

RESOLUTION NO. R-2019- 1950

RESOLUTION APPROVING ZONING APPLICATION DOA-2019-01088
(CONTROL NO. 1988-00005)
a Development Order Amendment
APPLICATION OF WPB No. 1, LLC, Florida #2, LLC, MA No. 1, LLC, Health Career
Institute, LLC, Florida #8, LLC
BY Shutts and Bowen, LLP, AGENT
(Congress Avenue Office Park)

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 (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application DOA-2019-01088 was presented to the Board of County Commissioners at a public hearing conducted on December 19, 2019;

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 DOA-2019-01088, the Application of WPB No. 1, LLC, Florida #2, LLC, MA No. 1, LLC, Health Career Institute, LLC, Florida #8, LLC, by Shutts and Bowen, LLP, Agent, for a Development Order Amendment to amend the Site Plan and delete a Condition of Approval, 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 19, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

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

The Mayor thereupon declared that the resolution was duly passed and adopted on December 19, 2019.

Filed with the Clerk of the Board of County Commissioners on January 14th, 2020

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

A PARCEL OF LAND IN SECTION 29, TOWNSHIP 43 SOUTH, RANGE 43 EAST,
PALM BEACH COUNTY, FLORIDA, BEING:

TRACT 1 OF THE PLAT OF CONGRESS AVENUE PARK, RECORDED IN PLAT
BOOK 123, PAGE 138, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY,
FLORIDA.

CONTAINING 6.101 ACRES (265,769 SQUARE FEET), MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

LOCATION MAP

N.T.S.

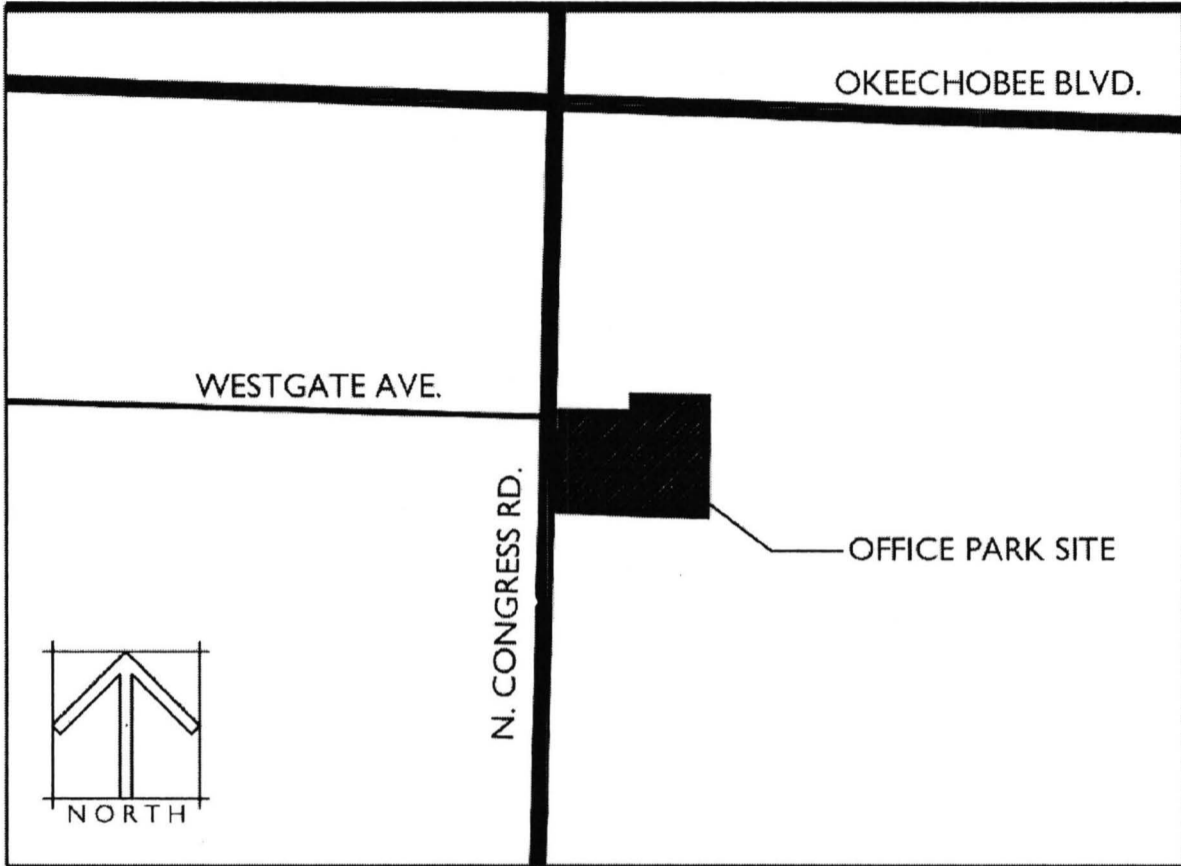


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Planned Development District)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2015-1532, Control No.1988-00005, which currently states:

The approved Preliminary Site Plan and the Preliminary Regulating Plan are dated August 13, 2015. 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 October 15, 2019. 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-2015-1532 (Control No.1988-00005), 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)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2015-1532, Control No.1988-00005, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the schools on the property shall be restricted to no more than 140 Students in the Charter School and no more than 626 Students in the Vocational School. A report shall be submitted to the monitoring section beginning October 1st, 2016 and continuing every year thereafter which includes enrollment data for both the Charter School and the Vocational School. (DATE/ONGOING: MONITORING - Engineering)

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

2. 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. The plat shall include any residual parcels. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2015-1532, Control No.1988-00005)

3. 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 Congress Avenue, sixty (60) feet, measured from centerline of the proposed right of way, on an alignment approved by the County Engineer

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 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. 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) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2015-1532, Control No.1988-00005)

4. Discharge of stormwater runoff shall not be permitted into the adjacent lake unless permission from the South Florida Water Management District and the County Engineer is obtained with respect to water quality and quantity, in addition to any approvals required by the lake's maintenance entity. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2015-1532, Control No.1988-00005)

5. In order to comply with the mandatory Traffic Performance Standards, the schools on the property shall be restricted to no more than 140 Students in the Charter School and no more than 1,216 Students in the Vocational School. A report shall be submitted to the monitoring section beginning October 1st, 2020 and continuing every year thereafter which includes enrollment data for both the Charter School and the Vocational School. (DATE/ONGOING: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. Prior to Final Plan approval by the Development Review Officer (DRO), 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. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2015-1532, Control No.1988-00005)

2. At the time of Final Approval by the Development Review Officer:

- a. The Applicant shall include the Tabular Tree List dated August 7, 2015 on the Regulating Plan and;
- b. The Site Plan and supporting documents shall demonstrate the locations of the mitigated hardwoods, palms and the relocated palms listed in the Tabular Tree List. (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2015-1532, Control No.1988-00005)

PARKING

1. No parking of any vehicles or trucks shall be permitted along the rear of the development, except within designated spaces or unloading areas. (ONGOING: ZONING - Zoning) (Previous PARKING Condition 1 of Resolution R-2015-1532, Control No.1988-00005)

PLANNING

1. The Final Site Plan shall indicate the locations of the vehicular and pedestrian connections to the northern and southern properties. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2015-1532, Control No.1988-00005)

2. Prior to the issuance of the first Building Permit, The property owner shall record in the public records, an irrevocable cross access easement to the north and south, consistent with the locations indicated on the Final Site Plan and on a form approved by the County Attorney's Office. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 2 of Resolution R-2015-1532, Control No.1988-00005)

3. Prior to the issuance of the Certificate of Occupancy, the Property Owner shall pave the vehicular and pedestrian access and connection to the north and south property lines as shown on the Final Site Plan. (CO: MONITORING - Planning) (Previous PLANNING Condition 3 of Resolution R-2015-1532, Control No.1988-00005)

SIGNS

1. No off-premise signs shall be permitted on the site. (ONGOING: ZONING - Zoning) (Previous SIGNS

Condition 1 of Resolution R-2015-1532, Control No.1988-00005)

2. Should the existing ground mounted sign along Congress Avenue be renovated over the thresholds of Article 1 or be replaced, the new sign shall meet the requirements of Article 8, Signage, of the Unified Land Development Code (ULDC) and the Master Sign Plan shall be updated. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2015-1532, Control No.1988-00005)

USE LIMITATIONS

1. No stock loading or dumpster pickup shall be permitted between the hours of 8:00 P.M. and 8:00 A.M. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2015-1532, Control No.1988-00005)

2. No storage or placement of any material, refuse, equipment or debris shall be permitted in the rear of the development. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2015-1532, Control No.1988-00005)

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.