

RESOLUTION NO. R-95-714

RESOLUTION APPROVING ZONING PETITION DOA75-68(J)  
REQUESTED (R) USE  
PETITION OF EXEL PROPERTIES, INC.

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 petitions relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Unified Land Development Code (Ordinance 92-20) is authorized and empowered to approve, approve with conditions or deny Requested Uses within a Planned Development District; and

WHEREAS, the notice and hearing requirements, as provided for in Article 6, Section 6.8, of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition DOA75-68(J) was presented to the Board of County Commissioners at a public hearing conducted on May 25, 1995; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; 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 Requested Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Requested Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
3. This Requested Use is consistent with all requirements of Article 6, Section 6.8 (Planned Development District Regulations) of the Palm Beach County Unified Land Development Code, Ordinance 92-20.
4. This Requested Use is consistent with all other applicable local land development regulations.

WHEREAS, Article 6, Section 6.8, 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 DOA75-68(J), the petition of Exel Properties, Inc., for a REQUESTED USE to allow a fitness center (Requested Use) 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 May 25, 1995, 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 Roberts and, upon being put to a vote, the vote was as follows:

Ken Foster, Chair	--	Aye
Burt Aaronson	--	Aye
Maude Ford Lee	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Aye
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted this 25th day of May, 1995.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

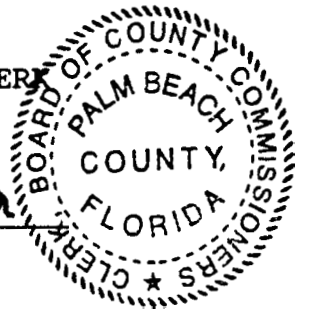
DOROTHY H. WILKEN, CLERK

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK



**EXHIBIT A**  
**LEGAL DESCRIPTION**

All of Tract 1, LOGGERS' RUN COMMERCIAL REPLAT, according to the Plat thereof, as recorded in Plat Book 49, Page 56, of the Public Records of Palm Beach County, Florida.



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 herein.**

**A. ALL PETITIONS**

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-75-178, R-85-1430, R-86-453, R-87-1199, and R-94-1309 have **been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and timeframes unless expressly modified. (MONITORING)**

2. Condition No. 1 of Resolution R-87-1199, which currently states:

**The developer shall comply with all previous conditions of approval.**

Is hereby deleted. Reason: Duplicate condition

3. Condition No. A.1 of Resolution R-94-1309, which currently states:

**The petitioner shall comply with all previous conditions of approval unless expressly modified herein. (MONITORING)**

Is hereby deleted. Reason: Duplicate condition

4. **Resolution R-91-379, a special exception for indoor entertainment (Petition 75-68(G), is hereby revoked. (ZONING) (Previously Condition A.2 of Resolution R-94-1309, Petition 75-68(H)).**

**B. BUILDING AND SITE DESIGN**

1. **Prior to Site Plan approval the property owner shall indicate interior access from the shopping center to all the "not included parcels", no additional access points other than those shown on the Master Plan will be permitted. (ZONING) (Previously Condition D.1 of Resolution R-94-1309, Petition 75-68(H)).**

2. **The petitioner shall relocate all dumpsters a minimum of seventy five (75) feet from the outdoor activity area. (ZONING/BUILDING) (Previously Condition D.2 of Resolution R-94-1309, Petition 75-68(H)).**

3. **The adjacent retail bay to the south of the proposed day care shall not be used for any business primarily engaged in the sale or use of flammable materials, for example, restaurants and paint sales. This condition shall not preclude the use of normally accessory cleaning materials and other products customarily used in the operation of a retail business. (BUILDING - Zoning) (Previously Condition D.3 of Resolution R-94-1309, Petition 75-68(3)).**

4. **Prior to occupancy of the day care center the facility shall be modified to meet all applicable building and life safety codes. (BUILDING) (Previously Condition D.4 of Resolution R-94-1309, Petition 75-68(H)).**

5. Prior to final site plan certification one (1) landscape island shall be provided along both the northern and the western parking areas (designated for the day care center). (BUILDING/ZONING) (Previously Condition D 5 of Resolution R-94-1309, Petition 75-68(H)).

C. DAY CARE

1. The day care center shall be limited to a maximum of eighty (80) students and 3,600 square feet of usable building area. (BUILDING/HEALTH - Zoning) (Previously Condition B.1 of Resolution R-94-1309, Petition 75-68(H)).
2. The perimeter of the outdoor activity area shall be fenced with a solid six (6) foot tall visually opaque fence. Architecturally maintained compatible with the shopping center (painted/stained). Signage shall be affixed to the fence indicating no trespassing or loitering. (BUILDING - Zoning) (Previously Condition B.2 of Resolution R-94-1309, Petition 75-68(H)).
3. Landscaping around the exterior perimeter of the outdoor activity area shall be upgraded to include fifteen (15) foot tall canopy trees, fifteen (15) feet on center and a minimum of three (3) fifteen (15) foot canopy trees planted on the interior, in compliance with HRS requirements. ((BUILDING - Zoning) (Previously Condition B.3 of Resolution R-94-1309, Petition 75-68(H)).
4. Travel in front of the center and drop-off area shall be limited to one-way (south to north). "One-way" and "Do Not Enter" signs shall be appropriately installed. (BUILDING - Zoning) (Previously Condition B.4 of Resolution R-94-1309, Petition 75-68(H)).
5. Maximum speed in front of the facility shall be limited to 5 mph with appropriate signage installed. (BUILDING - Zoning) (Previously Condition B.5 of Resolution R-94-1309, Petition 75-68(H)).
6. Pavement in front of the facility shall be striped yellow and marked with caution signs. (BUILDING - Zoning) (Previously Condition B.6 of Resolution R-94-1309, Petition 75-68(H)).
7. Sufficient asphalt pavement located in the interior (along the eastern side) of the expanded play area shall be removed and replaced or covered with material suitable for a play area, subject to approval by the Palm Beach County Public Health Unit. Prior to site plan certification by the Development Review Committee, the petitioner shall amend the site plan for the day care to indicate the extent of asphalt pavement to be removed or covered and material to be used. (ZONING/HEALTH-Building) (Previously Condition B.7 of Resolution R-94-1309, Petition 75-68(H)).
8. Bollards shall be installed every ten (10) feet on center in the landscape strip around the outdoor play area, adjacent to all vehicular use areas. (BUILDING - Zoning) (Previously Condition B.8 of Resolution R-94-1309, Petition 75-68(H)).

9. Landscaping around the north and east exterior perimeters of the outdoor activity area shall be upgraded to include twenty-four (24) inch high shrub material planted twenty-four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (BUILDING - Zoning) (Previously Condition B.9 of Resolution R-94-1309, Petition 75-68(H)).

D. HEALTH

1. Reasonable precautions shall be exercised during site development to insure that unconfined particulates (dust particles) from this property do not become a nuisance to neighboring properties. (HEALTH) (Previously Condition No. 2 of Resolution No. R-86-453, Petition No. 75-68(B)).
2. Reasonable measures shall be employed during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (HEALTH) (Previously Condition No. 3 of Resolution No. R-86-453, Petition No. 75-68(B)).
3. Sewer service is available to the property. Therefore, no septic tank shall be permitted on this site. All existing onsite sewage disposal systems must be abandoned in accordance with Chapter 10D-6, FAC., and Palm Beach County ECR-I. (HEALTH) (Previously Condition C.L of Resolution R-94-1309, Petition 75-68(H)).
4. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. All existing onsite potable water supply systems must be abandoned in accordance with Palm Beach County ECR-II. (HEALTH) (Previously Condition C.2 of Resolution R-94-1309, Petition 75-68(H)).

E. ENGINEERING

1. Developer shall construct four (4) lanes between the project and State Road No. 7 in the following manner:
  - a) Two (2) lanes concurrent with the first plat.
  - b) Two (2) lanes prior to platting more than forty (40) percent of the total units.
  - c) The exact alignment and engineering plans for the roads shall conform to Palm Beach County Standards and shall be subject to the approval of the County Engineer.
  - d) The above construction shall be along the following corridors: Palmetto Park Road, Glades Road or Billsboro Boulevard. (ENGINEERING) (Previously Condition No. 1 of Resolution No. R-75-778, Petition 75-68.)

[Note: This condition has been complied with]
2. Developer shall construct intersection improvements and signalization at the intersection of the aforesaid access roads and State Road No. 7, as warranted. (ENGINEERING) (Previously Condition No. 2 of Resolution No. R-75-778, Petition 75-68.)

3. The property owner shall convey for the ultimate right-of-way of:
- a) Glades Road 120 feet total right-of-way.
  - b) Palmetto Park Road 200 feet of right-of-way.
  - c) The additional right-of-way required for the "Special Intersection" at Glades Road and Palmetto Park Road per Palm Beach County's Thoroughfare right-of-way Protection Map.
  - d) Sixty (60) foot half right-of-way for Riverside Drive .
  - e) Four hundred twenty-six (426) foot right-of-way for University Expressway.
  - f) Sixty (60) foot half right-of-way for Hillsboro Boulevard from State Road No. 7 to the developmsnt.
  - g) The developer shall provide a 3' high mulched berm along the south side of Glades Road through Logger's Run."

All with 90 days of adoption of the Resolution by the Board of county Commissioners; conveyance must be accepted by Palm Beach County prior to issuance of First Building Permit." (ENGINEERING) (Previously Condition No. 3 of Resolution No. R-85-1430, Petition 75-68(A) .

[Note: Land Development records indicated that 3a, 3b, 3d & 3e have been complied with. Condition 3c may be deleted as this intersection will not require expansion]

4. The ownership and maintenance of all canals and lakes shall be retained by and be the responsibility of the development's property owners association, unless transferred to a drainage district. (ENGINEERING) (Previously Condition No. 4 of Resolution No. R-75-778, Petition 75-68.)
5. Developer shall obtain approval of all drainage specifications from the Central and South Florida Flood Control District. (ENGINEERING) (Previously Condition No. 5 of Resolution No. R-75-778, Petition 75-68.)
6. Prior to site plan certification, the Xaster Plan will be revised to reflect the proposed amendments. In addition, the Master Plan site data shall reflect proposed and existing development dwelling unit counts. (ZONING) (Previously Condition No. 1 of Resolution No. R-86-453, Petition No. 75-68(B) ,
7. Condition No. 4 of Resolution No. R-86-453, Petition No. 75-68(B) , which currently states:

The development shall retain onsite 85% of the stormwater runoff generated by a three (3) year-24 hour storm per requirements of the Permit Section, Land Development Division. (ENGINEERING)

Is hereby deleted. (REASON: COMPLIED WITH]

8. Prior to site plan certification of the Master Plan the property owner shall identify the access locations to the site per the County Engineers approval. (ENGINEERING) (Previously condition No. 5 of Resolution No. R-86-453, Petition No. 75-68(B) ,



9. The property owner shall construct turn lanes at the project's entrance(s) per the County Engineer's approval concurrent with onsite paving and drainage improvements pursuant to a paving and drainage permit issued from the office of the County Engineer. (ENGINEERING) (Previously Condition No. 6 of Resolution No. R-86-453, Petition No. 75-68(B)).
10. 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 \$2,545.00 (95 trips X \$26.79 per trip) for the proposed Church. (IMPACT FEE COORDINATOR) (Previously Condition No. 7 of Resolution No. R-86-453, Petition No. 75-68(B)).
11. Condition No. 8 of Resolution No. R-86-453, Petition No. 75-68(B), which currently states:  
  
The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department Permit section prior to the application for a Building Permit. (ENGINEERING-Building)  
  
Is hereby deleted. [REASON: CODE REQUIREMENT]
12. Condition No. 9 of Resolution No. R-86-453, Petition No. 75-68(B), which currently states:  
  
The property owner shall obtain a turnout Permit from the Palm Beach County Engineering Department, Permit Section for access onto Oriole Country Road or Ponderosa Road. (ENGINEERING)  
  
Is hereby deleted. (REASON: ACCESS INTO SITE IS EXISTING AND PERMITS ARE NOW A CODE REQUIREMENT)
13. The petitioner shall present a notarized Affidavit of Disclosure at the Bonding Authority meeting. (COUNTY ATTORNEY) (Previously Condition No. 11 of Resolution No. R-86-453, Petition No. 75-68(B)).
14. 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 day care expansion project to be paid at the time of issuance of the Building Permit presently is \$2,970 (54 trips X \$55.00 per trip) (IMPACT FEE COORDINATOR). (Previously Condition E. 1 of Resolution R-94-1309, Petition 75-68(H)).
15. 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, zoning Petition 75-68(J), to be paid at the time of issuance of the first building permit for the use, presently is \$5,445. (99 additional trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)

**F. CIVIC**

1. Developer shall dedicate to Palm Beach County, the conservation area within the development as it relates to the Land Use Plan for Palm Beach county. (PEEM) (Previously Condition No. 6 of Resolution No. R-75-778, Petition 75-68.)

2. Developer shall deed to the Board of County Commissioners of Palm Beach County, Florida, thirty-six (36) acres to be used for schools, parks, recreation centers, fire station, police station and/or libraries. (PREM) (Previously Condition No. 7 of Resolution No. R-75-778, Petition 75-68.)
3. The Developer shall construct an on-site utility facility if it becomes legally possible. The facility shall be conveyed to Palm Beach County for maintenance and operation. (PREM) (Previously Condition No. 8 of Resolution No. R-75-778, Petition 75-68.)
4. The land area donated for the County Park shall continue to be counted gross land area of the development for the purpose of calculating maximum residential density and to satisfy the other requirements of Zoning Code Section 500.21 (Planned Unit Developments). (ZONING) (Previously Condition No. 2 of Resolution No. R-87-1199, Petition No. 75-68(C).

G. USE LIMITATION (CHURCH)

1. The church or place of worship within the commercial pod shall be limited to a maximum of 120 seats. (CODE ENFORCEMENT)

H. RECYCLE SOLID WASTE

1. The property owner and lessee's shall participate in a recycling program when available in the area. Material to be recycled shall include, but not be limited to, paper, plastic, metal and glass products. (SWA)

I. COMPLIANCE

1. Failure to comply with any of these conditions of approval at any time may result in:
  - a. The denial or revocation of a building permit; the issuance of a stop work order; cease and desist 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; and/or
  - b. The revocation of the Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
  - c. A requirement of the development to conform with updated standards of development, applicable 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;
  - d. Referral to code enforcement; and/or
  - e. Imposition of entitlement density or intensity.

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 Conditional Use, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (MONITORING) (Previously Condition F.1 of Resolution R-94-1309, Petition 75-68(H),