

RESOLUTION NO. R-2012- 1049

RESOLUTION APPROVING ZONING APPLICATION EAC-2011-02923  
(CONTROL NO. 1986-00011)  
an Expedite Application Consideration  
APPLICATION OF Deerhurst Lakes Partnership  
BY Seminole Bay Land Company Inc., AGENT  
(Village Corner Stores)

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; and

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

WHEREAS, Zoning Application EAC-2011-02923 was presented to the Board of County Commissioners at a public hearing conducted on July 26, 2012; 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, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request; 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a an Expedite Application Consideration.

WHEREAS, Article 2.A.1.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 EAC-2011-02923, the petition of Deerhurst Lakes Partnership, by Seminole Bay Land Company Inc., agent, for an Expedite Application Consideration to delete Conditions of Approval (Building, Site Design and Use Limitations) in the CG 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 26, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2012.

Filed with the Clerk of the Board of County Commissioners on July 31, 2012.

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

**LEGAL DESCRIPTION**

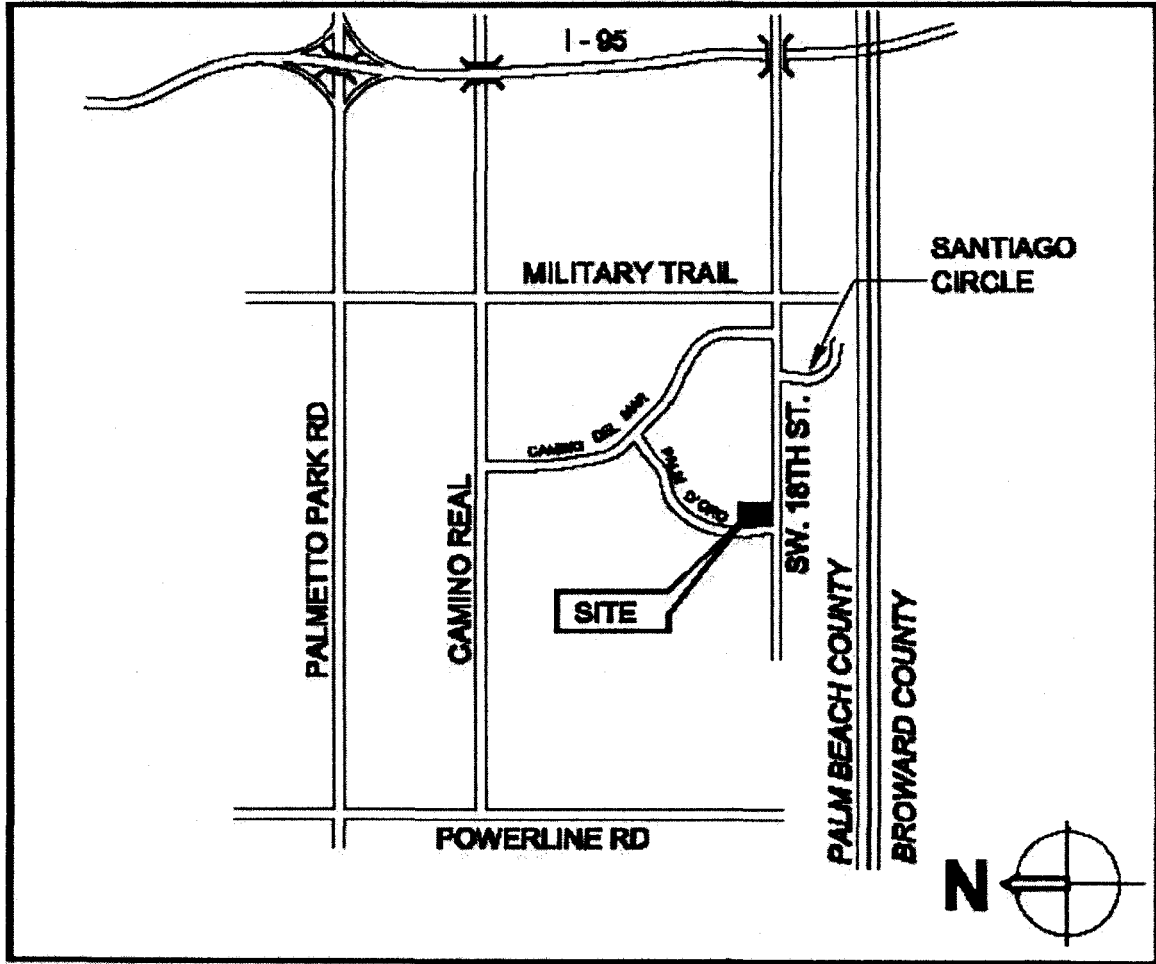
A portion of Tract 73, BOCA DEL MAR NO.7, according to the Plat thereof, as recorded in Plat Book 30, at pages 210 through 217, of the Public Records of Palm Beach County, Florida, being more particularly described as follows;

Commencing at the Southeast corner of said Tract 73, said point also lying on the North right-of-way line of a 120 foot right-of-way known as Southwest 18<sup>th</sup> Street; thence South 89d 32' 51" West along said North right-of-way line a distance of 1478.00 feet; thence South 89d 36' 55" West a distance of 213.63 feet to the Point of Beginning of this description; thence continue South 89d 36' 55" West along said North right-of-way line, a distance of 235.85 feet to a Point of Curvature of a circular curve to the right; thence Westerly, Northwesterly and Northerly along the arc of said curve having a radius of 25.00 feet, and arc distance of 39.27 feet to the Point of Tangency; thence North 00d 23' 05" West, along the easterly right-of-way line of Palm d'oro Road as shown on said Plat of BOCA DEL MAR NO. 7, a distance of 393.00 feet; thence North 89d 36' 55" East a distance of 260.85 feet; thence South 00d 23' 05" East, a distance of 418.00 feet to the Point of Beginning. Containing 2.5 acres, more or less.

EXHIBIT B  
VICINITY SKETCH

# LOCATION PLAN

NO SCALE



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2002-0507 (Control 1986-011), 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)

2. Condition All Petitions 2 of Resolution R-2009-0507 Control No. 1986-011, which currently states:

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 November 20, 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)

Is hereby amended to read:

Development of the site shall be generally consistent with the preliminary site plan dated May 10, 2012, and approved by the Board of County Commissioners/Zoning Commission. Modification of the site design may be allowed pursuant to conditions of approval or are in accordance with Article 2 of ULDC. Replacement of a use by another use listed as permitted by right or permitted subject to approval by the DRO may be allowed subject to approval by the DRO. All other modifications exceeding those thresholds established by conditions of approval or the ULDC must be approved by the Board of County Commissioners (ONGOING: ZONING-Zoning )

#### ARCHITECTURAL REVIEW

1. At time of submittal for final DRC approval for the stealth tower, the architectural elevations for the stealth (clock) tower and the existing buildings (facade renovations) shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with the Architectural Design Guidelines adopted by the BCC on July 24, 2001, and shall be generally consistent with the facade elevations dated February 20, 2002. Development shall be consistent with the approved architectural elevations. (Previous Architectural Review condition 1 of Resolution R-2002-0507, Control No. 1986-011) (DRO: ZONING/BLDG PERMIT - Zoning)

2. All existing roof mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure. (Previous Architectural Review Condition 2 of Resolution R-2002-0507, Control No. 1986-011)(CO: BLDG - Zoning)

#### HEALTH

1. Previous condition F.1 of Resolution R-2002-0507; Control 1986-011 which reads:

Any fuel or chemical storage tanks shall be installed in accordance with Chapter 17-61, Florida Administrative Code. The design and installation plans will be submitted to the Health Department for approval prior to installation.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

2. Previous condition F.2 of Resolution R-2002-0507; Control 1986-011 which reads:

Any toxic or hazardous waste generated at this site shall be properly handled and disposed of in accordance with Chapter 17-30, FAC.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

3. Previous condition F.3 of Resolution R-2002-0507; Control 1986-011 which reads:

Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

4. Previous condition F.4 of Resolution R-2002-0507; Control 1986-011 which reads:

Reasonable measures shall be employed during site development to insure no pollutants from this property shall enter adjacent or nearby surface waters.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

5. Previous condition F. 5 of Resolution R-2002-0507; Control 1986-011 which reads:

Still bottoms ( muck waste) and spent filter cartridges shall be stored and disposed in accordance with Chapter 17-30, Florida Administrative Code.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

#### LANDSCAPE - GENERAL

1. Trees to be planted in under this approval shall be native canopy trees, unless specified herein, and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: Seven (7) feet - diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length. (Previous Landscaping Condition G.1 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE - Zoning)

2. All palms required to be planted on the south property line by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk; ten (10) feet clear trunk for specimen palms; and fourteen (14) feet clear trunk for palms along the west property line;
- 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. (Previous Landscaping Condition G.2 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE - Zoning)

3. Previous Condition of Approval G.3 of of Resolution R-2002-0507, Control No. 1986-011, which currently states:

The required six (6) foot high wall shall receive identical architectural treatment on both sides.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

4. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list suggested in the "Plant the Right Tree in the Right Place" guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (Previous Landscaping Condition G.4 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE - Zoning)

**LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE OF SW 18TH STREET)**

5. Landscaping and buffering along the south property line shall be upgraded to:

- a. one (1) tree for each thirty (30) feet of the property line;
- b. one (1) palm or flowering tree for each twenty (20) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- c. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- d. Credit may be given for existing vegetation that meets the ULDC requirements. (Previous Landscaping Condition H.1 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE - Zoning)

**LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)**

6. Existing ficus hedge along the north and east property lines shall be maintained a minimum height of eight (8) feet within eighteen months of this waiver approval. Should the hedge is not maintained at the required height; an eight (8) foot opaque concrete wall shall be installed. The exterior side of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure. (Previous Landscaping Condition I.1 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE-Zoning)

**LANDSCAPE - INTERIOR**

7. Existing landscape islands adjacent to the proposed communication tower shall consist of the following:

- a. a minimum of four (4) specimen palms, and shrub materials to completely covered the landscape islands. Shrub materials shall be planted at two (2) feet on center, and shall have a minimum height of thirty (30) inches at installation. (Previous Landscaping Condition k.1 of Resolution R-2002-0507, Control No. 1986-011) (CO: LANDSCAPE-Zoning)

**LIGHTING**

1. Previous condition K.1 of Resolution R-2002-0507; Control 1986-011 which reads:

Security lighting shall be directed away from nearby residences. (Previous Lighting Condition K.1 of Resolution R-2002- 0507, Control 1986-11) (ONGOING: CODE ENF-Zoning)

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

2. No additional freestanding lighting shall be installed on the site except for the following:

- a. one (1) freestanding light on the west side of the SW 18th entry point. The proposed freestanding lighting shall not exceed twenty-five (25) feet in height measured from the highest point to finished grade; and
- b. any proposed security or low voltage landscape/accent type lights used to emphasize plant material. (Previous Lighting Condition K.2 of Resolution R-2002- 0507, Control 1986-11) (CO/ONGOING: BLDG/CODE ENF - Zoning)

## PLANNING

1. The subject parcel shall not exceed the previous BCC approved and built 27,724 total square feet for the site. (ONGOING: ZONING-Planning)

## SITE DESIGN

1. Prior to final DRC certification of the site plan, the petitioner shall revise the site plan to indicate the designated loading area for Howard's Market. (Previous Building and Site Design Condition 1 of Resolution R-2002-0507, Control No. 1986-011) (DRO: ZONING - Zoning) .

2. Previous Condition C.2 of Resolution R 2002-0507, Control 1986-011 which currently states:

Prior to the issuance of the Certificate of Completion for the proposed communication tower, a pair of gates (with Knoxbox) shall be installed at the eastern driveway of the shopping center. Gates shall be closed and locked between 9 p.m. to 7 a.m. daily. (CO/ONGOING: BLDG/CODE ENF - Zoning)

Is hereby deleted [REASON: Condition deleted with this request].

3. Previous Condition C.3 of Resolution R 2002-0507, Control 1986-011 which currently states:

At time of submittal for the final DRC site plan, location of the gates per Condition C.2 shall be identified on the site plan, and shall be reviewed and approved by the Zoning Division. (Previous Building and Site Design Condition 3 of Resolution R-2002-0507, Control No. 1986-011) (DRO: ZONING-Zoning)

Is hereby deleted. [REASON: Condition deleted with this request].

4. Prior to the issuance of the Certificate of Completion for the proposed communication tower, facade renovations for the entire shopping center shall be completed. Renovations shall be completed in one phase only. (Previous Building and Site Design Condition 4 of Resolution R-2002-0507, Control No. 1986-011) (CO: BLDG-Zoning)

## TOWERS

1. The communication tower, if approved by the Development Review Committee, shall be limited to a stealth structure, a maximum of one hundred and eight (108) feet in height measured from finished grade to highest point. Only one tower shall be permitted on the subject property. (Previous Tower Condition L.1 of Resolution R-2002- 0507, Control 1986-011) (DRO: BLDG - Zoning)

2. Should the requisite authority, such as the FCC or OSHA, having jurisdiction over the same, determine that the Tower and/or facilities are dangerous to the public's health, safety and welfare, Palm Beach County shall have the right to require the tower and/or facilities to be removed or made safe within sixty (60) days written notice. (Previous Tower Condition L.2 of Resolution R-2002- 0507, Control 1986-011) (ONGOING: FIRE/ERM/HEALTH-Zoning)

3. If tower lighting is required by the FAA, the lighting shall include a screening device to direct light away from the ground. The lighting shall also include a dual lighting system consisting of red lights for nighttime and high or medium intensity flashing white lights for daytime and twilight. (Previous Tower Condition L.3 of Resolution R-2002- 0507, Control 1986-011) (CO: BLDG - Zoning/FAA-Zoning)

4. The facades of the stealth tower shall consist of the following:

- a. southwest facade -one (1) clock. Back-lit lighting may be permitted in the clock face;
- b. remaining three facades of tower - medallions with same diameter of the clock; and
- c. perpetual maintenance of the clock by the property owner. (Previous Tower Condition L.4 of Resolution R-2002- 0507, Control 1986-011) (ONGOING: CODE ENF - Zoning)



## USE LIMITATIONS

1. No storage or placement of any materials, refuse, equipment or accumulated debris shall be permitted behind all buildings, except in enclosed dumpster facilities. (Previous Use Limitations Condition M.1 of Resolution R-2002- 0507, Control 1986-011) (ONGOING: CODE ENF - Zoning)

2. Previous Use Limitations Condition M.2 of Resolution R-2002- 0507, which currently states:

No parking of any vehicles shall be permitted along the rear of the shopping center except in designated spaces and unloading areas.

Is hereby deleted [REASON: Condition was originally imposed per Resolution R-86-573-25 but revoked per Resolution R-98-1804]

3. Deliveries, including loading and unloading activities shall not occur prior to 7:00 a.m. nor continue later than 9:00 p.m. daily. All deliveries occurring during these hours shall only take place on the south side of the shopping center. (Previous Use Limitations Condition M.1 of Resolution R-2002- 0507, Control 1986-011)(ONGOING: CODE ENF - Zoning)

4. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (Previous Use Limitations Condition M.4 of Resolution R-2002- 0507, Control 1986-011) (ONGOING: CODE ENF - Zoning)

5. Employee breaks shall not occur along the north and east portions of the site. (Previous Use Limitations Condition M.5 of Resolution R-2002- 0507, Control 1986-011) (ONGOING: CODE ENF - 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: 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 (CO); 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 Unified Land Development Code (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 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: MONITORING - Zoning)