

RESOLUTION NO. R-2018- 1832

RESOLUTION APPROVING ZONING APPLICATION SV/ZV/Z/DOA/CA-2017-01258
(CONTROL NO. 1995-00003)
a Development Order Amendment
APPLICATION OF West Jupiter Community Group, Inc.
BY Cotleur & Hearing, Inc., AGENT
(West Jupiter Community Center)

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/ZV/Z/DOA/CA-2017-01258 was presented to the Board of County Commissioners at a public hearing conducted on November 26, 2018;

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 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.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/ZV/Z/DOA/CA-2017-01258, the Application of West Jupiter Community Group, Inc., by Cotleur & Hearing, Inc., Agent, for a Development Order Amendment to reconfigure the Site Plan; to add land area, building square footage, and an access point; and, to delete Conditions of Approval (Landscaping), 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 November 26, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Valeche moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	-	Aye
Commissioner Dave Kerner, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on November 26, 2018.

Filed with the Clerk of the Board of County Commissioners on December 4th, 2018.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
COMMISSIONERS

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

THE WEST 212.71 FEET OF THE EAST 902.37 FEET OF THE SOUTH 10 ACRES, MORE OR LESS, OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. TOGETHER WITH AN EASEMENT FOR INGRESS OVER THE SOUTH 30 FEET OF THE EAST 689.66 FEET OF SECTION 33.

TOGETHER WITH:

THE SOUTH 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, LESS THE EAST 902.37 FEET AND THE WEST 205 FEET THEREOF, IN SECTION 33, TOWNSHIP 40 SOUTH, RANGE 42 EAST, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND FURTHER LESS THE SOUTH 30 FEET THEREOF CONVEYED BY WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 24157, PAGE 30 AND CORRECTIVE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 24367, PAGE 1267, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. CONTAINING 3.06 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 2 of Resolution R-2009-490, Control No.1995-00003, which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The certified site plan is dated Decemember 10, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

Development of the site is limited to the use approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated September 10, 2018. 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)

2. Previous ALL PETITIONS Condition 1 of Resolution R-2009-490, Control No.1995-00003, which currently states:

All previous conditions of approval contained in Resolution R-1995-00522 (Control 1995-003), are hereby revoked.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2009-0490 (Control 1995-00003), 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: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for the 2,592 square feet daycare shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2009-490, Control No.1995-00003)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2009-490, Control No.1995-00003, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2011. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

Is hereby amended to read:

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No building permits for the site shall be issued after December 31, 2021. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 30 feet of right of way from centerline of Church Street prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. 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. 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. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2009-490, Control No.1995-00003)

3. 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. (BLDGPMT: MONITORING - Engineering)

4. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Church Street, thirty(30) feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, 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 Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner 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 Property Owner, the Property Owner 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. The Property Owner shall provide to the Right of Way Section 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. (BLDGPMT/ONGOING: MONITORING - Engineering)

ENVIRONMENTAL

1. A Preserve Management plan shall be approved by ERM and a Conservation Easement shall be recorded prior to DRO site plan approval. (DRO/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2009-490, Control No.1995-00003)

2. A Preserve Management plan shall be approved by ERM and a Conservation Easement shall be recorded prior to DRO site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. Prior to Final Approval by the Development Review Officer, a Wellfield Affidavit of Notification shall be submitted to the Department of Environmental Resources Management. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE - INTERIOR

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall finalize the Preliminary Vegetation Disposition Chart to ensure all Vegetation that is subject to either preservation; relocation on site; replacement or mitigation shall be clearly identified on the Landscape Plan(s). The Chart and what is shown on the Plan shall be consistent. (DRO: ZONING - Zoning)

ZONING - LANDSCAPING

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative 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) [Note: COMPLETED] (Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2009-490, Control No.1995-00003)

2. Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2009-490, Control No.1995-00003, which currently states:

All palms required to be planted on the property by this approval shall meet the following minimum standards at installation, unless otherwise indicate herein:

- 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. (BLDGPM: ZONING - Zoning)

Is hereby deleted. [REASON: Code Requirement.]

3. A group of three (3) or more palm trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPM: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 3 of Resolution R-2009-490, Control No.1995-00003)

4. Field adjustment of wall and plant material location may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDGPM: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 4 of Resolution R-2009-490, Control No.1995-00003)

USE LIMITATIONS - DAY CARE

1. Outdoor activities on the outdoor play area and basketball court adjacent to Building C shall be limited to 7:00 a.m. to 8:00 p.m. Monday through Friday; and, from 8:00 a.m. to 6:00 p.m. on Saturday. No outdoor activities shall be permitted on Sunday on outdoor play area and basketball court adjacent to Building. (ONGOING: CODE ENF - 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: 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.