

RESOLUTION NO. R-2024-0409

RESOLUTION APPROVING ZONING APPLICATION DOA-2023-01450  
(CONTROL NO. 1984-00085)  
a Development Order Amendment  
APPLICATION OF VS Delray Beach East LLC  
BY Urban Design Studio, AGENT  
(Heritage Park)

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 DOA-2023-01450 the Application of VS Delray Beach East LLC by Urban Design Studio, Agent, for a Development Order Amendment to modify the overall PUD Site Plan to add residents/beds to an existing Congregate Living Facility and modify Conditions of Approval on 16.53 acres, was presented to the Board of County Commissioners at a public hearing conducted on April 25, 2024;

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 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.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,

1. The foregoing recitals are true and correct and are incorporated herein.
2. Zoning Application DOA-2023-01450, the Application of VS Delray Beach East LLC, by Urban Design Studio, Agent, for a Development Order Amendment to modify the overall PUD Site Plan to add residents/beds to an existing Congregate Living Facility on 16.53 acres, 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 25, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Woodward moved for the approval of the Resolution.

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

|  |   |     |
|--|---|-----|
| Commissioner Maria Sachs, Mayor          | - | Aye |
| Commissioner Maria G. Marino, Vice Mayor | - | Aye |
| Commissioner Gregg K. Weiss              | - | Aye |
| Commissioner Michael A. Barnett          | - | Aye |
| Commissioner Marci Woodward              | - | Aye |
| Commissioner Sara Baxter                 | - | Aye |
| Commissioner Mack Bernard                | - | Aye |

The Mayor thereupon declared that the resolution was duly passed and adopted on April 25, 2024.

Filed with the Clerk of the Board of County Commissioners on April 25, 2024.

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

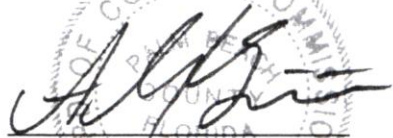
BY:   
DEPUTY CLERK



EXHIBIT A

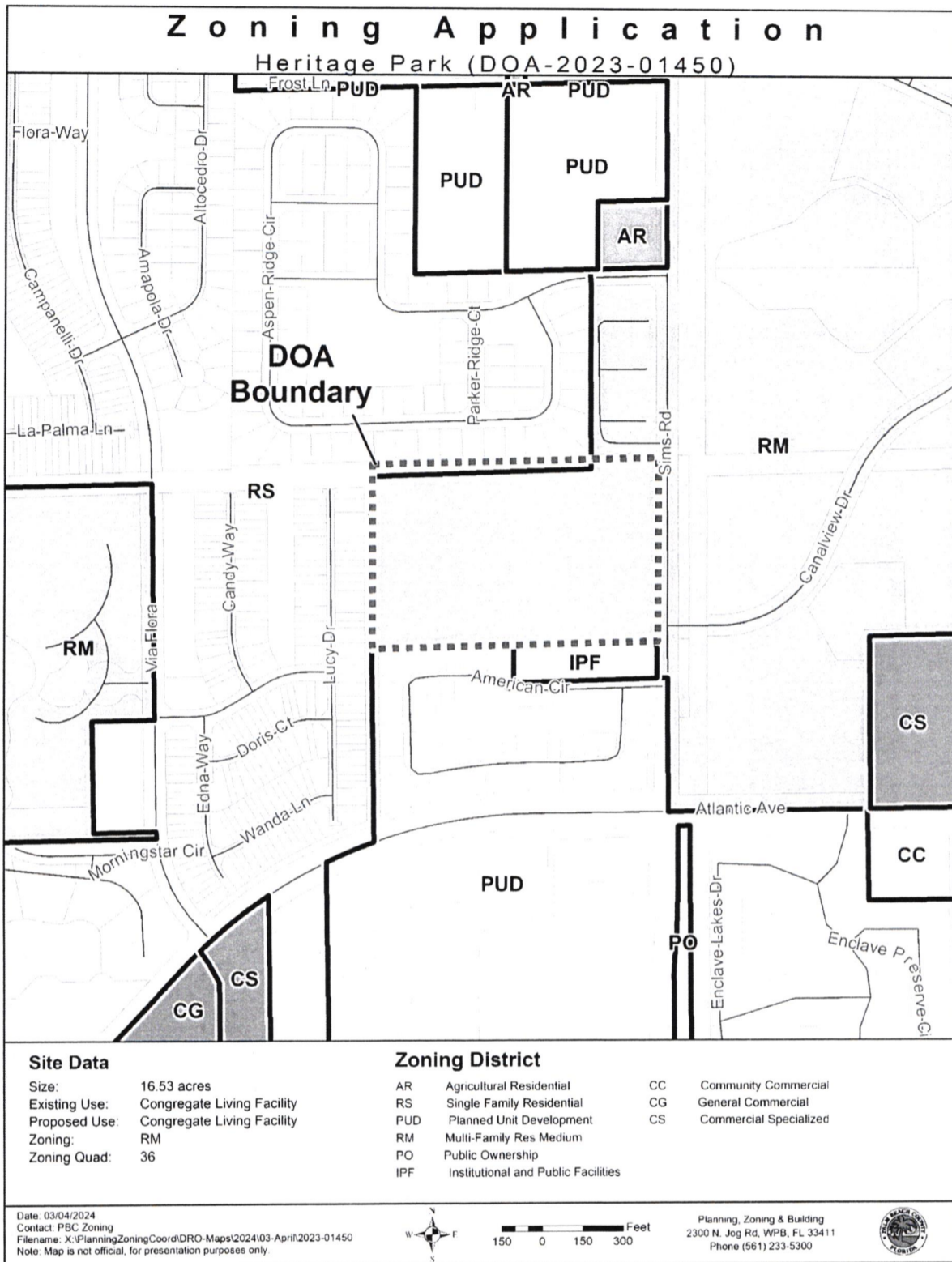
LEGAL DESCRIPTION

Parcel B of the plat of Heritage Park, according to the plat thereof as recorded in Plat Book 52, Pages 75 and 76, of the public records of Palm Beach County, Florida

CONTAINING 16.53 acres or 719,936 square feet, more or less. Subject to easements, restrictions, reservations and right of way of record.

Together with a Non-exclusive easement as created by Declaration of Cross Access Easement and Shared Parking Agreement dated March 23, 2009, recorded in Official Records Book 23238, Page 1648 for cross access and shared parking over, under and across the lands described therein, as affected by Agreement recorded on December 31, 2012, recorded in Official Records Book 25685, Page 626.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment to the Planned Unit Development on 16.53 acres

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 15, 2024. 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. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1985-0026 (Control 1984-00085), 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 and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING - Zoning)

3. All graphics submitted by the petitioner before the Planning Commission and the Board of County Commissioners shall be made part of the official file. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous ALL PETITIONS Condition 15 of Resolution R-1985-26, Control No.1984-00085)

##### BUILDING AND SITE DESIGN

1. Prior to certification of the site plan by the Site Plan Review Committee, the site plan shall be amended to reflect:

a) The required parking and provision for handicapped parking unless a variance from the Board of Adjustment is obtained. If this variance is obtained, the developer shall show on the approved site plan areas to be reserved for future parking which shall be constructed within 30 days of request by the County. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-1985-26, Control No.1984-00085)

2. The developer shall relocate and/or preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect any individual trees and/or preservation areas during site clearing and construction. (ONGOING: ZONING - Zoning) (Previous BUILDING AND SITE DESIGN Condition 2 of Resolution R-1985-26, Control No.1984-00085)

3. All buildings within the proposed development shall be no greater than two (2) stories in height. (BLDGPMT/DRO: ZONING - Zoning) (Previous BUILDING AND SITE DESIGN Condition 13 of Resolution R-1985-26, Control No.1984-00085)

4. No buildings shall be placed west of the row of existing Australian pines. (ONGOING: ZONING - Zoning) (Previous BUILDING AND SITE DESIGN Condition 17 of Resolution R-1985-26, Control No.1984-00085)

##### ENGINEERING

1. This development shall retain onsite the first one inch of the stormwater runoff per Palm Beach County Subdivision and Platting Ordinance 73-4, as amended. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-1985-26, Control No.1984-00085)

2. The property owner shall convey for the ultimate right of way of Sims Road, 80 feet west of the west right of way line of the LWDD E-3 Canal within 90 days of adoption of the resolution by the Board of County Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of first building permit. This right-of-way dedication shall be from Delray West Road north to the project's north property line. Density credit for the south one - half of the original tract shall not be permitted unless the Capital Outlay Program right- o f- way fund is reimbursed for the expenditures to the tract owner for the right-of-way easement given to the county over the south one-half of the original tract. (DATE: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-1985-26, Control No.1984-00085)

3. The developer shall construct concurrent with the improvements with the first plat:  
a. Sims Road from the project's north property line to the entrance to High Point. (PLAT:

ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-1985-26, Control No.1984-00085)

b. Turn lanes at the projects entrance road and Sims Road, turn lanes at Sims Road and West Atlantic Avenue. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-1985-26, Control No.1984-00085)

c. Sims Road as a 3 lane section from Delray West Road, north to the projects entrance Road. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-1985-26, Control No.1984-00085)

4. Design of the road drainage for Sims Road shall accommodate the runoff from the roads adjacent to this property and shall be subject to all governmental agency requirements. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 8 of Resolution R-1985-26, Control No.1984-00085)

5. Signalization when warranted as determined by the County Engineer at the intersection of Sims Road and West Atlantic Avenue. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 9 of Resolution R-1985-26, Control No.1984-00085)

6. "Cap" the existing bridge on West Atlantic Avenue at the LWDD #- 3 Canal. This shall be constructed concurrent with the improvements with the first Plat and shall be as per the County Engineer's approval as well as the Florida Department of Transportation requirement. (ONGOING/PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-1985-26, Control No.1984-00085)

7. The developer shall pay a Fair Share Fee in the amount and manner required by "The Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. Presently The Fair Share Fee for this project is \$14,700.00. (BLDG/PMT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 11 of Resolution R-1985-26, Control No.1984-00085)

8. The developer shall plat the subject parcel per the requirements of the subdivision and plating Ordinance 73- 4, as amended. (PLAT: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-1985-26, Control No.1984-00085)

9. No Building Permits for the site may be issued after December 31, 2026, 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)

## **HEALTH**

1. Reasonable precautions shall be exercised during site development to ensure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (ONGOING: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous HEALTH Condition 3 of Resolution R-1985-26, Control No.1984-00085)

2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (ONGOING: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous HEALTH Condition 4 of Resolution R-1985-26, Control No.1984-00085)

## **LANDSCAPE - GENERAL**

1. A 6-foot landscaped berm shall be provided by the developer on the west side of the existing row of Australian pines shown on the site plan. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 16 of Resolution R-1985-26, Control No.1984-00085)

## **USE LIMITATIONS**

1. Use shall be limited to an Adult Congregate Living Facility, as defined and licensed pursuant to currently applicable state statutes. Residency of the facility shall be limited to persons 65 years of age and older. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 14 of Resolution R-1985-26, Control No.1984-00085)

## **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.