shall be retained by Seller and applied to reduce the Purchase Price, or if condemnation or eminent domain proceedings are not completed, assigned at Closing to Purchaser. If Purchaser elects to complete the sale of the Premises pursuant hereto, Seller shall not negotiate a settlement of any pending condemnation or eminent domain proceedings without the prior consent of Purchaser. The provisions of this Section 4 shall survive the Closing.

5. TITLE INSURANCE/SURVEY. Within twenty (20) days following the Effective Date, Purchaser shall, at Seller's expense (not to exceed \$450.00), order an owner's title insurance commitment (the "Title Commitment") from a title insurance company licensed to do business in the State of Florida and designated by Purchaser, showing Seller to be vested with fee simple title to the Premises.

(a) Seller shall convey to Purchaser marketable title to the Premises, subject only to: (i) the exceptions for recorded instruments which do not render title unmarketable; and (ii) those matters which shall be discharged by Seller, at or before Closing, as hereafter set forth (collectively, (i) and (ii) shall be "Permitted Exceptions"); provided there exists at Closing no violations and nothing which restricts the Purchaser's contemplated improvements to the Premises. Marketable title shall be determined according to the Title Standards adopted by authority of The Florida Bar and in accordance with law. There shall be no outstanding issued violations against the Premises at the time of closing or open permits. Purchaser shall have thirty (30) days from the date of receiving the Title Commitment, to examine same. If the Title Commitment, or any update endorsement obtained prior to Closing reflects that title to the Premises is subject to any exceptions unacceptable to Purchaser (other than Permitted Exceptions) or otherwise affected by any violations against the Premises, Purchaser shall, within thirty (30) days after receipt of the Title Commitment or update endorsement, notify Seller in writing of the specific title defects. Seller shall use diligent effort to correct such defects within sixty (60) days from its receipt of the notice from Purchaser, provided that Seller shall not be obligated to prosecute any legal action to cure any title defects. Purchaser, at its option, may extend the time to cure any defects which arise after the Purchaser's initial examination of title by a period of time equal to the period of time that is required to cure the title defects, but not beyond the later of: (i) the Closing Date, as same may be extended, or (ii) ten (10) days beyond after said defect is cured. If Seller is not successful in removing the defects within said time, Purchaser shall have the option of either accepting the title in its existing condition, or of terminating this Agreement by sending written notice of termination to Seller and Escrow Agent. Upon the termination of this Agreement, Escrow Agent shall return the Deposit(s) to Purchaser, and, thereafter, neither Purchaser nor Seller shall have any further rights or obligations hereunder except as otherwise provided in this Agreement.

(b) Purchaser, during the Inspection Period, may have the Premises surveyed at Purchaser's expense by a Florida registered surveyor. If the survey shows any encroachment on the Premises or that any improvement on the Premises encroaches on the lands of others, the same shall be treated as a title defect hereunder if raised within the time and in the manner provided for title objections in this Paragraph.

6. CLOSING DOCUMENTS. The Closing documents shall be provided by the parties as set forth below:

(a) At Closing Seller shall deliver to Purchaser:

(i) A warranty deed conveying to Purchaser good, marketable and insurable fee simple absolute title to the Premises;

(ii) An affidavit in the customary form, attesting that no individual, entity or governmental body has any claim against the Premises under the Florida Construction Lien Law; that no individual, entity or governmental body is either in possession of the Premises or has possessory interest or claim to the Premises; and that no improvements to the Premises have been made for ninety (90) days immediately preceding the Closing Date (as hereafter defined) for which payment has not been made;

(iii) Copies of any and all licenses used in connection with the Property and originals of any licenses in the possession or control of Seller or its agents;

(iv) a certificate of non-foreign status and Florida Department of Revenue Transfer of Interest in Florida Real Property; and

(v) any other documents required by the Title Company to insure title to the Premises.

(b) Purchaser and Seller shall execute a closing statement prepared by Seller in conformance with the terms of this Agreement.

7. CLOSING/CLOSING EXPENSES. Except as otherwise provided herein, the Closing of title shall take place at the offices of the Purchaser's counsel on or before September 30, 2006, (the "Closing Date"). Notwithstanding anything in this Agreement to the contrary, Purchaser shall have the right to extend the Closing Date (as the same may be postponed pursuant to this Agreement) for two (2) periods of thirty (30) days (each, an "Extension Period") on payment to Seller of TEN THOUSAND DOLLARS AND NO/100 (\$10,000.00) (the "Extension Fee") for each Extension. The first Extension Fee shall be paid directly to Seller within five (5) days prior to the Closing Date, and the successive Extension Fee, if applicable, shall be paid directly to Seller within five (5) days prior to the expiration of the prior Extension

Period. The Extension Fees shall be applied against the Purchase Price. Notwithstanding the foregoing, Extension Fees shall not be payable so long as Seller has not cleared all title defects or is not otherwise in a position to deliver good, marketable and insurable fee simple title to the Premises as of the Closing Date or any Extension Period.

(a) At Closing, Seller shall pay for the cost of state documentary stamps and surtax, if any, on the warranty deed and for the recording of all title corrective instruments and shall reimburse Purchaser for the cost of the title commitment, not to exceed \$450.00.

(b) At Closing, Purchaser shall pay the per page recording fee for recording the warranty deed, the costs of the survey of the Premises ordered by Purchaser and the title insurance policy fees.

8. PRORATIONS. The following items shall be adjusted, apportioned, and allowed as of the Closing Date:

(a) Special Assessment Liens. If, at the Closing Date, the Premises or any part thereof shall be or shall have been affected by any certified, confirmed, and ratified special assessment liens, same shall be paid and discharged by Seller. Pending liens shall be assumed by Purchaser;

(b) Real Estate Taxes. Real estate taxes on the Premises shall be prorated as of the Closing Date based on the current year's taxes, if known. If a Closing occurs at a date when the current year's taxes are not fixed and the current year's assessment is available, taxes shall be prorated based upon such assessment and the prior year's millage. If the current year's assessment is not available, then taxes will be prorated on the prior year's tax. However, any tax proration based on the prior year's tax may, at the request of either party to the transaction be subsequently readjusted upon receipt of the current year's tax bill. All such prorations will have been based on actual tax or estimated tax and make appropriate allowance for the maximum allowable discount. In the event either party fails or refuses to re-prorate the real estate taxes within ten (10) days following receipt of a request by the other party for such re-proration, then the amount due shall bear interest from the expiration of said ten (10) day period at the rate of eighteen (18%) percent per annum. In the event a party is obligated to institute legal proceedings to recover the re-proration of real estate taxes and the interest due as herein set forth, the prevailing party shall be entitled, in addition, to recover reasonable attorneys' fees and costs from the non-prevailing party;

(c) The provisions of this Article 8 shall survive the Closing.

9. CLOSING CONDITIONS. In addition to Purchaser's rights to cancel this Agreement for any reason during the Inspection Period, Purchaser shall have the right, at any time prior to Closing to cancel this Agreement and receive the return of the Deposits together with all interest thereon, less the sum of \$10.00 which shall be delivered to and belong to Seller, if Purchaser is not able to satisfy the following condition, in Purchaser's sole discretion.

Allocation of Housing Credits by Florida Housing Finance Corporation in an amount sufficient to make the project financially feasible.

If Purchaser notifies Seller that the above condition has failed to occur, notwithstanding anything to the contrary herein, Purchaser may elect to (i) waive the failure of the condition and continue this Agreement, or (ii) terminate this Agreement and be returned the Deposits with all interest thereon.

10. BROKER. Each of the parties hereto represents to the other that they have incurred no obligations for brokerage in connection with this Agreement and agree that they will hold the other party hereto harmless from and against any expenses, claims or demands with respect to any other broker's fees claimed or demanded by anyone in connection with this Agreement insofar as such claim is based upon any agreement or alleged agreement with the indemnifying party. The provisions of this Article 10 shall survive the Closing.

11. SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

(a) Seller represents and warrants to Purchaser and covenants and agrees with Purchaser as follows:

(i) Seller has not entered into any contracts, subcontracts, arrangements, licenses, concessions, easements, or other agreements, either recorded or unrecorded, written or oral, affecting all or any portion of the Premises;

(ii) The Premises has direct access or is adjacent to a publicly dedicated thoroughfare and there are no: (i) existing or pending improvement liens affecting the Premises; (ii) violations of building codes and/or zoning ordinances or other governmental or regulatory laws, ordinances, regulations, orders or requirements affecting the Premises; (iii) existing, pending or threatened lawsuits or appeals of prior lawsuits affecting the Premises; (iv) existing, pending or threatened condemnation proceedings affecting the Premises; or (v) existing, pending or threatened zoning, building or other moratoria, downzoning petitions, proceedings, restrictive allocations or similar matters that could affect Purchaser's use of the Premises;

(iii) Nothing has been done nor allowed which could cause toxic or hazardous materials or waste to be present in, on or about the Premises, and Seller has no knowledge of any such materials or waste being or ever having been in, on, or about the Premises;

(iv) There are no agreements currently in effect which restrict the sale of the Premises;

(v) Seller has the right, power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by it; neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated by it nor the fulfillment of nor the compliance with the terms, conditions and provisions of this Agreement will conflict with or result in a violation or breach of any relevant law, or any other instrument or agreement of any nature to which Seller is a party or by which it is bound or may be affected, or constitute (with or without the giving of notice or the passage of time) a default under such an instrument or agreement; no consent, approval, authorization or order of any person is required with respect to the consummation of the transactions contemplated by this Agreement;

(vi) No commitments or agreements have been or will be made to any governmental authority, utility company, school board, church or other religious body, any homeowners or homeowners' association, or any other organization, group or individual, relating to the Premises which would impose an obligation upon Purchaser to make any contributions or dedications of money or land to construct, install or maintain any improvements of a public or private nature on or off the Premises, or otherwise impose liability on Purchaser; and

(b) At all times during the term of this Agreement and as of Closing, all of Seller's representations, warranties and covenants in this Agreement shall be true and correct; no representation or warranty by Seller contained in this Agreement and no statement delivered or information supplied to Purchaser pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements or information contained in them or in this Agreement not misleading.

12. DEFAULT. In the event of a failure by Purchaser or Seller to perform any obligation or covenant which either of them is obligated to perform under this Agreement, except for the failure to close in accordance with the terms of this Agreement, which failure shall constitute an immediate default hereunder, no default shall occur until notice thereof is given to the defaulting party by the other party hereto asserting an event of default has occurred, describing the nature of the default, and giving a period of ten (10) days to cure the default, if readily curable by the payment of money, or a period of forty-five (45) days to cure the default, if not readily curable by the payment of money. If after notice and the cure period provided in the preceding sentence, the Purchaser is in default, then the balance of the Deposit shall be paid to and retained by and for the account of Seller as agreed and liquidated damages and in full settlement of any claims whatsoever, and this Agreement shall terminate and be of no further force or effect. If Seller fails to perform any of its covenants set forth in this Agreement or fails to properly convey the Premises when obligated to do so in accordance with the terms hereof, Purchaser shall be entitled to receive the return of the balance of the Deposit, or seek specific performance against Seller, unless specific performance is not available to Purchaser in which case Purchaser may seek any other remedy available at law or equity. Seller hereby irrevocably waives any defense based on the adequacy of a remedy at law that may be asserted as a bar to the remedy of specific performance in any action brought against Seller for specific performance of this Agreement by Purchaser.

13. NOTICE. All notices, consents, approvals, waivers and elections which any party shall be required or shall desire to make or give under this Agreement shall be in writing and shall be sufficiently made or given only when delivered in person or by a nationally recognized overnight courier service (such as FedEx), or sent by facsimile with the original simultaneously sent by U.S. First Class Mail to:

(a) to Purchaser, Village at Delray, Ltd. (Fax: 561-276-7002), Attention: Tom Hinners, with a copy to Purchaser's attorney, Richard Carlson, Esq..

(b) to Seller, Auburn Trace, Ltd. (Fax: 561-276-7002), Attention: Tom Hinners.

or to such other address as any party hereto shall designate by like notice given to the other parties hereto.

(c) A copy of all notices shall be sent to the Escrow Agent.

Notices, consents, approvals, waivers and elections given or made as aforesaid shall be deemed to have been dated, given and received on the date of actual receipt.

14. ASSIGNMENT. Purchaser shall be entitled to assign Purchaser's rights and obligations under this Agreement to any other related entity owned by, controlled by, under common control by, or affiliated with Purchaser. Upon such assignment, Village at Delray, Ltd., shall be released from any and all liabilities and obligations hereunder.

15. RADON GAS NOTICE. Pursuant to Florida Statutes Section 404.056(8), Seller hereby makes, and Purchaser hereby acknowledges, the following notification:

RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

16. ESCROW AGENT.

(a) Escrow Agent undertakes to perform only such duties as are expressly set forth in this Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to this Agreement.

(b) Escrow Agent may (a) act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine; (b) assume the validity and accuracy of any statement or

assertion contained in such a writing or instrument; and (c) assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions of this Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument; Escrow Agent's duties under this Agreement are and shall be limited to those duties specifically provided in this Agreement.

(c) The parties to this Agreement do and shall indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or other expenses, fees, or charges of any character or nature, including attorneys' fees and costs, which it may incur or with which it may be threatened by reason of its action as Escrow Agent under this Agreement, except for such matters which are the result of Escrow Agent's gross negligence or willful malfeasance. Escrow Agent shall be vested with a lien on all property deposited under this Agreement for the purpose of such indemnification, and for any other expenses, fees or charges of any character or nature, which may be incurred by Escrow Agent in its capacity as escrow agent. Escrow Agent has and shall have the right, regardless of any instructions, to hold the property deposited in escrow until and unless said additional expenses, fees and charges shall be fully paid.

(d) If the parties (including Escrow Agent) shall be in disagreement about the interpretation of this Agreement, or about their respective rights and obligations, or about the propriety of any action contemplated by Escrow Agent, Escrow Agent may, but shall not be required to, file an action in interpleader to resolve the disagreement; upon filing such action, Escrow Agent shall be released from all obligations under this Agreement. Escrow Agent shall be indemnified for all costs and reasonable attorneys' fees, including those for appellate matters and for paralegals and similar persons, incurred in its capacity as escrow agent in connection with any such interpleader action; Escrow Agent may represent itself in any such interpleader action and charge its usual and customary legal fees for such representation, and the court shall award such attorneys' fees, including those for appellate matters and for paralegals and similar persons, to Escrow Agent from the losing party. Escrow Agent shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in the interpleader action is received.

(e) Escrow Agent may consult with counsel of its own choice, including counsel within its own firm, and shall have full and complete authorization and protection in accordance with the opinion of such counsel. Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its gross negligence or willful misconduct.

(f) Escrow Agent may resign upon five (5) days' written notice to Seller and Purchaser. If a successor escrow agent is not appointed jointly by Seller and Purchaser within the five (5) day period, Escrow Agent may petition a court of competent jurisdiction to name a successor.

(g) The provisions of this section shall survive the Closing and also the cancellation of this Agreement.

17. GENERAL PROVISIONS. The following general terms and conditions apply to this Agreement:

(a) SINGULAR/PLURAL-MASCULINE/FEMININE. Words used herein in the singular shall include the plural and words in the masculine/feminine/neuter gender shall include words in the masculine/feminine/neuter where the text of this Agreement requires.

(b) TITLES. Headings in this Agreement are for convenience only.

(c) SUCCESSORS. The terms, covenants, and conditions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns, except as herein limited.

(d) CHOICE OF LAW. This Agreement shall be interpreted according to the laws of the State of Florida.

(e) LITIGATION. In the event there is any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred in connection therewith including, but not limited to, reasonable attorneys' fees.

(f) TIME. Time is of the essence in the performance of the obligation of the parties to this Agreement.

(g) TIME OF ACCEPTANCE. This Agreement must be fully executed by all parties hereto on or before 5:00 P.M., on April 10th, 2006, or this Agreement, and any offer contained herein, shall be considered rejected and null and void and the Deposit(s) delivered pursuant to Section 2 of this Agreement shall be refunded by the Escrow Agent to Purchaser. All time periods in this Agreement shall be deemed to be in business days unless otherwise so stated. If the Closing Date, the date of expiration of any period of time or the date for the performance of any act or the satisfaction of any condition, whether specified or determined by formula or calculation, under this Agreement occurs on a Saturday, Sunday or legal holiday of the State of Florida, then the Closing Date or such date shall automatically be extended to the next following business day.

(h) COUNTERPART EXECUTION. This Agreement may be executed in counterparts, each of which will be deemed an original document, but all of which will constitute a single document. A facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as originals.

(i) CONSTRUCTION. This Agreement has been prepared by Purchaser and its professional advisors and reviewed by Seller and its professional advisors. Seller and Purchaser and their

respective advisors believe that this Agreement is the product of all of their efforts, that it expresses their agreement and that it should not be interpreted in favor of or against either Purchaser or Seller. The parties further agree that this Agreement will be construed to effectuate the normal and reasonable expectations of a sophisticated Seller and Purchaser.

18. ENTIRE AGREEMENT. This Agreement integrates and supersedes all other agreements and understandings of every character of the parties and comprises the entire agreement between them. This Agreement may not be changed, except in writing signed by the parties. No waiver of any rights or obligations hereunder shall be deemed to have occurred unless in writing signed by the party against whom such waiver is asserted and no waiver shall be deemed a waiver of any other or subsequent right or obligations.

19. SELLER COOPERATION. Seller shall promptly join in and fully cooperate with Purchaser and provide any information and promptly execute any forms necessary and required with respect to (and Seller authorizes Purchaser as Seller's agent to make) any and all applications, variances, permits, certificates of dedication, dedications of air rights, public works agreements or approvals deemed necessary by Purchaser in connection with Purchaser's intended development of the Premises, all at no cost to Seller. If any of the foregoing must, for any reason, be applied for or taken out in the name of Seller, Seller agrees to promptly take any and all steps reasonably required in order for same to be accomplished at no cost to Seller. Furthermore, Seller hereby designates Purchaser (or its designees) as its irrevocable agent (which is coupled with an interest) for purposes of implementing the terms and provisions of this Section 19. The provisions of this Section 19 shall survive the Closing and delivery of the deed.

IN WITNESS WHEREOF, each of the parties have set their seals this 6th day of April, 2006, to be effective as of January 31, 2006, and the parties executing this Agreement hereby represent to the other that they have full and complete authority to execute the same on behalf of the entities for which they sign.

Signed, sealed and delivered
in the presence of:

Eric Weiner
Print Name: Eric Weiner

Nicole Day
Print Name: Nicole Day

Eric Weiner
Print Name: Eric Weiner

Nicole Day
Print Name: Nicole Day

PURCHASER:

VILLAGE AT DELRAY, LTD., a Florida
limited partnership

By: Village at Delray GP, LLC, a Florida
limited liability company, its general
partner

By: Auburn Management, Inc., a Florida
corporation, its sole member

By: *Brian J. Hinners*
Brian J. Hinners, President

SELLER:

AUBURN TRACE, LTD., a Florida limited
partnership

By: Auburn Trace Joint Venture, a Florida
general partnership, its general partner

By: Auburn Management, Inc., a Florida
corporation, its general partner

By: *Brian J. Hinners*
Brian J. Hinners, President

EXHIBIT "A"

LEGAL DESCRIPTION

Tracts A, C, and D, Auburn Trace, according to the Plat thereof recorded in Plat Book 64, Pages 184,185 and 186 of the Public Records of Palm Beach County, Florida.

2006 CURE FORM

(Submit a SEPARATE form for EACH reason relative to
EACH Application Part, Section, Subsection, and Exhibit)

This Cure Form is being submitted with regard to **Application No. 2006-032C** and pertains to:

Part III Section C Subsection 1 Exhibit No. 26 (if applicable)

The attached information is submitted in response to the 2006 Universal Scoring Summary Report because:

1. Preliminary Scoring and/or NOPSE scoring resulted in the imposition of a failure to achieve maximum points, a failure to achieve threshold, and/or a failure to achieve maximum proximity points relative to the Part, Section, Subsection, and/or Exhibit stated above. Check applicable item(s) below:

	2006 Universal Scoring Summary Report	Created by:	
		Preliminary Scoring	NOPSE Scoring
<input type="checkbox"/> Reason Score Not Maxed	Item No. ____S	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Reason Failed Threshold	Item No. <u>2</u> T	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Reason Proximity Points Not Maxed	Item No. ____P	<input type="checkbox"/>	<input type="checkbox"/>

2. Other changes are necessary to keep the Application consistent:

This revision or additional documentation is submitted to address an issue resulting from a cure to Part ____ Section ____ Subsection ____ Exhibit ____ (if applicable).

LOCAL GOVERNMENT VERIFICATION OF STATUS OF
SITE PLAN APPROVAL FOR MULTIFAMILY DEVELOPMENTS

Name of Development: Village at Delray

Development Location: Auburn Avenue and 8th Street, Delray Beach, Florida 33444

(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city)

Zoning Designation: RM

Mark the applicable statement:

- The above-referenced Development is new construction or rehabilitation with new construction and the final site plan was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)
- The above-referenced Development is new construction or rehabilitation with new construction and this jurisdiction provides either preliminary site plan approval or conceptual site plan approval. The preliminary or conceptual site plan was approved by action of the _____ on _____
(Legally Authorized Body*) Date (mm/dd/yyyy)
- The above-referenced Development is new construction or rehabilitation with new construction and requires site plan approval for the new construction work. However, this jurisdiction provides neither preliminary site plan approval nor conceptual site plan approval, nor is any other similar process provided prior to issuing final site plan approval. Although there is no preliminary or conceptual site plan approval process and the final site plan approval has not yet been issued, the site plan was reviewed by Stephen Roman and Appearance Board 3-22-06
(Legally Authorized Body*) Date (mm/dd/yyyy)
- The above-referenced Development is rehabilitation without any new construction and does not require additional site plan approval or similar process.

* "Legally Authorized Body" is not an individual. Applicant must state the name of the City Council, County Commission, Board, Department, Division, etc., with authority over such matters

CERTIFICATION

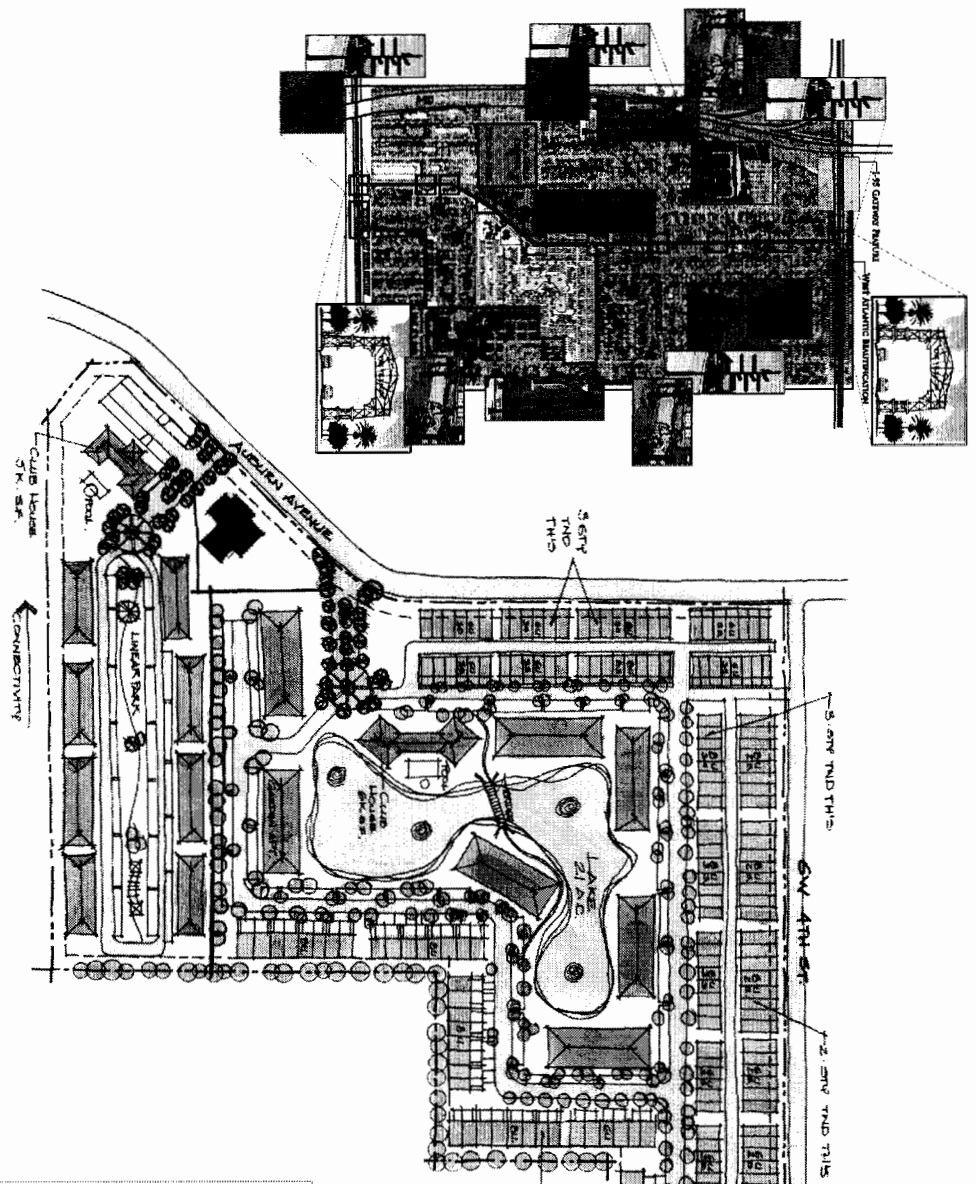
I certify that the City/County of City of Delray Beach has vested in me the authority
(Name of City or County)
to verify status of site plan approval as specified above and I further certify that the information stated above is true and correct.

Paul Dorling
Signature
3-27-06
Date (mm/dd/yyyy)

PAUL DORLING
Print or Type Name
DIR. OF PLANNING & ZONING
Print or Type Title

This certification must be signed by the applicable City's or County's Director of Planning and Zoning, chief appointed official (staff) responsible for determination of issues related to site plan approval, City Manager, or County Manager/Administrator/Coordinator. Signatures from local elected officials are not acceptable, nor are other signatories. If this certification is applicable to this Development and it is inappropriately signed, the Application will fail threshold.

If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.



SITE DATA	
TOTAL AREA (3,800,000 SQ FT)	88.3 ACRES
ZONED DISTRICT	M-2
LAND USE CATEGORY	MULTI-FAMILY RESIDENTIAL
TOTAL RESIDENTIAL UNITS	544 UNITS
TOTAL UNITS	
(1) BLDG. - 100 UNITS	100 UNITS
(2) BLDG. - 100 UNITS	100 UNITS
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ATTACHMENT E



A-0.1

SITE PLAN

VILLAGE AT DELRAY
 DELRAY BEACH, FLORIDA
 AUBURN TRACE REDEVELOPMENT
 1301 S.W. 10 TH. AVENUE
 DELRAY BEACH, FL 33444

QUINCY JOHNSON
 JONES WORTH WILLIAMS
 ARCHITECTS
 1301 S.W. 10 TH. AVENUE
 DELRAY BEACH, FL 33444
 561.997.1610
 WWW.QUINCYJOHNSON.COM

ORDINANCE NO. 17-06

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, BY AMENDING SECTION 4.4.6 "MEDIUM DENSITY RESIDENTIAL (RM) DISTRICT", SUBSECTION 4.4.6(D), "CONDITIONAL USES AND STRUCTURES ALLOWED", BY ADDING SUBSECTION 4.4.6(D)(13) TO INCLUDE REFERENCES TO APPLICABLE WORKFORCE HOUSING OVERLAY DISTRICTS; AMENDING SUBSECTIONS 4.4.6(F), "DEVELOPMENT STANDARDS", 4.4.6(G), "SUPPLEMENTAL DISTRICT REGULATIONS" AND SUBSECTION 4.4.6(H), "SPECIAL REGULATIONS", TO ADD ADDITIONAL WORKFORCE HOUSING OVERLAY DISTRICTS; AMENDING SECTION 4.4.9 "GENERAL COMMERCIAL (GC) DISTRICT", SUBSECTION 4.4.9(D) "CONDITIONAL USES AND STRUCTURES ALLOWED", BY ENACTING SUBSECTION 4.4.9(D)(19) TO INCLUDE AN INCENTIVE TO BUILD WORKFORCE HOUSING UNITS; AMENDING ARTICLE 4.5, "OVERLAY AND ENVIRONMENTAL MANAGEMENT DISTRICTS", BY ENACTING SUBSECTION 4.5.12, "INFILL WORKFORCE HOUSING AREA"; PROVIDING A GENERAL REPEALER CLAUSE; A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, pursuant to LDR Section 1.1.6, the Planning and Zoning Board reviewed the proposed text amendment at a public hearing held on February 27, 2006 and voted 7 to 0 to recommend that the changes be approved; and

WHEREAS, pursuant to Florida Statute 163.3174(4)(c), the Planning and Zoning Board, sitting as the Local Planning Agency, has determined that the change is consistent with and furthers the goals, objectives and policies of the Comprehensive Plan; and

WHEREAS, the City Commission of the City of Delray Beach adopts the findings in the Planning and Zoning Staff Report; and

WHEREAS, the City Commission of the City of Delray Beach finds the ordinance is consistent with the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF
THE CITY OF DELRAY BEACH, FLORIDA AS FOLLOWS:

Section 1. That Section 4.4.6 "Medium Density Residential (RM) District", Subsection 4.4.6(D), "Conditional Uses and Structures Allowed" is hereby amended by adding Subsection 4.4.6(D)(12) and (13) to read as follow:

(D) Conditional Uses and Structures Allowed: The following uses are allowed as conditional uses within the RM District.

- (1) Adult congregate living facilities and continuing care facilities.
- (2) Residential Licensed Service Provider Facilities subject to restrictions set forth in Section 4.3.3(D).
- (3) Child care and adult day care.
- (4) Private educational facilities subject to the restrictions set forth in Section 4.3.3(HHH).
- (5) Churches, or places of worship, and their attendant educational, nursery, Sunday school, recreational, and columbarium facilities. The foregoing does not allow establishment of educational and care uses such as elementary school and general day care; however, such uses may be established by a separate conditional use application for child care or rezoning to CF, as appropriate.
- (6) Convalescent homes, homes for the aged, nursing homes, and rest homes.
- (7) The use of common recreational facilities such as swimming pools, tennis courts, and golf courses (associated with a subdivision) for club or commercial purposes.
- (8) Single family detached residences in zero lot developments.
- (9) Yacht club with facilities.
- (10) Dock master facilities when associated with a multi-family development which has a marina
- (11) Private beach clubs with attendant recreational, dining, and related accessory facilities within one of the following areas: (a) the area lying south of Atlantic Dunes Park and east of State Road A1A, or (b) south of Casarina Road, north of Bucida road, and east of State Road A1A.
- (12) Multiple family residential development may exceed twelve (12) units per acre, up to a maximum of up-to twenty-four (24) units per acre within the Southwest Neighborhood Overlay District defined in Section 4.5.9, subject to the provisions of Section 4.4.6(I), Article 4.7, and based upon the development's conformance with the applicable standards and criteria described

within the adopted Southwest Area Neighborhood Redevelopment Plan.

(13) Multiple family residential development may exceed twelve (12) units per acre, up to a maximum of twenty-four (24) units per acre within the Carver Estates Overlay District as defined in Section 4.5.11 and up to a maximum of eighteen (18) units per acre within the Infill Workforce Housing Area, subject to the provisions of Section 4.4.6(I), and Article 4.7.

Section 2. That Section 4.4.6, "Medium Density Residential (RM) District", Subsections 4.4.6(F) "Development Standards", 4.4.6(G) "Supplemental District Regulations" and 4.4.6(H) "Special Regulations" to read as follows:

(F) Development Standards:

(1) The provisions for the R-1-A District shall apply for single family detached dwellings.

(2) The development standards as set forth in Section 4.3.4 shall apply for duplex and multi-family development, except as modified herein.

(3) Southwest Neighborhood and Carver Estates Overlay Districts and Infill Workforce Housing Area Development Standards:

The following development standards apply to duplex and multi-family development in the Southwest Neighborhood Overlay District, Carver Estates Overlay District, and the Infill Workforce Housing Area as defined in Section 4.5.9, which is being developed pursuant to regulations set forth in Article 4.7, "Family/Workforce Housing".

(a) Setbacks:

(I)	(1)	Front:	15'
(II)	(2)	Side (Street):	15'
(III)	(3)	Side (Interior): 1 and 2 story	10'
		3 story	15'
(IV)	(4)	Rear:	10'

(b) Setbacks for Garages, Carports and Porte-Cocheres: Garages, carports and porte-cocheres must have a minimum 20' setback when the entrance faces a public street or alley.

(c) Porch Encroachments: Front porches may extend 5' into the front or side street setback and cannot occupy more than 50% of the building frontage and cannot be enclosed in any manner.

(G) Supplemental District Regulations: In addition to the supplemental district regulations set forth in Article 4.6, the following supplemental district regulations shall apply in the RM zone district.

(1) Southwest Neighborhood, and Carver Estates Overlay Districts and Infill Workforce Housing Area: The following supplemental district regulations shall apply to duplex and multi-family development in the Southwest Neighborhood Overlay District as defined in Section 4.5.9, Carver Estates Overlay District and the Infill Workforce Housing Area, which is being developed pursuant to regulations set forth in Article 4.7, "Family/Workforce Housing".

(a) Parking in the front yard is discouraged. No parking shall be allowed in the front yard unless there is no dedicated access to the side or rear of the property.

(b) When garages are provided in the side or rear yards, on-street parking must be provided.

(H) Special Regulations:

(1) A minimum density of six units per acre is established for duplex and multiple family housing projects within this district. Density may exceed the base of six (6) units per acre only after the approving body makes a finding that the project has substantially complied with performance standards as listed in 4.4.6(1). In no event shall a development's total density exceed 12 units per acre, except within the Southwest Neighborhood Overlay District, Carver Estates Overlay District, and the Infill Workforce Housing Area as allowed by Section 4.4.6(D)(12) and 4.4.6(D)(13). The density for a specific RM development may be further limited by a numerical suffix affixed to the designation and shown on the zoning map (i.e. RM-8 limits the density to eight units per acre). To seek a density greater than allowed by the suffix, it is necessary to rezone the property.

(2) Notwithstanding the above, a duplex may be situated upon a platted lot pursuant to Section 4.3.4(1)(3)(b).

(3) Recreational areas shall be required for all new rental apartment developments, and of owner occupied developments which have homeowner associations that must care for retention areas, private streets, or common areas. New developments must include recreational features that are designed to accommodate activities for children and youth of all age ranges. Tot lots are appropriate for toddlers; features such as a basketball court, volleyball court, and open playfields are appropriate for older children. A pool and clubhouse, unless specifically designed for children, is not considered to meet this requirement. Projects having fewer than twenty-five (25) units may be exempted from this standard where it is determined by the approving body that it is not practical or feasible to comply.

(4) The height of accessory structures shall not exceed the height of the associated principal structure. Screen enclosures without a solid roof are excluded from this limit.

(5) The floor area of an accessory structure shall not exceed 40% of the floor area of the principal structure.

(6) Density Bonuses. Density bonuses may be granted to eligible properties governed by regulations set forth in Chapter 4, "Zoning Regulations", "Family/Workforce Housing" as discussed below:

(a) Southwest Neighborhood and Carver Estates Overlay Districts and Infill Workforce Housing Area: Density bonuses above 12 units per acre may be granted as a Conditional Use to eligible properties within the Southwest Neighborhood and Carver Estates Overlay Districts, defined in Section 4.5.9 and 4.5.11, respectively, and within the Infill Workforce Housing Area, Section 4.5.12, subject to the regulations set forth in Chapter 4, "Zoning Regulations", and Article 4.7, "Family/Workforce Housing".

(b) ~~S.W. 10th Street and Carver Estates Overlay Districts~~: Within the S.W. 10th Street ~~and Carver Estates Overlay District~~ defined in Section 4.5.10 ~~and 4.5.11~~, in addition to the performance standards listed in Section 4.4.6(I), increases to a project's density beyond six (6) units per acre is subject to the regulations set forth in Chapter 4, "Zoning Regulations", and Article 4.7, "Family/Workforce Housing".

Section 3. That Section 4.4.9, "General Commercial (GC) District", Subsection 4.4.9(D), "Conditional Uses and Structures Allowed" is hereby amended by adding Subsection 4.4.9(D)(19) to read as follows:

(D) Conditional Uses and Structures Allowed: The following are allowed as conditional uses within the GC District, except as modified in the North Federal Highway Overlay District by Section 4.4.9(G)(1).

(1) Residential Licensed Service Provider Facilities subject to restrictions set forth in Section 4.3.3(D).

(2) Amusement game facilities.

(3) Wash establishments or facilities for vehicles.

(4) Child Care and Adult Day Care.

(5) Clubs and Lodges; social, fraternal, and recreational not exceeding 3,500 sq. ft. of gross floor area.

(6) Drive-in Theaters.

(7) Flea Markets, bazaars, merchandise marts, and similar retail uses.

(8) Funeral Homes.

(9) Gasoline Stations or the dispensing of gasoline directly into vehicles.

(10) Hotels and Motels.

(11) Free-standing multiple-family housing subject to the requirements of the RM District except for setback and height requirements which shall be pursuant to this Section.

(12) Recreational establishments such as bowling alleys, gymnasiums, health spas, miniature golf courses, skating rinks.

(13) Sales and service of All Terrain Vehicles and personal watercraft (waverunners, jet skis), with no outside display, outside storage or outside service.

(14) Vehicle care limited to the changing of oil and filters, and lubrication with no mechanical work or outside storage of vehicles except as a part of a gasoline station.

(15) Veterinary Clinics.

(16) Group Home, Type 2 and Community Residential Homes, pursuant to restrictions set forth in Section 4.3.3(I).

(17) Adult Gaming Centers.

(18) Churches or places of worship, and their attendant Sunday school, recreational and columbarium facilities not exceeding 3,500 square feet of gross floor area. The foregoing does not allow establishment of educational and care uses such as elementary school and general day care.

(19) Multiple family residential development may exceed twelve (12) units per acre, up to a maximum of eighteen (18) units per acre within the Infill Workforce Housing Area, subject to the provisions of Section 4.4.6(I), and Article 4.7, and subject to the requirements of the RM District except for setback and height requirements, which shall be pursuant to this Section.

Section 4. That Section 4.5.12, Infill Workforce Housing Area is hereby enacted, and 4.5.12 is hereby renumbered to read as follows:

Section 4.5.12 The Infill Workforce Housing Area

(A) Defined: The Infill Workforce Housing Area is located west of the Intracoastal Waterway and east of I-95 as shown on the map in Section 4.7.1(I) of the Land Development Regulations.

Section 4.5.4213 North Beach/Seagate and Ocean Neighborhood Overlay Districts:

(A) General: With the adoption of the City's Comprehensive Plan Amendment 99-01, Housing Element Policy A-12.4 was modified to state the City will provide planning and technical assistance to implement neighborhood-supported initiatives aimed at preserving the character of existing residential areas. Such assistance may involve the formulation of regulations that would limit the size and scale of new homes to be consistent with existing structures within a defined neighborhood, and analysis of the housing inventory to determine if the area qualifies for designation as a historic district, and similar measures. In accordance with this policy, a Design Manual was prepared for the single family zoned properties, east of the Intracoastal Waterway, and was adopted by the City Commission on January 4, 2005. This section is created to adopt and implement the provision of the North Beach and Seagate Neighborhoods Design Manual. All development within the North Beach/Seagate and Ocean District Neighborhood Overlay District, as defined in Section (B) below, shall take place according to the provisions of the manual adopted herein and included as an exhibit hereto.

(B) Defined:

(1) North Beach/Seagate Neighborhood Overlay District: The North Beach/Seagate Neighborhood Overlay District is hereby established as the area zoned Single Family Residential (R-1), located north of East Atlantic Avenue, south of George Bush Boulevard, east of the Intracoastal Waterway and west of North Ocean Boulevard (State Road A-1-A) together with the entire Seagate Neighborhood generally located south of Bucida Road, north of Lewis Cove, between the Intracoastal Waterway and south Ocean Boulevard (State Road A-1-A), less Lots 35 through 45, Block 5, of the plat of Seagate Extension. The regulations established in Section 4.4.3(E)(4), 4.4.3(F)(1) and 4.4.3(G)(1) shall apply to all parcels within the Overlay District.

(2) Ocean Neighborhood Overlay District: The Ocean Neighborhood Overlay District is hereby established as the area located east of Ocean Boulevard (State Road A-1-A), zoned Single Family Residential (R-1). The regulations established in Sections 4.4.3(E)(4), 4.4.3(F)(1) and 4.4.3(G)(1) shall apply to all parcels within the Overlay District.

Section 4. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to

be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 5. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 6. That this ordinance shall become effective upon its passage on second and final reading.

the 10 PASSED AND ADOPTED in regular session on second and final reading on this day of April, 2006.

ATTEST:

Jeffrey Z. Lee
MAYOR

Cheryl D. Rubin
City Clerk

First Reading 3/21/06

Second Reading 4/4/06

ARTICLE 4.7

ARTICLE 4.7 FAMILY/WORKFORCE HOUSING [Section Amended by Ord. 18-06 4/4/06] [New Section Enacted by Ord. 66-04 12/6/04]

Section 4.7 Findings

(A) The City Commission has determined that there is a severe housing shortage in the City of Delray Beach that is affordable to the everyday working families and citizens of the City; and

(B) Florida Statutes § 166.04151 provides that a municipality may adopt and maintain any ordinance that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances not withstanding any other provision of law; and

(C) The City Commission recognizes that there is a growing gap between housing costs and wages in the City; and

(D) The City of Delray Beach has a legitimate public interest in preserving the character and quality of neighborhoods which requires assuring the availability of workforce housing for moderate and lower income persons in the City; and

(E) The City recognizes that the need to provide workforce housing is critical to maintaining a diversified and sustainable City having the character and sense of a community where people can live and work in the same area; and

(F) The City is encouraging the production and availability of workforce housing and at the same time is cognizant that escalating land costs and rapidly diminishing amounts of land hinder the provision of sufficient workforce dwelling units by the private sector; and

(G) The City Commission has adopted the Southwest Area Neighborhood Redevelopment Plan and Comprehensive Plan changes recognizing the need to redevelop the Southwest Neighborhood in a manner that preserves the neighborhood and provides workforce housing.

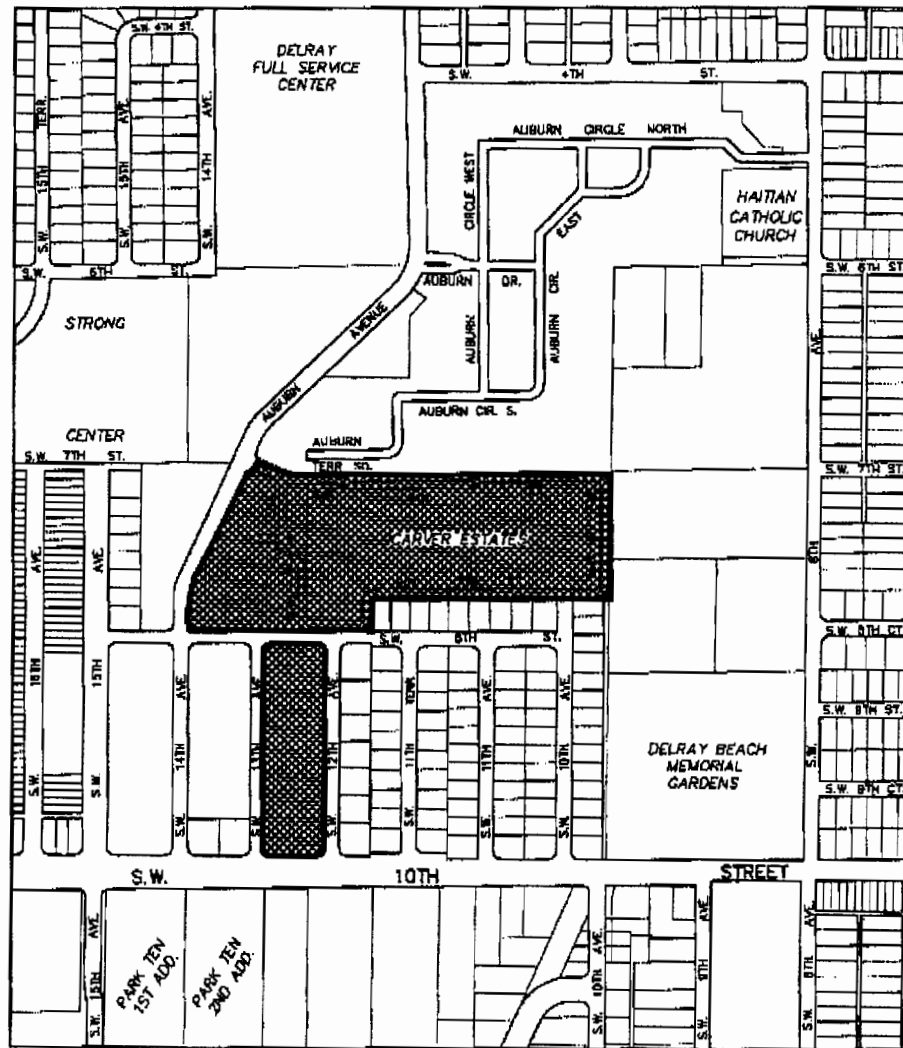
(H) The City Commission desires to establish an additional workforce housing overlay district known as the Infill Workforce Housing Area for certain properties located west of the Intracoastal and east of I-95, outside of the coastal high hazard area and as depicted on the map attached and made a part of Article 4.7.

(I) The City Commission also desires to establish additional incentives to encourage additional Family/Workforce Housing.

SECTION 4.7.1

Section 4.7.1 Definitions

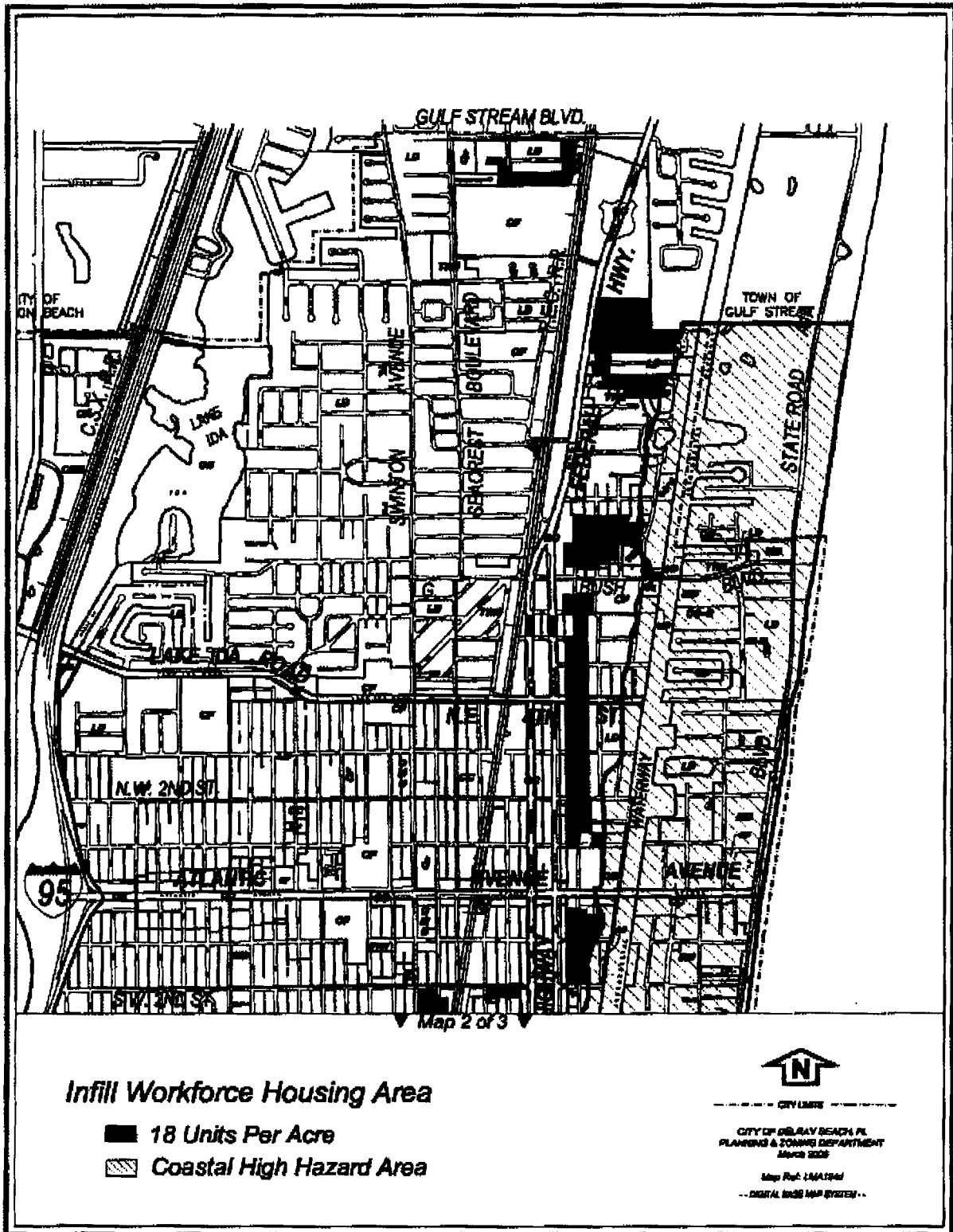
- a. **Adjusted Median Income (A.M.I.)** – The Palm Beach County median income, based on a family of four, as published by Florida Housing Finance Agency.
- b. **Affordability Controls** – Restrictions placed on dwelling units by which the price of such units and/or the income of the purchaser or lessee will be restricted in order to ensure that the units remain affordable to very low, low, or moderate income households.
- c. **Carver Estates Overlay District** – The area shown on the map below.



SECTION 4.7.1 d.

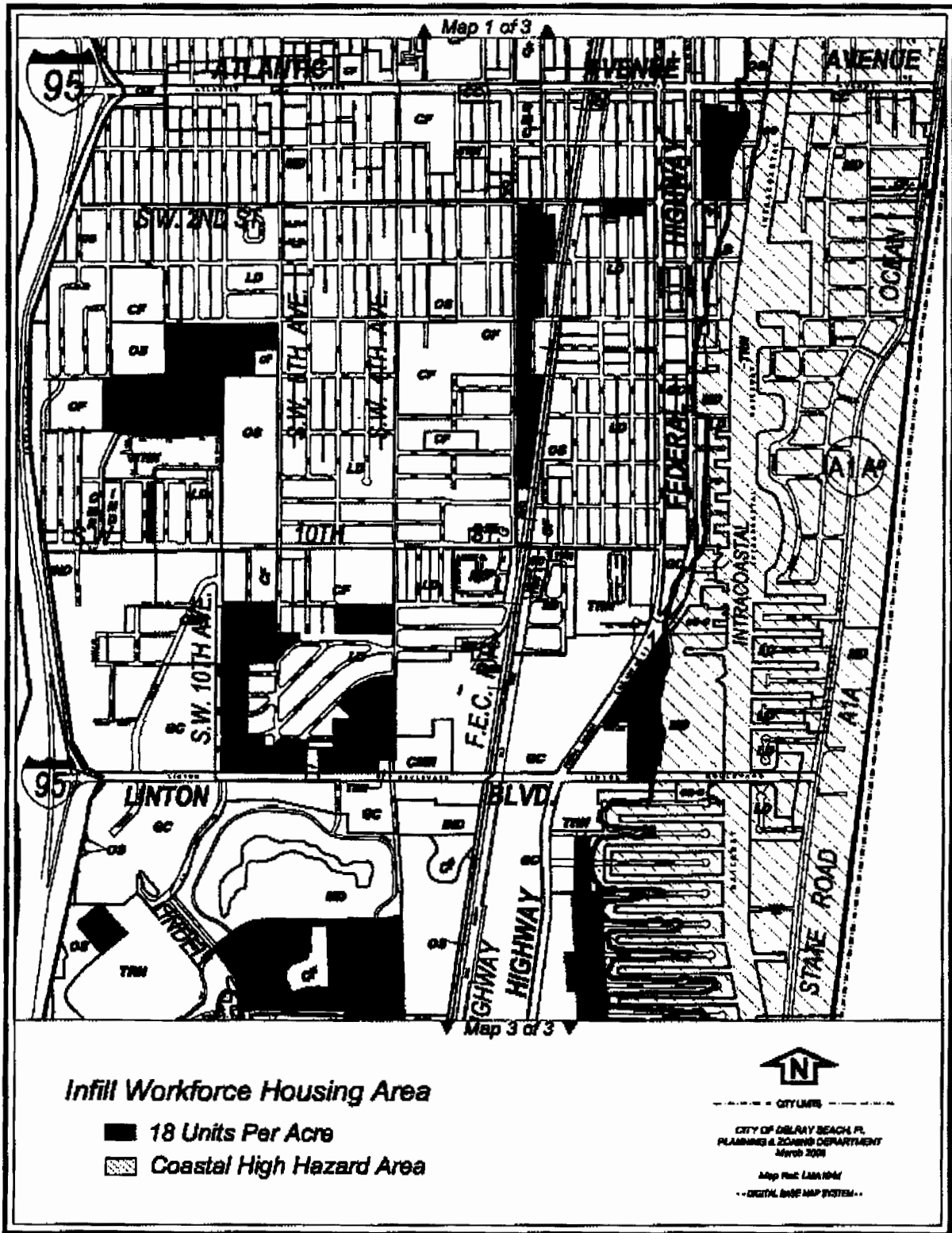
- d. **City** – The City of Delray Beach, Florida.
- e. **CRA** – The Delray Beach Community Redevelopment Agency.
- f. **Density Bonus Program** – The Density Bonus program is an incentive program intended to encourage developers to build affordable owner-occupied and rental housing within the City of Delray Beach. The concept is that for every workforce housing unit that a developer builds, a calculated number of market rate units greater than would be allowed otherwise may be built.
- g. **Density Bonus Unit** – An additional dwelling unit added above the base number of units authorized once performance standards have been applied and the density has been computed under existing codes.
- h. **Development** – A housing development at one location including dwelling units for which approvals have been granted.
- i. **Eligible Occupant** – A person who qualifies for participation in the program. Priority will be given to persons who have lived or worked within the City limits of Delray Beach continually for one year immediately prior to the date of application for a workforce housing unit related to the Density Bonus Program and who qualify for participation in the program.
- j. **First Time Home Buyer** – A person who has not held ownership in a residence within the past three years.
- k. **Household** – A single person living alone, or two or more persons sharing residency, with a combined income available to cover household expenses.
- l. **Infill Workforce Housing Area** – The area located west of the Intracoastal Waterway and East of I-95, outside of the coastal high hazard area, as depicted on the maps below:

SECTION 4.7.1 I.



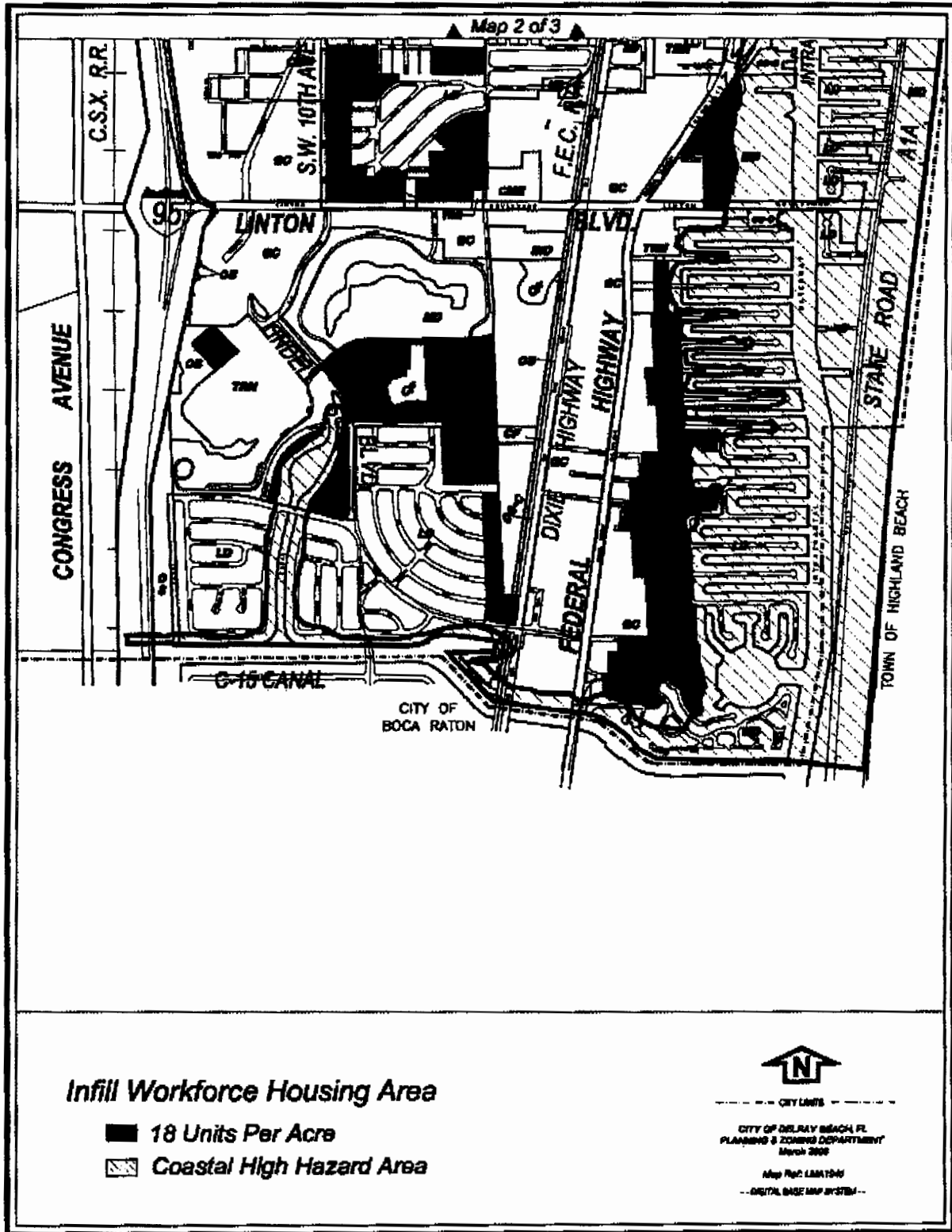
Map 1

SECTION 4.7.1 I.



Map 2

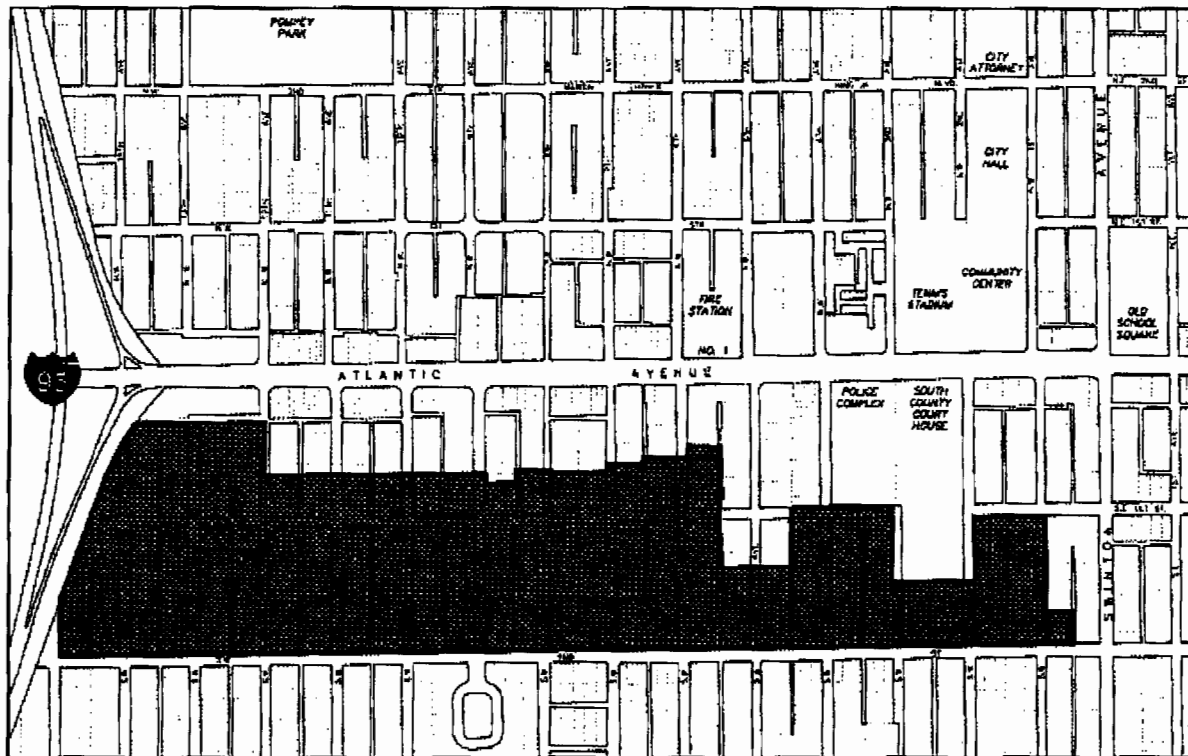
SECTION 4.7.1 I.



Map 3

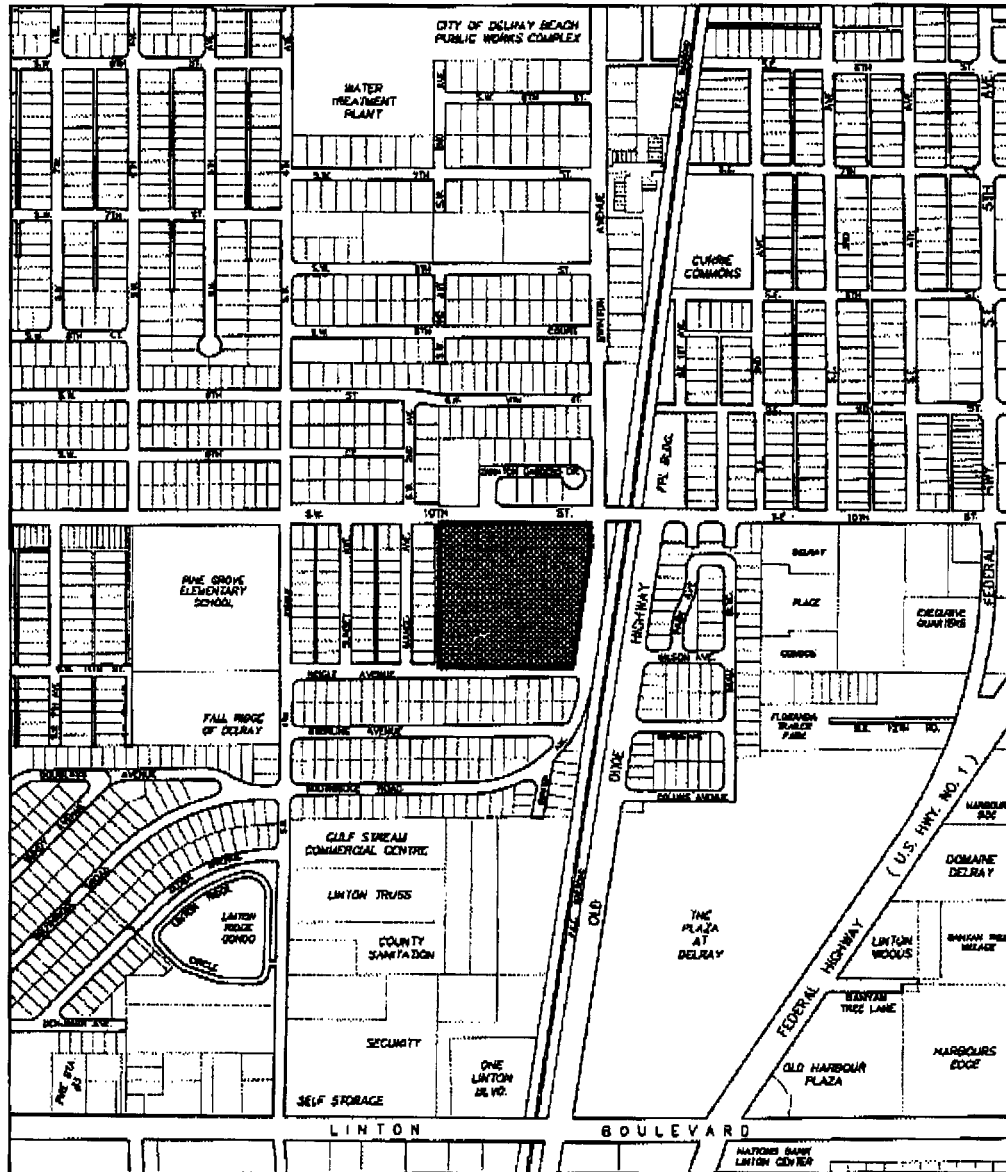
SECTION 4.7.1 m.

- m. **Low Income Household** – A household with a gross, combined income between 61% and 80% of the Palm Beach County *Adjusted Median Income* (as defined by the Florida Housing Finance Authority).
- n. **Moderate Income Household** – A household with a gross, combined income between 81% and 120% of the Palm Beach County *Adjusted Median Income* (as defined by the Florida Housing Finance Authority).
- o. **Other Workforce Housing** – Workforce Housing is required in areas covered by Land Development Regulations Section 4.4.13(l), where the density is increased; and by Section 4.3.4 (J)(4)(b), where a fifth floor is added to the building.
- p. **Southwest Neighborhood Overlay District** – The area zoned RM between Interstate 95 and N.W. 1st Avenue, and Atlantic Avenue to S.W. 2nd Street as shown in the map below.



SECTION 4.7.1 q.

- q. **Southwest 10th Street Overlay District** – The area at the Southwest corner of Swinton Avenue and 10th Street as shown in the map below.



SECTION 4.7.1 r.

- r. **Very Low Income Household** – A household with a gross, combined income not exceeding 60% of the Palm Beach County *Adjusted Median Income* (as defined by the Florida Housing Finance Authority).
- s. **Workforce Housing Unit** – A dwelling unit for which the rent or mortgage payment (including principal, interest, taxes and Insurance P.I.T.I.) does not exceed 35% of the gross income of households that classify as very low, low, or moderate income households and meets the other requirements of the Family/Workforce Housing Program.

Section 4.7.2 **Applicability**

Except as otherwise provided in this ordinance, these regulations shall apply only to development applications consistent with the following conditions:

- a. Subject to restrictions contained in this Article, development must be located within the established Southwest Neighborhood Overlay District, the Carver Estates Overlay District, or the Infill Workforce Housing Area to qualify for participation in the *Density Bonus Program* set forth in this Article 4.7.
- b. Subject to the restrictions of this Article, developments constructed pursuant to Section 4.3.4(J)(4)(b)ii(1) must provide workforce housing to qualify for an increase in height.
- c. Subject to the restrictions of this Article, developments constructed pursuant to 4.4.13(I) must provide workforce housing to qualify for increased density.
- d. In order to qualify for a density bonus, a project must consist of at least five new or substantially rehabilitated dwelling units. The HUD definition shall be used to determine whether there has been substantial rehabilitation. In addition, the units must contain design features, such as, but not limited to, front porches, eyebrows, outriggers, gables, dormers, arbors, trellises, shutters, balconies, decorative vents, siding, textured stucco finishes, undulating facades and other such appropriate architectural features.
- e. The developer or responsible party must provide relocation assistance at a minimum of \$2,500.00 per each household that is displaced as a result of the proposed project.
- f. In the Southwest 10th Street Overlay District, at least twenty percent of all residential units must be workforce housing units that are affordable to very low, or low, or moderate income families.

SECTION 4.7.2 g.

- g. The Carver Estates Overlay District, the Southwest Neighborhood Overlay District, and the Infill Workforce Housing Area shall contain units that are affordable to very low, or low, or moderate income families.
- h. Developments which must provide workforce housing pursuant to Section 4.3.4(J)(4)(b)ii(1) or Section 4.4.13(I) shall contain units that are affordable to low or moderate income families.

Section 4.7.3 Provision of Workforce Housing Units

Developers will be awarded density bonus units (additional market rate units), beyond the base number allowed per existing zoning ordinance after performance standards have been met, as an incentive to provide affordable housing unit, subject to the limits and requirements of this chapter.

- a. Developers may earn bonus units by building housing for very low, low or moderate income families within the designated boundaries of the Overlay Districts and Infill Workforce Housing Area described in this article.
- b. All development shall meet the requirements for units as specified in this chapter and meet all required Land Development Regulations.
- c. Workforce units shall include those units in a development, which are regulated in terms of:
 - i. Sales price or rent levels; and
 - ii. Marketing and initial occupancy; and
 - iii. Continued requirements pertaining to resale or rent increases.

Section 4.7.4 DENSITY BONUS PROGRAM FOR THE SOUTHWEST NEIGHBORHOOD OVERLAY DISTRICT, THE CARVER ESTATES OVERLAY DISTRICT AND THE INFILL WORKFORCE HOUSING AREA

Developers of property in the Southwest Neighborhood Overlay District, the Carver Estates Overlay District and the Infill Workforce Housing Area, that meet the minimum standards will earn bonus units for building workforce housing for very low, low and moderate income families.

- a. The size of the bonus varies based on several factors including:
 - i. Affordability (i.e., homes affordable to very low, low, or moderate income families)

SECTION 4.7.4 a. ii.

- ii. Home Size (i.e., workforce housing units with four or more bedrooms are awarded larger bonuses)
 - iii. Ownership versus Rental (i.e., larger bonuses are awarded for workforce housing units offered for sale to low and very-low income families and larger bonuses are awarded for ownership versus rental units.)
- b. To be eligible for bonus units, developers must meet one or more of the following criteria:
- i. A designated number of the total units are restricted to very low income households, and/or
 - ii. A designated number of the total units are restricted to low income households, and/or
 - iii. A designated number of the units are restricted to moderate income households
- c. Workforce housing units may be located off-site provided the off-site location chosen is within the City of Delray Beach.
- d. The bonus allowances are set forth in Table 1 below.

TABLE 1 DENSITY BONUS ALLOCATIONS IN THE SOUTHWEST NEIGHBORHOOD OVERLAY DISTRICT, THE INFILL WORKFORCE HOUSING AREA AND THE CARVER ESTATES OVERLAY DISTRICT		
OPTION	SALE	NUMBER OF BONUS UNITS PER WORKFORCE UNIT PROVIDED
	VERY LOW 60%	4
	LOW 80% - 61 %	3
	MODERATE 120% -81 %	2
OPTION	RENT	NUMBER OF BONUS UNITS PER WORKFORCE UNIT PROVIDED
	VERY LOW 60%	3
	LOW 80% - 61 %	2
	MODERATE 120% -81 %	1
LARGE HOME OPTION		
4+ bedroom workforce housing units		Additional 0.5 bonus will be added to the bonus provided above in this chart

SECTION 4.7.4 e.

- e. Instead of or in addition to providing workforce housing units, developers may also accrue bonus units by contributing to the Delray Beach Community Land Trust that will be utilized to subsidize workforce housing in the City of Delray Beach. Developers may earn one bonus unit for each payment of a sum equal to \$60,000, payable to the Delray Beach Community Land Trust.
- f. Also, instead of or in addition to providing workforce housing units, developers shall earn bonus units by donating land (buildable lots) in the City Delray Beach to be used for workforce housing. The appraised value of donated land will be valued in accordance with subsection e. above and may be prorated. The appraisal shall be obtained by developer at developer's cost.
- g. The maximum total density of a development in the Southwest Neighborhood Overlay District and the Carver Estates Overlay District shall not exceed 24 units per acre. The maximum total density of a development in the Infill Workforce Housing Area shall not exceed 18 units per acre. All other Workforce Housing Area densities shall be limited to the maximum allowed in the zoning district and as set forth elsewhere in the Land Development Regulations.

Section 4.7.5 Density Bonus Program for the Southwest 10th Street Overlay District

Developers of property in the Southwest 10th Street Overlay District shall develop the properties to afford a minimum of twenty percent of the residential units as workforce housing units.

- a. The twenty percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
- b. In the Southwest 10th Street Overlay District, the maximum density allowed is the maximum zoning density allowed in the zoning district. To obtain the maximum density allowed in the zoning district, not only must a minimum of twenty percent of the residential units be developed as workforce housing, but all the performance standards that allow increased density shall also be substantially met.
- c. Workforce housing units may be located off-site provided the location chosen is within the City of Delray Beach.
- d. All sections of Article 4.7 apply to the Southwest 10th Street Overlay District, except for Sections 4.7.4, 4.7.11 and 4.7.12.

SECTION 4.7.6

Section 4.7.6 Rental Housing Units

- a. A covenant shall be recorded in the Public Records specifying the income level served, rent levels, reporting requirements and all restrictions applicable to the workforce housing units. All leases shall contain language incorporating covenants applicable to the workforce housing unit and reference recorded covenants.
- b. Units targeted to *very low income* households under the 60% affordability level of the Palm Beach County median income, adjusted for family size, shall not have rental rates that exceed 100% of the HUD determined fair market rent for the area.
- c. Units targeted to *low income* households at 61% to the 80% affordability level of the Palm Beach County median income, adjusted for family size shall not have rental rates that exceed 120% of the HUD determined fair market rent for the area.
- d. Units targeted to *moderate income* households at 81% to the 120% affordability level of the Palm Beach County median income, adjusted for family size, shall not exceed 140% of the HUD determined fair market value.
- e. No workforce house units shall be offered for rent to the general public until all requirements of this section are met.
- f. All Restrictive Covenants shall meet the requirements of this Article and are subject to approval of the City Attorney.

Section 4.7.7 For Sale Housing Units

- a. All deeds shall include the restrictive covenants applicable to workforce housing units. All sales contracts shall state that the unit is part of a workforce housing program and subject to Section 4.7 of the Land Development Regulations of the City.
- b. All purchasers of workforce housing units shall be very low, low or moderate income households; provided, however, in exceptional circumstances when persons in households above the moderate income level are displaced due to redevelopment or catastrophic events, the persons so affected shall also be eligible for workforce housing. Under these circumstances, the Density Bonus Allocations under Section 4.74 shall be for moderate income households.

SECTION 4.7.7 c.

- c. Owners of workforce housing units shall be required to occupy the unit unless evidence is presented indicating that the owner is unable to continuously occupy the unit due to illness or incapacity.
- d. Closing costs and title insurance shall be paid pursuant to the custom and practice in Palm Beach County at the time of opening of escrow. No charges or fees shall be imposed by the seller on the purchaser of a workforce housing unit which are in addition to or more than charges imposed upon purchasers of market rate units, except for administrative fees charged by the City/CRA, or their designee.
- e. Sales prices for workforce housing units will be calculated on the basis of:
 - i. The sales price of a new structure for low and very low households may not exceed the maximum price established by the Community Improvement Department under the approved Local Housing Assistance Plan (LHAP).
 - ii. For moderate income households, the maximum price shall be established by the Community Improvement Department based on a formula that considers the prevailing mortgage interest rates, as approved by the City Commission by resolution.
- f. No workforce housing units shall be offered for sale to the general public until all requirements of this chapter are met.
- g. All Restrictive Covenants shall meet the requirements of this Article and are subject to approval of the City Attorney.

Section 4.7.8 Resale and Subsequent Rentals of Affordable Units

To maintain the availability of workforce housing units which may be constructed pursuant to the requirements of this program, the following resale conditions shall be imposed on the workforce housing units and included in the deed or restrictive covenant and recorded in the Public Records of Palm Beach County:

- a. All workforce housing units shall remain affordable for a period of no less than forty (40) years commencing from the date of initial occupancy of the unit, subject to the limits set forth in this section and Section 4.7.9.
- b. All workforce housing units must be rented or sold to eligible households. There shall be no provisions for releases from the sale or rental of workforce units to eligible households. Workforce housing units may be resold to non-eligible households only when the restriction expires.

SECTION 4.7.8 c.

- c. Deed restrictions or restrictive covenants and/or bylaws designed to ensure continued affordability shall be embodied in legally binding agreements meeting the requirements of this Article, which shall be approved by the City Attorney prior to recording.
- d. Workforce housing unit resales shall be limited to households of the same category relative to income.
- e. The sales price of workforce housing units may not exceed the upper limit of affordability for the income category to which the unit was originally assigned.
- f. Transfers of title under the following circumstances shall be allowed, and are not subject to the restrictions included in this program:
 - i. Transfers by inheritance to the purchaser-owner's spouse or offspring, or;
 - ii. Transfers of title to a spouse as part of a divorce dissolution proceeding, or;
 - iii. Acquisition of title or interest therein in conjunction with marriage.
- g. No resales of workforce housing units shall be completed until the requirements of this chapter are met.

Section 4.7.9 General Provisions

- a. If not located offsite, all workforce housing units constructed or rehabilitated under this program shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- b. Workforce housing units, if located within a market rate unit development or located offsite, shall be integrated with the rest of the development and shall be compatible in exterior design, appearance, construction, and quality of materials and contain comparable HVAC systems and appliances with market rate units and provide them as standard features. All workforce housing units shall contain comparable square footage to the corresponding market-rate unit.
- c. The developer shall endeavor to provide workforce housing units that include unit types in the same proportion as the market rate housing unit types. The following conditions must be met:

SECTION 4.7.9 c. i.

- i. The proportion of 2 bedroom workforce units to total workforce units may not exceed the proportion of 2 bedroom market rate units to total market rate units.
 - ii. The proportion of 3 bedroom workforce units to total workforce units must meet or exceed the proportion of 3 bedroom market rate units to total market rate units, unless 4+ bedroom workforce units are provided.
 - iii. The proportion of 4+ bedroom workforce units to total workforce units must meet or exceed the proportion of 4+ bedroom market rate units to total market rate units.
 - iv. If the development contains a mix of different types of units, (e.g. condominium, townhouse, detached, etc), the proportion of workforce units of each type to total workforce units must be approximately the same as the proportion of market rate units of each type to total market rate units.
 - v. If the development includes both for sale and for rent units, the proportion of for rent workforce units to for sale workforce units must not exceed the proportion of for rent market rate units to for sale market rate units.
 - vi. Notwithstanding Section 4.7.9 c. i., ii, iii, and iv. above, in the Southwest 10th Street Overlay District at least 75% of the workforce housing units shall be 3 bedroom units offered for initial sale in an amount not to exceed \$225,000.00 and 25% of the workforce housing units may be 2 bedroom units offered at the low income affordability rate.
- d. The construction schedule for workforce housing units shall be consistent with or precede the construction of market rate units.
 - e. There shall be no lot premiums charged on the workforce housing units.
 - f. All fractional bonus densities shall be rounded down.
 - g. The City of Delray Beach, its successors and assigns may enforce the covenants. No amendments to the covenants shall be made unless by written instrument approved by the City.
 - h. No one bedroom units shall be allowed under the family/workforce housing program.

SECTION 4.7.9 i.

- i. Workforce Housing Units constructed according to this policy shall be protected for subsequent resale or rental to Workforce Households whose income does not exceed the applicable AMI by deed restrictions or by other equivalent and effective methods. Conversions of rental units to owner occupied units or vice versa shall require the subsequent rental or sale to be for the same workforce housing income category.
- j. Workforce Housing Units constructed according to this policy shall only be rented or sold as a primary residence.
- k. A deed restriction on a form acceptable to the City Attorney shall be recorded in the Public Records of Palm Beach County. In addition to other restrictions therein contained, said deed restriction shall prohibit any subletting or assignment of the respective Workforce Housing Unit to a tenant(s) or purchaser(s) whose income exceeds the percent of the AMI under which the unit is originally approved. For the purpose of this section, household income is determined by the cumulative income of all tenants or purchasers under one roof. In addition, said deed restriction shall limit the maximum permitted resale price to the initial sale price of the Workforce Housing Units, increased at the same rate as the Palm Beach County median income has increased from the initial date of purchase. Prior to the closing on any sale, resale or prior to any rental of any workforce housing unit, the City shall be notified of the sale, resale or rental.
- l. For both sale and rental of Workforce Housing Units, affordability and occupancy restrictions shall remain in effect for 40 years and shall apply to any replacement structure or structures constructed if a structure containing a Workforce Housing Unit or Units is demolished or destroyed, provided that if demolition or destruction of a structure containing Workforce Housing Units occurs 35 years after recording of the restrictions and said demolition or destruction was unintentional, restrictions on the units in the structure shall terminate on demolition or destruction.
- m. Nothing requires a workforce household to vacate a rental workforce housing unit or sell a workforce housing unit if the tenant(s) or purchaser (s) income later exceeds AMI.

Section 4.7.10 Review and Approval Process

- a. **Final Approval Conditions:** Final conditions of approval shall specify that the restricted units are priced and/or rented at workforce housing levels and shall state that those units shall be rented and/or sold to the eligible income group in accordance with this article. The conditions will also specify the requirements for reporting to the City's Community Improvement Department on buyer eligibility, housing prices, as well as any applicable requirement to record a covenant or to enforce resale restrictions.

SECTION 4.7.11

Section 4.7.11 Density Bonus Tables

- a. The Density Bonus Tables shown below are provided to illustrate bonus densities under various parcel sizes, unit types and income eligibility; however, the density bonus allocations contained in Table 1 shall control densities in the Southwest Neighborhood Overlay District, the Infill Workforce Housing Area, and the Carver Estates Overlay District.

Workforce Housing Program Density Bonus Allocations

Owner Occupied - 2-3 Bedroom Units

Very-Low Income (4 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	4	10	10.0%
1	12	24	9	3	12	24	12.5%
1.5	18	36	14	4	16	34	11.8%
2	24	48	18	6	24	48	12.5%
2.5	30	60	23	7	28	58	12.1%
3	36	72	27	9	36	72	12.5%
3.5	42	84	32	10	40	82	12.2%
4	48	96	36	12	48	96	12.5%

Low Income (3 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	6	12	16.7%
1	12	24	8	4	12	24	16.7%
1.5	18	36	12	6	18	36	16.7%
2	24	48	16	8	24	48	16.7%
2.5	30	60	20	10	30	60	16.7%
3	36	72	24	12	36	72	16.7%
3.5	42	84	28	14	42	84	16.7%
4	48	96	32	16	48	96	16.7%

Moderate Income (2 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	3	3	6	12	25.0%
1	12	24	6	6	12	24	25.0%
1.5	18	36	9	9	18	36	25.0%
2	24	48	12	12	24	48	25.0%
2.5	30	60	15	15	30	60	25.0%
3	36	72	18	18	36	72	25.0%
3.5	42	84	21	21	42	84	25.0%
4	48	96	24	24	48	96	25.0%

SECTION 4.7.11 a.

Workforce Housing Program Density Bonus Allocations
Owner Occupied – 4+ Bedroom Units

Very-Low Income (4.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	4	10	10.0%
1	12	24	10	2	9	21	9.5%
1.5	18	36	14	4	18	36	11.1%
2	24	48	19	5	22	46	10.9%
2.5	30	60	24	6	27	57	10.5%
3	36	72	28	8	36	72	11.1%
3.5	42	84	33	9	40	82	11.0%
4	48	96	38	10	45	93	10.8%

Low Income (3.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	3	9	11.1%
1	12	24	9	3	10	22	13.6%
1.5	18	36	13	5	17	35	14.3%
2	24	48	17	7	24	48	14.6%
2.5	30	60	22	8	28	58	13.8%
3	36	72	26	10	35	71	14.1%
3.5	42	84	30	12	42	84	14.3%
4	48	96	35	13	45	93	14.0%

Moderate Income (2.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	5	11	18.2%
1	12	24	7	5	12	24	20.8%
1.5	18	36	11	7	17	35	20.0%
2	24	48	15	9	22	46	19.6%
2.5	30	60	18	12	30	60	20.0%
3	36	72	22	14	35	71	19.7%
3.5	42	84	25	17	42	84	20.2%
4	48	96	29	19	47	95	20.0%

SECTION 4.7.11 a.

Workforce Housing Program Density Bonus Allocations
Rental - 2-3 Bedroom Units

Very-Low Income (3 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	6	12	16.7%
1	12	24	8	4	12	24	16.7%
1.5	18	36	12	6	18	36	16.7%
2	24	48	16	8	24	48	16.7%
2.5	30	60	20	10	30	60	16.7%
3	36	72	24	12	36	72	16.7%
3.5	42	84	28	14	42	84	16.7%
4	48	96	32	16	48	96	16.7%

Low Income (2 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	3	3	6	12	25.0%
1	12	24	6	6	12	24	25.0%
1.5	18	36	9	9	18	36	25.0%
2	24	48	12	12	24	48	25.0%
2.5	30	60	15	15	30	60	25.0%
3	36	72	18	18	36	72	25.0%
3.5	42	84	21	21	42	84	25.0%
4	48	96	24	24	48	96	25.0%

Moderate Income (1 unit per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	0	6	6	12	25.0%
1	12	24	0	12	12	24	25.0%
1.5	18	36	0	18	18	36	25.0%
2	24	48	0	24	24	48	25.0%
2.5	30	60	0	30	30	60	25.0%
3	36	72	0	36	36	72	25.0%
3.5	42	84	0	42	42	84	25.0%
4	48	96	0	48	48	96	25.0%

SECTION 4.7.11 a.

Workforce Housing Program Density Bonus Allocations
Rental- 4+ Bedroom Units

Very-Low Income (3.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	3	9	11.1%
1	12	24	9	3	10	22	13.6%
1.5	18	36	13	5	17	35	14.3%
2	24	48	17	7	24	48	14.6%
2.5	30	60	22	8	28	58	13.8%
3	36	72	26	10	35	71	14.1%
3.5	42	84	30	12	42	84	14.3%
4	48	96	35	13	45	93	14.0%

Low Income (2.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	5	11	18.2%
1	12	24	7	5	12	24	20.8%
1.5	18	36	11	7	17	35	20.0%
2	24	48	15	9	22	46	19.6%
2.5	30	60	18	12	30	60	20.0%
3	36	72	22	14	35	71	19.7%
3.5	42	84	25	17	42	84	20.2%
4	48	96	29	19	47	95	20.0%

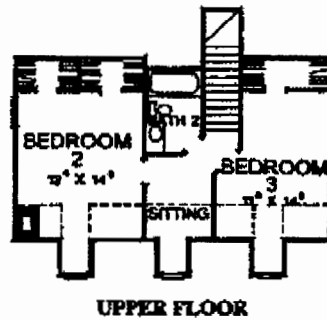
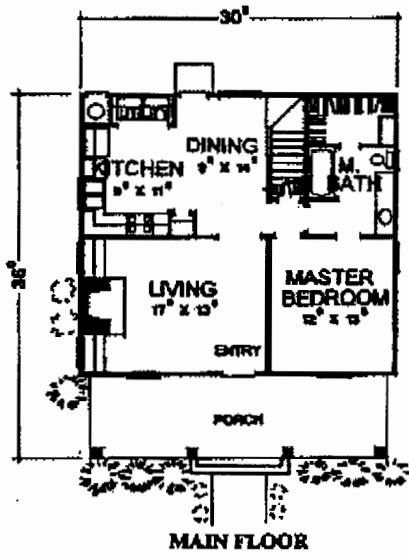
Moderate Income (1.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	2	4	6	12	33.3%
1	12	24	4	8	12	24	33.3%
1.5	18	36	6	12	18	36	33.3%
2	24	48	8	16	24	48	33.3%
2.5	30	60	10	20	30	60	33.3%
3	36	72	11	25	37	73	34.2%
3.5	42	84	14	28	42	84	33.3%
4	48	96	16	32	48	96	33.3%


SECTION 4.7.12

Section 4.7.12 Other Incentives

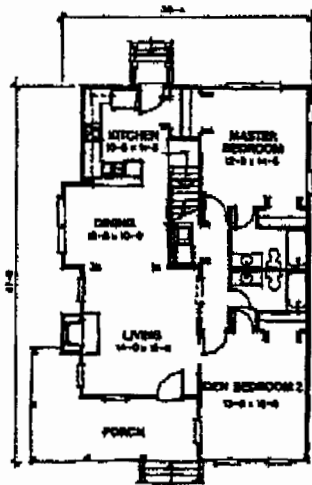
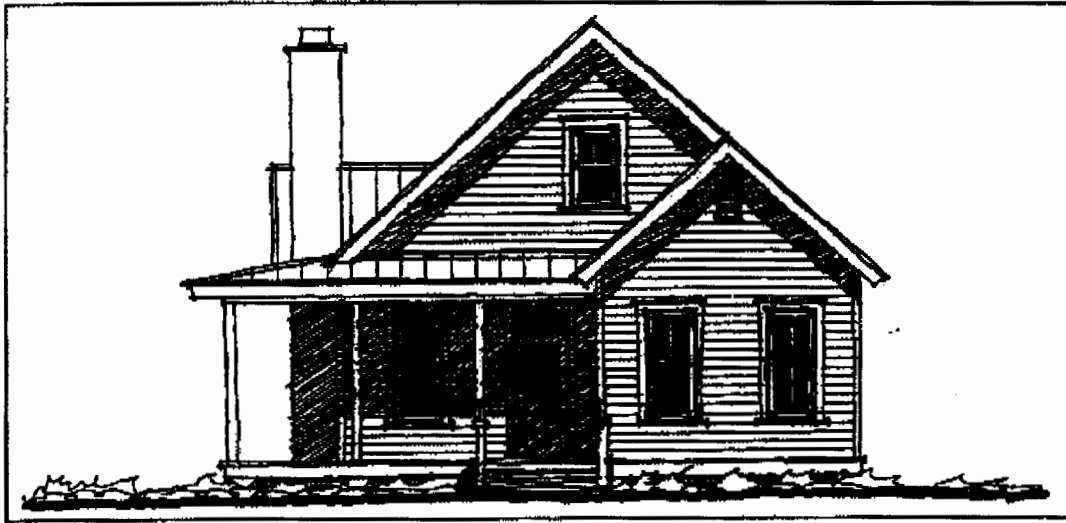
- a. In order to address a shortage of workforce housing units, incentives have been added to induce the construction of workforce housing units in the City. In addition to the other incentives contained within this article, lots of record that have at least 40 feet of frontage may be used for Workforce Housing, as long as the workforce housing unit meets the typical designs represented by the sketches set forth below and the additional requirements of 4.1.4(D) as well as other applicable code provisions are met.

SECTION 4.7.12 a.

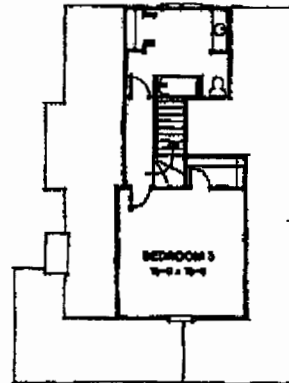


Upper Floor	565 sq. ft.	Footprint 36'-0" x 36'-0"	3 Bedrooms 2 Bathrooms Basement, Crawlspace or Slab Foundation	
Main Floor	840 sq. ft.			
Total Living Area	1,485 sq. ft.			
Basement	840 sq. ft.			

SECTION 4.7.12 a.



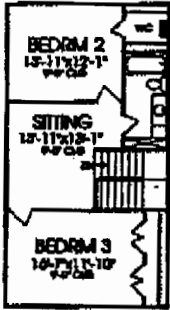
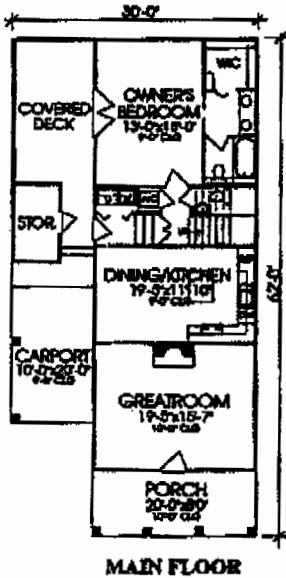
MAIN FLOOR



UPPER FLOOR

Upper Floor	480 sq. ft.	Footprint 38'-4" x 47'-8"	2+ Bedrooms 3 Bathrooms Crawlspace Foundation	
Main Floor	1,238 sq. ft.			
Total Living Area	1,718 sq. ft.			

SECTION 4.7.12 a.

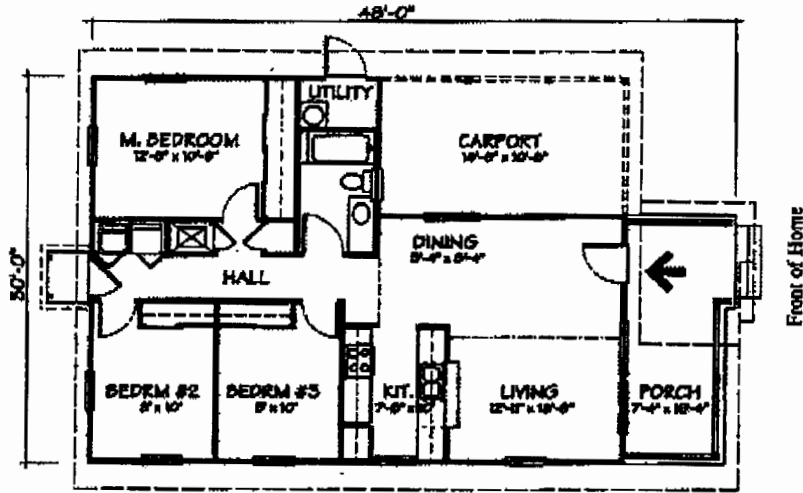


UPPER FLOOR

MAIN FLOOR

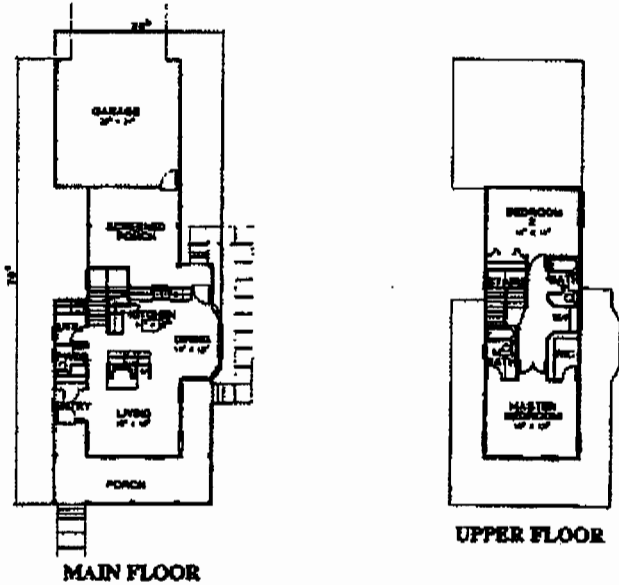
Upper Floor	698 sq. ft.	Footprint 30'-0" x 62'-0"	3 Bedrooms	
Main Floor	1,080 sq. ft.		2 1/2 Bathrooms	
Total Living Area	1,778 sq. ft.		Crawlspace, Slab or Basement	
Basement	1,080 sq. ft.		Foundation	

SECTION 4.7.12 a.



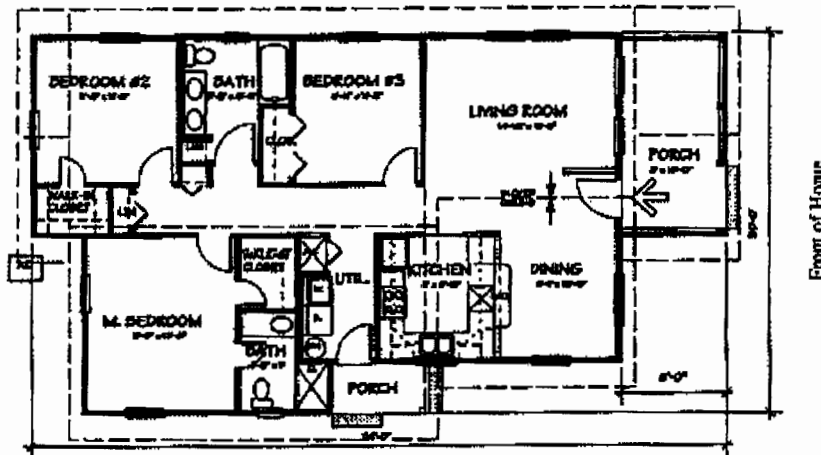
Main Floor	978 sq. ft.	Footprint 30'-0" x 48'-0"	3 Bedrooms 1 Bathroom Slab Foundation	
Total Living Area	978 sq. ft.			

SECTION 4.7.12 a.



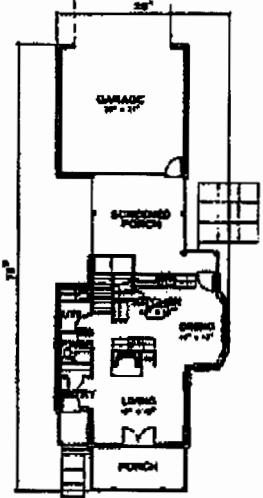
Upper Floor	681 sq. ft.	Footprint 28'-0" x 76'-4"	2 Bedrooms 2 1/2 Bathrooms Crawspace or Slab Foundation	
Main Floor	706 sq. ft.			
Total Living Area	1,387 sq. ft.			

SECTION 4.7.12 a.

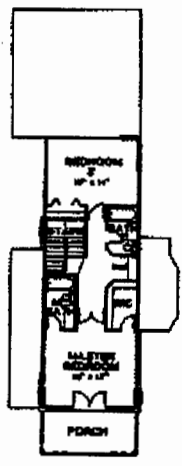


<p>Main Floor 1,234 sq. ft. Total Living Area 1,234 sq. ft.</p>	<p>Footprint 30'-0" x 54'-0"</p>	<p>2 Bedrooms 2 Bathrooms Slab Foundation</p>	
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SECTION 4.7.12 a.

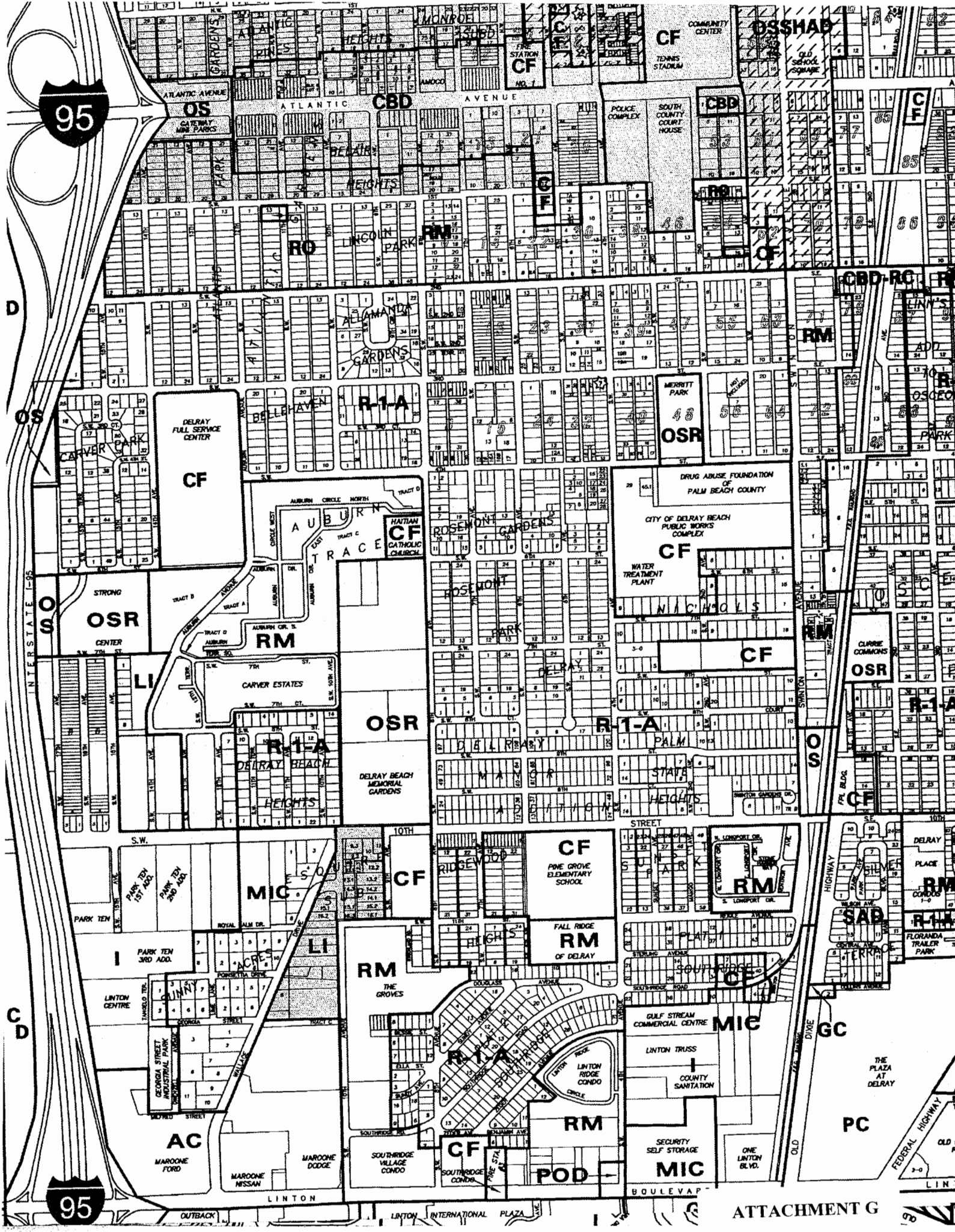


MAIN FLOOR



UPPER FLOOR

Upper Floor	681 sq. ft.	Footprint 28'-11" x 76'-18"	2 Bedrooms 2 1/2 Bathrooms Crawspace or Slab Foundation	
Main Floor	706 sq. ft.			
Total Living Area	1,387 sq. ft.			



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95

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ATTACHMENT G

LIN

ZONING DISTRICTS -

R-1-A
 R-1-AB
 R-1-AA
 R-1-AA-B
 R-1-AAA
 R-1-AAA-B

}}
 SINGLE FAMILY
 RESIDENTIAL

RL MULTIPLE FAMILY RESIDENTIAL
 (LOW DENSITY)
 RM MULTIPLE FAMILY RESIDENTIAL
 (MEDIUM DENSITY)
 PRD PLANNED RESIDENTIAL
 MH MOBILE HOME

RR RURAL RESIDENTIAL
 A AGRICULTURAL

RO RESIDENTIAL/OFFICE
 POC PLANNED OFFICE CENTER
 POD PROFESSIONAL OFFICE DISTRICT

CF COMMUNITY FACILITIES

GC GENERAL COMMERCIAL
 AC AUTOMOTIVE COMMERCIAL
 NC NEIGHBORHOOD COMMERCIAL
 PC PLANNED COMMERCIAL
 RT RESORT/TOURISM
 CBD CENTRAL BUSINESS DISTRICT
 CBD-RC RAIL CORRIDOR

PCC PLANNED COMMERCE CENTER
 MIC MIXED INDUSTRIAL & COMMERCIAL
 LI LIGHT INDUSTRIAL
 I INDUSTRIAL


SAD SPECIAL ACTIVITIES DISTRICT
 OSSHAD OLD SCHOOL SQUARE
 HISTORIC ARTS DISTRICT

CD CONSERVATION DISTRICT
 OS OPEN SPACE
 OSR OPEN SPACE & RECREATION

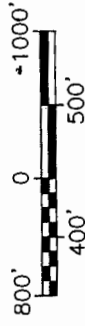
 FUTURE ANNEXATION AREA

 HISTORIC DISTRICTS

 OVERLAY DISTRICTS
 AS DESIGNATED ACCORDING TO SECTION 4.5.6
 OF THE CITY'S LAND DEVELOPMENT CODE
 - WEST ATLANTIC AVENUE OVERLAY
 - NORTH FEDERAL HIGHWAY OVERLAY
 - WALLACE DRIVE OVERLAY
 - NORTH BEACH/SEAGATE and
 OCEAN NEIGHBORHOOD OVERLAY

 HISTORIC SITES
 AS DESIGNATED ACCORDING TO SECTION 4.5.1(K)
 OF THE CITY'S LAND DEVELOPMENT CODE

GRAPHIC SCALE



* THIS MAP IS A PRODUCT OF THE -DIGITAL BASE MAP SYSTEM-

NOTE: RM AND PRD DISTRICTS MAY HAVE A SUFFIX, WHICH DENOTES A SPECIFIC DENSITY.

Yahoo! My Yahoo! Mail

Search the Web

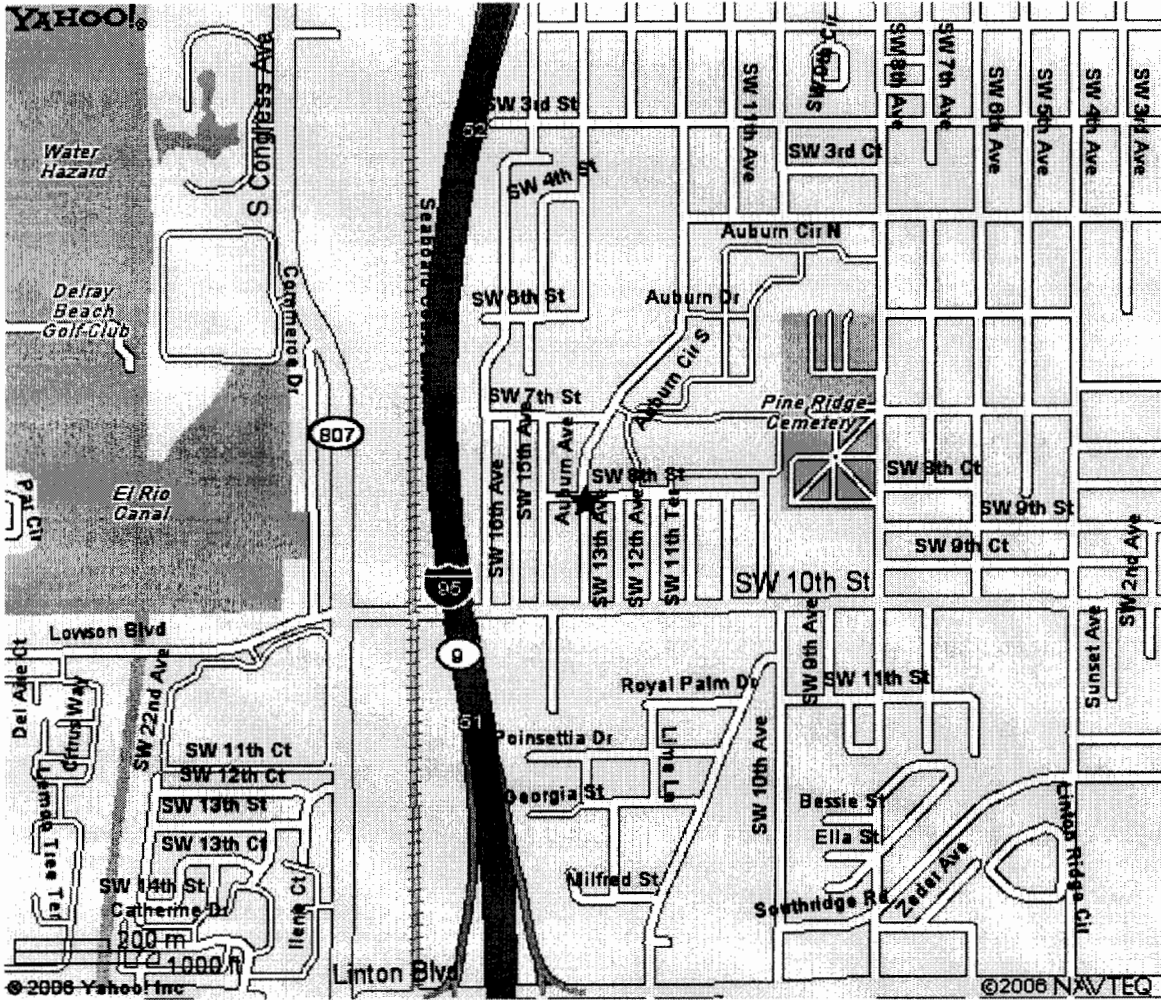
YAHOO! LOCAL Sign In
Maps New User? Sign Up

Maps Home - N

Yahoo! Maps - Delray Beach, FL 33444

<< Back to Map

★ Auburn Ave At Sw 8th St Delray Beach, FL 33444



When using any driving directions or map, it's a good idea to do a reality check and make sure the road still exists, watch out for construction, and follow all traffic safety precautions. This is only to be used as an aid in planning.

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**VERIFICATION OF ENVIRONMENTAL SAFETY
PHASE I ENVIRONMENTAL SITE ASSESSMENT**

Name of Development: _____

Development Location: _____
(At a minimum, provide the address assigned by the United States Postal Service, including the address number, street name and city, or if the address has not yet been assigned, provide the street name, closest designated intersection and city)

As a representative of the firm that performed the Phase I Environmental Site Assessment (ESA), I certify that a Phase I ESA of the above referenced Development location was conducted by the undersigned environmental firm as of _____ and _____
(Date of Phase I ESA – mm/dd/yyyy)
such Phase I ESA meets the standards of either ASTM Practice #E-1527-00 or #E-1527-05.

Check all that apply in Items 1, 2 and 3 below:

1. If the Phase I ESA is over 12 months old from the Application Deadline for this Application, has the site's environmental condition changed since the date of the original Phase I ESA?

Yes No

If "Yes", to demonstrate the condition of the site, answer question (1) or (2) below:

(1) an update to the original Phase I ESA was prepared on _____ (Date - mm/dd/yyyy)
(Date of update must be within 12 months of the Application Deadline for this Application), or

(2) a new Phase I ESA was prepared on _____ (Date - mm/dd/yyyy)
(Date of new Phase I ESA must be within 12 months of the Application Deadline for this Application).

Note: The Corporation will not consider a Phase II ESA to be a substitute for the updated Ph. I ESA or new Ph. I ESA.

2. If there are one or more existing buildings on the proposed site, the Phase I ESA:

- a. addresses the presence or absence of asbestos or asbestos containing materials (ACM) and lead based paint (LBP); or
- b. separate report(s) addressing the presence or absence of asbestos or asbestos containing materials and lead-based paint have been prepared and the undersigned has reviewed the separate report(s). Such separate report(s) may or may not be incorporated by reference in the Phase I ESA.

3. If the Phase I ESA discloses potential problems (including, but not limited to asbestos or asbestos containing materials, lead-based paint, radon gas, etc.) on the proposed site:

- a. environmental safety conditions on the site require remediation and a plan that includes anticipated costs and estimated time needed to complete the remediation has been prepared, either as a part of the Phase I ESA or as a separate report.
- b. a Phase II ESA is required or recommended (the firm that performed the Phase II ESA, even if it is the same firm that prepared the Phase I ESA MUST complete and execute the Phase II Environmental Site Assessment Verification).
- c. although environmental safety conditions exist on the site, no remediation or further study is required or recommended.

CERTIFICATION

I certify that the foregoing information is true and correct.

Authorized Signature Date (mm/dd/yyyy) Name of Firm that Performed the Phase I ESA

Print or Type Name of Signatory Address of Environmental Firm

Print or Type Title of Signatory Telephone Number Including Area Code

This certification must be signed by a representative of the firm that performed the Phase I ESA for the proposed Development location. If this certification contains corrections or 'white-out', or if it is scanned, imaged, altered, or retyped, the Application will fail to meet threshold and will be rejected. The certification may be photocopied.

**BEFORE THE STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

VILLAGES AT DELRAY, LTD.,

Petitioner,

vs.

FHFC No. _____
Application No. 2006-032C

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

AFFIDAVIT OF SCOT E. WEHMEYER

STATE OF FLORIDA

COUNTY OF LEON

I, SCOT E. WEHMEYER, having first been duly sworn, do hereby state as follows:

1. I am over the age of 18 and fully knowledgeable of the facts found in this affidavit. I am a Senior Project Manager for Enviro Design Associates, Inc. I have been employed by Enviro Design Associates, Inc., for 9 years and managed many projects.

2. On or about January 27, 2006, I executed a document entitled Verification of Environmental Safety Phase I Environmental Site Assessment. The form was executed at the direction of the Villages of Delray, Ltd., in support of its application to the Florida Housing Finance Corporation.

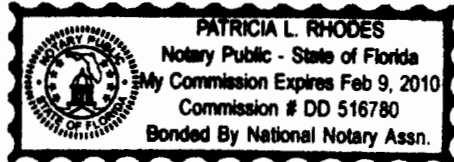
3. Enviro Design Associates, Inc., was retained by the Villages of Delray, Ltd., to conduct an environmental assessment for property located at Auburn Avenue and 8th Street in Delray Beach, Florida.

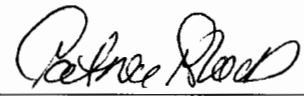
4. The initial investigation of the site conducted by Enviro Design Associates, Inc., addressed an area originally proposed for the development and Enviro Design Associates, Inc., prepared a Certification.

5. A further investigation was subsequently requested and completed in March of 2006, for a site well in excess of the original request. No environmental issues were raised which necessitated an additional Certification or a revision to the Certification already prepared.


SCOT E. WEHMEYER

Signed and sworn to before me on this 24 day of May, 2006, by Scot E. Wehmeyer who is personally known to me or has produced _____ as identification.




NOTARY PUBLIC
State of Florida at Large
Patricia Rhodes
[Printed Name of Notary]

My Commission Expires: 2/9/2010

1.0 EXECUTIVE SUMMARY

EnviroDesign Associates, Inc. (EDA) has completed a Phase I Environmental Site Assessment (ESA) in accordance with ASTM Practice E1527-00 and generally accepted industry standards at the following property:

Property Name (Site): Village at the Lake
Address: Auburn Avenue & 8th Street
 Delray Beach, FL 33444
Occupant: Individual Apartment Tenants
Structures Present:

Apartment Building(s)	Year Built	Description of Structures
1235, 1315, 1325 Auburn Terrace, South and 1145 Auburn Circle West	1989	One story concrete block poured concrete and steel construction. Four (4) one-bedroom apartment units, each comprising a total of 700 square-feet of interior space.
1160, 1275 Auburn Terrace, South, 570, 575, 1000 Auburn Circle East, and 450 Auburn Circle West	1989	Two-story concrete block, poured concrete and steel construction. Eight (8) one-bedroom apartment units, each comprising a total of 700 square-feet of interior space.
1030, 1070 1130 Auburn Terrace South, 515, 535, 545, 635, 675 Auburn Circle East, 985, 1055, 1060, 1125 Auburn Circle North, and 470 Auburn Circle West	1989	One-story concrete block, poured concrete and steel construction. Eight (8) two-bedroom apartment units, each comprising a total of 925 square-feet of interior space.
500, 525, 530, 650, 670, 690 Auburn Circle West	1989	Two-story concrete block, poured concrete and steel construction. Eight (8) three-bedroom apartment units, each comprising a total of 1075 square-feet of interior space.
1050, 1100, Auburn Terrace South, 505, 565, 615, 655, 695, Auburn Circle East, 915, 945, 1025, 1075 Auburn Circle North	1989	Two-story concrete block poured concrete and steel construction. Eight (8) two-bedroom apartment units, each comprising a total of 925 square-feet of interior space.
555 Auburn Circle West	1989	One story concrete block poured concrete and steel construction. Four (4) three-bedroom apartment units, each comprising a total of 1075 square-feet of interior space.

Approximate Acreage: 36.08
Property Zoning: Multi-Family Residential
County: Palm Beach

The purpose of this investigation is to identify potential environmental liabilities identified as "Recognized Environmental Conditions" that could have a negative impact on the Site. This investigation was conducted in accordance with the scope and limitations of ASTM Practice E-1527-00. It was performed as part of an environmental due diligence investigation of the subject property.

**SUMMARY OF IDENTIFIED
RECOGNIZED ENVIRONMENTAL CONDITIONS**

Area of Investigation	Recognized Environmental Condition	Section Number Cross Reference
SITE DESCRIPTION	NO	3.0
SITE RECOGNIZANCE	YES	4.0
USER PROVIDED INFORMATION	NO	5.0
RECORDS REVIEW	YES	6.0
PHYSICAL SETTING SOURCES	NO	7.0
HISTORIC RECORD SOURCES	YES	8.0
INTERVIEWS	NO	9.0

We have performed a Phase I Environmental Site Assessment in conformance with the scope and limitations of ASTM Practice E 1527-00 on the above referenced Multi-Family Residential property. Any exceptions to, or deletions from, this practice are described in Section 2.2 (Detailed Scope-of-Work) and 11.0 (Deviations in Scope-of-Work) of this report. This assessment has revealed no evidence of Recognized Environmental Conditions in connection with the property except for the following:

REC Finding 1: An unregulated landfill was previously located in the northeast portion of the Site.

⊙ **Issue:** Previous Phase II Environmental Site Investigations were completed by Nutting Environmental in February 1989 and Universal Engineering in September 1996. Neither of the aforementioned investigations includes the evaluation of soils for heavy metal compounds that are typically found at landfill sites. The groundwater investigation completed by Universal Engineering documented total Arsenic, total Chromium, and total Lead in the **groundwater** at concentrations that exceed groundwater Cleanup Target Levels (CTL) as defined in FAC Chapter 62-777. The aforementioned conditions constitute a Recognized Environmental Condition.

⊙ **Recommendation:** *Soil samples should be collected in the immediate vicinity of the former landfill. Said samples should be collected in vertical intervals based on field conditions and laboratory analyzed for Total Arsenic, Chromium, and Lead. One groundwater monitoring well should be installed near the northeast property corner of the Site in the immediate vicinity of the former landfill. Groundwater samples should be collected from the newly*

installed groundwater monitoring well and six (6) existing on-site groundwater-monitoring wells and submitted for laboratory analysis of Total Arsenic, Chromium, and Lead for comparison with the current Florida Department of Environmental Protection (FDEP) groundwater cleanup target levels.

Business Environmental Risks (BER's) are defined by ASTM 1527-00 as:

"a risk which can have a material environmental or environmentally driven impact on the business associated with the current or planned use of a parcel of commercial real estate, not necessarily limited to those environmental issues required to be investigated in this practice."

BER Finding: Based on our review of historic documents including aerial photographs and city directory listings, the on-site structures were constructed circa 1989.

⊙ **Issue:** The federal government placed a moratorium on the production of most asbestos products in the early 1970's, however, installation of these products continued through the late 1970's and even into the early 1980's. It is EDA's interpretation of EPA Guidelines that buildings constructed after 1981 are not likely to support Asbestos Containing Materials. A comprehensive asbestos survey or affidavit certifying that no asbestos is present within the building materials may be required by Palm Beach County prior to acquiring a building demolition permit.

⊙ **Recommendation:** Prior to any disturbance caused by renovation or demolition to the on-site residence, a State-licensed Asbestos Consultant should perform an asbestos survey on the existing buildings. This information will need to be provided to the City of Delray Beach prior to obtaining a Demolition Permit.

1.0 EXECUTIVE SUMMARY

EnviroDesign Associates, Inc., (EDA), has performed a Limited Phase II Environmental Site Assessment (ESA) on the following property:

Property Name (Site):	Village at the Lake
Address:	625 Auburn Circle West Delray Beach, Florida
Occupant:	Auburn Trace Apartments
Structures Present:	Forty-one (41) one and two-story apartment buildings
Approximate Acreage:	thirty-six (36)
Property Zoning:	Residential
County:	Palm Beach

Historic Site knowledge has identified potential environmental liabilities or "Recognized Environmental Conditions" at the Site. The purpose of this Limited Phase II investigation is to determine whether these potential issues have resulted in a negative impact to the soil and groundwater at the Site. This investigation is being performed as part of an environmental due diligence investigation of the subject property. Potential environmental liabilities identified on the Site include the following:

- An unregulated landfill was previously located in the northeast portion of the Site. Previous Phase II environmental testing completed on the Site did not include an evaluation of metals in the soils. Additionally, previous Phase II environmental testing completed on the Site recorded elevated levels of total Arsenic, total Chromium, and total Lead in the groundwater.

Limited Phase II Environmental Site Assessment activities conducted on the Site included the following Scope-of-Services:

- Site utility clearance via Sunshine State One-Call
- Install one temporary groundwater monitoring well (TMW-7)
- Perform six soil borings to a depth of 12-feet below ground surface
- Collection of soil samples from six (6) boring locations
- Laboratory Analyses Soil for Total Arsenic, Chromium, and Lead
- Collection of groundwater samples from seven groundwater monitoring wells
- Laboratory Analyses Groundwater for Total Arsenic, Chromium, and Lead

FINDINGS:

Soil and groundwater testing conducted during this investigation at the unregulated landfill location near the northeast property corner DID NOT IDENTIFY elevated levels of total Arsenic, total Chromium, and total Lead in the soil and groundwater. Similarly, soil borings completed in the observed areas of settling did not reveal significant quantities of buried debris on the Site.

ISSUES:

- Based on the results of our Limited Phase II soil investigation, elevated concentrations of total Arsenic, total Chromium, and total Lead WERE NOT DETECTED in the soil and groundwater at the representative test locations.
- Based on the results of our Limited Phase II soil investigation, no significant quantities of buried debris are present in the northeastern corner of the Site.

RECOMMENDATIONS:

- *No further action is recommended at this time.*