

RESOLUTION NO. R-2004-0509

RESOLUTION APPROVING ZONING PETITION CA2001-077  
CLASS A CONDITIONAL USE  
PETITION OF JAMES K. JOHNSON  
BY CM DESIGN GROUP, INC., AGENT  
(PLANET KIDS IX)

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 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067) is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Petition CA2001-077 was presented to the Board of County Commissioners at a public hearing conducted on March 25, 2004; 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 2.E (Compliance with Time Limitations) of the Palm Beach County Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the Palm Beach County Comprehensive Plan.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 6, Supplementary Use Standards of the Palm Beach County Unified Land Development Code.
3. This Class A Conditional Use is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Class A Conditional Use meets applicable local land development regulations.

7. This Class A Conditional Use, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F, Concurrency of the ULDC.
9. This Class A Conditional Use, 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 Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2 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 CA2001-077, the petition of James K. Johnson, by CM Design Group, Inc., agent, for a Class A Conditional Use to allow a general daycare in the Agricultural Residential 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 March 25, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty 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:

Karen T. Marcus, Chair	-	Absent
Tony Masilotti, Vice Chairman	-	Aye
Jeff Koons	-	Absent
Warren H. Newell	-	Aye
Mary McCarty	-	Aye
Burt Aaronson	-	Aye
Addie L. Greene	-	Absent

The Chair thereupon declared that the resolution was duly passed and adopted on March 25, 2004.

Filed with the Clerk of the Board of County Commissioners on 14 day of April, 2004.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY:

  
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

DOROTHY H. WICKEN, CLERK

BY:

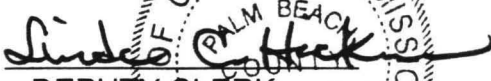
  
DEPUTY CLERK

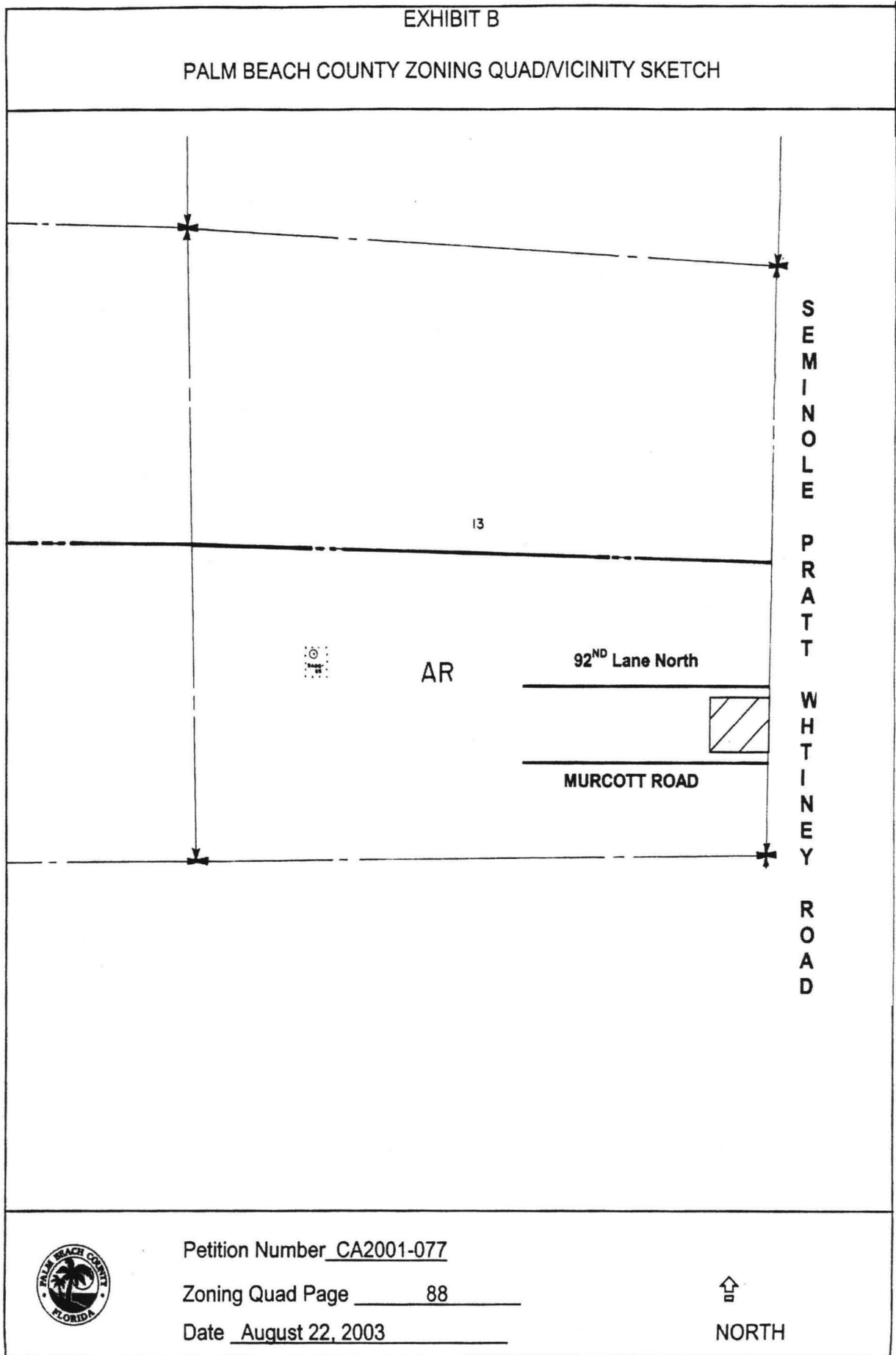


EXHIBIT A  
LEGAL DESCRIPTION

The North 285.2 feet of the South 1561.2 feet, lying east of the west 2571.1 feet of the East ½ of the South ½ of Section 13, Township 42 South, Range 40 East, subject to an easement to Indian Trail Water Control District for road and drainage purposes over the North 30 feet, the East 60 feet, and the south 40 feet aka Tract 6, Palm Beach County, Florida.

Containing: 87,889 square feet (2.02 acres) gross and 53,415 square feet (1.23 acres) excluding easements.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### A. ALL PETITIONS

1. 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 January 15, 2004. 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. The maximum building height shall be thirty (30) feet including air conditioning, mechanical equipment, satellite dishes and architectural features. Height shall be measured from finished grade to the highest point of the building. (BLDG PERMIT: ZONING/BLDG - Zoning)
2. All roof or ground mounted air conditioning, mechanical equipment and satellite dishes 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)
3. The parking area shall be surfaced with paver blocks or other semi-pervious material to the maximum extent possible, subject to approval by the DRO and County Engineer. (DRO/CO: ZONING/ENG/LANDSCAPE - Planning/Zoning)
4. A minimum fifty percent (50%) of the total net site acreage shall be maintained as pervious surface area. (DRO: ZONING - Zoning/Planning)
5. Any chain link fence installed on the property shall include a black, brown or green vinyl coating. (CO/BLDG PERMIT: LANDSCAPE/BLDG - Zoning)
6. Prior to final Development Review Officer (DRO) approval of the site plan, a parking space at the east end of the parking area shall be converted to a designated vehicle turn-around space. (DRO: ZONING - Zoning)

#### C. ENVIRONMENTAL RESOURCES MANAGEMENT (ERM)

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING: ERM - ERM)

#### D. HEALTH

1. Prior to the issuance of a building permit, an application and engineering plan to construct an onsite sewage treatment and disposal system (OSTDS) shall be submitted to the Palm Beach County Health Department for approval in accordance with Rule 64E-6 FAC and Palm Beach County ECR-I. Alternatively, if public sanitary sewer service is available to the property, the property owner shall connect to public services. (BLDG PERMIT: MONITORING - Health)

2. Prior to the issuance of a building permit, an application and engineering plan to construct a non-transient, non-community well shall be submitted to the Palm Beach County Health Department for approval in accordance with Rule 62-555 FAC and Palm Beach County ECR-II. Alternatively, if public water supply is available to the property, the property owner shall connect to public services. (BLDG PERMIT: MONITORING - Health)
3. Prior to the issuance of a building permit, the petitioner shall submit architectural plans and site plans to the Institutional/Child Care Section of the Palm Beach County Health Department for review and approval in accordance with Palm Beach County Rules and Regulations Governing Child Care Facilities. (BLDG PERMIT: MONITORING - Health)

E. ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after April 1, 2007. 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 Article 2 Chapter E of the Unified Land Development Code. (DATE: MONITORING - Eng)

2. The property owner shall convey to Palm Beach County Land Development Division by warranty deed for Seminole Pratt Whitney, 120 feet from centerline on or before June 1, 2004, or prior to the issuance of the first Building Permit, whichever shall first occur.
  - a. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. The Developer 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.
  - b. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee 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 prior to dedication.
  - c. 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 provisions for Expanded Intersection Details and "Corner Clips". (DATE/BLDG PERMIT: MONITORING - Eng)
3. Prior to issuance of a building permit, the property owner shall convey a temporary roadway construction easement along Seminole Pratt Whitney Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be

approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING - Eng)

4. The Property owner shall construct:
  - a. 92<sup>nd</sup> Lane North from Seminole Pratt Whitney Road to the projects west property line. Construction of 92<sup>nd</sup> Lane North shall be to local street standards minimum 2 10-foot travel lanes.
    - 1) This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.
    - 2) Permits required by Palm Beach County and the Indian Trail Water Control District for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng)
    - 3) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Eng)
- 5 The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING - Eng)

F. LANDSCAPING – STANDARD

1. All canopy trees to be planted in perimeter buffers shall be native species and meet the following minimum standards at installation:
  - a. tree height: Fourteen (14) feet;
  - b. trunk diameter: 3.5 inches measured at 4.5 feet above grade;
  - c. canopy diameter: Seven (7) feet – diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,
  - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on the property by this approval shall be native species and 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. All shrub or hedge materials shall be native species, and shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to 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. twenty-four (24) to thirty-six (36) inches – medium shrub;

- c. forty-eight (48) to seventy-two (72) inches – large shrub;
  - d. this condition does not apply where a single row of shrub or hedge is required on one or both sides of a fence or wall; and,
  - e. credit may be given for existing or relocated shrubs and hedge provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning)
  5. A group of three (3) or more palm or pine trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning)
  6. Field adjustment of plant materials may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (CO: LANDSCAPE - Zoning)
  7. Prior to final approval by the Development Review Officer (DRO), an Alternative Landscape Plan shall be submitted for landscaping along any portion of the property where existing vegetation may affect the proposed landscaping. (DRO: LANDSCAPE - Planning/Zoning)
- G. LANDSCAPING ALONG THE NORTH AND SOUTH PROPERTY LINES (FRONTAGES OF 92ND LANE NORTH AND MURCOTT BOULEVARD)
1. Landscaping and buffering along the north and south property lines 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 twenty (20) linear feet of the property line;
    - c. one (1) native 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 two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
    - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE - Zoning)
- H. LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF SEMINOLE PRATT WHITNEY ROAD)
1. Landscaping and buffering along the east property line shall be upgraded to include:
    - a. a minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) feet of overlap for septic system reserve area only;
    - b. one (1) native canopy tree for each twenty (20) linear feet of the property line;
    - c. one (1) native 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 two (2) 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 four (4) 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)

I. LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING UNDEVELOPED PROPERTY)

- 1. Landscaping and buffering along the west 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 planted for each twenty (20) linear feet of the property line;
  - c. one (1) native 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 two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation; and,
  - e. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation. (CO: LANDSCAPE - Zoning)
- 2. A six (6) foot high opaque wood fence shall be installed along the common boundary of the perimeter landscape buffer and the outdoor activity area. One (1) large shrub shall be planted for each four (4) linear feet of the fence, and to be planted on the exterior side of the fence. (CO: LANDSCAPE - Zoning)

J. LANDSCAPING - INTERIOR

- 1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRO: ZONING - Zoning)
- 2. Landscaping for terminal islands in the parking area shall consist of the following:
  - a. one (1) native canopy tree for each island; and,
  - b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be native species and be maintained at a maximum height of thirty (30) inches at maturity. (CO: LANDSCAPE - Zoning)
- 3. Foundation planting or grade level planters shall be provided along the north, east and west facades of the building 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 sixty percent (60%) of the total length of each applicable side of the structure; and,

- c. Landscape areas shall be planted with a minimum equivalent of one (1) native tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. (DRC/CO: ZONING/LANDSCAPE - Zoning)

K. 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. All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor, freestanding lighting fixtures shall be setback a minimum distance of thirty (30) feet from the west property line. (CO: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 8:00 p.m., excluding security lighting only. (ONGOING: CODE ENF - Zoning)
5. 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)

L. SIGNS

1. Freestanding point of purchase signs fronting on 92nd Lane North shall be limited as follows:
  - a. maximum sign height, measured from finished grade to highest point - six (6) feet;
  - b. maximum sign face area - thirty-six (36) square feet per side;
  - c. maximum number of signs - one (1) for the entire site;
  - d. style - monument style only;
  - e. location - a minimum distance of one hundred (100) feet from the west property line; and,
  - f. Signs shall be limited to identification of tenants only. (CO: BLDG. - Zoning)
2. Wall signs shall be limited to the east facade of the building only. Individual lettering size shall be limited to a maximum of eighteen (18) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG. - Zoning)

M. USE LIMITATION

1. The daycare shall be limited to a maximum of ~~120~~ 110 children at any given time. (ONGOING: HEALTH/CODE ENF - Zoning)
2. Hours of operation for the daycare shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)
3. Hours of operation for outdoor activities shall be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)

N. 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. 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)