

RESOLUTION NO. R-2016-0676

RESOLUTION APPROVING ZONING APPLICATION Z/DOA-2015-02523
(CONTROL NO. 1975-00168)
a Development Order Amendment
APPLICATION OF Els For Autism Foundation Inc
BY Cotleur & Hearing, Inc., AGENT
(Els Center for 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;

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 Z/DOA-2015-02523 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 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 a 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 Z/DOA-2015-02523, the Application of Els For Autism Foundation Inc, by Cotleur & Hearing, Inc., Agent, for a Development Order Amendment to reconfigure the Site Plan, add land area, square footage, and an access point, 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 May 26, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on May 26, 2016.

Filed with the Clerk of the Board of County Commissioners on June 6th, 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
FLORIDA

The seal is circular with a double-line border. The outer ring contains the text "PALM BEACH COUNTY COMMISSIONERS" at the top and "BOCA RATON" at the bottom. The inner ring contains "PALM BEACH COUNTY" at the top and "FLORIDA" at the bottom. A five-pointed star is positioned at the bottom center of the seal.

EXHIBIT A
LEGAL DESCRIPTION

TRACT "A" OF ELS CENTER OF EXCELLENCE, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA AS RECORDED IN PLAT BOOK 117, PAGES 147-148.

TOGETHER WITH THE FOLLOWING PARCELS:

THE NORTH 250 FEET OF THE SOUTH 2610 FEET OF THE EAST 50 FEET OF THE WEST 330 FEET OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. (ALSO KNOWN AS LOT 21, FIRST ADDITION TO PALM GARDENS, UNRECORDED.)

THE NORTH 250 FEET OF THE SOUTH 2610 FEET OF THE WEST 50 FEET OF THE EAST 100 FEET OF THE WEST 330 FEET SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. (ALSO KNOWN AS LOT 22, FIRST ADDITION TO PALM GARDENS, UNRECORDED.)

THE NORTH 50 FEET OF THE SOUTH 2610 FEET OF THE EAST 200 FEET OF THE WEST 230 FEET SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. (ALSO KNOWN AS LOT 23, FIRST ADDITION TO PALM GARDENS, UNRECORDED.)

THE UNIMPROVED STREET OF THE FIRST ADDITION TO PALM GARDENS, UNRECORDED

THE EAST 300 FEET OF THE WEST 330 FEET OF THE SOUTHWEST QUARTER OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE SOUTH 2610 FEET THEREOF.

EXHIBIT B

VICINITY SKETCH



EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-654, Control No.1975-00168, which currently states:

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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated March 17, 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)

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) [Note: COMPLETED] (Previous ALL PETITIONS Condition 2 of Resolution R-2013-654, Control No.1975-00168)

3. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-0654 (Control 1975-00168), 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. (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, 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 - Engineering) (Previous ENGINEERING Condition 1 of Resolution R-2013-654, Control No.1975-00168)

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) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2013-654, Control No.1975-00168)

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. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2013-654, Control No.1975-00168)

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 - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-654, Control No.1975-00168)

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 - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2013-654, Control No.1975-00168)

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. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED]

b. Prior to the issuance of the first certificate of occupancy, all installation of the landscaping and irrigation shall be completed. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2013-654, Control No.1975-00168)

7. 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/CO: MONITORING - Engineering)

8. Prior to recordation of the plat, the Property Owner shall abandon or release, and relocate as necessary, the 30 ft right of way along the north property line, or as otherwise required by the County Attorney's Office and the County Engineer. (PLAT: MONITORING - Engineering)

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: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 1 of Resolution R-2013-654, Control No.1975-00168)

LANDSCAPE - GENERAL

1. Concurrent with the submittal for Building Permits, 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. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-654, Control No.1975-00168)

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: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2013-654, Control No.1975-00168)

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. (BLDGPM: MONITORING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2013-654, Control No.1975-00168)

LANDSCAPE - PERIMETER

4. LANDSCAPING ALONG THE 200 FEET OF THE SOUTH PROPERTY LINE FOR THE NORTH ACCESS POINT ABUTTING RESIDENTIAL PROPERTIES

In addition to the Code requirements, landscaping along the 200 feet of the south property line for the north access point abutting residential properties shall be upgraded to include:

- a. a minimum twenty five (25) feet wide landscape buffer strip. No easement encroachment shall be permitted;
- b. a minimum six (6) foot high wall; and
- c. one (1) palm or pine for each for each fifteen (15) linear feet of the property line. (BLDGPM/ONGOING: ZONING - Zoning)

5. LANDSCAPING ALONG THE 200 FEET OF THE WEST PROPERTY LINE ABUTTING RESIDENTIAL PROPERTIES

In addition to the Code requirements, landscaping along the 200 feet of the west property line abutting residential properties shall be upgraded to include:

- a. a minimum twenty five (25) feet wide landscape buffer strip. No easement encroachment shall be permitted;
- b. a minimum six (6) foot high wall; and
- c. one (1) palm or pine for each for each thirty (30) linear feet of the property line. (BLDGPM/ONGOING: ZONING - 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) (Previous LIGHTING Condition 1 of Resolution R-2013-654, Control No.1975-00168)

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. (ONGOING: ZONING - Zoning) (Previous PARKING Condition 1 of Resolution R-2013-654, Control No.1975-00168)

SIGNS

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall indicate a directional sign at the north access point fronting on Limestone Creek Road which states:

- a. emergency, large event, and construction access only. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. Outdoor speaker or public address systems shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2013-654, Control No.1975-00168)

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) (Previous USE LIMITATIONS Condition 2 of Resolution R-2013-654, Control No.1975-00168)

3. The secondary driveway access shall be limited to temporary construction access, large events such as graduation, and emergency medical and service vehicles only. (ONGOING: 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.