

## RESOLUTION NO. R-2008- 1386

RESOLUTION APPROVING ZONING APPLICATION DOA2007-01401  
(CONTROL NUMBER 1981-00170)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF ACHVA VAHAVA LLC  
BY SIEGEL, LIPMAN, DUNAY, SHEPARD, & MISKEL, LLP, AGENT  
(GROVE CENTER OFFICE POBP)

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, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA2007-01401 was presented to the Board of County Commissioners at a public hearing conducted on August 28, 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 recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code 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 Development Order Amendment 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 Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, 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 Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, 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 Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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 DOA2007-01401, the application of Achva Vahava LLC, by Siegel, Lipman, Dunay, Shepard, & Miskel, LLP, agent, for a Development Order Amendment to add square footage and reconfigure site plan 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on August 28, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

The motion was seconded by Commissioner McCarty 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	¥	Aye
Mary McCarty	¥	Aye
Burt Aaronson	¥	Absent
Jess R. Santamaria	¥	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on August 28, 2008.

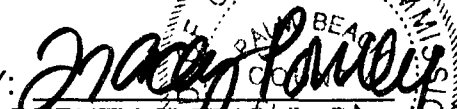
Filed with the Clerk of the Board of County Commissioners on September 2, 2008.

This resolution was filed with the Clerk of the Board of County Commissioners on \_\_\_\_\_.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

BY:   
COUNTY ATTORNEY

SHARON BOCK, CLERK &  
COMPTROLLER  
BY:   
DEPUTY CLERK FLORIDA




EXHIBIT A

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 47 SOUTH, RANGE 42 EAST; THENCE SOUTH 00 DEGREES 10 MINUTES 25 SECONDS WEST, 1358.00 FEET ALONG THE WEST LINE OF SECTION 22 TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE SOUTH 00 DEGREES 10 MINUTES 25 SECONDS WEST, 598.00 FEET; THENCE SOUTH 89 DEGREES, 49 MINUTES 35 SECONDS EAST, 15.05 FEET TO A TANGENT CURVE CONCAVE SOUTHERLY, HAVING A CENTRAL ANGLE OF 18 DEGREES 49 MINUTES 24 SECONDS AND A RADIUS OF 331.64 FEET; THENCE 108.95 FEET EASTERLY ALONG THE ARC OF SAID CURVE TO A TANGENT LINE; THENCE SOUTH 71 DEGREE 00 MINUTES 11 SECONDS EAST, 2.54 FEET ALONG SAID TANGENT LINE; THENCE NORTH 63 DEGREES 57 MINUTES 10 SECONDS EAST, 35.38 FEET TO A NON-TANGENT CURVE, BEING CONCAVE EASTERLY, HAVING A CENTRAL ANGLE OF 00 DEGREES 05 MINUTES 19 SECONDS, A RADIUS OF 2271.64 FEET AND A TANGENT BEARING OF NORTH 18 DEGREES 54 MINUTES 30 SECONDS EAST; THENCE NORTHEASTERLY 3.51 FEET ALONG THE ARC OF SAID CURVE TO A TANGENT LINE; THENCE NORTH 18 DEGREES 59 MINUTES 49 SECONDS EAST, 17.45 FEET TO A TANGENT CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 11 DEGREES 06 MINUTES 53 SECONDS, AND A RADIUS OF 1946.47 FEET; THENCE NORTHEASTERLY 377.59 FEET ALONG THE ARC OF SAID CURVE TO A TANGENT LINE; THENCE NORTH 30 DEGREES 06 MINUTES 42 SECONDS EAST, 72.18 FEET ALONG SAID LINE TO A TANGENT CURVE CONCAVE EASTERLY, HAVING A CENTRAL ANGLE OF 00 DEGREES 08 MINUTES 09 SECONDS AND A RADIUS OF 2313.38 FEET; THENCE NORTHERLY 5.49 FEET ALONG THE ARC OF SAID CURVE TO A NON-TANGENT LINE; THENCE NORTH 13 DEGREES 57 MINUTES 22 SECONDS WEST, 34.86 FEET ALONG SAID LINE; THENCE NORTH 58 DEGREES 09 MINUTES 36 SECONDS WEST, 173.95 FEET TO A TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A CENTRAL ANGLE OF 32 DEGREES 12 MINUTES 39 SECONDS AND RADIUS OF 306.54 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE 172.33 FEET TO A TANGENT LINE; THENCE SOUTH 89 DEGREES 37 MINUTES 44 SECONDS WEST; 36.95 FEET, ALONG SAID LINE TO THE POINT OF BEGINNING.

CONTAINING 150,658 SQUARE FEET (3.459 ACRES) MORE OR LESS. SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Condition A.1 of Resolution R-1999-0704 Control No. 1981-170, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-81-1377 (Petition 81-170) 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)

Is hereby deleted. [REASON: Resolution R-2004-0963 (Status Report No. SR-1981-170A.2) revoked Resolution R-1999-323 (Control No. 1981-170(A)), thus by default, nullifying this corrective condition.]

2. All previous conditions of approval applicable to the subject property, as contained in Resolution R-1981-1377 (Control No. 1981-170), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

3. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated June 16, 2008. 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. (DRO: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the proposed church building 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 approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)

#### BUILDING AND SITE DESIGN

1. The maximum height of the Place of Worship shall be thirty-five (35) feet, excluding any religious spires, domes or ornamentation. All heights shall be measured from finished grade to the highest point of the building, including air-conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW - Zoning)

2. Prior to issuance of a Certificate of Occupancy (CO) for the Place of Worship, the handicapped parking spaces located at the Southwest corner of the existing three-story office building shall be reconstructed as indicated on the Proposed Site Plan dated June 16, 2008. (CO: BLDG - Zoning)

3. Previous Condition 5, of Resolution R-81-1377, which currently states:

The Site Plan shall be amended to reflect loading bay dimensions and utility easement releases for landscaping and paving in easements.

Is hereby amended to read:

Prior to Development Review Officer (DRO) approval of the Final Site Plan, the applicant shall provide all legal documentation guaranteeing that any parking and landscaping located in utility easements, as well as the six (6) foot wall, hedge and trees required along the western property lines are permitted imperpetuity by the easement holders. (DRO: CO ATTY - Zoning)

## DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within fifty (50) feet of the west property line. (DRO: ZONING - Zoning)

## ENGINEERING

1. Petitioner shall only be permitted one turnout onto Sunstream Boulevard a minimum distance of 300' west of Jog/Powerline Road. (ONGOING-ENGINEERING (Previous Condition 1 of Resolution 81-1377, Petition 81-170). Note: Complete

2. Petitioner shall provide paved access on Sunstream Boulevard from Jog/Powerline Road to the project's entrance road prior to the issuance of a Certificate of Occupancy. (Previous Condition 2 of Resolution 81-1377, Petition 81-170). [Completed].

3. Petitioner shall not be permitted a median opening on Jog/Powerline Road. (ONGOING:ENGINEERING) (Previous Condition 3 of Resolution 81-1377, Petition 81-170).

4. Engineering Condition E4 of Zoning Resolution 81-1377, Petition Number 81-170 which currently states:

Petitioner shall contribute Thirteen Thousand One Hundred Dollars (\$13,100.00) toward the cost of meeting this project's direct and identifiable traffic impact to be paid at the time of issuance of the building permits.

Is hereby deleted. Reason: Impact Fees are now a code requirement

## 5. CORRIDOR CONVEYANCE OF ROAD 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 Powerline Road 63 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior to February 1, 2009 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)

6. Prior to issuance of the first building permit, the property owner shall provide a temporary roadway construction easement along Powerline 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)

#### 7. Landscape Within the Median of Powerline Road

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Powerline Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING:ENGINEERING-Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Powerline Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING:ENGINEERING-Eng)

#### ZONING - LANDSCAPING-ALONG WEST PROPERTY LINE ABUTTING RESIDENTIAL

1. Previous Condition 6. of Resolution R-1981-1377, which currently states:

A 6 foot wall is required along the residentially designated area to the west.

Is hereby amended to read:

In addition to the wall requirement of Condition 5 of Variance Resolution ZV2007-0016, the applicant shall be required to install a minimum of one (1) canopy tree for each twenty (20) linear feet of the property line, spaced a minimum of twenty (20) feet on center. (CO: LANDSCAPE - Zoning)

## LANDSCAPE - STANDARD-AFFECTED AREA OF REQUESTED USE AND VARIANCES

1. Prior to the Development Review Officer (DRO) approval of the Final Site Plan, the property owner shall submit a Landscape Plan or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with any Variance Conditions of Approval, ULDC requirements including upgraded landscaping for the affected area, and with any other landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

## LANDSCAPE – STANDARD

2. Prior to the issuance of a Certificate of Occupancy (CO) for the Place of Worship, the property owner shall replace all dead and missing plant materials on the subject property. Trees required in the eastern perimeter buffer shall comply with the Florida Power and Light "Plant the Right Tree in the Right Place Guidelines." (BLDG PERMIT: LANDSCAPE - Zoning)

3. The existence of any utility or related mechanical equipment that was installed without the proper approvals or easements shall not be deemed as justification to be exempt from any landscape island, perimeter buffer, foundation planting or other landscaping requirements, for both the unaffected and affected areas of the project. Where necessary, an Alternative Landscape Plan (ALP) shall be required to address any inconsistencies. (DRO: LANDSCAPE - Zoning)

## LIGHTING-AFFECTED AREA

1. All existing non-conforming light fixtures located within 220 feet of the south property line shall be removed or upgraded to comply with current ULDC outdoor lighting standards. (BLDG PRMT: BUILDING - Zoning)

## SIGNS-POWERLINE ROAD

1. Freestanding signs fronting on Powerline Road in the affected area of the request(s) 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 - North side of Powerline Road entrance. (BLDG PERMIT: BLDG - Zoning)

## SIGNS-PLACE OF WORSHIP - BUILDING MOUNTED SIGNS

2. Building mounted signage for the place of worship shall be limited to wall signage, consisting of the identification of the tenant only. Individual lettering size shall be limited to a maximum twelve (12) inches high. (BLDG PERMIT: BLDG - Zoning)

## USE LIMITATIONS-PLACE OF WORSHIP

1. All services shall be held within the principal structure, and the hours of operation, including deliveries, shall be limited to 6:00 a.m. to 11:00 p.m., excluding holiday services only. (ONGOING: CODE ENF - Zoning)

2. Accessory temporary sales events shall be limited to a maximum of two (2) events per year. No special events, temporary retail sales, or other accessory uses are permitted on the property. (ONGOING: CODE ENF - Zoning)



## VARIANCE

1. Prior to the submittal for final approval by the Development Review Officer (DRO), the approved variance(s) and any associated conditions of approval shall be reflected on the Final Site Plan. (DRO: ZONING - Zoning)

2. The Development Order for this variance shall be tied to the Time Limitations of the Development Order for Application DOA/R-2007-1401, Control No. 1981-170. (ONGOING: MONITORING - Zoning)

## 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 the Code Enforcement Special Master to schedule a Status Report before the body which approved the Conditional Use, Type II Variance, 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 a Conditional Use, Type II Variance, Development Order Amendment or other actions based on a Zoning Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)