

RESOLUTION NO. R-2013-0654

RESOLUTION APPROVING ZONING APPLICATION SV/ABN/Z/CA-2012-03116
(CONTROL NO. 1975-00168)
a Class A Conditional Use
APPLICATION OF Glenn Mestellar, Cheryl Justus
BY Cotleur & Hearing, Inc., AGENT
(Els Center of Excellence)

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 SV/ABN/Z/CA-2012-03116 was presented to the Board of County Commissioners at a public hearing conducted on May 23, 2013; 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 Class A Conditional Use.

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 SV/ABN/Z/CA-2012-03116, the petition of Glenn Mestellar, Cheryl Justus, by Cotleur & Hearing, Inc., agent, for a Class A Conditional Use to allow an Elementary or Secondary School (Charter) in the Single Family (RS) 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 May 23, 2013, subject to the Conditions of Approval described in EXHIBIT C-3, attached hereto and made a part hereof.

Commissioner Taylor moved for the approval of the Resolution.

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

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on May 23, 2013.

Filed with the Clerk of the Board of County Commissioners on May 30th, 2013.

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

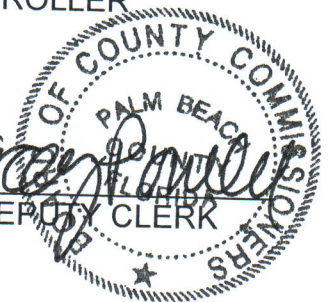


EXHIBIT A

LEGAL DESCRIPTION

ELS CENTER OF EXCELLENCE LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 34: THENCE N 00°01'05" E, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34 (BEARING BASIS), 1830.17 FEET TO THE INTERSECTION WITH A LINE 1830.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 34; THENCE S 89°15'49" E, 30.00 FEET ALONG SAID LINE TO THE INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF LIMESTONE CREEK ROAD AND THE POINT OF BEGINNING; THENCE N 00°01'05" E ALONG SAID EAST RIGHT-OF-WAY LINE, 315.02 FEET TO THE INTERSECTION WITH A LINE 2145.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE S 89°15'49" E ALONG SAID LINE, 200.02 FEET TO THE INTERSECTION WITH A LINE 230.00 FEET EAST OF AND PARALLEL TO SAID WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 34; THENCE N 00°01'05" E ALONG SAID LINE, 215.02 FEET TO THE INTERSECTION WITH A LINE 2360.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE S 89°15'49" E ALONG SAID LINE, 100.01 FEET TO THE INTERSECTION WITH A LINE 330.00 FEET EAST OF AND PARALLEL TO SAID WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE N 00°01'05" E ALONG SAID LINE, 283.07 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THE SHORES PLAT 2, AS RECORDED IN PLAT BOOK 55, PAGES 162-166, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S 89°54'36" E ALONG SAID SOUTH LINE, 999.91 FEET TO THE WEST LINE OF THE PLAT OF THE SHORES PLAT 1, AS RECORDED IN PLAT BOOK 54, PAGES 162-167, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE S 00°10'26" E ALONG SAID WEST LINE, 1004.46 FEET TO THE INTERSECTION WITH A LINE 1650.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE OF SOUTHWEST QUARTER OF SECTION 34; THENCE N 89°15'49" W ALONG SAID LINE, 1053.36 FEET TO THE INTERSECTION WITH A LINE 280.00 FEET EAST OF AND PARALLEL TO SAID WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE N 00°01'05" E ALONG SAID LINE, 180.01 FEET TO THE INTERSECTION WITH A LINE 1830.00 FEET NORTH OF AND PARALLEL TO SAID SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 34; THENCE N 89°15'49" W ALONG SAID LINE, 250.02 FEET TO THE POINT OF BEGINNING.

BEING PART OF THE FOLLOWING DESCRIBED PARCELS:

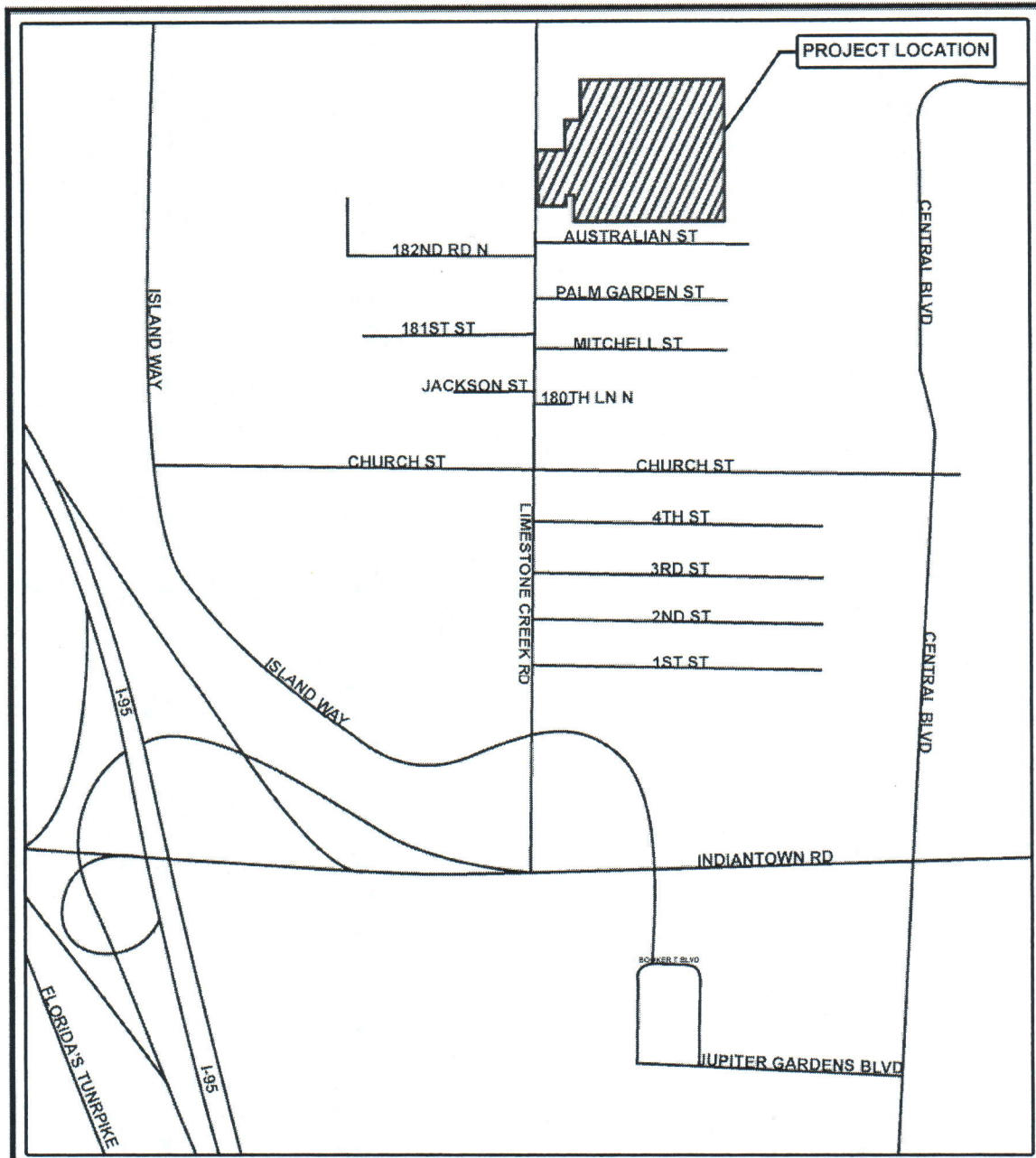
PARCEL 1

THE NORTH 250 FEET OF THE SOUTH 2,610 FEET OF THE EAST 300 FEET OF THE WEST 630 FEET OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, ALSO DESCRIBED AS LOTS 15 THROUGH 20, INCLUSIVE, OF PALM GARDENS, FIRST ADDITION, AN UNRECORDED PLAT.

PARCEL 2

THE WEST ONE-HALF (W 1/2) OF THE SOUTHWEST ONE-QUARTER (SW 1/4) OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS ALL PARCELS PREVIOUSLY CONVEYED, KNOWN AS LOTS 15 THROUGH 31, LOT 125, AND LOTS 127 THROUGH 317, INCLUSIVE, PALM GARDENS, FIRST ADDITION, AN UNRECORDED PLAT IN PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF LAND IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH County Florida

EXHIBIT B
VICINITY SKETCH



Location Map
Els Center of Excellence
Jupiter, FL



**Cotleur &
Hearing**

1934 Commerce Lane - Suite 1 - Jupiter, FL - 33458
561.747.6336 - 561.747.1377

EXHIBIT C-3

CONDITIONS OF APPROVAL

ALL PETITIONS

1.The Preliminary Site Plan is dated February 20, 2013. 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)

2.All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1975-0957 (Control No. 1975-168), have been deleted. (ONGOING: MONITORING - 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, 2017. 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-Eng)

2.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. (BLDG PERMIT: MONITORING-Eng)

3.Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall receive approval for and complete the construction of a right turn lane, east approach on Island Way at Limestone Creek Road.

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. (CO: MONITORING-Eng)

4.After the charter school has been operational for 6 months or prior to March 1, 2014, whichever occurs later, the property owner shall submit a traffic study signed and sealed by a licensed professional engineer documenting the current functioning of the Church Street and Limestone Creek Road intersection during peak hours. The study shall be submitted for review to the County Engineer. (DATE: MONITORING - Eng)

5.If the traffic study required in Engineering Condition 4 indicates that improvements are necessary, the property owner shall fund construction plans, obtain a right of way permit and construct the improvements as required and approved by the County Engineer. Any required construction shall be completed prior to August 1, 2014 or within six months of the traffic study being completed, whichever occurs later. (DATE/ONGOING: MONITORING - Eng)

6.The Property Owner shall design, install and perpetually maintain landscape within Limestone Creek Road right of way from Church Street north to the project's northern property boundary. This landscaping and any required irrigation shall strictly conform to the specifications and standards in the County's Streetscape Section guidelines and all other applicable County requirements. If right of way landscape is permitted by Palm Beach County's Engineering Department, the property owner shall be responsible of maintenance of the affected right of way area as long as the improvements are in place, the permit is valid and until the right of way is restored to previous condition. If the

property owner is unable to meet County design requirements, the property owner shall be relieved from this condition.

a. Prior to issuance of the first building permit, the necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development Division. (BLDG PERMIT: MONITORING-Eng)

b. Prior to the issuance of the first certificate of occupancy, all installation of the landscaping and irrigation shall be completed. (CO: MONITORING -Eng)

ENVIRONMENTAL

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Property Owner shall incorporate existing native trees and under-story into an Alternative Landscape Plan (ALP) and label them. If this cannot be accomplished, documentation describing why the trees cannot be incorporated shall be necessary. Tree surveys shall only include the native trees of six inches width and greater. Labeling shall include the location of the native vegetation, tag number, species and Diameter at Breast Height (DBH). (DRO: ERM - ERM)

LANDSCAPE - GENERAL

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (DRO: LANDSCAPE - Zoning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall submit a Landscape Plan showing the incorporation of a bioswale along the northwest portion of the subject property. The bioswale shall be designed and planted with native materials to provide additional screening to the residential properties located north of the subject property. (DRO: LANDSCAPE- Zoning)

3. Prior to the issuance of the First Building Permit, the Property Owner shall provide a letter of acceptance of the Landscape Plan from the President of the Shores of the Jupiter Homeowners Association, Inc. (BLDG PERMIT: MONITORING – Zoning)

LIGHTING

1. Other than the security lighting, no outdoor lighting shall be installed for the athletic field or the recreational uses. (ONGOING: CODE ENF – Zoning)

PARKING

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall replace approximately Seventy Eight (78) paved parking spaces to grassed parking spaces. (DRO: ZONING – Zoning)

USE LIMITATIONS

1. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning)

2. The Property Owner shall provide opportunities for the residents of the Limestone Creek Community and the West Jupiter Tutorial Center to utilize the public areas of the Charter School including but not limited to the gymnasium, cafeteria and the recreation amenities. (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; 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)