

RESOLUTION NO. R-2021-0550

RESOLUTION APPROVING ZONING APPLICATION CA-2020-01215
(CONTROL NO. 2017-00042)
a Class A Conditional Use
APPLICATION OF Moore Florida Property Investment, LLC
BY Gentile Glas Holloway O'Mahoney & Associates, Inc., AGENT
(Memory Care at the Acreage)

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 (ULDC), Ordinance 2003-067 as amended, have been satisfied;

WHEREAS, Zoning Application CA-2020-01215 was presented to the Board of County Commissioners at a public hearing conducted on April 22, 2021;

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 a Class A Conditional Use;

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 CA-2020-01215, the Application of Moore Florida Property Investment, LLC, by Gentile Glas Holloway O'Mahoney & Associates, Inc., Agent, for a Class A Conditional Use to allow a Type 2 Congregate Living Facility, 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 22, 2021, 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 Weiss and, upon being put to a vote, the vote was as follows:

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Maria Sachs	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 22, 2021.

Filed with the Clerk of the Board of County Commissioners on April 30th, 2021.

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

TRACT AB-116

THE NORTH 289.11 FEET OF THE SOUTH 928.36 FEET OF THE EAST 239 FEET OF THE WEST 1563 FEET OF THE WEST ONE-HALF 1/2 OF SECTION 17, TOWNSHIP 42 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 1.60 ACRES, MORE OR LESS

EXHIBIT B
VICINITY SKETCH

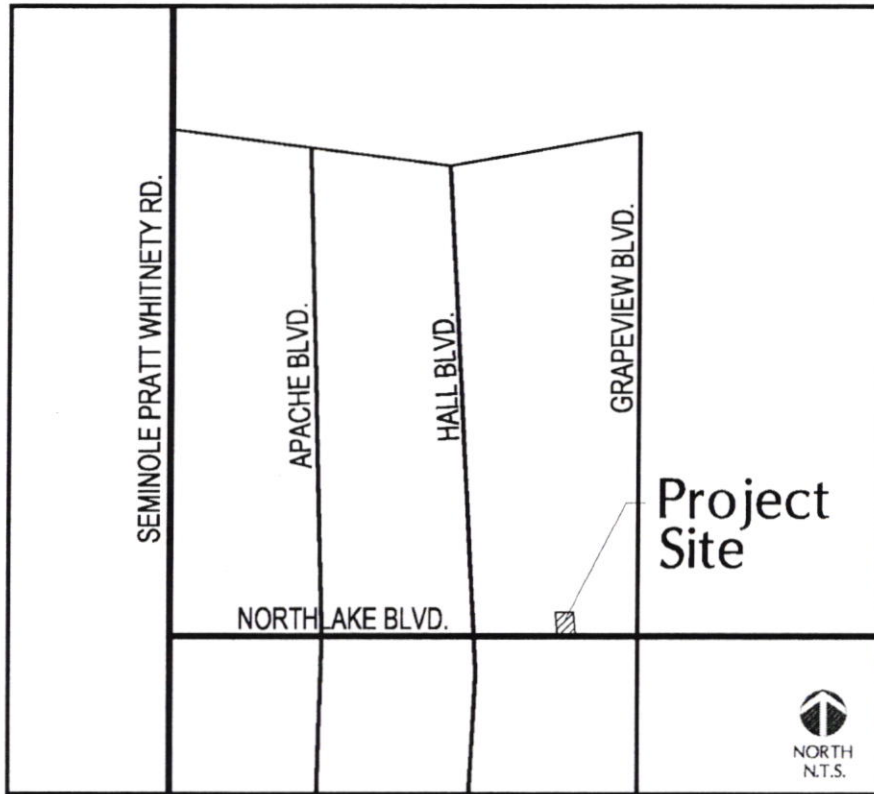


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use (Type 2 Congregate Living Facility)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 22, 2021. 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. (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, 2023, or as amended. 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. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed (or easement document) for road right of way and all associated documents as required by the County Engineer for Northlake Boulevard, 70 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

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. (BLDGPM: MONITORING - Engineering)

3. 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 recorded prior to issuance of the first building

permit. (BLDGPM: MONITORING - Engineering)

ENVIRONMENTAL

1. A complete Standard Vegetation Permit Application For Protection of Native Vegetation Approval, including the appropriate fee, shall be submitted to the Department of Environmental Resources Management (ERM) prior to the final approval of the plan by the Development Review Officer (DRO). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

PARKS

1. No Certificates of Occupancy for the residential units shall be issued until the recreational area has been completed entirely, open for use and accessible to the residents. (CO/DRO: MONITORING - Parks and Recreation)

PLANNING

1. Prior to final site plan certification by the Development Review Officer (DRO), the property owner shall provide a Rural Parkway Landscape Plan which recreates the native habitat appropriate for the site, subject to approval by the Planning Division, to include 100% native species. (DRO: PLANNING - Planning)

2. Prior to final site plan certification by the Development Review Officer (DRO), the property owner shall submit a Rural Parkway Management Plan (RPMP) maintenance agreement for perpetual maintenance of the Rural Parkway, subject to approval by Planning. (DRO: PLANNING - Planning)

3. Prior to issuance of the Building Permit, the property owner shall submit a recorded Rural Parkway Easement. The Easement shall include but is not limited to all requirements outlined in the conditions of approval, Comprehensive Plan and Unified Land Development Code. (BLDGPM: MONITORING - Planning)

4. The conservation easement for the Rural Parkway Preserve Area shall include but not be limited to the following items:

a. An approved Rural Parkway Landscape Plan shall include:

- i. Native Vegetation appropriate for the area;
- ii. Existing or native vegetation that is identified to be preserved in situ;
- iii. 100% native vegetation;
- iv. Native vegetation that is relocated or is part of an approved mitigation plan;
- v. Co-location of required landscape buffer;
- vi. A paved 6 8-foot wide multipurpose pathway;

b. The Rural Parkway easement shall not include:

- i. Walls;
- ii. Signs;
- iii. No structures shall be allowed in the Rural Parkway Easement with the exception of a bus shelter, and benches/pedestrian gathering area;

c. The Rural Parkway easement may include:

- i. A ten (10) foot utility easement located adjacent to the right-of-way and a bus stop easement;
- ii. Other drainage/utility easements may only be permitted which transverse (run perpendicular to) the Rural Parkway Easement to place drainage/utilities in the developable portion of the approved site plan;
- iii. Other drainage easements may be permitted in the Rural Parkway Easement solely for the purposes of draining the Rural Parkway subject to approval by the County Engineering Department and the Planning Division;
- iv. Overlap of the Rural Parkway and Embankment Easement as long as the purposes of both easements are consistent.

(ONGOING: PLANNING - Planning)

5. Prior to issuance of the Building Permit, the property owner shall submit title insurance for the Rural Parkway easement to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Planning Division. (BLDGPM: MONITORING - Planning)

6. Within 30 calendar days of issuance of the first Building Permit (BP), the property owner shall commence construction of the Rural Parkway, consistent with the approved Landscape Plan, the ERM Vegetation Permit and in accordance with the Rural Parkway Management Plan. (BLDGPM: MONITORING - Planning)

7. Prior to the release of the first Certificate of Occupancy (CO), the property Owner shall submit an As-Built of the Rural Parkway and ERM Conservation Mitigation Area. The Rural Parkway shall be complete and in compliance with the Rural Parkway Landscape Plan and Management Plan, subject to a final inspection by a Landscape inspector and/or designated Planning Division staff. (CO: MONITORING - Planning)

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; 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: MONITORING - Zoning)

DISCLOSURE

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