

RESOLUTION NO. R-2008-0006

RESOLUTION APPROVING ZONING APPLICATION CA2007-184
(CONTROL NO. 1979-044)
CLASS A CONDITIONAL USE
APPLICATION OF FLORIDA HINDU CULTURAL & RELIGIOUS ASSOCIATES
BY LAND RESEARCH MANAGEMENT, INC., AGENT
(FLORIDA HINDU CULTURAL & RELIGIOUS ASSOCIATION)

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 Process) 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 CA2007-184 was presented to the Board of County Commissioners at a public hearing conducted on January 3, 2008; 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. 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.
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, 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.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would 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 CA2007-184, the application of Florida Hindu Cultural & Religious Associates, by Land Research Management, Inc., agent, for a Class A Conditional Use to allow a Place of Worship in the Residential Transitional 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 January 3, 2008, 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 Jeff Koons and, upon being put to a vote, the vote was as follows:

Addie L. Greene, Chairperson	- Aye
Jeff Koons, Vice Chair	- Aye
Karen T. Marcus	- Aye
Robert J. Kanjian	- Absent
Mary McCarty	- Absent
Burt Aaronson	- Aye
Jess R. Santamaria	- Absent

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 3, 2008.

Filed with the Clerk of the Board of County Commissioners on January 11, 2008

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

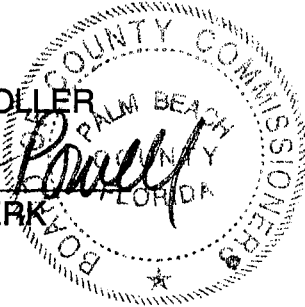


EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT "A"

LOT 6, FOREST CREEK ESTATES (UNRECORDED)

A PARCEL OF LAND BEING A PORTION OF TRACT 16, BLOCK 11, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45; PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PARCEL OF LAND BEING SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF SAID TRACT 16; THENCE, BEAR NORTH 88°59'50" EAST, ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 371.20 FEET TO THE POINT OF BEGINNING:

THENCE, CONTINUE NORTH 88°59'50" EAST, ALONG SAID NORTH TRACT LINE, A DISTANCE OF 185.60 FEET TO THE INTERSECTION THEREOF WITH THE WEST LINE OF THAT CERTAIN PARCEL CONVEYED TO FLORIDA STATE TURNPIKE AUTHORITY, PER WARRANTY DEED RECORDED IN DEED BOOK 1167, PAGE 31 OF SAID PUBLIC RECORDS; THENCE, SOUTH 01°12'09" EAST, ALONG SAID WEST LINE, DEPARTING SAID NORTH LINE, A DISTANCE OF 642.01 FEET TO THE INTERSECTION THEREOF WITH THE NORTH LINE OF THE SOUTH 18.00 FEET OF SAID TRACT 16; THENCE, SOUTH 89°02'58" WEST, DEPARTING SAID WEST LINE AND ALONG SAID NORTH LINE, BEING THE NORTH LINE OF THAT CERTAIN RIGHT-OF-WAY GRANTED TO PALM BEACH COUNTY, PER RIGHT-OF-WAY DEED RECORDED IN DEED BOOK 949, PAGE 554 OF SAID PUBLIC RECORDS, A DISTANCE OF 186.73 FEET; THENCE, NORTH 01°06'08" WEST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 641.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.74 ACRES, MORE OR LESS.

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

NOTE: This Commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.

Commitment #: CM-1-FL3451-05-567

05-567

File #: 05-13284

EXHIBIT B
VICINITY SKETCH

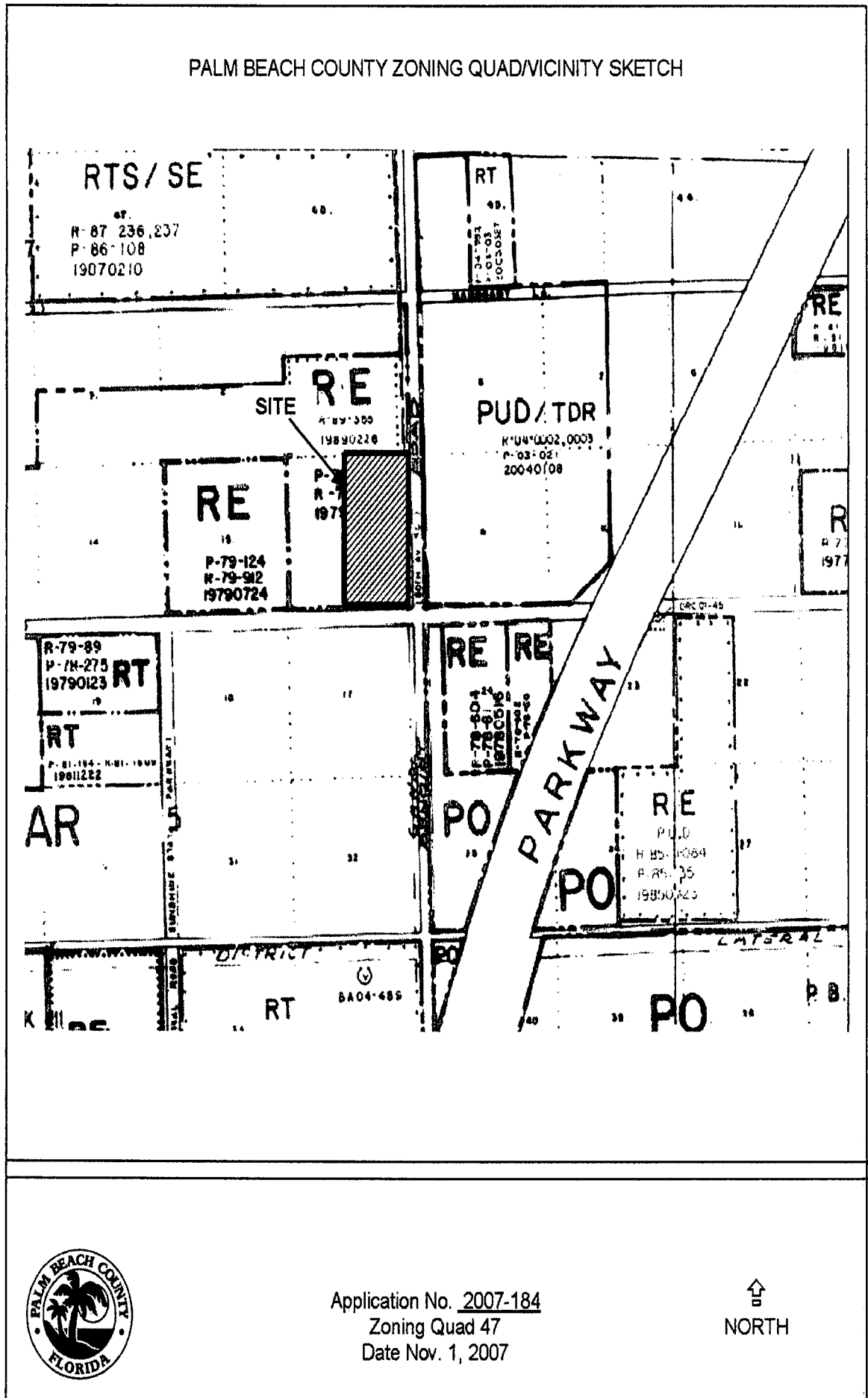


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved preliminary site plan is dated August 13, 2007. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the Place of Worship 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. Development shall be consistent with the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

BUILDING AND SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), any additional parking for overflow shall be shown on the site plan. (DRO: ZONING – Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
 - a. No Building Permits for the site may be issued after November 29, 2010. 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)

2. Occupancy of the building shall be limited to 84 people. (ONGOING: ENG - Eng)

3. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for:

- Benoist Farms Road 80 feet west of the exting east right of way line for Benoist Farms Road.
- Pioneer Road 40 feet from centerline

All right of way deed(s) and associated documents shall be provided and approved prior to October 2, 2008 or prior to the issuance of a Building Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng)

4. Prior to issuance of the first building permit, the property owner shall provide a temporary roadway construction easement along both Pioneer Road and Benoit Farms Road to Palm Beach County This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT:MONITORING-Eng)

ENVIRONMENTAL

1. A Preserve Management Plan and form of recordation such as Conservation Easement, Restrictive Covenant or Plat, shall be approved by ERM and recorded by the applicant prior to final site plan approval. (DRO:ERM - ERM)
2. An upland preserve set-aside devoid of all development areas and easements, equal to or greater than 0.33 acres of the native upland vegetation shall remain as depicted on the site plan. (DRO: ERM - ERM)
3. A preserve management plan shall be approved by ERM prior to DRO site plan approval. The preserve management plan must include all preserve areas within the development. A Conservation Easement, or other instrument approved by ERM shall be required for all preserve areas prior to approval of the Preserve Management Plan. (DRO: ERM - ERM)

LANDSCAPING-STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative 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. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:
 - a. palm heights: twelve (12) feet clear trunk;
 - b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,

- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)

LANDSCAPING ALONG THE SOUTH AND EAST PROPERTY LINES (FRONTAGES OF BENOIST FARMS ROAD AND PIONEER ROAD)

3. In addition to the code requirements, landscaping along the south and east property lines shall be upgraded to include:
 - a. a minimum twenty (20) foot wide landscape buffer strip; and,
 - b. 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)

SIGNS

1. Freestanding signs fronting on Benoist Farms 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 - sixty (60) square feet;
 - c. maximum number of signs - one (1);
 - d. style - monument style only; and
 - e. location - within fifty (50) feet of the north entrance. (BLDG PERMIT: BLDG - Zoning)
2. No signs shall be permitted on Pioneer Road. (ONGOING: BLDG - Code Enf)

USE LIMITATIONS

1. No accessory outdoor uses such as temporary sales events shall be permitted. (ONGOING: CODE ENF - Zoning)
2. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)
3. No distribution of food to the public shall be permitted. (ONGOING: CODE ENF - Zoning)

UTILITIES

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

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant 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 the 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)