

RESOLUTION NO. ZR-96-04

RESOLUTION APPROVING ZONING PETITION  
**EAC95-83 (B)**  
CLASS B CONDITIONAL USE  
PETITION OF **CARLYLE** DEVELOPMENT COMPANY  
BY MASON SIMPSON, AGENT  
(CARLYLE)

WHEREAS, the Palm Beach County Zoning Commission, pursuant to Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to consider, approve, approve with conditions or deny Class B Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition **EAC95-83 (B)** was presented to the Zoning Commission at a public hearing conducted on September 5, 1996; and

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Zoning Commission made the following findings of fact:

1. This Class B Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class B 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 B Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class B Conditional Use, with conditions as adopted, is compatible as defined in the Palm Beach county 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 B 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 B Conditional Use meets applicable local land development regulations.
7. This Class B Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Class B Conditional Use has a concurrency determination and complies with Article 11, Adequate Public Facility Standards.
9. This Class B 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 B Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
11. This Class B Conditional Use, with conditions as adopted, is consistent with applicable neighborhood plans.

WHEREAS, Article 5 of the Palm Beach County Unified Land Development Code requires that the action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Petition **EAC95-83 (B)**, the petition of **Carlyle** Development Company, by Mason Simpson, Agent, for a Development Order Amendment/Expedited Application Consideration (EAC) to modify conditions of approval (building setback) in the Residential High (RH) 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 September 5, 1996, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Hyman moved for the approval of the Resolution.

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

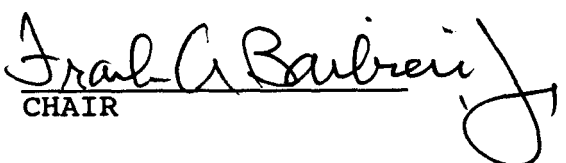
Frank A. Barbieri, Jr., Chair	--	Aye
Sherry Hyman, Vice Chair	--	Aye
Peter Carney	--	Aye
Kevin Foley	--	Aye
Mikel Jones	--	Aye
<b>Allan</b> Kaplan	--	Aye
William Anderson	--	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on September 5, 1996.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS ZONING COMMISSIONERS

BY:   
COUNTY ATTORNEY

BY:   
CHAIR

FILE:H:\WPDATA\PROD\RESO\CB

EXHIBIT A  
LEGAL DESCRIPTION

LEGAL DESCRIPTION:

Lot 181 and Lot 182, less the South 200 feet thereof, of GOMEZ GRANT on Jupiter Island, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 1, Page 80 (now known as Plat Book 1, Page 80-T), less the right of way for State Road 707 as described in Deed recorded in Official Record Book 915, Page 73, Public Records of Palm Beach County, Florida.

TOGETHER WITH:

Two parcels of submerged land in Jupiter Sound in Section 30, Township 40 South, Range 43 East, Gomez Grant, Palm Beach County, Florida, more particularly described as follows:

PARCEL NO.1 - Beginning at the point of intersection of the Westerly extension of the North line of Lot 18 1, Jupiter Island, according to the Plat thereof, recorded in Plat Book 1, Page 80, Public Records of Palm Beach County, Florida, and the Bulkhead Line as established by the Commissioners of Palm Beach County, according to the Plat thereof, recorded in Plat Book 27, Page 64, Public Records of Palm Beach County, Florida, said line being also the Easterly right of way line of the Intracoastal Waterway; thence South 15° 52' 13" East, along said Bulkhead Line and said Easterly right of way line of the Intracoastal Waterway, a distance of 452.07 feet to a point in the Westerly estension of a line 434.3 feet South of and parallel to the said North line of Lot 18 1; thence South 89° 18' 01" East, a distance of 105 feet, to a point in the high water line on the Westerly shore of Jupiter Island; thence North 11° 26' 59" East, along said high water line, a distance of 97.75 feet to a point in the Westerly right of way line of State Road No. 707, according to the plat thereof: recorded in Road Plat Book 2, Page 72, Public Records of Palm Beach County, Florida; thence North 15° 45' 03" West, along said Westerly right of way line of State Road No. 707, a distance of 351.67 feet to a point in the aforesaid North line of Lot 181, Jupiter Island; thence North 89° 18' 01" West, along said North line of Lot 181, a distance of 152.56 feet to the Point of Beginning.

ALSO

PARCEL NO. 2 - Beginning at a point in the North line of Lot 18 1, Jupiter Island, according to the Plat thereof, recorded in Plat Book 1, Page 80, Public Records of Palm Beach County, Florida, said point being South 89° 18' 01" East, a distance of 206.82 feet from the Bulkhead Line established by the commissioners of Palm Beach County, Florida, according to the Plat thereof, recorded in Plat Book 27, Page 64, Public Records of Palm Beach County, Florida, said point being also in the Easterly right of way line of State Road No. 707, according to the Plat thereof, recorded in Road Plat Book 2, Page 72, Public Records of Palm Beach County, Florida; thence South 15° 45' 03" East, along said Easterly right of way line of State Road No. 707, a distance of 120.54 feet to a point in the high water line on the Westerly shore of Jupiter Island; thence North 10° 03' 25" East, along said high water line, a distance of 117.17 feet to a point in the aforesaid North line of Lot 18 1, Jupiter Island; thence North 89° 18' 01" West, along said North line of Lot 18 1, a distance of 53.18 feet to the Point of Beginning.

FLOOD ZONE

This property is located in Flood Zones A7 (EL 6), C and V8 (El 10) according to Flood Insurance Rate Map # 1201920 107 B dated October 15, 1982.



EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

**A. ALL PETITIONS**

1. All previous conditions of approval applicable to the subject property, **as** contained in Resolution ZR-96-03 (Petition 95-83(A)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of **approval** and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

**B. BUILDING AND SITE DESIGN**

1. Total gross floor area of the primary structure excluding the garage and cabana, shall be limited to a maximum of 132,000 gross **square** feet of air **conditioned** space, except as permitted by Section **5.4.F. (Minor Deviations)** of the **ULDC**. Previously Condition A. 1. Resolution **ZR-96-03** (Petition 95-83(A)) (DRC: ZONING - Bldg)

2. Condition A.2. of Resolution ZR-96-03, Petition **CB95-83(A)**, which currently states:

The minimum side setback for the primary structure from the north and south property lines shall be one hundred and ten feet (110) feet, or as required by Section 6.5.H. (Building Height) **of** the ULDC, whichever is greater. (DRC: **ZONING**)

Is hereby amended to state:

The minimum side setback for the primary structure shall be 120 feet from the north property line and 105 feet from the south property line, or as required by section 6.5.H. (Building Height) of the ULDC, whichever is greater (DRC: ZONING).

3. Condition A.3. of Resolution ZR-96-03, Petition **CB95-83(A)**, which currently states:

The minimum front setback for the primary structure from the west property lines shall be one hundred and twenty (120) feet (measured from the east right-of-way line of **A1A**), or as required by **Section** 6.5.H. (Building Height) of the ULDC, whichever is greater. (DRC: ZONING)

Is hereby amended to state:

The minimum front setback for the primary structure from the west property line shall be 115 feet (measured from the east right-of-way line of **A1A**), or as required by Section 6.5.H. (Building Height) of the ULDC, whichever is greater. (DRC: ZONING)

4. Condition A.4. of Resolution ZR-96-03, Petition **CB95-83(A)**, which currently states:

The maximum height for all structures shall be **measured** from finished grade to highest point in accordance with the **ULDC**. The maximum height shall not **exceed** one hundred and thirty-three (133) feet or 12 living floors, whichever is less, except as permitted by Section 6.5.H.4 (Exceptions to Height Regulations) of the ULDC. The 12 floors may be permitted over a parking lot and lobby level. (DRC: BLDG PERMIT: BLDG - Zoning)

Is hereby amended to state:

The maximum height for all structures shall be measured from average finished grade (AFG) to the highest point in accordance with the ULDC. AFG is determined to be 19.0 mean sea level (MSL). The maximum height shall not exceed 144 feet above MSL or 125 feet above AFG, whichever is less, and shall not include more than twelve (12) living floors, except as permitted by section 6.5.H.4 (Exceptions to Height Regulations) of the ULDC. The 12 floors may be permitted over a parking garage and lobby level. (DRC: BLDG PERMIT: BLDG - Zoning)

5. The primary structure, excluding balconies and appurtenances, shall not encroach into the Florida Coastal Construction Control Line. Previously Condition A. 5. Resolution ZR-96-03 (Petition 95-83(A) (BLDG PERMIT: BLDG - Zoning)
6. The structure shall have a maximum of 25 units excluding caretaker quarters. Previously Condition A. 6. Resolution ZR-96-03 (Petition 95-83(A) (DRC: **Zoning/Building**)

B. **ENVIRONMENTAL RESOURCE MANAGEMENT**

1. The petitioner shall submit to the Department of Environmental Resources Management an exterior lighting plan for review and approval prior to DRC site plan certification. Previously Condition B. 1. Resolution **ZR-96-03** (Petition **95-83 (A)** (DRC: ERM - Bldg)
2. Prior to DRC approval, the Coral Cove Beach/Dune Restoration and Access Easement shall be clearly shown on the certified site plan and shall indicate all proposed structures or construction activities within the easement. Previously Condition B. 2. Resolution ZR-96-03 (Petition 95-83(A) (DRC: ERM - Bldg)
3. The petitioner shall submit to the Department of Environmental Resources a plan to delineate the dune restoration easement in order to protect the dune vegetation from damage during construction activities. This plan shall **be** approved by the Department of Environmental Resources Management prior to site plan certification. Previously Condition B. 3. Resolution **ZR-96-03** (Petition 95-83(A) (DRC: ERM - Bldg)
4. All outdoor lighting used to illuminate the subject property and identification signs, **except** as otherwise designated by the Department of Environmental Resources Management, shall be of low intensity, shielded and directed down and away from adjacent properties and streets and shall meet the guidelines of the ULDC pursuant to Section 9.1. Previously Condition B. 4. Resolution ZR-96-03 (Petition 95-83(A) (CO / ONGOING: BLDG / **ERM** / CODE **ENF** - Zoning)

5. All roof mounted air conditioning units, mechanical equipment and radio antennas, shall be screened from view on all sides in a manner consistent with the color, **character** and architectural style of the principle structure. Previously Condition B. 5. Resolution ZR-96-03 (Petition 95-83(A) (BLDG PERMIT: BLDG - Zoning)

c. **LANDSCAPING - GENERAL**

1. All canopy trees required to be planted within the perimeter landscape buffers shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet.
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length. Previously Condition C. Resolution ZR-96-03 (Petition 95-83(A) (CO: BLDG)

1.

D. **LANDSCAPING ALONG WEST PROPERTY LINE (ABUTTING BEACH ROAD)**

1. Landscaping and buffering along the west property line, abutting Beach Road (**A1A/707**), shall be upgraded to include:
  - a. A minimum fifteen (15) foot wide **landscape** buffer strip;
  - b. One (1) canopy tree planted every thirty (30) feet on center;
  - c. One (1) palm or pine tree **for** each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
  - d. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (**36**) inches. Previously Condition D. 1. Resolution ZR-96-03 (Petition 95-83(A) (DRC / CO: ZONING / LANDSCAPE)

E. **LANDSCAPING ALONG THE NORTH AND SOUTH PROPERTY LINES**

1. Landscaping and buffering along the north and south property lines adjacent to multi-family residential shall be upgraded to include:
  - a. A minimum fifteen (15) **foot** wide landscape buffer strip.
  - b. A six (6) foot high opaque concrete wall. All required landscape material shall be planted on the exterior side of the wall prior to issuance of the issuance of the first Certificate of Occupancy. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with the abutting development. (CO: LANDSCAPE - Zoning)
2. The following landscaping requirements shall be installed on the exterior side **of** the required wall:

- a. One (1) canopy tree planted every thirty (30) feet on center.
- b. One (1) **palm** or pine tree for each thirty (30) linear feet of frontage. **A** group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location.
- c. Thirty (30) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. Previously Condition E. 1. Resolution ZR-96-03 (Petition 95-83(A) (CO: LAIUDSCAPE - Zoning)

**F. UNITY**

1. Prior to issuance **of** a building permit, the petitioner shall record in the public record a unity of title for the entire subject property. The unity shall be recorded in a form and manner acceptable to the County Attorney. The unity shall not be removed, altered, changed or amended without written approval from the Zoning Director. Previously Condition F. 1. Resolution ZR-96-03 (Petition 95-83(A) (BLDG PERMIT: CO ATT - Zoning)

**G. SIGNS**

1. Freestanding signs fronting on **A1A/SR707** shall be limited as follows:
  - a. Maximum sign height, measured from finished grade to highest point - five (5) feet;
  - b. Maximum sign face area per side - 50 square feet;
  - c.** Maximum number of signs - one (1); and
  - d. Style - monument style only. Previously Condition G. 1. Resolution ZR-96-03 (Petition 95-83(A) (CO: BLDG)

**H. COMPLIANCE**

1. 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; 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.

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. Previously Condition H. 1. Resolution ZR-96-03 (Petition **95-83 (A) (MONITORING)**)