

RESOLUTION NO. R-2004-2027

RESOLUTION APPROVING ZONING PETITION DOA1996-019A  
DEVELOPMENT ORDER AMENDMENT  
PETITION OF ALL STAR KIDS EARLY LEARNING CTR. INC.  
BY MILLER LAND PLANNING CONSULTANTS INC, AGENT  
(ALL STAR KIDS LEARNING CTR.)

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 DOA1996-019A 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 DOA1996-019A, the petition of All Star Kids Early Learning Ctr. Inc., by Miller Land Planning Consultants Inc, agent, for a Development Order Amendment to add square footage and reconfigure site plan for a Class A Conditional Use 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 AARONSON and, upon being put to a vote, the vote was as follows:

Karen T. Marcus, Chair	-	<b>AYE</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


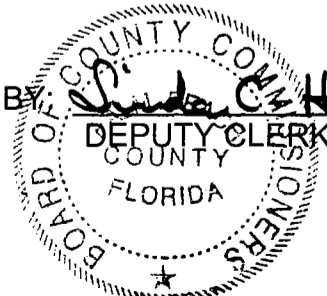
BY:   
DEPUTY CLERK  


EXHIBIT A  
LEGAL DESCRIPTION

The North 249 feet of the West 832.05 feet of the East ½ of Section 32, Township 42 South, Range 41 East, LESS and EXCEPT the West 483 feet, Palm Beach County, Florida; subject to an easement for road and drainage purposes to Indian Trail Water Control District over the North 40 feet and the East 60 feet and the West 30 feet. (a/k/a Tract A-1)

EXHIBIT B  
VICINITY SKETCH

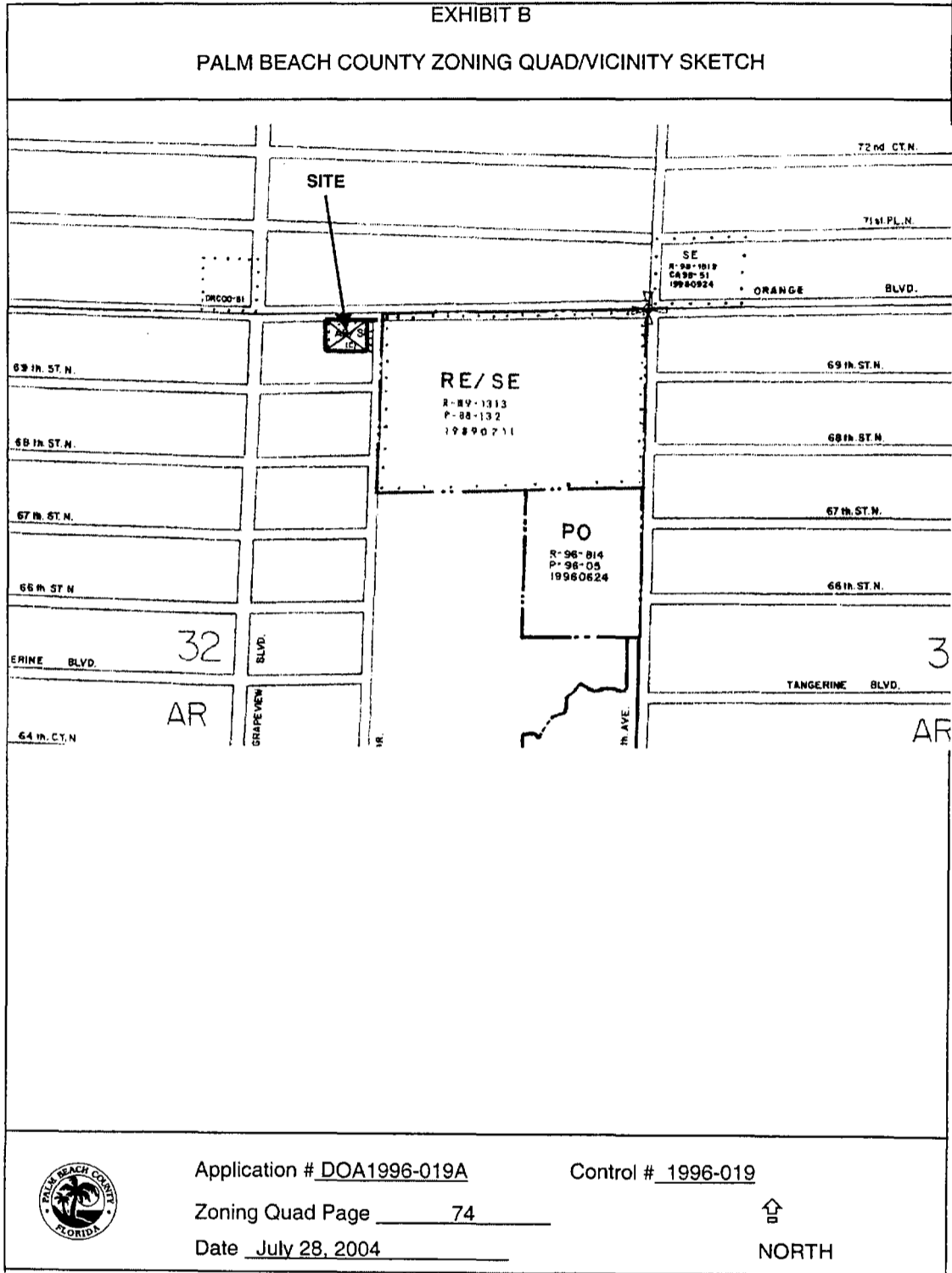


EXHIBIT C

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 Resolution R-1996-997 (Petition 1996-019), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING – Zoning)
2. Condition A.1 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Development of the site is limited to the uses and site design approved by the Board of County Commissioners (site plan dated April 29, 1996). 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)**

Is hereby amended to read:

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 June 11, 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. ARCHITECTURAL REVIEW AND SITE DESIGN

1. Condition C.1 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Prior to final site plan certification, the site plan shall be revised by having the building moved to reflect a 75-foot front yard setback. (DRC: ZONING)**

Is hereby deleted: [REASON: Completed]

2. Condition C.2 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Prior to final site plan certification, the site plan shall be revised to reflect six (6) parallel parking spaces measuring a minimum of 10 feet in width by 23 feet in length. This parking area shall include terminal landscaping islands in accordance with ULDC standards. Two (2) of these spaces shall also be identified as drop-off stalls and measure a minimum of 12 feet in width by 20 feet in length. All six (6) spaces shall also be marked per the ULDC. (DRC: ZONING – Zoning))**

Is hereby deleted: [REASON: Completed]

3. Condition C.3 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Prior to final site plan certification, the proposed outdoor play area shall be reconfigured so as to be located 25 feet from the rear property line.** (DRC: ZONING – Zoning)

Is hereby deleted: [REASON: Completed]

4. Condition C.4 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Prior to final site plan certification, the site plan shall be revised to reflect drainfield/septic tank areas instead of current ABed No. 1 and 2" designations.** (DRC: ZONING – Zoning)

Is hereby deleted: [REASON: Completed]

5. **Prior to final site plan certification all stationary outdoor play equipment with a permanent foundation shall be shown on site plan and located 25 feet from any residentially zoned or used property line.** (DRO: ZONING) (Previous Condition C.5 of Resolution R-1996-997, Petition 1996-019)

6. **All outdoor lighting used to illuminate the subject property shall be of low intensity, shielded and directed down and away from adjacent properties and streets.** (BLDG PERMIT: BLDG – Zoning) (Previous Condition C.6 of Resolution R-1996-997, Petition 1996-019)

7. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide architectural elevations for the 1,000 square foot building addition. The building addition shall be designed consistent with the Rural Design Guidelines as referenced in ULDC Article 5.C.1.H.1.i. (DRO: ARCH REVIEW – Planning)

#### C. HEALTH

1. **Proposed well and onsite sewage treatment and disposal system (OSTDS) location shall be shown on final site plan.** (DRO: HEALTH) (Previous Condition B.1 of Resolution R-1996-997, Petition 1996-019)
2. **Application and engineering plans to construct an onsite sewage treatment and disposal system (OSTDS) in accordance with Chapter 10D-6 FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Public Health Unit prior to final site plan approval.** (DRO: HEALTH) (Previous Condition B.2 of Resolution R-1996-997, Petition 1996-019)
3. **Application and engineering plans to construct a non-transient non-community water system in accordance with Chapter 62-555 and Palm Beach County ECR-II must be submitted to the Palm Beach County Public Health Unit prior to final site plan approval.** (DRO: HEALTH) (Previous Condition B.3 of Resolution R-1996-997, Petition 1996-019)
4. **Location and square footage of the outdoor fenced play area shall be shown on final site plan.** (DRO: HEALTH) (Previous Condition B.4 of Resolution R-1996-997, Petition 1996-019)

5. **No food processing will be allowed on this site with an OSTDS. (ONGOING: CODE ENF - Health) (Previous Condition B.5 of Resolution R-1996-997, Petition 1996-019)**
6. **Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Public Health Unit in accordance with Chapter 10D-24 FAC prior to issuance of a building permit. (BLDG PERMIT: BLDG - Health) (Previous Condition B.6 of Resolution R-1996-997, Petition 1996-019)**

D. LANDSCAPING

1. **Prior to final site plan certification, the site plan shall be revised to reflect the following landscaping for the outdoor play area:**
  - a. **A six (6) foot high perimeter fence with 14-foot tall trees placed 20 feet on center; and a 24-inch high hedge or shrub material placed 24 inches on center. This required landscape material shall be located on the exterior side of the fence.**
  - b. **A minimum of one (1) twelve (12) foot tall native canopy tree shall be provided per 750 square feet of outdoor activity area provided. (DRO: ZONING) (Previous Condition G.1 of Resolution R-1996-997, Petition 1996-019)**

E. ENGINEERING

1. **The Property owner shall construct a left turn lane east approach on Orange Boulevard at the projects entrance road. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the 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. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: BLDG – Eng) (Previous Condition E.1 of Resolution R-1996-997, Petition 1996-019) [Completed]**
2. 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 1,000 square foot addition to the Day Care Site shall be issued after January 1, 2006. 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.E of the Unified Land Development Code. (DATE: MONITORING – Eng)
3. Prior to issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for a 25 foot corner clip on Orange Boulevard at 143<sup>rd</sup> Road North. This additional right of way shall be 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. (BLDG PERMIT: MONITORING – Eng)

4. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: MONITORING – Eng)
5. The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit. (BLDG PERMIT: MONITORING – Eng)

F. MASS TRANSIT

1. **Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer.**

**The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack.** (DRO: DRO - School Board/Eng/Planning – Eng)  
(Previous Condition F.1 of Resolution R-1996-997, Petition 1996-019)

2. **The property owner shall negotiate, in good faith, a contract for a proportionate share of the cost of operation and maintenance of mass transit generated by this projects identifiable impacts. This condition shall remain in effect until June 24, 1997.** (DATE: MONITORING – Eng)  
(Previous Condition F.2 of Resolution R-1996-997, Petition 1996-019)

G. PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be revised to extend the pedestrian pathway from the eastern side of the building to the proposed future sidewalk on 143<sup>rd</sup> Road North. The location of the proposed future sidewalk on 143<sup>rd</sup> North shall also be labeled on the site plan. (DRO: PLANNING)

H. SIGNAGE

1. Condition D.1 of Resolution R-1996-997, Petition 1996-019, which currently states:

**Signage for the property fronting on Orange Boulevard shall be located perpendicular to the front property line and be limited as follows:**

- a. **Maximum sign height, measured from finished grade to highest point - five (5) feet;**
- b. **Maximum sign face area - 50 square feet;**
- c. **Style - monument style only.** (BLDG PERMIT: BLDG - Zoning)

Is hereby amended to read:

Freestanding point of purchase signs fronting on Orange Boulevard shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - five (5) feet;
- b. maximum sign face area per side – fifty (50) square feet;



- c. maximum number of signs - one (1);
- d. style - monument style only; and,
- e. the design of the sign shall remain consistent with the Rural Design Guidelines as referenced in ULDC Article 5.C.1.H.1.i. (BLDG PERMIT: BLDG – Zoning)

I. USE LIMITATIONS

- 1. **The day care center hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. daily.** (ONGOING: CODE ENF – Zoning) (Previous Condition H.2 of Resolution R-1996-997, Petition 1996-019)

- 2. Condition H.1 of Resolution R-1996-997, Petition 1996-019, which currently states:

**The day care center shall be limited to a maximum of 125 children.** (ONGOING: HEALTH – Health)

Is hereby deleted: [REASON: Replaced by Condition A.2]

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 I.1 of Resolution R-1996-997, Petition 1996-019, which currently states:

**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; 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.**

**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)**

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)