

RESOLUTION NO. R-2007- 0088

RESOLUTION APPROVING ZONING APPLICATION CA/TDR2006-016
(CONTROL NO. 2006-008)
CLASS A CONDITIONAL USE
APPLICATION OF HALDICK ENTERPRISES, INC.
BY COTLEUR & HEARING, INC.AGENT
(BOATMAN HAMMOCK)

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 applications 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), as amended, 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 Application CA/TDR2006-016 was presented to the Board of County Commissioners at a public hearing conducted on January 25, 2006; and

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

WHEREAS, this approval is subject to Article 2.E (MONITORING) 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 consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations;
3. 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;
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands;
5. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.

6. 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.
7. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. 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.
9. The applicant has demonstrated sufficient justification that there are changed circumstances that require the Class A Conditional Use.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application CA/TDR2006-016, the application of Haldick Enterprises, Inc., by Cotleur & Hearing, Inc., agent, for a Class A Conditional Use to allow the Transfer of Development Rights for 20 units and to designate this application as the receiving area in the Multi-Family Residential (Medium Density) 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 January 25, 2007, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	- Aye
John F. Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Warren H. Newell	- Aye
Mary McCarty	- Aye
Burt Aaronson	- Aye
Jess R. Santamaria	- Aye

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

Filed with the Clerk of the Board of County Commissioners on 8th day of February 2007.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

THE EAST $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE
SOUTHEAST $\frac{1}{4}$ OF SECTION 24, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM
BEACH COUNTY FLORIDA.

CONTAINING: 5.126 ACRES, MORE OR LESS

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS OF
WAY OF RECORD

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated January 12, 2007. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING - Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall revise the site layout to reflect the following:
 - a. Provide traffic calming components (decorative paving treatment) within the access/parking tracts;
 - b. Provide Traffic calming components at the access point at Boatman Street. (speed bumps). (DRO: ZONING-Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations dated January 12, 2007 shall be revised to incorporate the following:
 - a. In addition to the porches shown on the second floor, the building shall be revised to incorporate covered porches with railing on the first floor of the front façade on a minimum of two (2) units per building. The porches shall be a minimum length equal to the width of the unit;
 - b. Revise the dormers/reverse gables to be more proportionate to the main roofline for both the front and rear facades;
 - c. Building 1, 3 6 and 8 shall provide a minimum of two (2) feet recess or projection for the entire length and height of the end units of the front facade;
 - d. The buildings shall be revised to vary the unit's colors or materials. A minimum of three (3) colors or materials, exclusive of trim, shall be incorporated into each building.
 - d. Revise the garage doors to include elements such as windows, decorative trim and hardware. (DRO:ARCH REVIEW – Zoning)
2. At time of submittal for final approval by the Development Review Officer (DRO), the revised architectural elevations pursuant to Arch Review Condition 1 for all building types shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C. of the ULDC or as otherwise stated above. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULCD requirements. (DRO:ARCH REVIEW – Zoning)

ENGINEERING

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

No Building Permits for the site may be issued after November 27, 2009. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study, which complies with

Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

ENVIRONMENTAL

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

ZONING - LANDSCAPING-STANDARDS

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)
2. A minimum of sixty (60) 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. (BLDG PERMIT: LANDSCAPE - Zoning)
3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)
5. Decorative pavers or stamped concrete shall be provided along the internal driveway in areas where shown on the site plan dated January 12, 2007. (DRO: ZONING-Zoning)

ZONING - LANDSCAPING ALONG THE PERIMETER PROPERTY LINES

6. In addition to the code requirements, landscaping along the perimeter property lines shall be upgraded to include the following:
 - a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDSCAPE - Zoning)

SCHOOL BOARD

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

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

TRANSFER OF DEVELOPMENT RIGHTS

1. At time of submittal for final Development Review Officer (DRO) approval, an official Contract for Sale and Purchase of TDR Units", TDR Escrow Agreement", and TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall:
 - a. execute a Contract for Sale and Purchase of TDRs shall be executed by the property owner, in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of twenty (20) TDR units at a selling price of 1.00 per unit.
 - b. submit recorded copies of the Contract for Sale and Purchase of TDRs shall be provided to the Palm Beach County Zoning Division.
 - c. place monies representing twenty (20) TDR units in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
3. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
4. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)

UTILITIES

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

WORKFORCE HOUSING

1. Prior to final 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 attainability of thirty (30) percent of the requested TDR units for a period of ten years (ownership) twenty years (rental) to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and,
 - b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTY- Planning)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall include a notation in, Master Plans, related Site Plans, and plat that shall indicate that a minimum of thirty (30) percent of the requested TDR units for the overall project have been designated as workforce housing units. Every deed of sale for each of the workforce units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). Any person or family wishing to reside in a unit that has been designated as a workforce unit shall qualify for eligibility. On an annual basis, beginning December 1, 2007, the property owner, and/or the master homeowners association for the development shall submit an annual report to the Planning Division documenting compliance with the Workforce Housing declaration of restrictive covenants, and the deed of sale restriction. (DRO/DATE: PLANNING/MONITORING - Planning)

COMPLIANCE

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

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning

approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING - Zoning)