

RESOLUTION NO. R-2004-1650

RESOLUTION APPROVING ZONING PETITION CA/VDB2003-093
CLASS A CONDITIONAL USE
PETITION OF HAVERHILL PALMS LLC
BY LAND DESIGN SOUTH, AGENT
(HAVERHILL PALMS)

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

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA/VDB2003-093 was presented to the Board of County Commissioners at a public hearing conducted on July 22, 2004; and

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

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is not consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition CAVDB2003-093, the petition of Haverhill Palms LLC, by Land Design South, agent, for a Class A Conditional Use to allow a Voluntary Density Bonus of 19 units in the Residential Medium Density Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 22, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Nay
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Aye
Warren H. Newell	-	Aye
Mary McCarty	-	Absent
Burt Aaronson	-	Aye
Addie L. Greene	-	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on July 22, 2004.

Filed with the Clerk of the Board of County Commissioners on 24 day of August, 2004.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY: 
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY F. WILKEN, CLERK

BY:  
DEPUTY CLERK

EXHIBIT A
LEGAL DESCRIPTION

MODEL LAND CO. SUBDIVISION, East 1/3 of South 1/2 of Tract1 (Less E 15 ft Rd. RW) and East 1/3 of Tract 2 (Less S 247.5 ft and E 15 ft Rd RW), according to the Plat thereof, recorded in Plat Book 5 Page 78, of the Public Records of Palm Beach County, Florida, further identified as Parcel Control Number 00-42-44-14-05-001-0040.

EXHIBIT B
VICINITY SKETCH

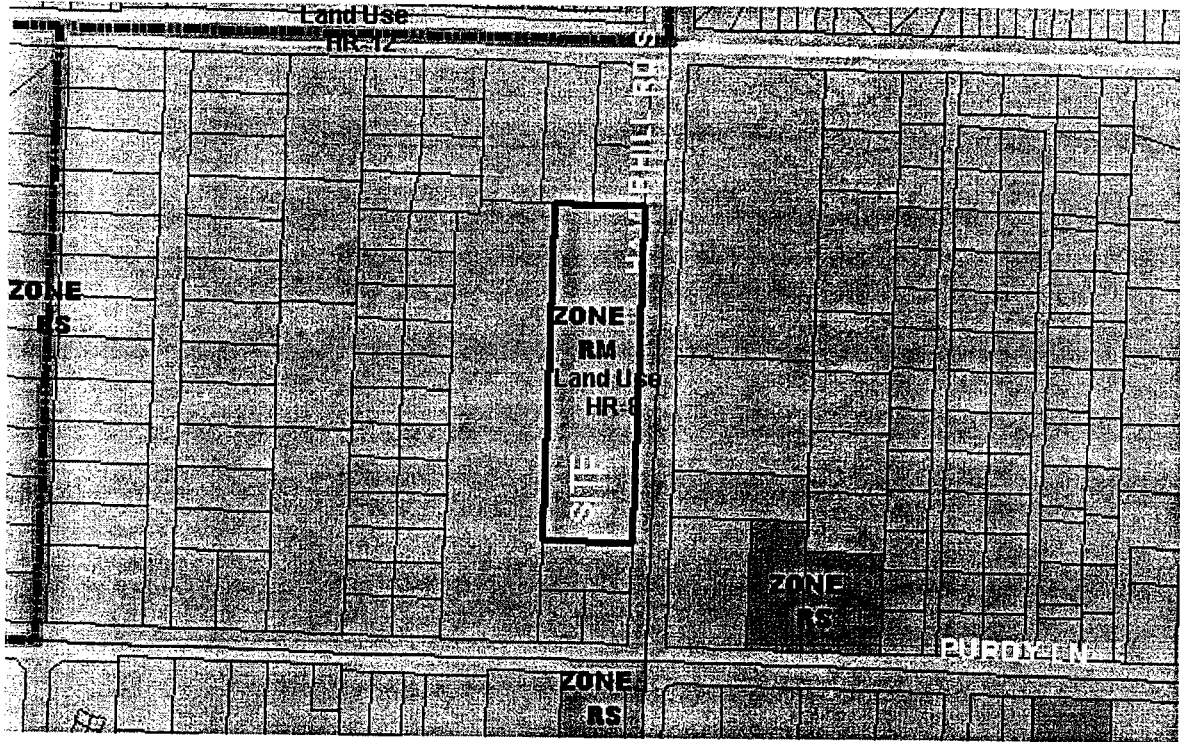


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated February 13, 2004. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING-Zoning)

B. LANDSCAPING - STANDARD

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
 - a. Tree height: Fourteen (14) feet;
 - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. Canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
 - d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE – Zoning)
2. All palms required to be planted on the property by this approval, shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. twenty-four (24) to thirty-six (36) inches – medium shrub;
 - c. forty-eight (48) to seventy-two (72) inches – large shrub; and,
(CO: LANDSCAPE - Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)

C. LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF HAVERHILL ROAD)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. a minimum fifteen (15) foot wide landscape buffer strip. A five (5) foot easement encroachment shall be permitted. No width reduction shall be permitted;

- b. a minimum two (2) foot high continuous berm measured from top of curb; Field adjustment of berm location may be permitted for transverse of utility easement or pedestrian walkways or to accommodate existing vegetation;
 - c. a four (4) foot high opaque concrete wall or decorative fence to be located on the inner edge of the landscape buffer. The exterior side of the wall or fence shall be given a finished architectural treatment that is consistent with the color and style of the principal structure;
 - d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall or fence;
 - e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters and alternating on both sides of the wall or fence;
 - f. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation and to be planted on both sides of the wall or fence;
 - g. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation and to be planted on both sides of the wall or fence.
- (CO: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG NORTH, WEST, AND SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the north, south, and west property lines shall be upgraded to include:
 - a. a minimum ten (15) foot wide landscape buffer strip with a maximum of five (5) feet of easement encroachment;
 - b. a continuous two (2) foot high berm measured from top of curb; and
 - c. a six (6) foot high opaque concrete wall. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure.
 - d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall;
 - e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters and alternating on both sides of the wall;
 - f. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation and to be planted on both sides of the wall; and,
 - g. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation and to be planted on both sides of the wall. (CO: LANDSCAPE - Zoning)

E. ENGINEERING

- 1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after April 22, 2007. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2 Chapter E of the Unified Land Development Code. (DATE: MONITORING -Eng)
- 2. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG - Eng)

F. LANDSCAPING - INTERIOR

1. Special planting treatment shall be provided on both sides of the northern and southern access points on Haverhill Road. Planting shall consist of the following:
 - a. a minimum of three (3) Royal Palms or a specie acceptable to the Landscape Section;
 - b. a minimum of three (3) flowering trees along the access drive; and,
 - c. shrub or hedge materials. (BLDG. PERMIT: LANDSCAPE - Zoning)
2. Special planting treatment shall be provided at the median of the medians at both access points of Haverhill Road. Planting shall consist of the following:
 - a. a minimum of five (5) Royal Palms or a similar specie acceptable to the Landscape Section; and,
 - b. shrub or hedge materials. (BLDG. PERMIT: LANDSCAPE - Zoning)
3. All pedestrian crossings shall be paved with decorative treatment such as stamped concrete or paving blocks. Each pedestrian crossing shall have a minimum width of five (5) feet. (CO: LANDSCAPE - Zoning)
4. Prior to final site plan approval by the Development Review Officer (DRO), a trellis shall be provided between each of the garage structures and the school bus shelter along the east property line. Each trellis shall:
 - a. extend above the entire length of each row of parking;
 - b. have a minimum width of ten (10) feet; and,
 - c. be planted with a vine at both ends. (BLDG. PERMIT: LANDSCAPE - Zoning)
5. Prior to final site plan approval by the Development Review Officer (DRO), a pedestrian connection shall be provided between Haverhill Road and the school bus shelter. The elevated bridge shall:
 - a. be a raised boardwalk extending across the retention area;
 - b. have a minimum length of twenty-five (25) feet; and,
 - c. be constructed materials consistent with trellis structures. (BLDG. PERMIT: LANDSCAPE - Zoning)

G. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG /CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 11:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Zoning)
4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

H. PLANNING (VOLUNTARY DENSITY BONUS)

1. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:
 - a. Guarantees the affordability for the designated Group B (low income) units for a period of ten years; and
 - b. Guarantees that the Group B units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: PLANNING – Planning)
2. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall show the following on the site plan:
 - a. the minimum required eight (8) units will be equitably distributed through the four buildings, with exactly two affordable units per building;
 - b. units are required to be provided as eight (8) units to Group B (low income) households;
 - c. the minimum required eight (8) affordable units shall include similar variation in bedroom and floor area options as the market rate units. (DRO: PLANNING – Planning)
3. The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of the Haverhill Palms project, that the project has eight (8) affordable housing units and any residents wishing to reside in a unit that has been earmarked as an affordable housing unit shall qualify for eligibility. Every deed of sale for each of the eight (8) affordable units shall contain a 10 year restriction guaranteeing the property is sold and occupied by a low income household only, for the 10 year period. The property owner is responsible for disclosure of the location of these eight (8) affordable units prior to the sale of any units. The developer or property owner shall submit documentation of compliance with this condition on an annual basis to the Planning Division of the Planning, Zoning and Building Department beginning on May 1, 2005 and shall continue on an annual basis by either the developer or subsequent property owner of the unit. (ONGOING: MONITORING – Planning)
4. On an annual basis, beginning May 1, 2005, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Voluntary Density Bonus declaration of restrictive covenants. (DATE: MONITORING – Planning)

I. SCHOOL

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

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

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board and the County Engineer. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (CO: SCHOOL BOARD/ENG – School Board.)

J. SIGNS

1. Freestanding signs fronting on Haverhill Road shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. maximum sign face area per side - eighty (80) square feet;
 - c. maximum number of signs - two (2);
 - d. style - monument style only; and,
 - e. location - median of two (2) access points; and,
 - f. signs shall be limited to identification of the development only. (CO: BLDG - Zoning)

K. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
 - b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or

other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.
(ONGOING: MONITORING - Zoning)