



# Town of Highland Beach

3614 SOUTH OCEAN BOULEVARD • HIGHLAND BEACH, FLORIDA 33487

Palm Beach County, Florida

561-278-4548  
FAX 561-265-3582

Mayor:  
Jim Newill, CPA  
Vice Mayor:  
Miriam S. Zwick  
Commissioners:  
Doris M. Trinley  
John J. Sorrelli  
John J. Pagliaro  
Town Manager:  
Dale S. Sugerman, Ph. D.

May 6, 2009

Ms. Audrey Wolf, Director  
Palm Beach County  
Facilities Development & Operations Department  
2633 Vista Parkway  
West Palm Beach, FL 33411-5603

RE: Special Exception Approval  
Cam D. Milani Park

Dear Ms. Wolf:

On April 27, 2009 the Town Commission of the Town of Highland Beach approved the Special Exception application of Palm Beach County for the proposed Cam D. Milani Park. The Special Exception use was approved with a total of 43 conditions. Enclosed you will find certified copies of the following:

- 1) Resolution No. 09-004 R- A resolution of the Town of Highland Beach, Florida, concerning the Special Exception application of Palm Beach County for development of Milani Park.
- 2) The legal description of the two parcels of land that make up the Subject Property.
- 3) The 43 conditions of approval associated with Resolution No. 09-004 R.

Also enclosed is a copy of Exhibit "A" which is identified in Condition #14. As soon as you and your staff are prepared to discuss the development of the final language for this document, please let me know.

It has been a pleasure working with you and your staff on this Special Exception process. Should you have any questions about the enclosed material, please be sure to contact me directly.

Very truly yours,

TOWN OF HIGHLAND BEACH

Dale S. Sugerman, Ph.D.  
Town Manager

cc: Honorable Mayor and Members of the Town Commission  
Geoffrey Vanore, Building Official

RECEIVED

MAY - 8 2009

DIRECTOR'S OFFICE

RECEIVED  
FACILITIES COMPLIANCE

MAY 11 2009

FILE \_\_\_\_\_  
C. \_\_\_\_\_  
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I CERTIFY THAT THIS IS A TRUE COPY OF THE RECORDS OF THE TOWN OF HIGHLAND BEACH, FL.  
ATTEST: BEVERLY M. BROWN, TOWN CLERK

RESOLUTION NO. 09-004 R

**A RESOLUTION OF THE TOWN OF HIGHLAND BEACH, FLORIDA,  
CONCERNING THE SPECIAL EXCEPTION APPLICATION OF PALM  
BEACH COUNTY FOR DEVELOPMENT OF MILANI PARK**

WHEREAS, Palm Beach County has submitted an application for Special Exception use for the proposed Milani Park under the Town's Special Exception procedure identified in Section 30-36 of the Town Code; and,

WHEREAS, the Town Planning Board held several public hearings as required by Section 30-36; and, on June 19, 2008 submitted its advisory recommendation for the Special Exception application with conditions of approval to the Town Commission; and,

WHEREAS, the Town Commission has held a number of public hearings on the County application for Special Exception; and,

WHEREAS, the Town Commission has considered the Special Exception Use Application for the property legally described in the attached Exhibit A, which is incorporated herein, (the subject property),

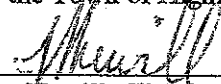
**NOW THEREFORE BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA**

Section 1: Findings:

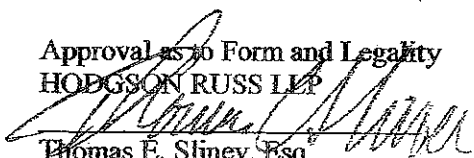
1. The Town Commission is empowered to grant special exceptions.
2. The application is consistent with applicable comprehensive plan and zoning code requirements.

Section 2: In furtherance of the foregoing findings the Town approves the aforesaid Special Exception use subject to the 43 Conditions of Approval attached to this Resolution.

**DONE AND ADOPTED** by the Town Commission of the Town of Highland Beach, Florida, this 27th day of April, 2009.

  
\_\_\_\_\_  
Jim Newill, CPA  
Mayor

ATTEST:  
  
\_\_\_\_\_  
Beverly M. Brown, MMC  
Town Clerk

Approval as to Form and Legality  
HODGSON RUSS LLP  
  
\_\_\_\_\_  
Thomas E. Sliney, Esq.  
Town Attorney

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FACILITIES COMPLIANCE**

MAY 11 2009

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C \_\_\_\_\_  
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EXHIBIT A

PARCEL "A"

That part of the South 122.265 feet of the North 244.52 feet of the South 867.0 feet of the North Half of Government Lot 1, Section 9, Township 47 South, range 43 East, lying between the Atlantic Ocean and the right-of-way of State Road 140 (A-1-A), Highland Beach, Palm Beach County, Florida.

A parcel of land in the South 622.48 feet of the North Half of Government Lot 1, in Section 9, Township 47 South, Range 43 East, Palm Beach County, Florida, being more particularly described as follows:

Beginning at the intersection of the East right-of-way line of State Road A-1-A with a line parallel with and 394.97 feet Northerly from (measured at right angles to), the South line of the North Half of said Government Lot 1; said point of intersection being the Point of Beginning and the Southwest corner of the herein described parcel of land; said Point of Beginning also being the arc of a curve concave to the East and having a radius of 28,597.90 feet; thence Easterly, making an angle of deflection to the South, from said parallel line, of 12°08', a distance of 233.8 feet more or less to the mean high water line of the Atlantic Ocean; thence Northerly along the mean high water line of the Atlantic Ocean a distance of 298.00 feet more or less to an intersection with the North line of the said South 622.48 feet of the North Half of Government Lot 1, thence Westerly along said North Line of the South 622.48 feet a distance of 315.9 feet, more or less, to an intersection with the Easterly right-of-way line of State Road A-1-A, said point of intersection being in the arc of a curve concave to the East and having a radius of 28,597.90 feet; thence Southerly along said East right-of-way line and along the arc of said curve, a distance of 228.12 feet more or less to the Point of Beginning.

PARCEL "B"

A parcel of land in the North half of Government Lot 1, Section 9, Township 47 South, Range 43 East, Palm Beach County, Florida.

Beginning at the intersection of the West right-of-way line of State Road A-1-A and a line parallel with and 300 feet northerly from (measured at right angles to) the South line of the North half of said Government Lot 1, said point of intersection being the Point of Beginning and southeast corner of the herein described parcel of land, said Point of Beginning also being in the arc of a curve concave to the East and having a radius of 28,697.90 feet; thence, northerly, along the West right-of-way line of State Road A-1-A and along the arc of said curve, a distance of 446.53 feet to the North line of the South 122.265 feet of the North 244.52 feet of the South 867.00 feet of the North 1/2 of Government Lot 1, thence North 89°34'30" West 232.55 feet; thence, South 11°29'05" West 71.17 feet; thence, South 14°58'33" West 387.33 feet to a point in a line parallel with and 300.00 feet northerly from (measured at right angles to) the South line of the North half of said Government Lot 1; thence, South 89°34'30" East 303.72 to the Point of Beginning.

Containing 2.712 Acres, more or less

I CERTIFY THAT THIS IS A TRUE COPY OF THE RECORDS OF THE TOWN OF HIGHLAND BEACH, FL.

ATTEST: BEVERLY M. BROWN, TOWN CLERK

**Town of Highland Beach  
Milani Park Special Exception Use  
Conditions of Approval**

**As approved by the Town Commission on April 27, 2009**

1. The conditions of approval for development of Milani Park (hereinafter the "Subject Property") herein shall apply to Palm Beach County (the County), its successors and assigns.
2. The County shall comply with Section 30-12 of the Town Code, entitled "Payment for Outside experts by reimbursing the Town for all costs the Town has incurred to date from its hiring of experts, no later than thirty (30) days after receipt of the invoice and supporting documentation, and subject to any resolution regarding the reasonableness of fees. Any additional costs shall be paid by the County prior to issuance of the first building permit authorizing development of the Subject Property.
3. Following the approval of the Special Exception Resolution and in advance of submitting for any building permit, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a consolidated package which shall include a Final Site Plan, engineering construction plans, architectural plans (floor plans and elevations), and other documents, drawings, and permits received from outside agencies that are required by the conditions contained in the granting Resolution and are necessary to initiate clearing and construction on the Subject Property. This consolidated package shall also include that documentation which is necessary to demonstrate the County's compliance with all of the conditions of approval contained in the Resolution. These plans and documents shall be collectively referred to hereinafter as "the Compliance Package". The Compliance Package shall be subject to the Town's review to confirm compliance with the conditions and other permitting requirements.
4. As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a revised Park Management Plan for the subject property which shall be subject to the Town's review to confirm compliance with the subsections contained within this condition. The revised Park Management Plan shall:
  - a. set forth the County's intended delivery of public safety services to the subject property including lifeguards, park rangers and gatehouse attendants;

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*Beverly M. Brown*  
ATTEST: BEVERLY M. BROWN, TOWN CLERK

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b. require the County to retain one or more registered professional archeologists (hereinafter "the archeologists") as also identified in Condition #6 herein to address the planning, construction and maintenance measures to protect the archaeological resources on the East Parcel (Parcel "A"). These measures shall be incorporated into the revised Park Management Plan. The Archeologists shall be on the Subject Property at all times during clearing and construction of the East Parcel (Parcel "A") for the park and its improvements to monitor and inspect the activities of the County's contractors, employees and consultants;

c. indicate how the County proposes to continually restore and maintain a functioning foredune;

d. indicate that signage will be installed at the base of the dune stating that beach goers are to keep off the vegetated dune area, not disturb the vegetation and that recreational beach activity shall be monitored within an area which is 10 feet from the leading edge of the foredune to minimize degradation;

e. identify how endangered, threatened or species of special concern (in particular the Green Herons and Sea Turtles which were observed on the Site) will be protected before and after development of the Subject Property;

f. set forth the County's plan for protecting sea turtle nests from recreational beach users;

g. document how Palm Beach County shall comply with the Management Plan included in the reviewing agencies' permit(s) for monitoring and maintenance of the Mangrove Swamp on the West Parcel (Parcel "B");

h. indicate how all exotic vegetation will initially be removed, and thereafter how the subject property will be monitored and maintained to protect its environmental integrity;

i. document the plans for the collection and disposal of trash and debris from the beach recreation area. Waste collection shall occur a minimum of three times per week;

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- j. set forth how maintenance of the subject property will be done, including but not limited to the parking lot, a guard in the guard house, cleaning of the restrooms, and cleaning the beach. Maintenance shall be performed by Palm Beach County; and
- k. include an on-going training program for park staff for archaeological sensitivity for the Site.

5. As part of the Compliance Package, the County shall submit a drawing indicating the type of demarcation fencing or railing (which may include notices or signs attached thereto identifying adjacent private property) which it proposes to install on the beach to create delineation between public and privately owned properties along the northern and southern property lines to the mean high water line for the East Parcel (Parcel "A"). The placement of the demarcation fencing or railing shall be subject to the County obtaining permits from the appropriate authorities.

6. The County shall retain one or more Registered Professional Archaeologists (hereinafter "the Archaeologists"), who are members or meet the standards of the Register of Professional Archeologists (ROPA) agreeable to the County and the Town, who will work toward the development of the Park Management Plan to address the planning, construction and maintenance measures to protect the archaeological resources on the Subject Property. These measures shall be incorporated into the Park Management Plan for the subject property as required in #4b, above. The Archaeologists shall be on the Archaeological Site (the East Parcel - Parcel "A") at all times during clearing and construction to monitor and inspect the activities of the County's contractors, employees and consultants.

7. Prior to the issuance of any clearing, excavation or other permits necessary to fill the East Parcel (Parcel "A") of the subject property the Archaeologists shall be consulted in regard to planning and monitoring all removal of vegetation, structures and features. Native vegetation shall be left in place so as to avoid any disturbance to the midden.

8. The County shall use materials devoid of cultural resources and contaminants (hereinafter "the Fill") and shall place same over any area to be developed, including but not limited to, areas where boardwalks and pedestrian walkways, kiosks, restrooms and/or lifeguard buildings are located. The Fill shall be in sufficient quantities to bury and preserve archaeological resources. The placement of the Fill shall be done at the direction of the Archaeologists.

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9. The Site shall be interpreted. The Archaeologists shall consult with the State Historic Preservation Officer (SHPO), and offer the opportunity to comment to the Miccosukee and Seminole Tribes, to develop text, concepts, and recommendations for interpretative signage which shall be located on the eastern parcel. The signage shall, focus on (1) the Jeaga, Ais, Tequesta, Miccosukee, Creeks and Seminole Tribes; (2) Spanish, British and other European and Japanese Yamato Colony's presence in Palm Beach County or whatever is deemed most appropriate by the SHPO and Tribes.
10. Within one (1) year of the adoption of the Resolution, the County shall apply for National Register of Historic Places (NRHP) designation of the Site. Immediately upon receipt of the NRHP determination the County shall provide evidence of its receipt of the determination to the Town. If the Site is nominated, Palm Beach County will agree to accept the nomination.
11. No clearing (except for hand removal of exotic vegetation) shall occur on the East Parcel (Parcel "A").
12. Prior to the issuance of any building permit, except those required to construct the improvements identified in Conditions 20 and 24, those structural features which remain on the East Parcel (Parcel "A") from the former Weir homestead, and that are determined by the Town Building Official to be structurally unstable or unsafe, shall be removed from the East Parcel (Parcel "A") unless, in the opinion of the Town Building Official and the Archaeologists, their removal would destabilize the archeological site, expose artifacts, promote erosion, disturb human remains, or otherwise be adverse to the preservation of the archeological site. Unstable or unsafe structural features shall be tested if required to determine their integrity, and their removal monitored by the Archaeologists. In the event that a structural feature is determined by the Town Building Official to be structurally unstable or unsafe, and removal would destabilize the archeological site, the County shall not remove the structural feature, but shall secure the structural feature to the satisfaction of the Building Official.

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13. Prior to the issuance of any building permit, except those required to construct the improvements identified in Conditions 20 and 24, the Archaeologists identified in condition #6 shall undertake a Cultural Resource Assessment Survey (CRAS) (also known as a Phase I Survey) in compliance with 1A-46.001 FAC and the Florida Division of Historical Resources "Cultural Resource Management Standards & Operations Manual" to recover information present at the Archeological Site so as to expand the understanding of the Site's significance to Florida's past, its first inhabitants, and explorers, as well as its early European and Japanese settlers. The County shall submit the assessment to the Town as part of the Compliance Package.
14. The County shall enter into a Memorandum of Agreement with the SHPO, the Miccosukee, the Seminole Tribe of Florida, the Seminole Nation of Oklahoma, and the Town of Highland Beach regarding what steps will be taken to protect the Subject Property during its development. The Memorandum of Agreement shall generally be in the form of and include the content of the attached Exhibit "A".
15. As part of the Compliance Package, the County shall submit its engineering and construction plans and drawings showing that the restroom and lifeguard building will be located entirely within the "footprint" of the remnants of the swimming pool and any existing concrete deck poured over existing footers. In the event the restroom/lifeguard building cannot be located entirely within the footprint of the swimming pool and deck, Palm Beach County may alter the footprint of the building upon proof to the Town in consultation with the SHPO that any encroachment of the proposed building will not displace or disturb archaeological resources or human remains. If in the opinion of the Town in consultation with the SHPO this can not be accomplished, the County shall relocate this structure to the West Parcel (Parcel "B").
16. As a result of the Cultural Resource Assessment Survey (CRAS) identified in condition # 13 above, and as part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall identify the routes of any and all utility lines, sidewalks, walkways, boardwalks and/or facilities that may impact any archaeological deposits or human remains. Once the routes have been determined and permits applied for and obtained, the routes shall be excavated by hand.
17. The stormwater system shall be designed such that there is no impact to facilities in a 5 year 24 hour storm event.



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18. As part of the Compliance Package the County shall submit copies of all applications submitted and permits received from DEP/ACOE regarding the development of the subject property.
19. As part of the Compliance Package, the Landscape Plans shall provide for plantings within the 25' wetland buffer between the paved parking area and the Mangrove Swamp on the West Parcel (Parcel "B"). The landscaping shall be subject to the Town's review and approval for plant material selection that is consistent with wetland species and character.
20. Within one hundred-eighty (180) days of the adoption date of the Resolution approving the Special Exception use, the County shall prepare a perimeter landscaping plan for the western and southern perimeters of the West Parcel (Parcel "B") consistent with the conceptual landscape plans submitted as part of the Special Exception application, and as outlined in Condition #43 contained herein. The perimeter landscaping plan, once approved by the Town, shall be installed within an additional 90 days.
21. The County shall provide for the following improvements at the entrance to the parking lot, west of AIA on the subject property:
  - a. Re-stripe AIA to provide a left hand turn lane south approach at the entrance to the parking lot.
  - b. A minimum four car stacking distance to the payment window at the guard house.

The County shall not prevent access to the residential properties east of AIA, south of the subject property, by extending the northbound left hand turn lane into the park's parking lot, such that vehicles traveling south on AIA will not be able to legally enter the driveway of these two residential properties. The County shall notify these two property owners of the restriping of AIA and the proposed left hand turn lane south of the entrance to the parking lot. These property owners shall be provided notice of any FDOT meetings or applications regarding the park's turn lane or any effect to their current ingress/egress at their properties.

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22. As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit an executed true and correct copy of the permit for the subject property from the United States Army Corp of Engineers (ACOE) and/or the Florida Department of Environmental Protection (FDEP). The ACOE permit application shall include an updated Jurisdictional Wetland Determination.
23. As part of the Compliance Package, the County shall provide the Town with a Phase 1 Environmental Assessment for the West Parcel (Parcel "B"). If the Phase 1 Assessment indicates possible contamination, a Phase 2 Environmental Assessment that addresses soil and/or groundwater quality beneath the parcel will be provided. The documentation shall be subject to the review of the Town for compliance with conditions in the granting Resolution. If it is determined that there are contaminants that need to be remediated, the affected soil or groundwater shall be managed in accordance with the recommendations of the Phase 2 Environmental Assessment and the applicable regulatory requirements.
24. Within one hundred-eighty (180) days of the adoption date of the Resolution, the County shall submit an application to the reviewing agencies requesting to remove all exotic vegetation within the Mangrove Swamp on the West Parcel (Parcel "B"). The environmental quality of this area shall be enhanced by replanting the area to comply with the restoration plan approved by the reviewing agencies as part of the permit.
25. As part of the Compliance Package and prior to the issuance of any building permits, except those required to construct the improvements identified in Conditions 20 and 24, the County shall submit a Conservation Easement in favor of the Town for the area encompassing the Mangrove Swamp. The form of the easement shall be subject to the review and approval of the Town Attorney. Once approved, the County shall record the Conservation Easement and provide the Town with a certified copy of same with the recording information thereon.
26. The County shall comply with the Town's Sea Turtle Protection Ordinance.
27. Beach cleaning by mechanical means shall be limited during sea turtle nesting season in accordance with Chapter 161, Florida Statutes.

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28. All exotic vegetation to be removed from the East Parcel (Parcel "A") shall be hand cleared. Replanting will occur only in those areas where existing native vegetation will not re-establish within a reasonable time. The Archaeologists shall be on the Site during both the clearing and replanting of the vegetation to continuously monitor and inspect the areas being cleared and replanted. If during either the clearing or replanting any significant archaeological materials or features are encountered, the Archaeologists shall immediately notify the Town and the SHPO and cease further work until any and all materials or features have been documented to the satisfaction of the Town and the SHPO. If any human remains are uncovered while either clearing or replanting, then the provisions of Section 872.05, Florida Statutes shall be followed and implemented without delay.
29. In the event an underground storage tank should still be present on the Subject Property, the County shall notify the Town and appropriate environmental agencies; and manage it in accordance with Chapter 62-761, F.A.C.
30. As part of the Compliance Package and prior to the issuance of any development permits, the County shall identify the exact location of any utility lines to be located on site. If the County proposes to locate any utility lines in areas which would require excavation the County shall as part of its Park Management Plan identify any protected vegetation that will be adversely affected and, if appropriate identify any mitigation proposed as a result thereof.
31. The County shall construct all facilities using strategies identified in a recognized green building standard, and in particular, construction shall be consistent with 255.252 FSS and 255.253 FSS.
32. As part of the Compliance Package the County shall submit the FDOT's Vehicular Access Connection (VAC) letter supporting the design of the proposed vehicular and pedestrian access configuration shown on the site plan.
33. The parking lot area west of AIA, (Parcel "B") shall be operated from sunrise to sunset, and shall be gated to prevent vehicular traffic from entering the parking lot before or after the park's hours of operation. The Compliance Package shall depict how pedestrian access is restricted. As for the property east of AIA, (Parcel "A") the site plan shall reflect that all pedestrian access points to and from AIA have pedestrian gates.

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34. No commercial retail uses, including concession stands, are permitted on the Subject Property.
35. A minimum fee of \$4.00 per day or \$6.00 per weekend day shall be charged for parking. This fee may be adjusted at the discretion of Palm Beach County.
36. During the hours of park operation, an attendant shall staff the guardhouse in the parking lot.
37. The park shall only be open from dawn to dusk, including the parking lot.
38. No commercial vehicles or commercial trucks shall be permitted in the parking lot. Authorized vehicles performing park maintenance are exempt from this restriction.
39. Palm Beach County shall provide security patrols during park operating hours and the Palm Beach County Sheriffs Office, Parks Enforcement Unit shall respond to calls 24 hours per day / 7 days per week.
40. The County shall monitor and address any vehicles remaining in the parking lot after the park closes as follows:
  - a. The gate will be locked if no vehicles remain. If a vehicle remains, the Park Ranger will provide a 15-30 minute grace period until the gate is locked.
  - b. If there is a vehicle remaining in the lot after the gate is locked, a Park Ranger shall place a sticker with a phone number on it for the visitor to call so the Park Ranger can come back and unlock the gate for the visitor to leave.
41. The parking lot perimeter that is surrounded by a wall or fence shall have locked gates, secured from dusk to dawn.
42. No pets shall be permitted on either parcel in the park.
43. The perimeter landscaping plan for the western perimeter of the West Parcel (Parcel "B") called for in condition #20 shall include a 6' high (above grade) concrete decorative wall rather than a 6' high (above grade) opaque vinyl fence for the western property line of the West Parcel (Parcel "B") as originally proposed in the Conceptual Landscape Plan dated October 16, 2008.

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