

RESOLUTION NO. R-2003-0759

RESOLUTION APPROVING ZONING PETITION DOAI996-086A
VOLUNTARY DENSITY BONUS (VDB)
PETITION OF SYMPHONY BUILDERS
BY JAY HUEBNER, AGENT
(DELRAY CO-HOUSING (AKA SYNERGY CO-HOUSING))

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 the Unified Land Development Code; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-10, as amended), have been satisfied; and

WHEREAS, Zoning Petition DOAI996-086A was presented as a development order to the Board of County Commissioners at a public hearing conducted on May 22, 2003; 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, the recommendation of the Land Use Advisory Board, and the recommendation of the Zoning Commission; and

WHEREAS, the Voluntary Density Bonus Program (VDB), pursuant to Section 6.9.K. of the ULDC, requires that a VDB be granted in conjunction with a development order; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. The request for a density bonus, subject to conditions of approval as adopted, is compatible with surrounding land uses and consistent with the Comprehensive Plan;
2. The proposed density bonus is within a 314 mile [fifteen (15) minute] walk of a mass transit stop, or a commercial/employment center which offers varies opportunities and positions for full-time employment, or retail grocery shopping and pharmaceutical service for the residents of the proposed development;
3. The location of the proposed density bonus meets the locational criteria established in Section 6.9.C. (Applicability) of the ULDC;
4. The density of the development with the density bonus will not exceed a one hundred (100) percent increase above the existing permitted density up to a maximum of eighteen (18) dwelling units per acre; and
5. The proposed density bonus complies with the requirement to promote the Housing Element policy (2-g) in the Comprehensive Plan which encourages the equitable geographic distribution of affordable housing to disperse lower income households.

WHEREAS, Section 5 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 the petition of Symphony Builders by 197, agent, for a Development Order Amendment to modify/delete the voluntary density bonus conditions of approval on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, 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 May 22, 2003, subject to the conditions of approval described in EXHIBIT C-1, attached hereto and made a part hereof.

Commissioner Koons moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	-	Nay
Tony Masilotti, Vice Chairman	-	Absent
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 May 22, 2003.

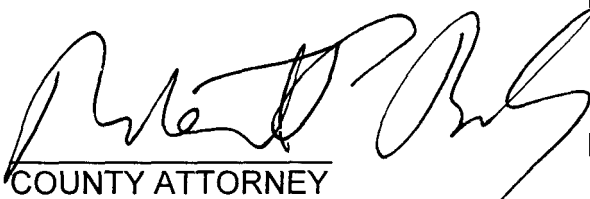
Filed with the Clerk of the Board of County Commissioners on 3 day of June, 2003

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK

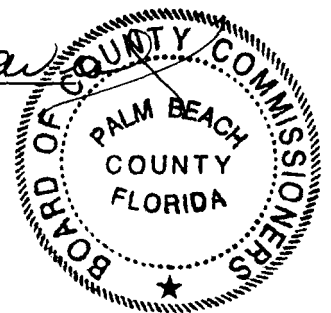


EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE NORTHWEST ONE-QUARTER OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST ONE-QUARTER; THENCE SOUTH $00^{\circ}17'26''$ EAST, ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 2202.06 FEET; THENCE SOUTH $89^{\circ}42'34''$ WEST, A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH $00^{\circ}17'26''$ EAST, ALONG A LINE 120.00 FEET WEST OF AND PARALLEL WITH SAID EAST LINE, A DISTANCE OF 605.89 FEET; THENCE SOUTH $88^{\circ}05'34''$ WEST, ALONG A LINE 13.20 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 243.96 FEET; THENCE NORTH $00^{\circ}10'41''$ WEST, ALONG THE EAST LINE OF LOTS 1 THROUGH 7, "ASPEN RIDGE", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 68 AT PAGES 10 THROUGH 14 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 632.16 FEET; THENCE NORTH $88^{\circ}13'54''$ EAST, ALONG THE SOUTH LINE OF ASPEN RIDGE CIRCLE, AS SHOWN ON SAID PLAT, A DISTANCE OF 217.05 FEET; THENCE SOUTH $46^{\circ}01'46''$ EAST, ALONG THE SOUTHERLY LINE OF A RIGHT-OF-WAY PARCEL, AS RECORDED IN OFFICIAL RECORDS BOOK 5773 AT PAGE 996 OF SAID PUBLIC RECORDS, A DISTANCE OF 35.80 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 3.521 ACRES, MORE OR LESS.

EXHIBIT C-1

CONDITIONS OF APPROVAL (Voluntary Density Bonus)

NOTE: All previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. Condition 1 of R-2001-0968, Petition SR 96-86, which currently states:

All previously approved conditions of approval continue to apply unless expressly modified herein. (ONGOING)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2001-0968 (Petition SR-96-86) and R-97-534 (Petition VDB96-86) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

B. PLANNING

1. Prior to final site plan approval by the Development Review Committee (DRC), the site plan shall contain *two* (2) five foot sidewalk connections to Sims Road as shown on the site plan dated May 14, 2003. (DRC: PLANNING-Planning)

C. RESTRICTIVE COVENANT

1. Prior to the issuance of the first building permit, the property owner shall record an amendment to the declaration of restrictive covenants to meet annual reporting requirements in effect at the time the amendment is recorded. (BLDG PERMIT: MONITORING - Planning) (Previous condition 2 of Resolution R-2001-0968, Petition SR 96-86)
2. On an annual basis, beginning July 1, 2002, the property owner shall submit an annual report to the Planning Division documenting compliance with the Voluntary Density Bonus declaration of restrictive covenants. (DATE: MONITORING - Planning) (Previous condition 3 of Resolution R-2001-0968, Petition SR 96-86)

D. VOLUNTARY DENSITY BONUS CONDITIONS

1. Condition 1 of Resolution R-97-534, Petition VDB96-86, which currently states:

Prior to final site plan certification by the Development Review Committee (DRC), the developer 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 of the designated Group B (low income) units for a period of ten years.
- b) Guarantees that one of the four affordable units have two bedrooms, and a floor area of at least 900 square feet, while the three remaining units be one bedroom units, with a floor area of 655 square feet.

- c) **Guarantees that the VDB units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRC: PLANNING)**

Is hereby amended to read:

Prior to final site plan approval by the Development Review Committee (DRC), the developer 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 of the designated Group B (low income) units for period of ten years.
 - b) Guarantees that two of the four affordable units have two bedrooms, containing at least a two (2) bath unit, while the two remaining units be three bedroom units, containing at least a two (2) bath unit.
 - c) Guarantees that the VDB units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRC: PLANNING-Planning)
2. Condition 2 of Resolution R-97-534, Petition VDB96-86, which currently states:

Prior to final site plan certification by the Development Review Committee (DRC), the developer shall show on the site plan the dispersal of the 4 minimum required Group B (low income) units within the proposed buildings such that all of the 4 units shall not be located within one building. (DRC: PLANNING)

Is hereby amended to read:

Prior to final site plan approval by the Development Review Committee (DRC), the developer shall show on the site plan the dispersal of the 4 minimum required Group B (low income) units within the proposed buildings such that all of the 4 units shall not be located within one building nor in adjacent buildings with these units facing each other. (DRC: 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 Delray Co-Housing project, that the project has four (4) 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 four (4) 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 developer or property owner is responsible for disclosure of the location of these four (4) affordable units prior to the sale of any units. The 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 June 1, 2004 and shall continue on an annual basis by either the developer or subsequent property owner of the unit. (ONGOING: MONITORING-Planning)

E. ENGINEERING

No Engineering Conditions for the Voluntary Density Bonus.

F. 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. Condition B.1. of Resolution R-97-534, Petition VDB96-86 which currently states:

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; 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 majority vote of the Code Enforcement Board 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. (MONITORING)

Is hereby amended to read.

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)