

RESOLUTION NO. R-2009-0365

RESOLUTION APPROVING ZONING APPLICATION DOA/EAC-2008-01899
(CONTROL NUMBER 2000-00097)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF VILLA REGINA OF WEST PALM BEACH, INC.
BY JOHNSTON GROUP LAND DEVELOPMENT CONSULTANTS, INC., AGENT
(VILLA REGINA CLF)

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 DOA/EAC-2008-01899 was presented to the Board of County Commissioners at a public hearing conducted on February 25, 2009; 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 DOA/EAC-2008-01899, the application of Villa Regina Of West Palm Beach, Inc., by Johnston Group Land Development Consultant, Inc., agent, for a Development Order Amendment to to modify Conditions of Approval (Landscape) 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 February 25, 2009, 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 Aaronson and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4	-	
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on February 25, 2009.

Filed with the Clerk of the Board of County Commissioners on March 3rd, 2009.

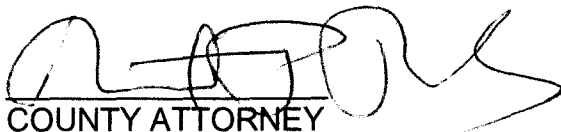
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY:


COUNTY ATTORNEY

BY:

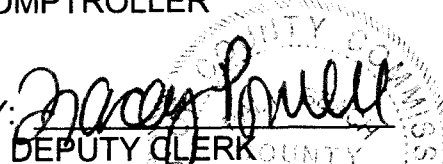
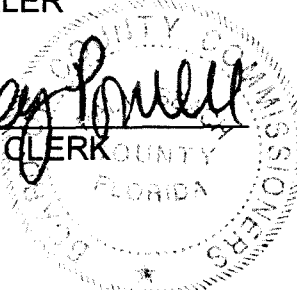

DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

*A parcel of land lying and being in Palm Beach County, Florida, described as follows;
The West one-third (1/3) of the North three-quarters (3/4) of the Southwest one-quarter (1/4) of
the Northwest one-quarter (1/4) of Section 24, Township 43 South, Range 42 East,*

LESS AND EXCEPT

*The West 55 feet of the West one-third (1/3) of the North three-quarters (3/4) of the Southwest
one-quarter (1/4) of the Northwest one-quarter (1/4) of Section 24, Township 43 South, Range
42 East, Palm Beach County, Florida as conveyed to Palm Beach County by Warranty Deed
recorded in Official Records Book 17435, Page 803, and corrective Warranty Deed recorded
Official Records Book 18047, Page 919, Public Records of Palm Beach County, Florida.*

*The property described hereon may also be described by the following metes and bounds
description:*

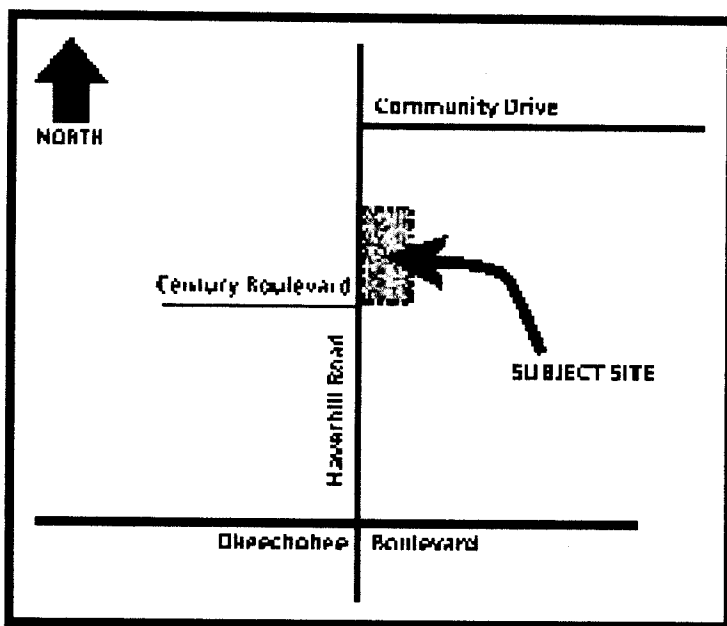
*A parcel of land lying in the N.W. (1/4) of Section 24, Township 43 South, Range 42 East, Palm
Beach County, Florida:*

*COMMENCING at the Northwest corner of said Section 24; thence S. 01o30'50" W. (as a basis of
bearing) along the West line of said Section 24, a distance of 1332.98 feet to the North line of
the S.W. ¼ of the N.W. ¼ of Section 24; thence S.88o44'38" E. along said North line of the S.W.
¼ of the N.W. ¼ of Section 24, a distance of 55.00 feet to the POINT OF BEGINNING; thence
continue S.88o44'38" E. along said North line, a distance of 393.24 feet; thence S.01o29'35" W.
along the East line of the West 1/3 of the S.W. ¼ of the N.W. ¼ of Section 24, a distance of
998.79 feet; thence N.88o52'24" W. along the South line of the North ¾ of the S.W. ¼ of the
N.W. ¼ of said Section 24, a distance of 393.61 feet; thence N.01o30'50" E. along the East right
of way line on Haverhill Road as described in Official Records Book 18047, Page 919, Public
Records of Palm Beach County, Florida, a distance of 999.68 feet to the POINT OF BEGINNING.*

Containing 9.0247 Acres.

EXHIBIT B
VICINITY SKETCH

VILLA REGINA CLF



VICINITY SKETCH
(Not to Scale)

EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R-2001-0609 (Petition CA2000-097) 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 ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: ZONING - Zoning)

2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated March 21, 2001. 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. (ONGOING: ZONING - Zoning) (Previous Condition A.1. of Resolution R-2001-0609, Control No. 2000-097)

ARCHITECTURAL REVIEW

1. Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Zoning Division for review. The proposed architectural elevations shall comply to the Architectural Design Guidelines presented the Board of County Commissioners on April 24, 2001, as amended. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT-Zoning) (Previous Condition B.1. of Resolution R-2001-0609, Control No. 2000-097) [Note: COMPLETE]

BUILDING AND SITE DESIGN

1. The petitioner will be permitted to modify the approved site plan by altering the orientation of the footprint of the proposed building to face the future access drive located to the south of subject property. The modification is not to exceed those that are permitted by the ULDC. (BLDG PERMIT: BLDG-Zoning) (Previous Condition C.1. of Resolution R-2001-0609, Control No. 2000-097) [Note: COMPLETE]

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 twenty-five (25) feet of the northern property line and shall be limited to the areas designated on the site plan. (DRC/ONGOING: ZONING - Code Enf.) (Previous Condition D.1. of Resolution R-2001-0609, Control No. 2000-097)

ENGINEERING

1. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Haverhill Road, 55 feet from centerline. This right of way shall be conveyed on or before January 1, 2003 or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer 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. Right-of-way conveyances shall also include "Corner Clips" where appropriate as determined by the County Engineer. (DATE/BLDG PERMIT: MONITORING-Eng)

(Previous Condition E1 of R-2001-0609, Control No 2000-097)

[Note: Complete]

2. Other than one service drive, direct access onto Haverhill Road shall not be permitted from the site if cross access with the parcel to south is obtained. If cross access with the adjacent property owner to the south is provided the site plan shall be adjusted accordingly. (ONGOING: ENGINEERING-Eng)
(Previous Condition E2 of R-2001-0609, Control No 2000-097)

[Note: Condition is marked complete since cross access to the south is no longer available]

3. Prior to site plan certification, the property owner shall convey a cross access easement to the Property Owner to the south. Prior to recordation of the access easement the location shall be approved by the County Engineer and the content approved by the County Attorney. (ENG)

(Previous Condition E3 of R-2001-0609, Control No 2000-097)

[Note: Complete]

4. If cross access to the south is provided, the property owner shall fund signal modifications at the intersection of Haverhill Road and the entrance to Century Village. Funding shall include design and construction of the signal modifications as required by the Palm Beach County Traffic Division. Funding shall be completed within 60 days after receiving notice from Palm Beach County. (ONGOING: ENG)

(Previous Condition E4 of R-2001-0609, Control No 2000-097)

[Note: Complete]

HEALTH

1. Previous condition F.1. of Resolution R-2001-609 which reads:

Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH/CODE ENFORCEMENT)

Is hereby amended to read:

Owners and operators of facilities generating hazardous, industrial, or toxic wastes shall not dispose of or cause to be disposed such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are used. (ONGOING: CODE ENF-Health)

2. Previous condition F.2 of Resolution R-2001-609 which reads:

Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 62-730 FAC (ONGOING: HEALTH/CODE ENFORCEMENT)

Is hereby DELETED----Reason: Code Requirement

3. Previous condition F. 3 of Resolution R-2001-609 which reads:

Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH/CODE ENFORCEMENT)

Is hereby DELETED----Reason: Code requirement

ZONING - LANDSCAPING

1. Fifty percent (50%) of the canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC

requirements. (CO: LANDSCAPE - Zoning) (Previous Condition G.1. of Resolution R-2001-0609, Control No. 2000-097) [Note:COMPLETE]

2.All palms required to be planted on site 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. (CO: LANDSCAPE - Zoning) (Previous Condition G.2. of Resolution R-2001-0609, Control No. 2000-097) [Note:COMPLETE]

ZONING - LANDSCAPING-LANDSCAPING ALONG ALL PROPERTY LINES

3.Previous condition H.1 of Resolution R-2001-0609, Control 2000-097, which currently states:

Landscaping and buffering along all property lines shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip, with a maximum five (5) foot utility easement encroachment.
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2.5) feet measured from top of curb;
- c. one (1) canopy tree planted for each thirty (30) linear feet of property line with maximum thirty (30) feet on center spacing;
- d. one (1) palm, pine tree, accent or flowering tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE)

Is hereby amended to read:

Landscaping and buffering along all property lines shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip, with a maximum five (5) foot utility easement encroachment;
- b. one (1) canopy tree planted for each thirty (30) linear feet of property line with maximum thirty (30) feet on center spacing;
- c. one (1) palm, pine tree, accent or flowering tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (CO: LANDSCAPE - Zoning)

ZONING - LANDSCAPING

4.In addition to the buffer requirements, the property owner shall provide a minimum of six (6) feet high continuous hedge along the east buffer within one (1) month after final DRO approval. (DRO/DATE: LANDSCAPE - Monitoring)

LIGHTING

1.All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition I.1. of Resolution R-2001-0609, Control No. 2000-097)

2.All outdoor lighting fixtures shall not exceed twenty five (25) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning) (Previous Condition I.2. of Resolution R-2001-0609, Control No. 2000-097)

3.All outdoor lighting shall be extinguished no later than 11:00 p.m. excluding security lighting only. (ONGOING: CODE ENF - Code Enf.) (Previous Condition I.3. of Resolution R-2001-0609, Control No. 2000-097)

4.The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF -

Code Enf.) (Previous Condition I.4. of Resolution R-2001-0609, Control No. 2000-097)

PLANNING

1.The use of the site shall be limited to a Congregate Living Facility (CLF) consistent with the HUD 202 program with a maximum of 130 beds; or other Institutional uses permitted under a residential land use. (DRC/ONGOING: PLANNING-Zoning) (Previous Condition J.1. of Resolution R-2001-609, Control 2000-97)

2.Any other type of residential use on the site shall be defined by the rules governing the MR-5 land use category. (DRC/ONGOING: PLANNING-PLANNING) (Previous Condition J.2. of Resolution R-2001-609, Control 2000-97)

3.Condition J.3. of Resolution R-2001-609, Control 2000-97, which currently states:

Prior to final DRC approval, the parking configuration on the site plan shall be revised to relocate parking spaces to the sides and rear of the building footprint, subject to approval of both the Zoning and Planning Divisions. The site plan shall be revised to place any parking spaces in excess of the minimum 53 spaces required for a CLF to the eastern portion of phase I and these spaces shall be labeled as reserved for future parking". (DRC: PLANNING)

Is hereby deleted. [Complete]

4.Condition J.4. of Resolution R-2001-609, Control 2000-97, which currently states:

The site plan shall be revised to indicate phase lines on the site plan. Prior to final DRC approval, the site plan shall be revised to indicate that the northern portion of phase I is limited to parking, landscaping, and open space. The area labeled as undeveloped in phase II shall be revised and labeled as open space. (DRC: PLANNING)

Is hereby deleted. [Complete]

5.Condition J.5. of Resolution R-2001-609, Control 2000-97, which currently states:

Prior to final DRC approval, the applicant shall submit a detailed plan for the recreation area. (DRC: PLANNING)

Is hereby deleted. [Complete]

6.Condition J.6. of Resolution R-2001-609, Control 2000-97, which currently states:

Prior to final DRC approval, the site plan shall be revised indicating pathways to and from the recreation area, and the building footprint. (DRC: PLANNING)

Is hereby deleted. [Complete]

7.Condition J.7. of Resolution R-2001-609, Control 2000-97, which currently states:

Prior to certification of occupancy, the applicant shall construct all pathways as shown on the final approved site plan. (DRC: PLANNING)

Is hereby deleted. [Complete]

SIGNS

1.Identification/Entry sign fronting on Haverhill Road shall be limited as follows:

- a. Maximum sign height eight (8) feet;
- b. Maximum sign face area per side - sixty (60) square feet;
- c. Maximum number of signs - one (1)
- d. Monument style for identification purposes only. (CO: BLDG - Building) (Previous Condition K.1. of Resolution R-2001-0609, Control No. 2000-097) [Note:COMPLETE]

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. Previous Condition L.2. of Resolution R-2001-609, Control No. 2000-097, 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; 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 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
- a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- b. 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
- c. Referral to code enforcement; and/or
- d. 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.

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)