

RESOLUTION NO. R-2014-0880

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/R/TDR-2014-00292
(CONTROL NO. 1979-00228)
a Development Order Amendment
APPLICATION OF Elizabeth H. Faulk Foundation, Inc.
BY Urban Design Kilday Studios, AGENT
(Faulk Senior Residence at Faulk Foundation)

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), have been satisfied;

WHEREAS, Zoning Application ZV/DOA/R/TDR-2014-00292 was presented to the Board of County Commissioners at a public hearing conducted on June 26, 2014;

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 Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) 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 Palm Beach County Unified Land Development Code 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 for a Development Order Amendment; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code 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/DOA/R/TDR-2014-00292, the petition of Elizabeth H. Faulk Foundation, Inc., by Urban Design Kilday Studios, agent, for a Development Order Amendment to reconfigure the site plan; add square footage and Requested Uses; and, delete a Condition of Approval (Engineering). in the MUPD Zoning District, 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 June 26, 2014, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Mayor thereupon declared that the resolution was duly passed and adopted on June 26, 2014.

Filed with the Clerk of the Board of County Commissioners on July 02, 2014.

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

**Faulk Senior Residence at Elizabeth Faulk Foundation
(Elizabeth Faulk Foundation MUPD)**

TRACT 49 AND THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, PALM BEACH FARMS PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK # 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE EAST 60 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50.

ALSO LESS THAT PARCEL OF LAND CONVEYED TO PALM BEACH COUNTY FOR THE ROCK ROAD RIGHT-OF-WAY, BY RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 3259, PAGE 918, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 30 FEET OF TRACT 49, AND THE SOUTH 30 FEET OF THAT PORTION OF TRACT 50 LYING WEST OF THE FLORIDA TURNPIKE, BLOCK 80, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE EAST 60 AS RIGHT-OF-WAY FOR BOCA RIO ROAD IN TRACT 50. (THE "PROPERTY") OWNED BY ELIZABETH H. FAULK FOUNDATION, INC. (THE "OWNER") CONTAINS 436,222 SQUARE FEET (10.01 ACRES) MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

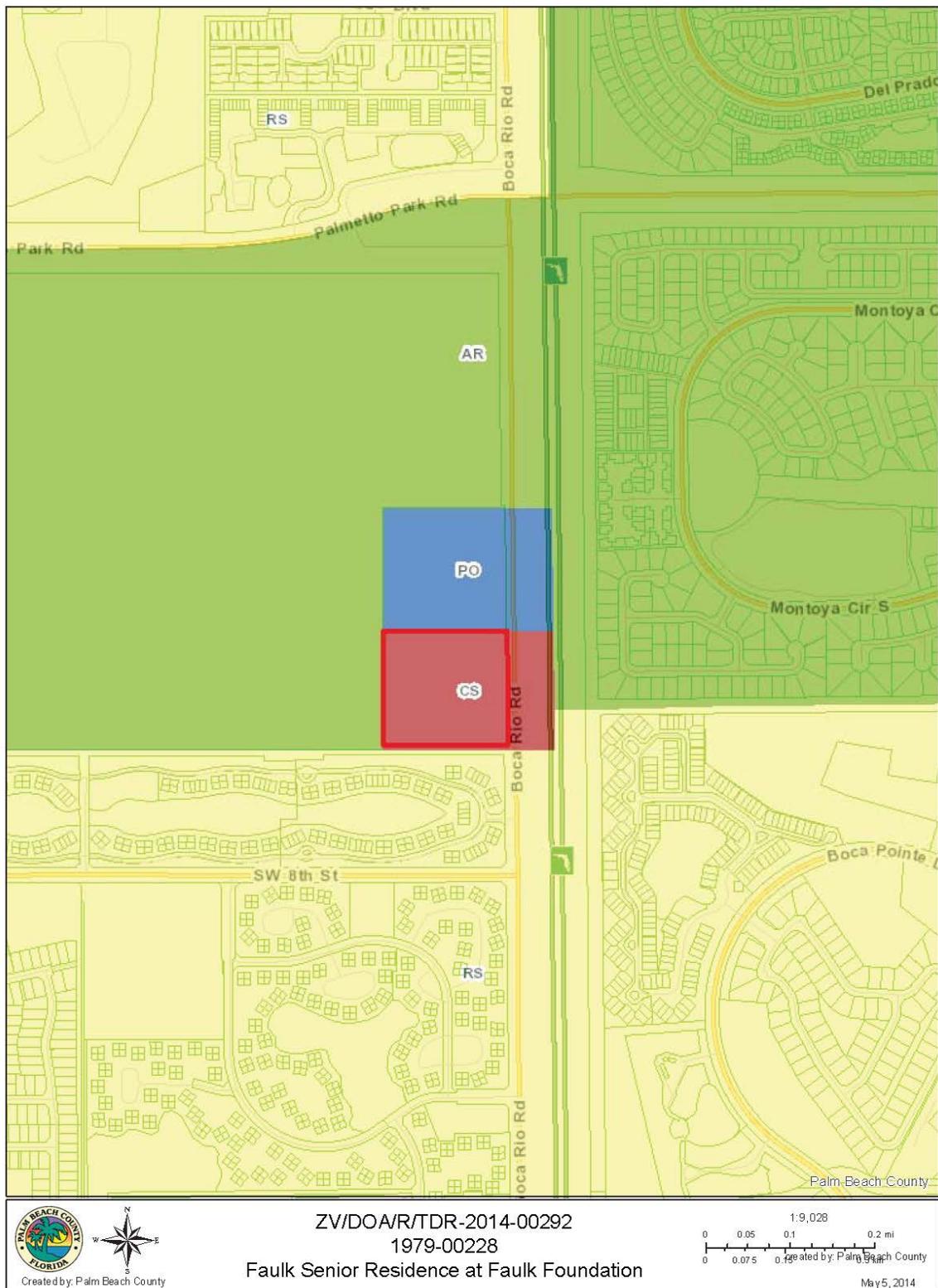


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. The approved Preliminary Site Plan is dated April 10 2014. 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-1979-1630 (Control 1979-228), 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)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type 3 Congregate Living Facility shall be submitted for review and final approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated March 24, 2014. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

ENGINEERING

1. Prior to the issuance of the first building, the Property Owner shall convey sixty (60) feet north of the existing south right of way line of Rock Road for the right of way for Rock Road. (Previous condition 1 of Resolution R-1979-1630, Control No.1979-00228) (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

2. Previous condition 2 of Resolution R-1979-1630, Control No.1979-00228, which currently states:

Petitioner shall construct a guardrail at the intersection of Boca Rio Road and both access drives along the west bank of the E-2-W Canal, as approved by the County Engineer.

Is hereby amended to read:

Prior to the issuance of the first certificate of occupancy, the Property Owner shall complete construction of a guardrail along the west bank of the LWDD E-2-W Canal on Boca Rio Road across from all project driveways with egress onto Boca Rio Road, as approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering)

3. 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, 2019. 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. (BLDGPMT/DATE: MONITORING - Engineering)

4. Prior to issuance of the first building permit, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall submit for review and approval an acceptable common recorded unity of control or other such maintenance and use covenants for access, parking, stormwater management, and other required common areas or facilities. (BLDGPM: MONITORING - Engineering)

6. The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for a total of 80 feet on Boca Rio Road. All right of way deed(s) and associated documents 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 Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Grantor 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 Grantor, the Grantor 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. Palm Beach County will prepare 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. (BLDGPM: MONITORING - Engineering)

ENVIRONMENTAL

1. A copy of a wetland jurisdictional determination from the Department of Environmental Protection, South Florida Water Management District and/or the Army Corps of Engineers shall be submitted to the Department of Environmental Resources Management prior to DRO Site Plan approval. (DRO: ENVIRONMENTAL RESOURCE MANAGEMENT - Environmental Resource Management)

HEALTH

1. Water and wastewater are available to the site. Therefore, no potable water supply well or onsite sewage treatment and disposal system will be permitted. All existing potable water wells and OSTDS's shall be abandoned in accordance with Chapter 64 E of the F.A.C.

PALM TRAN

1. Prior to Issuance of the first Building Permit, the Property Owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran shall be required. (BLDG PERMIT/PLAT:MONITORING -Palm Tran) (BLDGPM/ONGOING: PALM-TRAN - Palm-Tran)

PLANNING

1. Any increases in density shall require the purchase of TDR's via the County TDR program. (ONGOING: PLANNING - Planning)

2. All of the density and intensity associated with the future land use designation has been utilized, no additional development potential remains on this site. (ONGOING: PLANNING - Planning)

PROPERTY & REAL ESTATE MANAGEMENT

1. Prior to final approval by the Development Review Officer (DRO), a modification of the deed restriction contained within the County Deed recorded in Official Record Book 3110, Page 1982, Public Records of Palm Beach County, Florida, and allowing for development of the property in a manner that is consistent with the proposed Congregate Living Facility/senior living facility shall be approved by the Board of County Commissioners in its sole and absolute discretion. (DRO: PROPERTY REAL ESTATE MANAGEMENT - Property Real Estate Management)

SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), the Type 3 Congregate Living Facility (CLF) building may be relocated up to ten (10) feet to the south to accommodate the stormwater management system permitting requirements. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. Total gross floor area of the non-residential use(s) shall be limited to a maximum of 13,400 square feet per Planning condition 2. (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.