

RESOLUTION NO. R-2002-1008

RESOLUTION APPROVING ZONING PETITION DOA1989-066(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF PROFESSIONAL LEARNING CENTER
BY MARK ASTOR, AGENT
(PROFESSIONAL LEARNING 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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA1989-066A was presented to the Board of County Commissioners at a public hearing conducted on June 19, 2002; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations). of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.

9. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA1989-066A, the petition of Professional Learning Center, by Mark Astor, agent, for a Development Order Amendment to reconfigure site plan and to modify condition of approval 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on June 19, 2002, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution

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

| | | |
|------------------------------|---|--------|
| Warren H. Newell, Chairman | - | Absent |
| Carol A. Roberts, Vice Chair | - | Aye |
| Karen T. Marcus | - | Aye |
| Mary McCarty | - | Aye |
| Burt Aaronson | - | Aye |
| Tony Masilotti | - | Absent |
| Addie L. Greene | - | Aye |

The Chair thereupon declared that the resolution was duly passed and adopted on June 19, 2002.


Filed with the Clerk of the Board of County Commissioners on 27 day of June, 2002.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

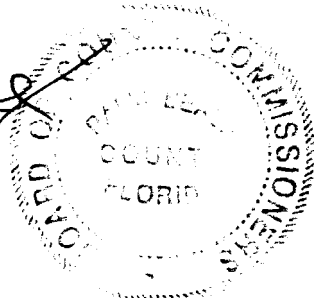


EXHIBIT A
LEGAL DESCRIPTION

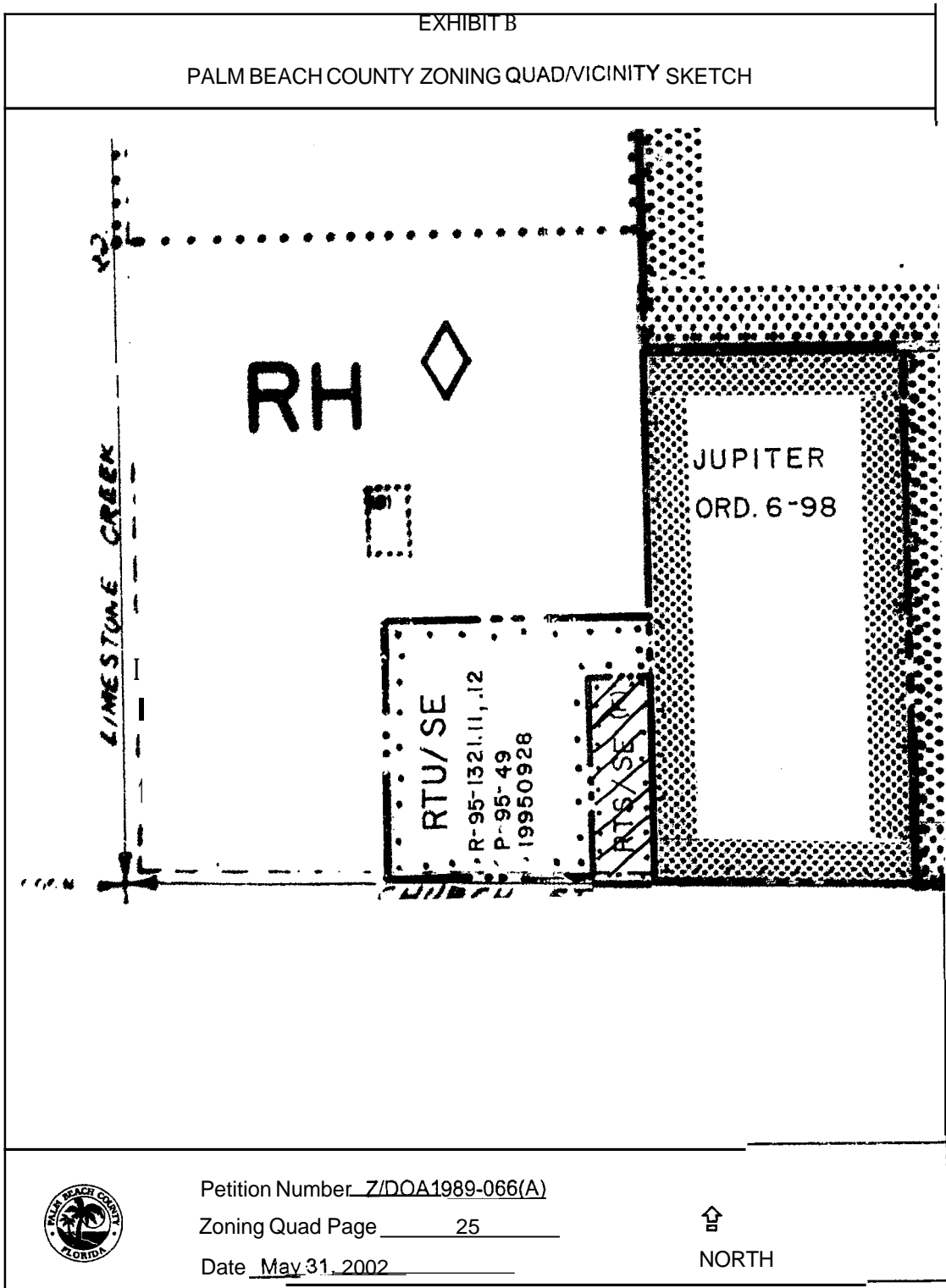
BEING A PART OF SECTION 34, TOWNSHIP 40 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 34; THENCE SOUTH 89 DEGREES 15'51" EAST, ALONG THE SOUTH LINE OF SAID SECTION 34, A DISTANCE OF 1198.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 15' 51" EAST, A DISTANCE OF 140.00 FEET; THENCE NORTH 00 DEGREES 10' 03" WEST, A DISTANCE OF 517.00 FEET; THENCE NORTH 89 DEGREES 15' 51" WEST, A DISTANCE OF 140.00 FEET; THENCE SOUTH 00 DEGREES 10' 03" EAST, A DISTANCE ~~OF~~ 517.00 FEET TO THE POINT OF THE BEGINNING, LESS THE SOUTH 50.0 FEET THEREOF FOR ROAD RIGHT OF WAY.

65,371 SQUARE FEET, 1.5 ACRES

EXHIBIT B

VICINITY SKETCH



Petition Number Z/DOA1989-066(A)

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Date May 31, 2002



NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution 90-0530 (Petition 89-066) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING – Zoning)
2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated March 29, 2002. 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. (ONGOING: ZONING – Zoning)

B. BUILDING AND SITE DESIGN

1. Condition 1. of Resolution R-90-0530, Petition 89-066, which currently states:

Prior to Site Plan Review Committee submittal the site development plan shall be amended to satisfy all minimum property development regulations and land development requirements.

Is hereby deleted. [REASON: Code Requirement.]

2. All trash receptacles shall be located away from the residential areas and completely screened by a six (6) foot high solid wood fence and landscaped. (DRC: ZONING – Zoning) (Previous Condition 11. of Resolution R-90-0530, Petition 89-066)
3. The site shall be limited to **one** access point along the western half of the property onto **Church Street** or a safe vehicular design acceptable to the Palm Beach County Engineering Department and the Palm Beach County **School Board**. (DRC: ZONING – Zoning) (Previous Condition 20, of Resolution R-90-0530, Petition 89-066)

C. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted to the site. (ONGOING: HEALTH – Health) (Previous Condition 13. of Resolution R-90-0530, Petition 89-066)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (ONGOING: HEALTH – Health) (Previous Condition 14. of Resolution R-90-0530, Petition 89-066)

D. LANDSCAPING – STANDARD

1. All native vegetation shall be preserved to the greatest extent possible. All sabal palms and slash pines, **two** (2) inches to six (6) inches diameter at breast height, shall be relocated to landscape areas on site. (DRC: LANDSCAPE – Zoning) (Previous Condition 4. of Resolution R-90-0530, Petition 89-066)
2. Prior to any clearing operation, the petitioner shall be required to coordinate a site visit with the Zoning Division, to locate preservation areas and verify conditions of approval. (DRC: LANDSCAPE – Zoning) (Previous Condition 5. of Resolution R-90-0530, Petition 89-066)
3. All slash pines and sabal palms shall be preserved within the outdoor play area. **All** native vegetation shall be preserved along the perimeter of the site. (DRC: LANDSCAPE – Zoning) (Previous Condition 6. of Resolution R-90-0530, Petition 89-066)
4. All new palms required to be planted on site by this approval shall meet the following minimum standards at installation:
 - 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. (CO: LANDSCAPE – Zoning)
5. All new trees, shrubs or hedge materials in perimeter buffers shall be planted in continuous masses and/or in a meandering and naturalistic pattern, consisting of a minimum of three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:
 - a. Eighteen (18) to twenty-four (24) inches – groundcover and small shrub;
 - b. Thirty-six (36) inches – medium shrub;
 - c. Forty-eight (48) to seventy-two (72) inches – large shrub; and,
 - d. This condition does not apply to five (5) foot wide compatibility buffers. (CO: LANBSCAPE - Zoning)

E. ENGINEERING

1. Condition 15 of Resolution R-90-0530, Petition 89-066, which currently states:

The Developer shall provide discharge control and treatment for the stormwater runoff in accordance with all applicable agency requirements in effect at the time of the permit application. However, at a minimum, this development shall retain onsite the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. The drainage system shall be maintained in an acceptable condition as approved by the County Engineer. In the event that the drainage system is not adequately maintained as determined by the County Engineer, this matter will be referred to the Code Enforcement Board for enforcement.

Is hereby deleted. [REASON: Drainage is a code requirement.]

2. Prior to December 1, **1989** or prior to the issuance of the first Building Permit, whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Church Street, 50 feet from centerline free 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. Right-of-way conveyances shall also include "Safe Sight Corners"* where appropriate at intersections as determined by the County Engineer. (Previous Condition 16 of Resolution R-90-0530, Petition 89-066) [COMPLETE]

3. The Property owner shall:

- a. Pipe the existing open ditch which runs through this property and the adjacent ditch along the south property line subject to approval by the County Engineer; and,
- b. Re-construction of any pedestrian pathways along the site which may be damaged by this petitioner.

All **concurrent** with onsite paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING – Engineering) (Previous Condition 17 of Resolution R-90-0530, Petition 89-066)

4. Condition 18 of Resolution R-90-0530, Petition 89-066, which currently states:

The property owner shall pay a Fair Share Fee in the amount and manner required by the "Fair Share Contribution for Road Improvements Ordinance" as it presently exists or as it may from time to time be amended. The Fair Share Fee for this project **presently** is **\$22,450.00** which may be phased according to condition No. **19**. (**838** trips X **\$26.79** per trip).

Is hereby deleted. [REASON: Impact fees are now a code requirement.]

5. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:

- a. Building Permits for more than **2,900** square feet shall not be issued until construction has begun for Central Boulevard as a **4** lane median section from Indiantown Road to the River Walk development entrance plus the appropriate paved tapers. (BLDG PRMT: MONITORING – Engineering) (Previous Condition 19 of Resolution R-90-0530, Petition 89-066) [COMPLETE]

F. LANDSCAPING ALONG SOUTH PROPERTY LINE (FRONTAGE OF CHURCH STREET)

1. Condition 8.of Resolution R-90-0530, Petition 89-066, which currently states:

A thirty-six (**36**) inch high hedge shall be provided within the fifteen (15) foot landscape strip along Church Street to supplement the relocated native overstory vegetation.

Is hereby amended to read:

Landscaping and buffering along the south property line shall be upgraded to include:

- a. A minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. One (1) native canopy tree for each thirty (30) linear feet of the property line;
- c. One (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- d. One (1) small shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- e. One (1) medium shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation: and,
- f. One (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE – Zoning)

G. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINES (ABUTTING CEMETARY)

1. **Alternative Perimeter Landscape No. 3 shall be provided along the north and west property lines, supplemented with additional landscape buffering. The landscape buffering shall include a mixture of relocated Slash pines that are (2) to six (6) inches in diameter at breast height and Sabal palms from within the site. (DRC: LANDSCAPE – Zoning) (Previous Condition 7. of Resolution R-90-0530)**
2. **The petitioner shall provide a six (6) foot high wooden fence along the property lines where the outdoor play area is adjacent to residentially zoned property (north, west). (DRC: LANDSCAPE – Zoning) (Previous Condition 3. of Resolution R-90-0530, Petition 89-066)**

H. LIGHTING

1. All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF – Zoning)
2. Condition 10. of Resolution R-90-0530, Petition 89-066, which currently states:

All site lighting shall be a maximum of twelve (12) feet high, low intensity, shielded and directed away from surrounding residences and right-of-way.

Is hereby amended to read:

All outdoor, freestanding lighting fixtures shall not exceed twelve (12) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)

3. All outdoor lighting shall be extinguished no later than 9:00 p.m. excluding security lighting only. (ONGOING: CODE ENF – Zoning)

4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF – Zoning)

I. SIGNAGE

1. No additional signage shall be permitted on Church Street. Replacement or relocation of the existing freestanding sign shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. Maximum total sign face area - 60 square feet;
 - c. Maximum number of signs - one (1);
 - d. Style - monument style only; and,
 - e. Location - Church Street. (CO: BLDG – Zoning)

J. USE LIMITATIONS

1. Condition 2. of Resolution R-90-0530, Petition 89-066, which currently states:

Use of the site shall be limited to a Day Care Center supporting 240 children. If a petition is initiated to modify the use of the subject property, then the parcel shall be rezoned to a Zoning District consistent with the 1989 Comprehensive Plan, as it may be amended.

Is hereby amended to read:

The day care center shall be limited to a maximum of 270 children. (ONGOING: CODE ENF – Zoning)

2. Hours of operation for outdoor activities shall be limited to 7:00 a.m. to 7:00 p.m. daily, (ONGOING: CODE ENF – Zoning)
3. No outdoor loudspeaker system shall be permitted on site. (ONGOING: CODE ENF – Zoning) (Previous Condition 9. of Resolution R-90-0530, Petition 89-066)
4. Condition 12. of Resolution R-90-0530, Petition 89-066, which currently states:

No off premise signs shall be permitted on site.

Is hereby deleted. [REASON: Code Requirement.]

K. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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. Condition 21. of Resolution R-90-0530, Petition 89-066, which currently states:

Failure to comply with any conditions of approval may result in the denial or revocation of a building permit; the issuance of a stop work order; the denial of a Certificate of Occupancy on any building or

structure; or the denial or revocation of any permit or approval for any developer-owner, commercial- owner, lessee, or user of the subject property. Appeals from such action may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code.

Is hereby amended to read:

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; 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 ULDC 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; 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 a 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 5.8 of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING – Zoning)