

RESOLUTION NO. R-2005- 1405

RESOLUTION APPROVING ZONING APPLICATION CA2004-966
(CONTROL NO. 1996-086)
CLASS A CONDITIONAL USE
PETITION OF SYMPHONY BUILDERS AT EMERALD PLACE LLC
BY LAND DESIGN SOUTH, INC., AGENT
(EMERALD PLACE)

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 zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application CA2004-966 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 2005; 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, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) 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 Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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.
5. This Class A Conditional Use, 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.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, 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.
10. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 CA2004-966, the petition of Symphony Builders at Emerald Place LLC, by Land Design South, Inc., agent, to allow the Transfer of Development Rights for 10 units and to designate this application as the receiving area in the Residential Medium Density Zoning District, 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 as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on July 28, 2005, 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 GREENE and, upon being put to a vote, the vote was as follows:

Tony Masilotti, Chair	- AYE
Addie L. Greene, Vice Chairperson	- AYE
Karen T. Marcus	- AYE
Jeff Koons	- ABSENT
Warren H. Newell	- AYE
Mary McCarty	- ABSENT
Burt Aaronson	- ABSENT

The Chairman thereupon declared that the resolution was duly passed and adopted on July 28, 2005.

Filed with the Clerk of the Board of County Commissioners on 24TH day of AUGUST, 2005.

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

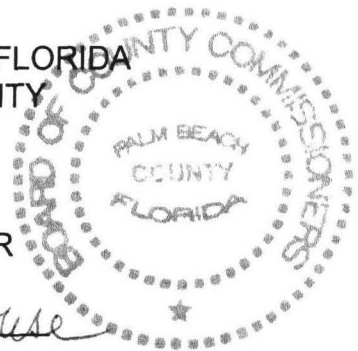


EXHIBIT A

LEGAL DESCRIPTION

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°17'26" EAST, ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 2202.06 FEET; THENCE SOUTH 89°42'34" WEST, A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°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°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°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°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°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

CONDITIONS OF APPROVAL

TRANSFER OF DEVELOPMENT RIGHTS

1. The Site Plan dated March 29, 2005 and perimeter/internal buffers shown thereon and as required by conditions of approval shall not be modified unless approved by the BCC. (ONGOING: ZONING - Zoning)
2. At time of submittal for final Development Review Officer (DRO) approval, an official Contract for Sale and Purchase of TDR Units", TDR Escrow Agreement", and TDR Deed" shall be submitted for final review and execution. (DRO: ZONING - Zoning)
3. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (DRO), a "Contract for Sale and Purchase of TDRs" shall be executed by the property owner, in a manner and form approved by the Office of the County Attorney, and formally executed by the Chairman of the Board of County Commissioners. The Contract shall accommodate a maximum of 10 TDR units at a selling price of \$25,000.00 per unit. (DRO: COUNTY ATTORNEY - Zoning)
4. Prior to final approval of the Master and/or Site Plans by the Development Review Officer (DRO), two (2) recorded copies of the Contract for Sale and Purchase of TDRs" shall be provided to the Palm Beach County Zoning Division. (DRO: ZONING - Zoning)
5. Prior to final approval of the Site Plan by the Development Review Officer (DRO, monies representing 10 TDR units shall be placed in an escrow account in a form acceptable to Palm Beach County. (DRO: ZONING - Zoning)
6. Prior to the issuance of the first building permit, the escrow monies shall be released to Palm Beach County. (BLDG PERMIT: MONITORING - Zoning)
7. Prior to the issuance of the first building permit, a deed conveying the applicable TDR units from the County TDR bank to the subject property, shall be executed and recorded in a manner and form approved by the Office of the County Attorney. (BLDG PERMIT: MONITORING - Zoning)
8. Any additional increase in density must be requested through the TDR program. (ONGOING: ZONING - 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 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.

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)