

RESOLUTION NO. R-2023-1419

RESOLUTION APPROVING ZONING APPLICATION SV/CA-2022-01490
(CONTROL NO. 2022-00007)
a Class A Conditional Use
APPLICATION OF Islamic Center of West Delray Beach Inc.
BY Urban Design Studio, AGENT
(Islamic Center 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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application SV/CA-2022-01490 submitted on behalf of Islamic Center of West Delray Beach Inc., by Urban Design Studio, Agent, for a Class A Conditional Use to allow a Elementary and Secondary School on 9.85 acres, and for a Class A conditional use to allow a General Daycare on 9.85 acres was presented to the Board of County Commissioners at a public hearing conducted on September 28, 2023;

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 (Application Processes and 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 Processes) for a Class A Conditional Use;

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.B.6.C (Board Action) 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 SV/CA-2022-01490, the Application of Islamic Center of West Delray Beach Inc., by Urban Design Studio, Agent, for a Class A Conditional Use to allow an Elementary and Secondary School on 9.85 acres, 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 September 28, 2023, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

- Commissioner Gregg K. Weiss, Mayor - Aye
- Commissioner Maria Sachs, Vice Mayor - Nay
- Commissioner Maria G. Marino - Aye
- Commissioner Michael A. Barnett - Nay
- Commissioner Marci Woodward - Aye
- Commissioner Sara Baxter - Nay
- Commissioner Mack Bernard - Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on September 28, 2023.

Filed with the Clerk of the Board of County Commissioners on October 17th, 2023

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK


EXHIBIT A

LEGAL DESCRIPTION

TRACT 47 AND THAT PORTION OF TRACT 46 (LESS THE EAST 23.4 FEET OF TRACT 46), LYING WITHIN THE WEST 990 FEET OF THE NORTHWEST QUARTER (NW ¼) OF SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST, THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26 TO 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 428,645 SQUARE FEET/9.8403 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

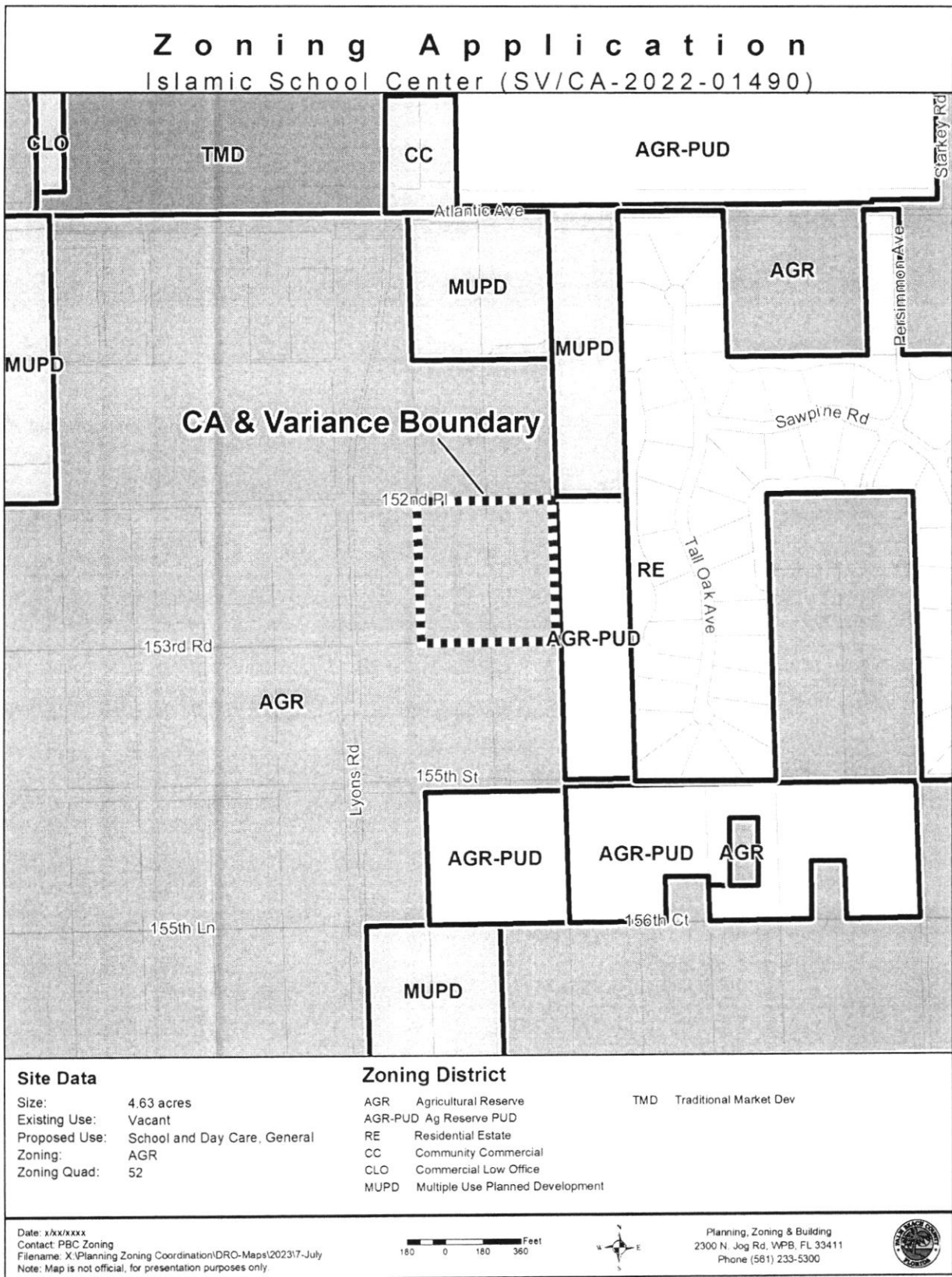


EXHIBIT C

CONDITIONS OF APPROVAL

Class A Conditional Use

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 18, 2023. 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. (ONGOING: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Applicant may relocate the buildings, recreation areas, drainage, and other site elements such as parking and dumpsters, in order to address concerns of compatibility of the adjacent property owner at the south west of the subject property. (DRO: ZONING - Zoning)

ACCESS

1. Prior to recordation of the Plat, the Property Owner shall record a Cross Access Agreement from the subject property to the property to the south in a form and manner that is acceptable to the County Attorney's office. (PLAT: ZONING - Zoning)

ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2027, or as amended. 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. The Property Owner shall construct i) right turn lane south approach on Lyons Rd at 152nd Place ii) left turn lane north approach on Lyons Rd at 152nd Place.

This construction shall be concurrent with the paving and drainage improvements for the site. As of writing of this condition, Lyons Rd was under construction for widening from 2 lanes to 4 lanes divided. Coordination with the County should be done to find the best way to accommodate the above turn lanes within the project limits. 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.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

3. The Property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineer at 152nd Place and Lyons Rd. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. No Building Permits shall be issued until the Property Owner provides acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPMT: MONITORING - Engineering)

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement

surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING - Engineering)

4. 152nd Place shall have two exiting lanes on the east approach at Lyons Rd intersection of adequate storage length, as approved by the County Engineer. (ONGOING: ENGINEERING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

6. The Property Owner shall reconstruct 152nd PL from Lyons Road to the east driveway connection, plus tapers, to be consistent with Palm Beach County standards for a local commercial street. 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.

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

b. The Property Owner shall maintain this section of roadway in perpetuity unless the maintenance obligation is reassigned to another entity as approved by the County Engineer. (ONGOING: MONITORING - Engineering)

7. Property Owner shall construct a minimum 8 foot wide pathway/sidewalk along the south side of 152nd Place from Lyons Road to their east property line. 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. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Engineering)

8. No Certificate of Occupancy for the Day Care and The Private School shall be issued prior to the completion of the widening of Lyons Rd from a 2 lane section to a 4 lane divided section from Atlantic Ave to L-38 canal, currently under construction as of the issuance date of this resolution or August 1, 2025, whichever is earlier. (ONGOING: MONITORING – Engineering)

ENVIRONMENTAL

1. Prior to the final approval by the Development Review Officer, a Phase II Environmental Site Assessment shall be provided to the Department of Environmental Resources Management for review. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE - PERIMETER-EAST AND SOUTH PROPERTY LINES

1. In addition to the requirements for a 20-foot wide Type 3 Incompatibility buffer for the east and south property lines the Development shall provide a 6-foot wall. (BLDGPM/DRO: ZONING - Zoning)

2. Buffer reduction and/or easement encroachments within the east and south 20-foot wide Type 3 Incompatibility Buffers are prohibited. (ONGOING: ZONING - Zoning)

LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE

3. In addition to the requirements for the Type 3 Incompatibility buffer for the south property line the following shall apply:

a. the emergency access to the south property shall include an opaque gate; and
b. the gate shall align with the wall included within the buffer. (ONGOING: ZONING - Zoning)

USE LIMITATION

1. Domesticated Livestock is prohibited on-site, unless related to the education of the students. (ONGOING: CODE ENFORCEMENT/ZONING – 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: 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.