

RESOLUTION NO. R-2015- 0537

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2014-01619
(CONTROL NO. 2004-00616)

a Requested Use

APPLICATION OF Donna Klein Jewish Academy, Inc.

BY Land Design South, Inc., AGENT

(Delray Marketplace - Happy Hollow Charter School)

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, 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;

WHEREAS, Zoning Application DOA/R-2014-01619 was presented to the Board of County Commissioners at a public hearing conducted on April 23, 2015;

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 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;

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;

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 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 a Requested Use; and,

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 DOA/R-2014-01619, the petition of Donna Klein Jewish Academy, Inc., by Land Design South, Inc., agent, for a Requested Use to allow an Elementary or Secondary School, (Charter School). , 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 April 23, 2015, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Mayor thereupon declared that the resolution was duly passed and adopted on April 23, 2015.

Filed with the Clerk of the Board of County Commissioners on April 29th, 2015.

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

Tracts A, C and D, of ASCOT-LYONS & ATLANTIC PUD PRESERVE PARCEL 1, accord to the Plat thereof, as recorded in Plat Book 110, Page 62, of the Public Records of Palm Beach County, Florida.

AND

Tract B, and the Southerly 659.60 feet of Tract D, of DELRAY MARKETPLACE PRESERVE 1, according to the Plat thereof, as recorded in Plat Book 111, Page 98, of the Public Records of Palm Beach County, Florida.

EXHIBIT B
VICINITY SKETCH

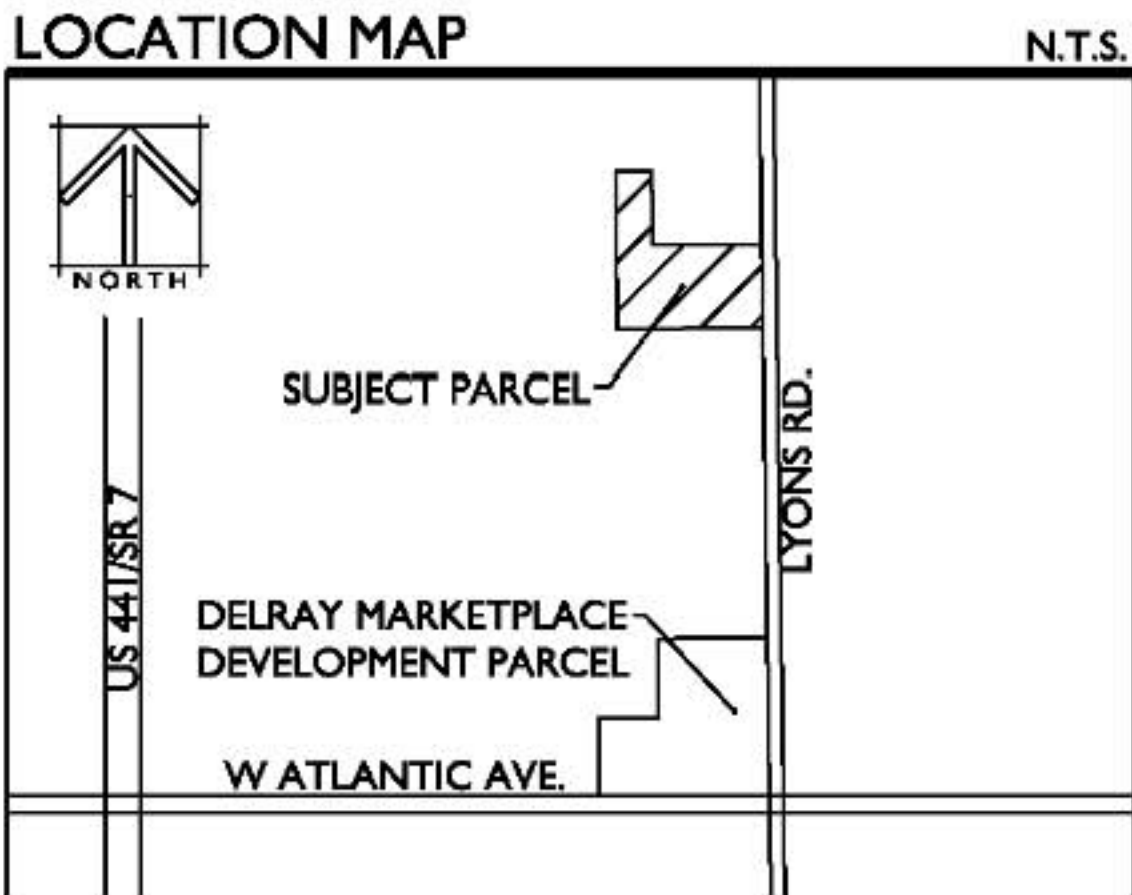


EXHIBIT C

CONDITIONS OF APPROVAL

Requested Use

ALL PETITIONS-HAPPY HOLLOW CHARTER SCHOOL

1. The approved Preliminary Site Plan is dated January 15, 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. (ONGOING: MONITORING - Zoning)

ALL PETITIONS

2. Prior to Final Site Plan approval by the Development Review Officer, the Site and Regulating Plans shall be updated to include the location of the Base Building Line for ingress/egress easement along the north property line consistent with Article 3.D.1.D, unless Waived by the County Engineer. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW-HAPPY HOLLOW CHARTER SCHOOL

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations shall be submitted for final review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated January 21, 2015. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning)

ENGINEERING-HAPPY HOLLOW CHARTER SCHOOL

1. Prior to issuance of the first building permit, the Property Owner shall combine the charter school property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

2. The Property Owner shall construct the following at the intersection of Lyons Road and Happy Hollow Road:

- i) dual left-turn lanes south approach 350 feet in length with a 100-ft taper or as approved by the County Engineer and
- ii) a right-turn lane north approach as shown in the Site Plan or as approved by the County Engineer and
- iii) a left-turn lane and a right-turn lane west approach

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.

Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

3. Pursuant to the Traffic Impact Study and the Operational Plan submitted by the Applicant, the school must operate with staggered arrival and dismissal times for Grades K to 6th and Grades 7th to 12th, separated by a minimum of one (1) hour or as approved by the County Engineer. (ONGOING: ENGINEERING - Engineering)

4. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall permit, fund, install and have operational a traffic signal at Lyons Road and Happy Hollow Road. Signalization shall be a mast arm structure installation. The cost of signalization shall be paid by the Property Owner and shall also include all design costs and any required utility relocation and right of way or easement acquisition. The cost of

signalization shall also include all design costs and any required utility relocation. The signal shall also include provisions for equestrian crossings should these crossings be required and approved by the County Engineer. (CO: MONITORING - Land Development)

5. The Property Owner shall fund the construction plans and the construction of Happy Hollow Road as a three (3) lane road plus the appropriate turn lanes and tapers. These construction plans shall be approved by the County Engineer based upon Palm Beach County's minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. Construction plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. All canal crossings within the improvement limits shall be constructed to their ultimate configuration. The Property Owner shall maintain the portion of Happy Hollow Road along the property frontage in perpetuity or until Palm Beach County, or another governmental entity, accepts the right of way for maintenance.

a. Prior to the issuance of the first Building Permit, permits required for improvements identified above shall be obtained from Palm Beach County. (BLDGPM: MONITORING - Engineering)

b. Prior to the issuance of the first Certificate of Completion, construction of improvements identified above shall be completed. (BLDGPM/CC: MONITORING - Engineering)

6. The property owner shall provide to the Palm Beach County Roadway Production Division, Right of Way Acquisition Section, a road right of way deed and all associated documents as required by the County Engineer for 55 feet, measured from centerline of the Lyons Road right of way. All right of way deed(s) and associated documents 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 Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. 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. 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. Palm Beach County will prepare 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/ONGOING: MONITORING - Engineering)

7. 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 those segments of:

- i. Happy Hollow Road along the property frontage;
- ii. Lyons Road along the property frontage; and
- iii. a maximum of an additional 800 feet of these 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. (BLDGPM: MONITORING - Engineering)

8. Prior to the issuance of the first building permit, the Property Owner shall provide a temporary roadway construction easement to Palm Beach County along Lyons Road. 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. (BLDGPM: MONITORING - Engineering)

9. Prior to the issuance of the first Certificate of Completion, Property Owner shall construct an eight (8) foot wide concrete sidewalk along the north side of Happy Hollow Road from the west property line to Lyons Road. 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. (BLDGPM/CC: MONITORING - Engineering)

10. The Property Owner shall clear the existing vegetation from the south 20 feet of Happy Hollow Road right of way in conjunction with the clearing of the northern portion for the road construction. The south 20 feet of the right of way shall remain unobstructed to allow for public use. (ONGOING: ENGINEERING - Engineering)

ENGINEERING

11. 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, 2016. 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)

b. No Building Permits for the site shall be issued until the Property Owner makes a proportionate share payment in the amount of 12.31% of the total cost of widening Atlantic Boulevard between the Florida's Turnpike and Hagen Ranch Road to a six-lane-divided cross-section. This proportionate share amount may be applied towards construction of this improvement or one or more other improvements that will benefit the mobility in the area impacted by the project, as determined by the County Engineer. The value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the County Engineer or other method approved by the County Engineer at the time of the payment. The proportionate share has been calculated as \$249,573. (BLDGPM: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. 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. (ONGOING: LANDSCAPE - Zoning)

2. Field adjustment of wall, fence, 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. (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - GENERAL-PERIMETER NORTH PROPERTY LINE ABUTTING THE LAKE WORTH DRAINAGE DISTRICT CANAL

3. In addition to Code requirements, the 5 foot compatibility buffer along the north property line abutting the Lake Worth Drainage District Canal L-32 (LWDD L-32) shall be increased to 15 feet in order to include an 8 foot sodded area for an Equestrian Trail maintained by the Property Owner. (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - GENERAL-PERIMETER NORTH PROPERTY LINE ABUTTING THE INGRESS/EGRESS EASEMENT

4. In addition to Code requirements, the 15 foot right of way buffer along the north property line abutting the ingress/egress easement shall be increased to 25 feet in order to include an 8 foot sodded area for an Equestrian Trail maintained by the Property Owner. (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - GENERAL-PERIMETER EAST PROPERTY LINE ABUTTING THE LAKE

5. In addition to Code requirements, the 5 foot compatibility buffer along the east property line abutting the Lake shall be increased to 15 feet in order to include an 8 foot sodded area for an Equestrian Trail maintained by the Property Owner. (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - GENERAL-PERIMETER WEST PROPERTY LINE

6. In addition to Code requirements, the 5 foot compatibility buffer along the west property line shall be increased to 15 feet in order to include an 8 foot sodded area for an Equestrian Trail maintained by the Property Owner. (ONGOING: LANDSCAPE - Zoning)

PLANNING-

1. Prior to final site plan approval for the Charter School, by the Development Review Officer (DRO), the property owner shall provide the final Rural Parkway Planting Plan for the Charter School site, as approved by Planning and Landscaping. (DRO: PLANNING - Planning)

2. Prior to the issuance of a building permit for any buildings for the Charter School site, the property owner shall commence construction of the Rural Parkway adjacent to the Charter School. (BLDGPM: MONITORING - Planning)

3. Prior to the issuance of a Certificate of Occupancy for any buildings on the Charter School site, the property owner shall complete construction of the Rural Parkway adjacent to the Charter School. (CO: MONITORING - Planning)

4. The Charter School site is limited to a maximum of 153,614.34 total square feet with no administrative increases (0.15 FAR). (ONGOING: PLANNING - 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: 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.