

RESOLUTION NO. R-2016- 1844

RESOLUTION APPROVING ZONING APPLICATION ZV/Z/DOA/CA-2016-01040
(CONTROL NO. 1992-00049)
Development Order Amendment
APPLICATION OF Ldr Academy Inc
BY Carlton Fields, P.A., AGENT
(Batt 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 pursuant to 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 ZV/Z/DOA/CA-2016-01040 was presented to the Board of County Commissioners at a public hearing conducted on December 7, 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, 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 Process) for 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.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 ZV/Z/DOA/CA-2016-01040, the Application of Ldr Academy Inc, by Carlton Fields, P.A., Agent, for Development Order Amendment to reconfigure the site plan; add a Conditional Use; amend Conditions of Approval (Building and Site Design); and, to reduce the number of students, 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 December 7, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

Commissioner Paulette Burdick, Mayor	- Aye
Commissioner Melissa McKinlay, Vice Mayor	- Absent
Commissioner Hal R. Valeche	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on December 7, 2016.

Filed with the Clerk of the Board of County Commissioners on December 19th, 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

LEGAL DESCRIPTION:

LOTS 16, 17 AND 18, OF ORANGE TERRACE, 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 23, PAGE 118; ALSO ALL THAT CERTAIN PARCEL OF LAND SITUATE, LYING AND BEING IN THE COUNTY OF PALM BEACH AND STATE OF FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF STATE HIGHWAY NO. 5 (U.S. HIGHWAY NO. 1) WITH THE SOUTH LINE OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 4, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, AND RUN THENCE NORTHEAST ALONG THE CENTERLINE OF SAID HIGHWAY 2850 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE CENTER LINE OF SAID HIGHWAY 100 FEET; THENCE WEST ALONG A LINE PARALLEL TO THE SOUTH LINE OF SAID QUARTER SECTION AND TO THE WEST LINE OF SAID QUARTER SECTION; THENCE SOUTH ALONG THE WEST LINE OF SAID QUARTER SECTION TO THE INTERSECTION OF A LINE FROM THE POINT OF BEGINNING AND PARALLEL TO THE SOUTH LINE OF SAID QUARTER SECTION; THENCE EAST ALONG SAID LINE PARALLEL TO THE SOUTH LINE OF SAID QUARTER SECTION TO THE POINT OF BEGINNING; LESS THE WEST 1000 FEET THEREOF (AS MEASURED ALONG THE SOUTH LINE OF ORANGE TERRACE), AND LESS THE RIGHT OF WAY OF U.S. HIGHWAY NO. 1. CONTAINING 2.13 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

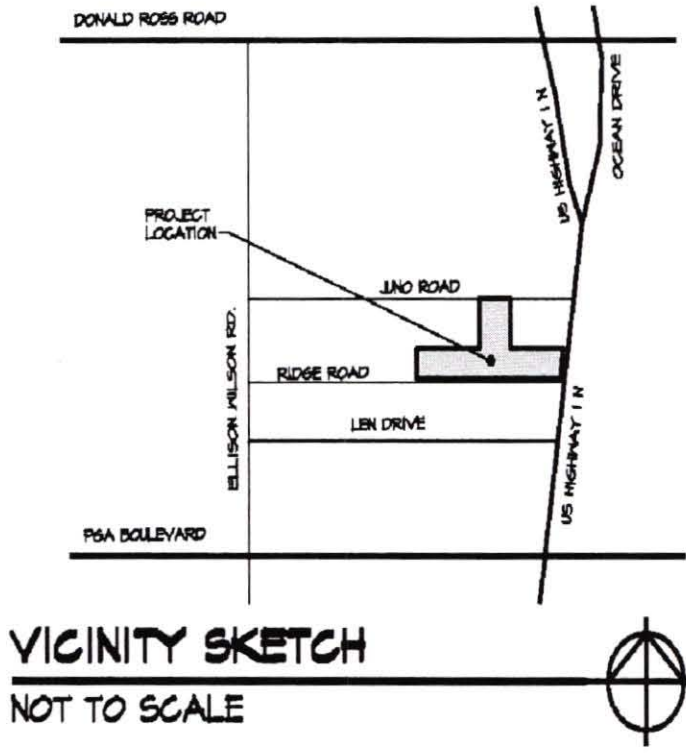


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous A Condition 1 of Resolution R-1993-247, Control No.1992-00049, which currently states:

The petitioner shall obtain site plan certification from the Development Review Committee of the site plan approved by the Board of County Commissioners on or before May 30, 1993. There shall be no administrative time extensions to this condition.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-93-247(Control 92-00049), 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 or Zoning Commission, unless expressly modified. (DATE/ONGOING: MONITORING - Zoning)

2. Previous A Condition 2 of Resolution R-1993-247, Control No.1992-00049, which currently states:

Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit No. 28). All previous approvals are extinguished. Any modifications must be approved by the Board of County Commissioners unless the proposed use or design changes are permitted pursuant to Section 4.4 (Development Review Committee) of the Palm Beach county Land Development Code or required by the conditions of approval contained herein.

Is hereby amended to read:

The approved Preliminary Site Plan is dated October 19, 2016. 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)

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 January 31, 2018, the Property Owner shall abandon or release, and relocate if necessary, any and all easements shown in conflict with the existing structures. (DATE/ONGOING: MONITORING - Engineering)

HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (ONGOING: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous D Condition 1 of Resolution R-1993-247, Control No.1992-00049)

2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous D Condition 2 of Resolution R-1993-247, Control No.1992-00049)

LANDSCAPE - GENERAL

1. Previous F Condition 1 of Resolution R-1993-247, Control No.1992-00049, which currently states:

All trees required to be planted on site by this approval 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.

Is hereby deleted. [REASON: Existing trees exceed this height. Some of this language is obsolete.]

2. Previous F Condition 2 of Resolution R-1993-247, Control No.1992-00049, which currently states:

The property owner shall maintain the required hedge around the entire perimeter of the outdoor play area at a minimum height of forty-eight (48) inches within two years of installation. Hedge material such as wax myrtle or coco plum shall be acceptable.

Is hereby deleted. [REASON: Minimum Code Requirement is a six (6) foot hedge for a residential use to a civic use.]

LIGHTING

1. Previous H Condition 1 of Resolution R-1993-247, Control No.1992-00049, which currently states:

All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets.

Is hereby deleted. [REASON: Code Requirement.]

2. All lighting fixtures shall not exceed fifteen (15) feet in height. (ONGOING: ZONING - Zoning) (Previous H Condition 2 of Resolution R-1993-247, Control No.1992-00049)

3. All outdoor lighting shall be extinguished no later than 11:00 p.m. Security lighting only is excluded from this requirement. (ONGOING: ZONING - Zoning) (Previous H Condition 3 of Resolution R-1993-247, Control No.1992-00049)

PLANNING

1. Previous B Condition 1 of Resolution R-1993-247, Control No.1992-00049, which currently states:

The property owner shall voluntarily annex into the Town of Juno Beach at such time the subject property becomes contiguous to the Town or is the subject of an annexation proposal by the Town.

Is hereby deleted. [REASON: No longer applicable.]

SIGNS

1. Freestanding ground mounted signage fronting on US 1 and Juno Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade - ten (10) feet;
- b. Maximum sign face area per side - 100 square feet;
- c. Maximum number of signs - one (1) per frontage. (ONGOING: ZONING - Zoning) (Previous J Condition 1 of Resolution R-1993-247, Control No.1992-00049)

2. Previous J Condition 2 of Resolution R-1993-247, Control No.1992-00049, which currently states:

No signs shall encroach into the perimeter landscape buffers or vegetation preservation areas. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: The Code allows a sign to be located in a landscape buffer.]

SITE DESIGN

1. Previous C Condition 1 of Resolution R-1993-247, Control No.1992-00049, which currently states:

Total gross floor area shall be limited to a maximum of 9,630 square feet (7,000 square feet day care facility, 1,000 square feet unenclosed porch, a 630 square foot unenclosed drive through canopy and a 1,000 square foot detached garage.

Is hereby deleted. [REASON: The approved day care has been modified and the plan is regulated by the Site Plan dated October 19, 2016.]

2. Previous C Condition 2 of Resolution R-1993-247, Control No.1992-00049, which currently states:

The day care center shall be limited to a maximum of one hundred fifty (150) children.

Is hereby amended to read:

The day care center shall be limited to a maximum of thirty (30) children or persons. (ONGOING: ZONING - Zoning)

3. Previous C Condition 3 of Resolution R-1993-247, Control No.1992-00049, which currently states:

Architectural character and treatment which is compatible and harmonious with abutting development shall be provided on all sides of the building.

Is hereby deleted. [REASON: Code Requirement]

4. Previous C Condition 4 of Resolution R-1993-247, Control No.1992-00049, which currently states:

All air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color and character of the principle structure.

Is hereby deleted. [REASON: Code Requirement]

5. No outdoor loudspeaker system audible off site shall be permitted. (Previous C Condition 5 of Resolution R-1993-247, Control No.1992-00049)

6. No business activities shall be allowed on the site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. (ONGOING: ZONING - Zoning) (Previous C Condition 6

of Resolution R-1993-247, Control No.1992-00049)

7. Previous C Condition 7 of Resolution R-1993-247, Control No.1992-00049, which currently states:

Prior to site plan certification by the Development Review Committee, the petitioner shall provide the Zoning Division with detailed information and receive approval of the grading of the subject property abutting residential land uses.

Is hereby deleted. [REASON: On site retention a grading is a Land Development code requirement.]

8. Prior to final approval by the Development Review Officer any outdoor play equipment permanently anchored to the ground shall be depicted on the site plan. The play equipment shall not be located in any required landscape area or easement. (DRO: ZONING - Zoning)

9. Prior to Final approval by the Development Review Officer, the two Drop-off spaces shall be revised to meet the minimum twelve (12) foot width dimension. (DRO: ZONING - Zoning)

SOLID WASTE AUTHORITY

1. The property owner and/or lessee shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (ONGOING: ZONING - Zoning) (Previous I Condition 1 of Resolution R-1993-247, Control No.1992-00049)

2. Previous I Condition 2 of Resolution R-1993-247, Control No.1992-00049, which currently states:

The petitioner shall participate in a recycling program for paper, plastic, metal and glass products when available in the area. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Redundant condition.]

UTILITIES

1. When irrigation quality water is available within 500 feet of the property, the petitioner shall connect to the system subject to permitting and/or requirements of the Florida Department of Environmental Regulations and/or the South Florida Water Management District. The cost for connection shall be borne by the property owner. (Previous G Condition 1 of Resolution R-1993-247, Control No.1992-00049)

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.