

RESOLUTION NO. R-2004-2016

RESOLUTION APPROVING ZONING PETITION DOA/EAC1987-150B  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF FLORENCE FULLER CHILD DEVELOPMENT CTR.  
BY LAND RESEARCH MANAGEMENT INC, AGENT  
(FLORENCE FULLER CHILD DEVELOPMENT 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 2 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA/EAC1987-150B was presented to the Board of County Commissioners at a public hearing conducted on September 30, 2004; 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 2.E (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 has considered the findings in the staff report and 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 2.K.3.b 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 DOA/EAC1987-150B, the petition of Florence Fuller Child Development Ctr., by Land Research Management Inc, agent, for a Development Order Amendment/Expedited Application Consideration to modify a condition of approval for a Special Exception to allow a general daycare 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 September 30, 2004, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner MASILOTTI moved for the approval of the Resolution.

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

Karen T. Marcus, Chair	- <b>NAY</b>
Tony Masilotti, Vice Chairman	- <b>AYE</b>
Jeff Koons	- <b>AYE</b>
Warren H. Newell	- <b>AYE</b>
Mary McCarty	- <b>AYE</b>
Burt Aaronson	- <b>AYE</b>
Addie L. Greene	- <b>AYE</b>

The Chair thereupon declared that the resolution was duly passed and adopted on September 30, 2004.

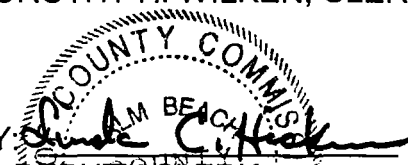
Filed with the Clerk of the Board of County Commissioners on 9th day of NOVEMBER, 2004.

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

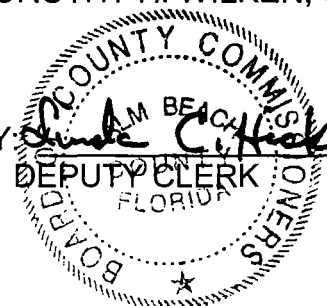
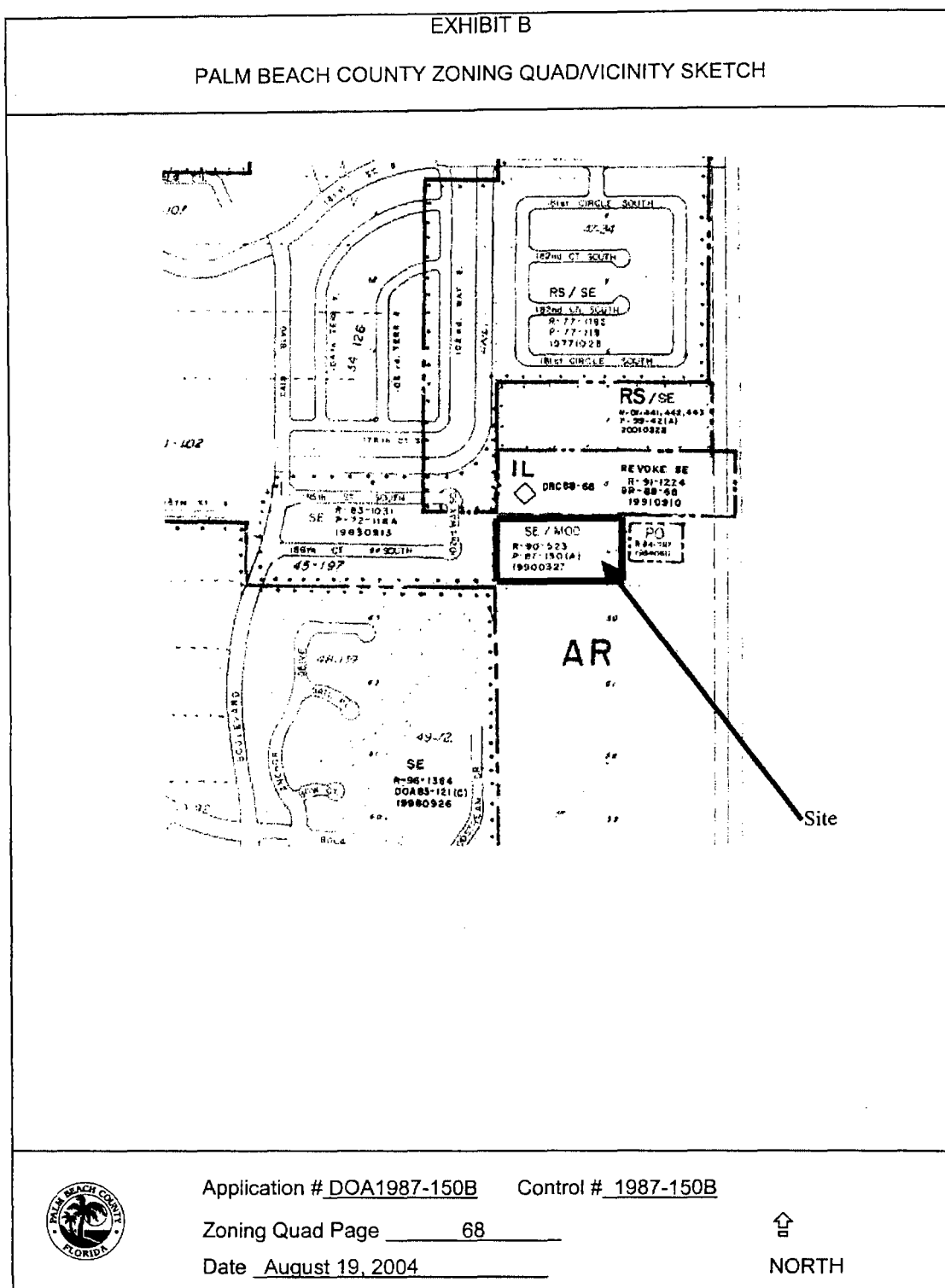


EXHIBIT A  
LEGAL DESCRIPTION

Tract 49, less the East 577.67 feet, FLORIDA FRUIT LANDS COMPANY SUDIVISION No.2, according to the plat thereof as recorded in Plat Book 1, Page 102 of the public records of Palm Beach County, Florida, lying in Section 1, Township 47 South, Range 41 East, Palm Beach County, Florida. Containing 259,767.3 Square Feet (5.963) Acres), more or less, and subject to easements, reservations and rights-of-way of record.

EXHIBIT B  
VICINITY SKETCH



## 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 Resolutions R-89-618 (Petition 1987-150), R-90-523 (Petition 1987-150(A)), 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 July 27, 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)

#### B. LANDSCAPING - STANDARD

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
  - a. Tree height: Fourteen (14) feet;
  - b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (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 three and one-half (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 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. Prior to the issuance of the Certificate of Occupancy (CO) for the site, the property owner shall replace all dead, missing plant materials on the entire subject property. (CO: LANDSCAPE - Zoning)

#### C. LANDSCAPING ALONG THE NORTH PROPERTY LINE (FRONTAGE OF 185<sup>TH</sup> STREET SOUTH)

1. Landscaping and buffering along the north property line shall be upgraded to include:
  - a. a minimum ten (10) foot wide landscape buffer strip with a maximum of five (5) feet of easement encroachment;

- b. one (1) canopy tree planted for each twenty (20) 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 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. (BLDG PERMIT: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG THE EAST, SOUTH, AND WEST PROPERTY LINES (ABUTTING RESIDENTIAL)

- 1. Landscaping and buffering along the east, south, and west property lines shall be upgraded to include:
  - a. a minimum fifteen (15) foot wide landscape buffer strip with a maximum of five (5) feet of easement encroachment;
  - b. one (1) canopy tree planted for each twenty (20) 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 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. (BLDG PERMIT: LANDSCAPE - Zoning)

E. ENGINEERING

- 1. **In addition, the petitioner shall contribute the amount of fees as established in Article V, Section 3 (Insignificant Project Standard) of the Traffic Performance Code and the Fair Share Contribution For Road Improvements Ordinance, as it presently exists, or as it may from time to time be amended. The total funds shall be paid prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING – Eng) (Previous Condition 10 of Resolution R-89-618, Petition 1987-150)**
- 2. **The property owner shall pay 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 \$31,371.00 (1,171 trips X \$26.79 per trip). (BLDG PERMIT: MONITORING – Eng) (Previous Condition 3 of Resolution R-90-523, Petition 1987-150(A))**
- 3. **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 \$78.00 per student. (CO: MONITORING – Eng) (Previous Condition 9 of Resolution R-89-618, Petition 1987-150)**
- 4. **The property owner shall construct:**
  - a) **left turn lane, south approach on State Road 7 at 185<sup>th</sup> Street South;**
  - b) **paved access to the site including drainage (minimum 2-10 foot travel lanes local street standards) all concurrent with onsite paving and drainage improvements. (CO: MONITORING – Eng) (Previous Condition 8 of Resolution R-89-618, Petition 1987-150)**

5. **The developer shall retain 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 three (3) inches of the stormwater runoff generated by a three (3) year-one (1) hour storm as required by the Permit Section, Land Development Division. 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. (ONGOING: ENG) (Previous Condition 7 of Resolution R-89-618, Petition 1987-150)**

**F. SITE DESIGN**

1. **Prior to site plan certification, the site plan shall be amended to indicate the following:**
  - a. **Required minimum access dimensions of twenty-five (25) feet.**
  - b. **Required paving markings for parking stalls and vehicular circulation on site.**
  - c. **Adequate drop off area and stacking dimensions.**
  - d. **Required number of trees along the right-of-way.**
  - e. **One (1) of three (3) alternative perimeter landscape strips adjacent to existing residential lots.**
  - f. **Required minimum usable floor area.**
  - g. **Required six (6) foot fence surrounding the play area.**
  - h. **Elimination of the 15-foot road located east of the proposed structure.**
  - i. **Ultimate right-of-way for S.W. 185<sup>th</sup> Street.**
  - j. **Total student and staff population in the tabular data.**
  - k. **Ultimate building square footage for all phases.**
  - l. **Student age breakdown and total play area required per each age group.**
  - m. **Size and location of all proposed buildings, parking, and play area, including future development to include all phases of development.**
  - n. **Development phase lines.**
  - o. **Conformance to minimum setback requirements for the AR-Zoning District. (DRO: ZONING) (Previous Condition 1 of Resolution R-89-618, Petition 1987-150) Note: [Completed]**
2. **The centerline of the circular driveway shall be realigned perpendicular to the centerline of S.W. 185<sup>th</sup> Street. (DRO: ZONING) (Previous Condition 2 of Resolution R-89-618, Petition 1987-150) Note: [Completed]**
3. **The developer shall relocate all proposed improvements a minimum of 50 feet to the west to stay clear of the full distance of the adjacent sites 150-foot antenna. (DRO: ZONING) (Previous Condition 3 of Resolution R-89-618, Petition 1987-150) Note: [Completed]**

**G. HEALTH**

1. **Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (CO: MONITORING – Health) (Previous Condition 4 of Resolution R-90-523, Petition 1987-150(A))**
2. **Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (CO: MONITORING – Health) (Previous Condition 5 of Resolution R-90-523, Petition 1987-150(A))**

3. Prior to final DRO approval, architectural plans and site plans must be submitted to the Institutions/Child Care Section, Palm Beach County Health Department for approval. (DRO: HEALTH)

H. USE LIMITATIONS

1. Condition 6 of Resolution R-90-523, Petition 1987-150(A), which currently states:

**“Total enrollment at the facility shall be limited to one-hundred and thirty (130) daycare students. The facility shall be permitted to develop according to the approved site plan.”**

Is hereby amended to read:

The day care center shall be limited to a maximum of 307 children.  
(ONGOING: CODE ENF - Zoning)

I. ENVIRONMENTAL RESOURCES MANAGEMENT

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)

J. 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 7 of Resolution R-90-523, Petition 1987-150(A), 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 Article 2.E 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)