

RESOLUTION NO. R-98-2040

RESOLUTION APPROVING ZONING PETITION DOA82-174(D)
DEVELOPMENT ORDER AMENDMENT
PETITION OF PETER MCALLISTER
BY KILDAY & ASSOCIATES, AGENT
(WEST BOCA ESTATES PUD)

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 DOA82-174(D) was presented to the Board of County Commissioners at a public hearing conducted on December 3, 1998; 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 DOA82-174(D), the petition of Peter McAllister, by Kilday & Associates, agent, for a Development Order Amendment (DOA) to reconfigure master plan, add building square footage, add children and delete Condition 2 of R-85-276 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 December 3, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarthy moved for the approval of the Resolution.

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

Maude Ford Lee, Chair	--	Aye
Warren Newell, Vice Chair		Aye
Karen T. Marcus		Aye
Carol A. Roberts	--	Aye
Mary McCarthy	--	Aye
Burt Aaronson	--	Aye
Tony Masilotti	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on December 3, 1998.

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

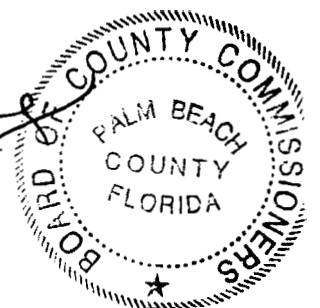


EXHIBIT A
LEGAL DESCRIPTION

AFFECTED PORTION

ALL THAT PART OF TRACT 89 IN BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3. ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 46-54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPTING THE NORTH 15 FEET THEREOF, LYING NORTHERLY OF THE EXISTING NORTH RIGHT OF WAY LINE OF BOCA RATON WEST ROAD (S.R.#808), AS PER ROAD BOOK 4, PAGES 5-14, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA:

LESS THE FOLLOWING DESCRIBED PARCEL:

THE NORTH 27.00 FEET OF THE SOUTH 65.00 FEET OF TRACT 89, BLOCK 77, THE PALM BEACH FARMS COMPANY, PLAT NO. 3, AS RECORDED IN PLAT BOOK 2. AT PAGE 53, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. EXCEPTING THE EAST 120.00 FEET OF THE SOUTH 326.50 FEET OF SAID TRACT.

ALSO LESS THE FOLLOWING DESCRIBED PARCEL:

A PORTION OF TRACT 89 IN BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45-54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID TRACT 89, SAID POINT BEING 15.00 FEET NORTH OF THE CENTERLINE OF BOCA RATON WEST ROAD (GLADES ROAD; STATE ROAD NO. 808;

THENCE NORTH ALONG THE EAST LINE OF SAID TRACT 89 FOR 38.00 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL;

THENCE WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF BOCA RATON WEST ROAD, BEING ALONG A LINE PARALLEL WITH AND 38.00 FEET NORTH OF THE SOUTH LINE OF SAID TRACT 89 FOR 120.00 FEET:

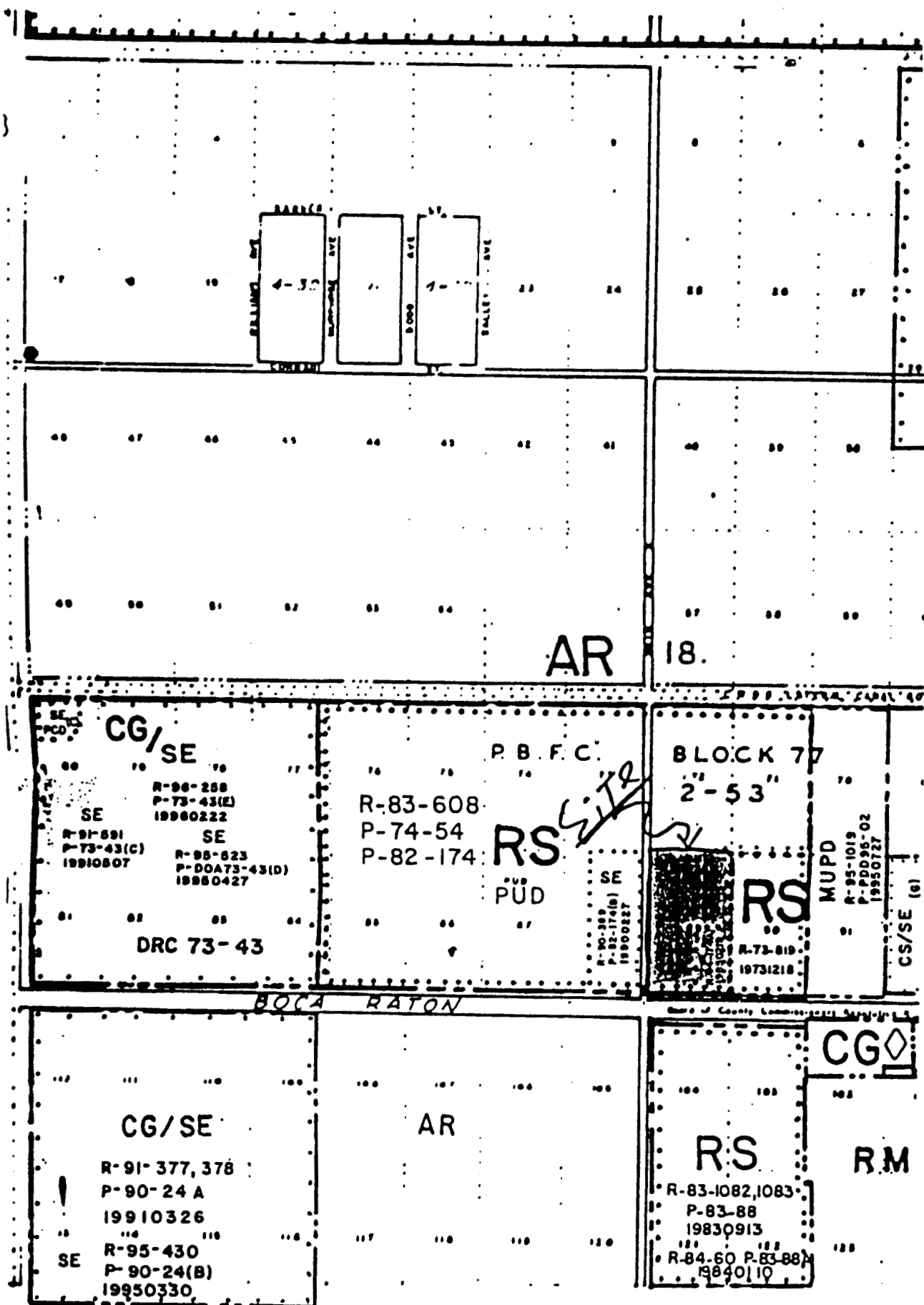
THENCE NORTH, PARALLEL WITH THE EAST LINE OF SAID TRACT 89 FOR 27.00 FEET;

THENCE EAST ALONG A LINE PARALLEL WITH AND 80.00 FEET NORTH OF THE CENTERLINE OF SAID BOCA RATON WEST ROAD FOR 120.00 FEET;

THENCE SOUTH ALONG THE EAST LINE OF SAID TRACT 89 FOR 27.00 FEET TO THE POINT OF BEGINNING.

SAID LAND LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING A COMPUTED NET AREA OF 4.40 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH



82-174D

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 83-608 (Petition 82-174, Modification of Zoning Petition 74-54)) and Resolution R-85-276 (Petition 82-174A) and Resolution 89-1083 (Petition 82-174B) and Resolution 90-389 (amending R89-1083) 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 approved by the Board of County Commissioners. The approved site plan is dated October 1st, 1998. 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. (DRC: ZONING)
3. The petitioner, property owner **and/or** developer shall comply with all conditions previously imposed upon the approval of Petition **No. 74-54**. (Previous Condition 1 of Resolution 83-608, Petition 82-174)
4. The developer shall pay **\$300** per single family unit and **\$200** per multi-family unit, at the time of issuance of building permits, toward meeting the cost of the direct and identifiable traffic impact of this project. (Previous Condition 2 of Resolution 83-608, Petition 82-174)
5. Condition 3 of Resolution 83-608, Petition 82-174 which currently states:

The developer shall take reasonably precautions during the development **of** this property to insure that fugitive particulates (dust particles) from the project do not become a nuisance to neighboring properties.

Is hereby deleted. [Reason: Repetition, see Condition A.6]
6. Condition 4 of Resolution 83-608, Petition 82-174 which currently states:

The developer shall take necessary measures during the development of this property to prevent pollutant run-off **to** neighboring and nearby surface waters.

Is hereby deleted. [Reason: Repetition, see Condition A.7]
7. The development of Phase **5** shall be limited to **120** units and the overall development of **235** units. (Previous Condition 5 of Resolution 83-608, Petition 82-174).

8. Condition 2 of Resolution 85-276, Petition 82-174A which currently states:
The developer shall preserve existing significant vegetation wherever possible and shall incorporate said vegetation into the project design. Appropriate measures shall also be taken to protect these preservation areas during site clearing and construction.

~~Is~~ hereby deleted. [Requested by petitioner, permitted by SFWMD]

9. 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. (Previous Condition 3 of Resolution 85-276, Petition 82-174A)

10. Reasonable measures shall be exercised during site development to insure that no pollutants from this property shall enter adjacent or nearby surface waters. (Previous Condition 4 of Resolution 85-276, Petition 82-174A)

11. Condition 1 of Resolution 89-1083, Petition 82-174B which currently states:
Prior to certification, the library site plan shall be amended to indicate the following:

- a. Access dimensions at **95th** Avenue South; and
- b. Label the existing vegetation on site as a cypress preserve.

~~Is~~ hereby deleted. [Reason: Completed]

12. The petitioner shall submit appropriate documentation from the respective utilities to allow for the installation of required landscaping. (Previous Condition 2 of Resolution 89-1083, Petition 82-174 (B)).

13. The developer shall preserve the existing cypress stand on site and shall incorporate the vegetation into the project design. Clearing shall be limited to the developable area. This preservation area shall receive appropriate protection from damage and disturbance in accordance with Section **500.36** of the Zoning Code during the site development and construction phase. (Previous Condition 3 of Resolution 89-1083, Petition 82-174(B)).

14. The petitioner shall provide a landscape buffer along the western property line. This buffer shall consist of a three **(3)** foot high berm with thirty-six **(36)** inch high hedge material and supplemented with twelve **(12)** foot canopy trees planted twenty **(20)** feet on center. (Previous Condition 5 of Resolution 89-1083, Petition 82-174(B)).

15. The petitioner shall preserve and incorporate the existing: nineteen **(19)** sabal palms, two **(2)** orchid trees and two **(2)** pongams, into the perimeter landscape buffers and/or other open space areas on site. (Previous Condition 3 of Resolution 89-1083, Petition 82-174B)

16. Prior to DRC site plan application, the petitioner shall submit a revised master plan indicating the full thirty **(30)** foot landscape buffer along the north property line. (DRC: ZONING)

B. BUILDING AND SITE DESIGN

1. Total gross floor area of the daycare center shall be limited to a maximum of 9,897 square feet. Expansion shall be limited to five percent (5%) or 1,000 square feet, whichever is less provided parking requirements are met pursuant to Section 7.2.B of the ULDC. (DRC: ZONING)
2. Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. (BLDG PERMIT: BLDG - Zoning)
3. The maximum height for all structures, including all air conditioning and mechanical equipment, measured from finished grade to highest point, shall not exceed twenty five (25) feet. (BLDG PERMIT: BLDG - Zoning)
4. All air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BLDG - Zoning)
5. The minimum setback for the outdoor play/recreational equipment shall be twenty five (25) feet from all residentially used property lines. (DRC: ZONING)

C. DAY CARE

1. Condition 1 of Resolution 85-276, Petition 82-174A which currently states:

Prior to Site Plan Certification a revised site plan shall be submitted to reflect the required 6 foot high fence surrounding the outdoor activity area.

~~Is hereby deleted. [Reason: required by ULDC]~~
2. The day care center shall be limited to a maximum licensed capacity of 190 children. (ONGOING: HEALTH)

E. ENGINEERING

1. The development shall retain onsite **85%** of the stormwater runoff generated by a three (3) year-one hour storm per requirements of the Permit Section, Land Development Division. (Previous Condition 5 of Resolution 85-276, Petition 82-174A)
2. The property owner shall convey for the ultimate right of way of Glaces Road, **80** feet from centerline within **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. (Previous Condition 6 of Resolution 85-276, Petition 82-174A)
3. The developer 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. Presently the Fair Share Fee for this project is **\$5,275.00**. (Previous Condition 7 of Resolution 85-276, Petition 82-174A)

4. The petitioner 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 water 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. (Previous Condition 9 of Resolution 89-1083, Petition 82-174B)
5. The petitioner shall construct from **95th** Avenue South at Glades Road to the project's entrance as a three (3) lane section plus **applicable** tapers concurrent with onsite paving and drainage improvements. (Previous Condition 10 of Resolution 89-1083, Petition 82-174B)

F. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on site. (Previous Condition 7 of Resolution 89-1083, Petition 82-1746)
2. Water service is available to the property. Therefore, no well shall be permitted on site to provide potable water. (Previous Condition 8 of Resolution 89-1083, Petition 82-1748)

G. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval shall meet the following minimum standards at installation:
 - a. Tree height: fourteen (14) feet;
 - b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
 - c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval, except on individual residential lots, 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)
3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING- INTERIOR

1. Foundation plantings or grade level planters shall be provided along the front and side facades of all structures to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

I. LANDSCAPING ALONG NORTH AND THE NORTH 225 FEET OF THE EAST AND THE EAST 200 FEET OF THE SOUTH PROPERTY LINES (DAYCARE AREA ONLY, ABUTTING RESIDENTIAL)

1. Landscaping and buffering along the above property lines shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip; and
 - b. One (1) canopy tree planted every twenty (20) feet on center;
 - c. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - d. Thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of seventy-two (72) inches. (CO: LANDSCAPE,)

J. LANDSCAPING ALONG THE NORTH 225 FEET OF THE WEST PROPERTY LINE (ABUTTING 95th AVENUE SOUTH)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip; and
 - b. A continuous berm measured two foot high measured from finished grade; and
 - c. One (1) canopy tree planted every thirty (30) feet on center;
 - d. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and
 - e. Twenty four (24) inch high shrub or hedge material, spaced no more than twenty four (24) inches on center at installation and to be planted at the plateau of the berm and to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

K. LANDSCAPING ALONG THE OUTDOOR PLAY AREA

1. Condition 1 of Resolution 85-276, petition 82-174A which currently states:
Prior to Site Plan Certification a revised site plan shall be submitted to reflect the required 6 foot high fence surrounding the outdoor activity area.

Is hereby amended to read:

Landscaping and buffering along the outdoor play area shall include:

- a. A six (6) foot high black, vinyl coated chain link fence. (CO: LANDSCAPE)

L. LIGHTING

1. Condition 5 of Resolution 89-1083, Petition 82-174B which currently states:

Site lighting shall be low intensity, shielded and directed away from neighboring properties and shall not exceed fifteen (15) feet in height.

Is hereby amended to read:

All outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO / ONGOING: BLDG / CODE ENF - Zoning)

2. All outdoor lighting fixtures shall not exceed fifteen (15) 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)
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)

M. SIGNS

1. Freestanding point of purchase signs fronting on 95th Avenue South shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - six (6) feet;
 - b. Maximum sign face area per side - 60 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG)
2. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)
3. Wall signs shall be limited to the south and west facades of the daycare building. (CO: BLDG)

N. USE LIMITATION

1. Hours of operation for the daycare shall be limited to the following:
 - a. 6:00 a.m. - 7:00 p.m. Monday through Friday. (ONGOING: CODE ENF)

O. 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 11 of Resolution 89-1083, Petition 82-174B which currently states:

Failure to comply with conditions herein 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 majority vote of the Code Enforcement Board 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. (MONITORING)

Planning, Zoning and
Building Department
100 Australian Avenue
West Palm Beach, FL 33406
(561) 233-5000
www.co.palm-beach.fl.us



Palm Beach County
Board of County
Commissioners

Maude Ford Lee, Chair

Warren H. Newell, Vice Chairman

Karen T. Marcus

Carol A. Roberts

Mary McCarty

Burt Aaronson


Tony Masilotti

County Administrator

Robert Weisman

Planning Division 233-5300
Zoning Division 233-5200
Building Division 233-5100
Code Enforcement 233-5500
Contractor's Certification 233-5525

INTER-OFFICE COMMUNICATION
PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING

TO: Willa Oswald, Minutes Clerk
FROM: Bill Whiteford, Acting Zoning Director 
DATE: December 7, 1998
RE: Amended Conditions from the December 3, 1991;
BCC Hearing

The conditions of these resolutions are true and correct and reflect the changes approved by the Board of County Commissioners on December 3, 1998.

The following petitions were amended:

DOA82-174(D)	West Boca Estates PUD
DOA76-007(B)	Okeechobee Blvd MUPD
PDD98-55	Lester PUD
PDD97-112	Saddlebrook Village PUD

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