

RESOLUTION NO. R-2016- 0547

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2015-01038  
(CONTROL NO. 2006-00522)  
a Development Order Amendment  
APPLICATION OF Dolphin Stations LLC  
BY Infinity Engineering Group, LLC, AGENT  
(APEC-Haverhill)

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 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CA-2015-01038 was presented to the Board of County Commissioners at a public hearing conducted on April 28, 2016;

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 (Development Review 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 Process) for a Development Order 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.A.1.K.3.b (Action by BCC) 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/DOA/CA-2015-01038, the Application of Dolphin Stations LLC, by Infinity Engineering Group, LLC, Agent, for a Development Order Amendment to reconfigure the Site Plan; add a Conditional Use; add and delete square footage; eliminate an access point; modify Conditions of Approval (Engineering, Landscaping, Health and Use Limitations), 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 April 28, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached

hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	-	Aye
Commissioner Hal R. Valeche, Vice Mayor	-	Aye
Commissioner Paulette Burdick	-	Aye
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 28, 2016.

Filed with the Clerk of the Board of County Commissioners on May 6th, 2016.

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:**

THE NORTHERLY 349.24 FEET OF TRACT 49, MODEL LAND COMPANY'S SUBDIVISION OF SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 5, PAGE 77, IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR SAID COUNTY, LESS THE EASTERLY 20 FEET THEREOF FOR RIGHT-OF-WAY PURPOSES.

ALSO LESS THE FOLLOWING PARCEL DESCRIBED IN THAT CERTAIN LIS PENDENS IN O.R. BOOK 13019, PAGE 90, AND THAT CERTAIN ORDER IN O.R. BOOK 13373, PAGE 1334, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACT 49, MODEL LAND COMPANY, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 77 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 35, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT A FOUND PALM BEACH COUNTY DISC IN CUT OUT MARKING THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 35, (SAID POINT BEING THE BASELINE OF SURVEY OF HAVERHILL ROAD AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION NO. 93120-2553; THENCE SOUTH 01°22'32" WEST ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 35 AND SAID BASELINE OF SURVEY, A DISTANCE OF 407.540 METERS (1,337.07 FEET); THENCE NORTH 88°37'28" WEST ALONG A LINE AT A RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 12.192 METERS (40.00 FEET) TO A POINT ON THE WESTERLY EXISTING RIGHT OF WAY LINE FOR SAID HAVERHILL ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 01°22'32" WEST ALONG SAID WESTERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 106.579 METERS (349.67 FEET); THENCE NORTH 88°36'46" WEST A DISTANCE OF 11.834 METERS (38.83 FEET); THENCE NORTH 06°57'41" EAST, A DISTANCE OF 10.025 METERS (32.89 FEET) TO A POINT ON A CURVE CONCAVE TO THE WEST, HAVING A CHORD BEARING OF NORTH 06°51'08" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, HAVING A RADIUS OF 1,242.500 METERS (4,076.44 FEET), THROUGH A CENTRAL ANGLE OF 00°13'07", AN ARC DISTANCE OF 4.739 METERS (15.55 FEET) TO THE END OF SAID CURVE; THENCE NORTH 20°37'12" EAST A DISTANCE OF 15.864 METERS (52.05 FEET) TO A POINT ON A NON TANGENT CURVE CONCAVE TO THE WEST, HAVING A CHORD BEARING OF NORTH 04°31'37" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE HAVING A RADIUS OF 1,246.400 METERS (4,089.23 FEET), THROUGH A CENTRAL ANGLE OF 03°00'58", AN ARC DISTANCE OF 65.612 METERS (215.26 FEET) TO THE END OF SAID CURVE; THENCE NORTH 36°57'00" WEST, A DISTANCE OF 9.925 METERS (32.56 FEET); THENCE NORTH 76°39'36" WEST A DISTANCE OF 16.990 METERS (55.74 FEET) TO A POINT ON THE SOUTHERLY EXISTING RIGHT-OF-WAY LINE FOR WALLIS ROAD; THENCE SOUTH 88°50'30" EAST ALONG SAID SOUTHERLY EXISTING RIGHT OF WAY LINE, A DISTANCE OF 24.346 METERS (79.88 FEET) TO THE POINT OF BEGINNING.

EXHIBIT B  
VICINITY SKETCH

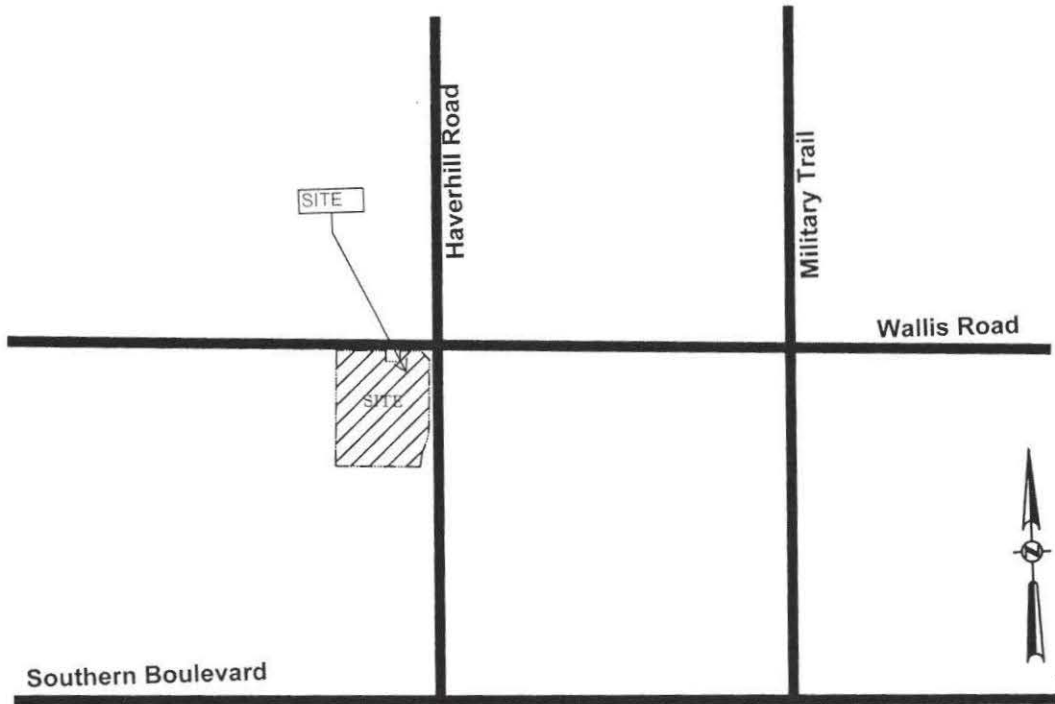


EXHIBIT C

CONDITIONS OF APPROVAL

**Development Order Amendment  
Conditional Overlay Zone (COZ)**

**ALL PETITIONS-TYPE I RESTAURANT**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

Development of the site is limited to the uses approved by the Board of County Commissioners. The approved preliminary site plan is dated May 25, 2007. 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)

**Is hereby amended to read:**

The approved Preliminary Site and Regulating Plans are dated December 10, 2015. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design 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. (DRO/ONGOING: ZONING - Zoning)

**ENGINEERING**

1. Previous ENGINEERING Condition 1 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

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 August 23, 2010. 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 Article 2, Section E of the Unified Land Development Code.

**Is hereby amended to read:**

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, 2020. 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 Article 2, Section E of the Unified Land Development Code.

(DATE: MONITORING - Engineering)

2. Previous ENGINEERING Condition 2 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

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 Wallis Road 30 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior to January 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.

**Is hereby amended to read:**

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 Wallis Road 30 feet from centerline. All right of way deed(s) and associated documents shall be provided and approved prior to January 1, 2017 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. (BLDGPMT/DATE: MONITORING - Engineering)

3. Prior to issuance of a building permit, the Property Owner shall provide a temporary roadway construction easement along Wallis Road to Palm Beach County. Construction by the Property Owner within this easement shall conform to all Palm Beach County Standards and Codes. 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. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2007-1444, Control No.2006-00522)

4. Landscape Within the Median of Haverhill Road

A. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Haverhill 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: MONITORING - Engineering)

B. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

C. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

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: MONITORING - Engineering)

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 Haverhill 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. (BLDGPM/ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2007-1444, Control No.2006-00522)

5. The Property Owner shall extend the concrete median within Haverhill Road from Homewood Drive to Wallis Road subject to final approval of the County Engineer.

A. 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.

B. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPM/ONGOING: MONITORING - Engineering)

C. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2007-1444, Control No.2006-00522)

6. 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. (BLDGPM/ONGOING: MONITORING - Engineering)

7. 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, the property owner shall provide to Palm Beach County Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Haverhill Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. The right of way should be continued across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. 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 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 Grantor, the Grantor 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDGPM/ONGOING: MONITORING - Engineering)

8. The Property Owner shall construct a right turn lane north approach on Haverhill Road at the project's entrance driveway. 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. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMPT: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMPT/CO: MONITORING - Engineering)

9. Property owner shall construct a minimum of a 5 foot concrete sidewalk along the south side of Wallis Road along the property's frontage. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMPT/CO: MONITORING - Engineering)

10. Prior to issuance of the first building permit, the property owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from that segment of Haverhill Road along the property frontage; and a maximum of an additional 800 feet of this adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. 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. (BLDGPMPT: MONITORING - Engineering)

#### **LANDSCAPE - GENERAL**

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (DRO: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 1 of Resolution R-2007-1444, Control No.2006-00522)

2. Previous LANDSCAPE - STANDARD Condition 2 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

A minimum of sixty-five (65%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet;
- b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (3.5) feet in length; and,
- d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)

**Is hereby amended to read:**

A minimum of sixty-five (65%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. tree height: fourteen (14) feet;
- b. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDGPMT: ZONING - Zoning)

3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 4 of Resolution R-2007-1444, Control No.2006-00522)

4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 5 of Resolution R-2007-1444, Control No.2006-00522)

5. Previous LANDSCAPE - STANDARD Condition 6 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

Prior to final approval by the Development Review Officer (DRO), the plans shall be amended to indicate special planting treatment in the following locations: 1) On the northeast, northwest and southeast corners of the site. Planting shall consist of the following:

- a.a minimum of three (3) Royal Palms, or other specimen palm that is acceptable to the Landscape Section. Palm height shall be a minimum of twenty (20) feet with a minimum of eight (8) feet of greywood; and,
- b.a minimum of three (3) Roebellini palms to be installed at the northeast corner of the site. (DRO: LANDSCAPE - Zoning)

**Is hereby amended to read:**

Prior to final approval by the Development Review Officer (DRO), the plans shall be amended to indicate special planting treatment in the following locations:

1) On the northeast, northwest and southeast corners of the site. Planting shall consist of the following:

- a.a minimum of three (3) Royal Palms, or other specimen palm that is acceptable to the Landscape Section.
- b.a minimum of three (3) Roebellini palms to be installed at the northeast corner of the site. (DRO: ZONING - Zoning)

6. Previous LANDSCAPE - STANDARD Condition 7 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

Prior to final approval by the Development Review Officer (DRO), the plans shall be amended to indicate the code required Compatibility buffer on the south, east and west property lines abutting the lift station parcel. Hedge materials shall be three (3) foot in height at installation, and shall be perpetually maintained at six (6) feet in height. (DRO: ZONING - Zoning)

**Is hereby deleted.** [REASON: Other conditions apply to these areas and a Variance is granted for some easement overlap in these locations.]

7. Previous LANDSCAPE - STANDARD Condition 8 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

An architectural focal point (fountain) shall be provided at the intersection of Haverhill Road and Wallis Road. The architectural focal points shall be subject to review and approval by the Architectural Review Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: LANDSCAPE - Zoning)

**Is hereby amended to read:**

Special planting treatment shall be provided at the intersection of Haverhill Road and Wallis Road. Planting shall consist of the following:

- a. a minimum of three (3) specimen palm; (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section)
- b. a minimum of five (5) flowering trees; and,
- c. appropriate shrub or hedge materials and ground cover. (BLDGPM: ZONING - Zoning)

8. All palms required to be planted on the property 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. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 3 of Resolution R-2007-1444, Control No.2006-00522)

**LANDSCAPE - PERIMETER-ALONG THE SOUTH AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL PARCELS)**

9. In addition to code requirements, landscaping along the south and west property lines shall be upgraded to include:

- a. a continuous two (2) foot high berm;
- b. a six (6) foot high opaque concrete block wall. Wall shall be placed on the plateau of the berm. Both sides of the wall shall be given a finished architectural treatment that is consistent with the color and style of the principal structure; and,
- c.one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 9 of Resolution R-2007-1444, Control No.2006-00522)

**LIGHTING**

1. Previous LIGHTING Condition 1 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

**Is hereby amended to read:**

All outdoor, freestanding lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point, and shall not exceed 20 feet in height within 100 feet of the west and south property lines (adjacent to residential). (BLDGPM: BUILDING DIVISION - Zoning)

2. Previous LIGHTING Condition 2 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

All outdoor, freestanding lighting fixtures be setback a minimum of fifty(50) feet from the south property line. (BLDG PERMIT: BLDG - Zoning)

**Is hereby amended to read:**

All outdoor, freestanding lighting fixtures shall be setback a minimum of fifty (50) feet from the west property line. (BLDGPMPT: BUILDING DIVISION - Zoning)

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

### **SIGNS**

1. Freestanding signs fronting on Haverhill Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side - sixty (60) square feet;
- c. maximum number of signs - one (1); and,
- d. style - monument style only. (BLDGPMPT: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2007-1444, Control No.2006-00522)

2. Freestanding signs fronting on Wallis Road be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. maximum sign face area per side - sixty (60) square feet;
- c. maximum number of signs - one (1); and,
- d. style - monument style only. (ONGOING: ZONING - Zoning)

### **SITE DESIGN**

1. Previous SITE DESIGN Condition 1 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

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 forty (40) feet of the south and east property lines and shall be confined to the areas designated on the site plan. (DRO: ZONING - Zoning)

#### **Is hereby amended to read:**

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 south and west property lines. (DRO: ZONING - Zoning)

### **UTILITIES**

1. Previous UTILITIES Condition 1 of Resolution R-2007-1444, Control No.2006-00522, which currently states:

If any relocation/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBC WATER UTILITIES - PBC Water Utilities)

**Is hereby deleted.** [REASON: The condition does not longer apply.]

### **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.