

RESOLUTION NO. R-2016-0126

RESOLUTION APPROVING ZONING APPLICATION CA-2015-01712
(CONTROL NO. 2015-00120)
a Class A Conditional Use
APPLICATION OF Opportunity Inc Of Palm Beach County, R & L Properties Westgate
LLC
BY Jon E Schmidt & Associates, AGENT
(Opportunity Inc. Daycare)

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, (ULDC), have been satisfied;

WHEREAS, Zoning Application CA-2015-01712 was presented to the Board of County Commissioners at a public hearing conducted on January 28, 2016;

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 ULDC 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 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 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 of the ULDC for a Class A Conditional Use ; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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-2015-01712, the application of Opportunity Inc Of Palm Beach County, R & L Properties Westgate LLC, by Jon E Schmidt & Associates, Agent, for a Class A Conditional Use to allow a General Daycare, 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 January 28, 2016, 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 Burdick and, upon being put to a vote, the vote was as follows:

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

The Mayor thereupon declared that the resolution was duly passed and adopted on January 28, 2016.

Filed with the Clerk of the Board of County Commissioners on February 8th, 2016.

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

PARCEL 1

That part of the South 131 feet of the East 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, lying North of the right-of-way of West Gate Avenue as described in instrument recorded in Official Records Book 746, Page 318, of the Public Records of Palm Beach County, Florida.

LESS AND EXCEPTING there from the East 161.03 feet and EXCEPTING the West 15 feet thereof and LESS the right-of-way described in the instrument recorded in Official Records Book 9484, Page 616; as amended by instrument recorded in Official Records Book 9511, Page 1187, both of the Public Records of Palm Beach County, Florida.

PARCEL 2

THAT PART OF THE SOUTH 131.00 FEET OF THE EAST 161.03 FEET OF THE EAST HALF OF THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, LYING NORTH OF THE RIGHT-OF-WAY OF WEST GATE AVENUE, PALM BEACH COUNTY, FLORIDA. LESS THAT PORTION OF WEST GATE AVENUE AS SHOWN IN DOCUMENT RECORDED IN O.R. BOOK 746, PAGE 319 AND IN O.R. BOOK 9484, PAGE 616, AS AMENDED BY INSTRUMENT RECORDED IN O.R. BOOK 9511, PAGE 1187, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 3

The South 1/2 of the South 1/2 of the following described parcel of land: The South 1/2 of the East 1/2 of the West 1/2 of the Northeast 1/4 of the Northeast 1/4 of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, LESS the South 131 feet and the West 10 feet thereof.

PARCEL 4

A parcel of land situate, lying and being in Palm Beach County, Florida and being more particularly described as follows:

North Half (N 1/2) of the South (S 1/2) less the North 10 feet thereof, of the South Half (S 1/2) of the East Half (E 1/2) of the West Half (W 1/2) of the Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section 25, Township 43 South, Range 42 East, Palm Beach County, Florida, less the South 131 feet and the West 10 feet thereof.

PARCEL 5

THE SOUTH ONE-HALF (S1/2) OF THE NORTH ONE-HALF (N1/2) AND THE NORTH 10 FEET OF THE NORTH HALF OF THE SOUTH HALF OF THE FOLLOWING DESCRIBED PROPERTY:

THE EAST ONE-HALF, LESS THE SOUTH 131 FEET AND THE WEST 10 FEET THEREOF, OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 25, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE WEST FIVE FEET OF PARCELS 3,4 & 5 LYING WITHIN THAT PORTION OF ROAD PLAT BOOK 4, PAGE 115 AS RECORDED IN THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA.

CONTAINING 159,338 SQUARE FEET OR 3.66 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

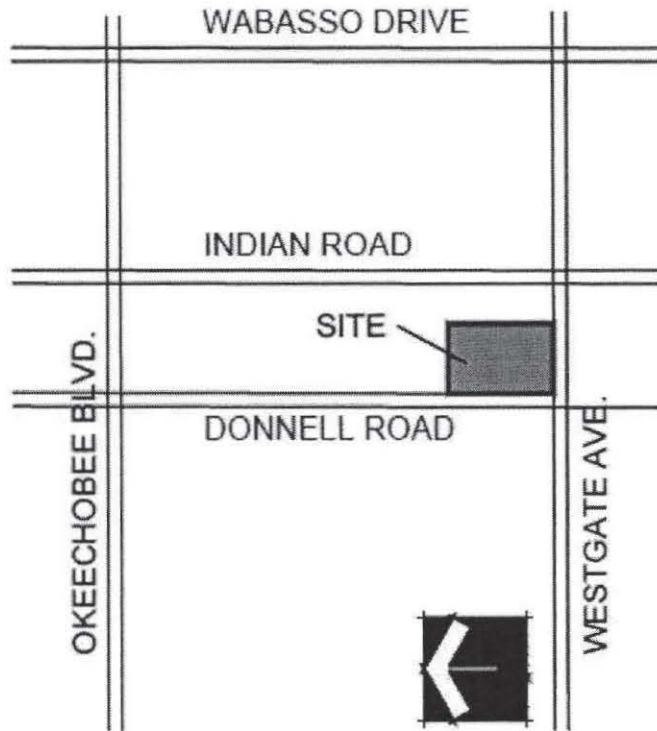


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Preliminary Site Plan is dated November 12, 2015. The approved Regulating Plan is dated October 26, 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: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Day Care General shall be submitted for 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). (DRO: 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, 2020. 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. 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. (BLDGPM: MONITORING - Engineering)

3. Prior to final site plan approval by the DRO, the Property Owner shall reserve for future dedication thirty (30) feet, measured from centerline of the proposed right of way sixty (60) feet in width on an alignment approved by the County Engineer, for Donnell Road. The reservation shall be shown on the site plan. (BLDGPM: MONITORING - Engineering)

4. 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 Donnell Road and Westgate Avenue along the property frontage; and 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. (BLDGPMT: MONITORING - Engineering)

5. Prior to recordation of the plat, the Property Owner shall abandon or release, and relocate as necessary, the Southern Bell easement on the site plan. (PLAT: MONITORING - Engineering)

6. Prior to recordation of the plat, the Property Owner shall establish a Line of Sight Easement along the north side of Westgate Avenue at the east side of the project's entrance. (PLAT: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. All preserved trees (including canopy trees and palms) are required to be protected with tree barriers during all stages of construction. Permanent tree protection devices including, but not limited to: tree wells, retaining walls, shall be installed for the preservation of trees. (ONGOING: ZONING - Zoning)

2. All trees must be tagged according to the Tree Disposition Plan prior to tree removal. (ONGOING: ZONING - Zoning)

3. A Landscape inspection shall be completed prior to the issuance of any tree relocation and removal or building permits to ensure preserved trees are properly marked and protection devices are installed properly. (BLDGPMT: BUILDING DIVISION - Zoning)

4. Prior to Final Approval by the Development Review Officer, the Applicant shall submit a revised Tree Disposition Plan to the Landscape Section depicting tree quantities that are required to be mitigated, if the mitigation is on or offsite, and the quantities of replacement trees/palms that will be required for vegetation proposed to be removed. (DRO/ONGOING: ZONING - Zoning)

PLANNING

1. The property owner shall maintain the vehicular and pedestrian connection on the eastern property line as shown on the Site Plan. (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: 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.