

RESOLUTION NO. R-2018- 1841

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/CA-2018-00608
(CONTROL NO. 2017-00059)
an Official Zoning Map Amendment
APPLICATION OF Haverhill ALF, LLC
BY Schmidt Nichols, AGENT
(Community Assisted Living)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/PDD/CA-2018-00608 was presented to the Board of County Commissioners at a public hearing conducted on November 26, 2018;

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;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for an Official Zoning Map Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 ZV/PDD/CA-2018-00608, the Application of Haverhill ALF, LLC, by Schmidt Nichols, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Planned Unit Development (PUD) Zoning District, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on November 26, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	-	Aye
Commissioner Dave Kerner, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on November 26, 2018.

Filed with the Clerk of the Board of County Commissioners on December 4th, 2018.


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 R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK




EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 14, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA: THENCE NORTH 89°58'43" WEST ALONG THE SOUTH LINE OF SAID SECTION 14, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°58'43" WEST, ALONG THE SOUTH LINE OF SECTION 14, A DISTANCE OF 258.01 FEET TO A POINT; THENCE NORTH 0°05'19" WEST, A DISTANCE OF 335.54 FEET TO A POINT; THENCE NORTH 89°58'53" EAST, A DISTANCE OF 257.86 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF HAVERHILL ROAD (A COUNTY ROAD) AS NOW LAID OUT AND IN USE; THENCE SOUTH 0°07'06" EAST ALONG THE SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 335.72 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

COMPROMISING 1.98 ACRES MORE OR LESS IN THE UNRECORDED PLAT OF HAVERHILL RANCHETTES ON HORSESHOE CIRCLE, OFF NORTH HAVERHILL ROAD, WEST PALM BEACH, FLORIDA MORE PARTICULARLY DESCRIBED AS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 14, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA: THENCE NORTH 89°58'43" WEST ALONG THE SOUTH LINE OF SAID SECTION 14, A DISTANCE OF 308.01 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 89°58'43" WEST, ALONG THE SOUTH LINE OF SAID SECTION 14, A DISTANCE OF 258.03 FEET TO A POINT; THENCE NORTH 0°03'32" WEST, A DISTANCE OF 335.36 FEET TO A POINT; THENCE NORTH 89°58'53" EAST, A DISTANCE OF 257.85 FEET TO A POINT; THENCE SOUTH 0°05'19" EAST, A DISTANCE OF 335.54 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3.97+/- ACRES, 173,091 +/- SQ. FT.

EXHIBIT B
VICINITY SKETCH

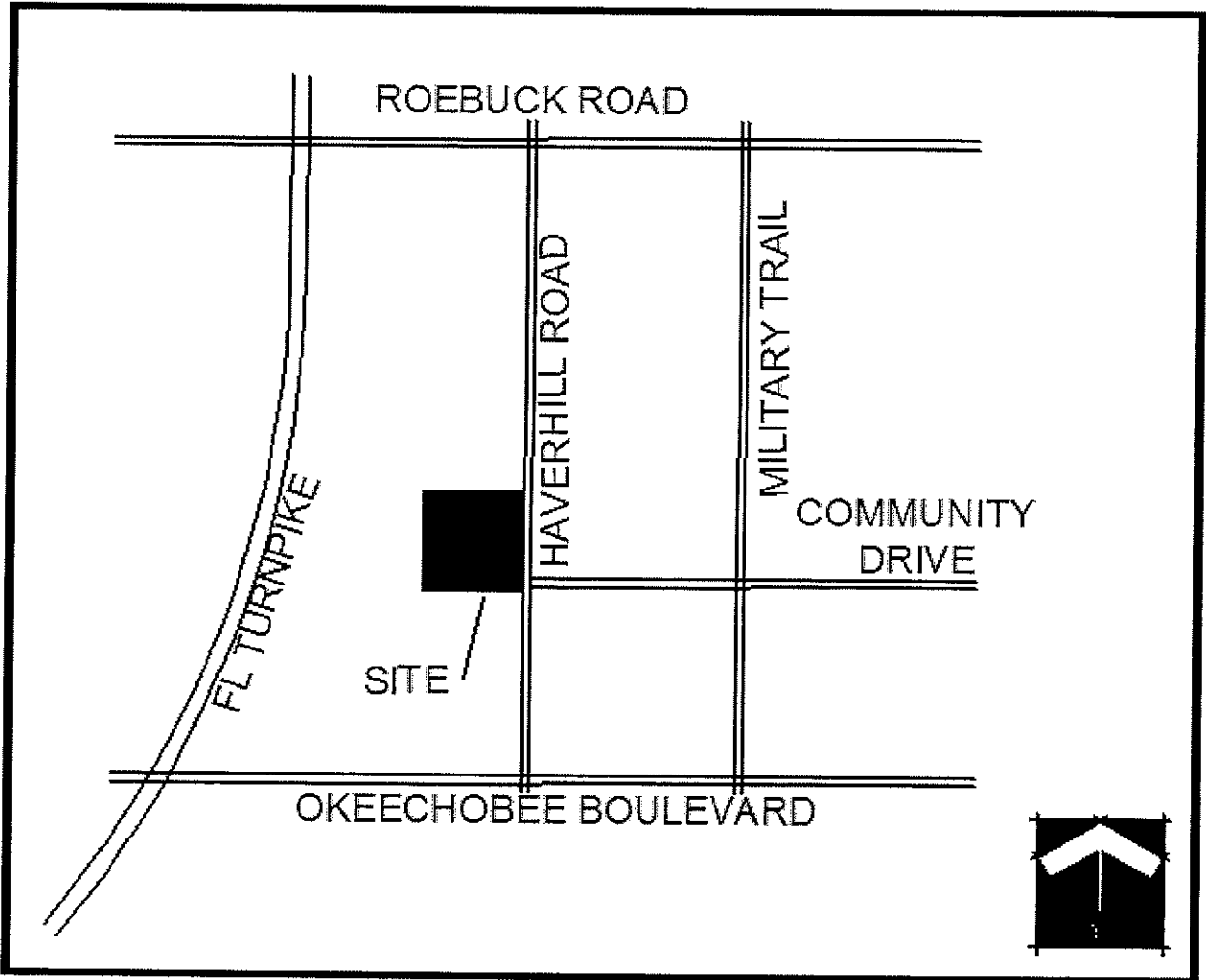


EXHIBIT C

CONDITIONS OF APPROVAL

PDD- Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Master Plan is dated September 10, 2018. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2021. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to issuance of the first building permit, the Property Owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code, or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

3. The Property Owner shall realign the west approach (that also serves as the driveway to the proposed site) of the intersection of Community Dr and Haverhill Rd, with the existing east approach, as approved by the County Engineer. This should be shown on the final site plan.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way and any existing signal related modifications.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

4. The Property Owner shall fund the construction plans and construction of the public roadway on the south side of the site from Haverhill Road to the driveway plus the appropriate tapers and turnaround to be consistent with Palm Beach County standards for an 80 foot right of way non-plan collector street. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

5. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPMT/PLAT: MONITORING - Engineering)

6. Prior to the issuance of the first building permit, the Property Owner shall record a public drainage easement that allows for the continued conveyance of stormwater runoff from Horseshoe Circle to the public drainage canal to the south of the site. (BLDGPMT: MONITORING - Engineering)

7. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the 25 foot corner clip located at the southeast corner of the site.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant 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 Property Owner, the Property Owner agrees to hold the County 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 as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector s Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

8. Prior to final approval of the Site Plan by the DRO, the Property Owner shall amend the site plan to show the turnaround fully within the limits of the roadway tract. (DRO: ENGINEERING - Engineering)

9. Prior to the issuance of the first building permit, the Property Owner shall record an easement over the south 30 feet along the entire south property line that will allow the general public to construct and utilize the proposed roadway for ingress and egress. (BLDGPMT: MONITORING - Engineering)

10. Prior to final approval of the Site Plan by the DRO, the Property Owner shall obtain and record proper drainage easements to allow for drainage from the project site to connect to the point of legal positive outfall. (DRO: ENGINEERING - Engineering)

SITE DESIGN

1. Prior to submittal for final approval by the Development Review Officer (DRO), the Site Plan shall be amended to indicate that the emergency access gate along the north property line, required by Palm Beach County Fire Rescue, shall be labeled as a decorative/ornamental aluminum gate, subject to approval by Fire Rescuet and Zoning. (DRO/BLDG PRMT: ZONING/FIRE RESCUE-Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Site Plan shall be amended to indicate:

a. a six-foot high concrete panel wall with an opening for Fire Rescue emergency access to

be located within the 15-foot wide R-O-W Buffer along the north property line; and,
b. a six-foot high concrete panel wall within the 15-foot wide Type 2 Incompatibility Buffer along the west property line to connect and tie into the wall along the north property line. (BLDGPMT/DRO: ZONING - Zoning)

USE LIMITATIONS

1. No exterior construction activities shall be allowed on Saturday and Sunday during the development of the Site. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: ZONING - 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; the 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 Unified Land Development Code 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 of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.