

RESOLUTION NO. R-2008- 0705

RESOLUTION APPROVING ZONING APPLICATION CA-2006-1912  
(CONTROL NO. 1979-256)  
CLASS A CONDITIONAL USE  
APPLICATION OF NO BIG DEAL LLC  
BY JON E SCHMIDT & ASSOCIATES, AGENT  
(PLANET KIDS XVI)

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 applications relating to zoning; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) 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 Application CA-2006-1912 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2008; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant 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 (Monitoring) 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 purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. 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.
3. 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. 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.

- 6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
- 7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
- 8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
- 9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Application CA-2006-1912, the application of No Big Deal LLC, by Jon E Schmidt & Associates, agent, for a Class A Conditional Use to allow a daycare, general 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 April 24, 2008, 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.

Robert Kanjian

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

Addie L. Greene, Chairperson	¥	Absent
Jeff Koons, Vice Chair	¥	Aye
Karen T. Marcus	¥	Aye
Robert J. Kanjian	¥	Aye
Mary McCarty	¥	Aye
Burt Aaronson	¥	Aye
Jess R. Santamaria	¥	

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 24, 2008.

Filed with the Clerk of the Board of County Commissioners on 16th day of May, 2008.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY:   
COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
DEPUTY CLERK



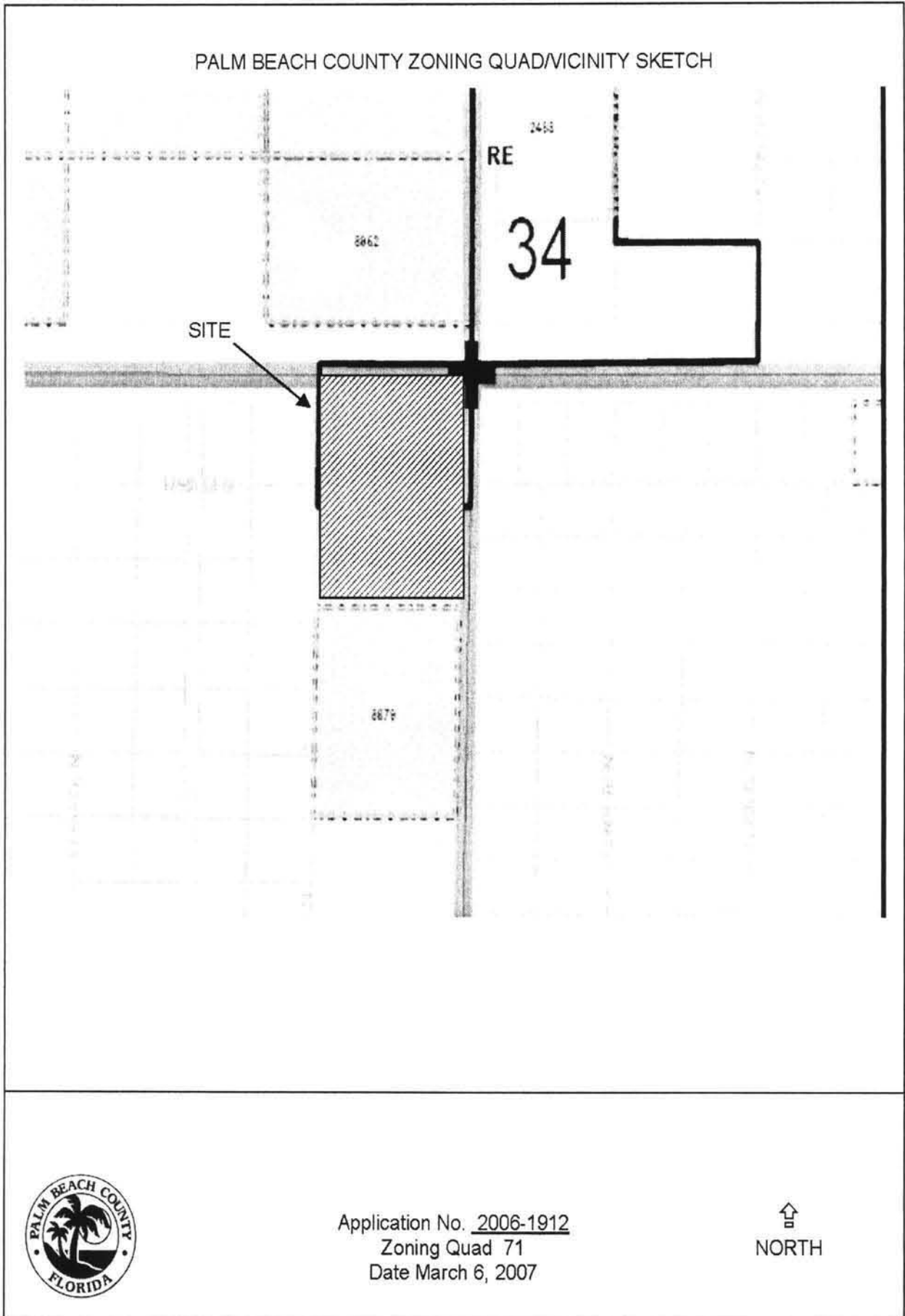
EXHIBIT A

LEGAL DESCRIPTION

THAT PORTION OF THE EAST QUARTER OF THE EAST HALF OF SECTION 4, TOWNSHIP 41 SOUTH, RANGE 41 EAST, LYING SOUTH OF THAT CERTAIN SOUTH INDIAN RIVER DRAINAGE DISTRICT DRAINAGE RIGHT-OF-WAY ALONG THE NORTH LINE OF SAID SECTION 4 AS SHOWN ON THE REPLAT OF JUPITER FARMS AND GROVES, RECORDED IN PLAT BOOK 24, PAGE 7, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE SOUTH 4607.98 FEET THEREOF, AND LESS THE EAST 40 FEET THEREOF.

SUBJECT TO EASEMENTS, RESTRICTIONS, CONDITIONS, APPLICABLE ZONING REGULATIONS AND ORDINANCES AND OTHER LIMITATIONS OF RECORD AND TAXES FOR THE YEAR 2003 AND SUBSEQUENT YEARS.

EXHIBIT B  
VICINITY SKETCH



Application No. 2006-1912  
Zoning Quad 71  
Date March 6, 2007

↑  
NORTH

## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 14, 2008. 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)
2. Prior to final approval by the Development Review Officer (DRO), the property owner shall submit a revised site plan; traffic study and related application documents to reflect up to fourteen thousand (14,000) square feet for the day care building(s). Building setback shall remain a minimum of one hundred and forty four (144) feet from the south property line and a minimum of one hundred and thirty (130) feet from the east property line. (DRO: ZONING-Zoning)
3. The floor plan presented to the Board of County Commissioners on April 24, 2008 reflects additional square footage per child above the minimum Health Department childcare requirements, and is the basis of this approval. (DRO/BLDG PERMIT: ZONING/BLDG – Zoning)
4. Development of this facility shall be limited to the floor plan presented to the Board of County Commissioners on April 24, 2008 for the purpose of allocation of classroom and activities. Limited adjustment of the internal square footage shall be permitted at final approval by the Development Review Officer (DRO). (DRO:ZONING –Zoning)

#### ARCHITECTURAL REVIEW

1. At time of submittal of final approval by the Development Review Officer (DRO), the architectural elevations for the daycare shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed consistent with Article 5.C. Rural design elements of the Unified Land Development Code (ULDC), and shall have similar architectural treatment and character as shown in the elevations dated July 16, 2007, prepared by James E. Gilgenbach Architect and Planning. (DRO: ARCH REVIEW - Zoning)
2. The maximum height of all buildings shall be twenty –seven (27) feet. All heights shall be measured from finished grade to the highest point of the buildings, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW - Zoning)
3. Downspouts located on the south and east elevations of buildings 1 and 2 shall be hidden behind pilasters or any other acceptable manner approved by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:
  - a) No Building Permits for the site may be issued after January 1, 2010. 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, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. The Property owner shall construct:

- right turn lane north approach on 130th Avenue North at the project entrance road.
- left turn lane south approach on 130th Avenue North at the project entrance road
- left turn lane south approach on 130th Avenue North at Indiantown Road a minimum of 330 feet in length

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. (BLDG PERMIT: MONITORING-Eng)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. Landscape Within the Median of Indiantown Road

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Indiantown Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below. (ONGOING: ENG-Eng)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng)

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENG-Eng)

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Indiantown Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENG-Eng)

## SIGNALIZATION REQUIRMENTS

a. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Indiantown Road and 130th Avenue North. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. (ONGOING: ENG-Eng)

b. No Building Permits shall be issued until the developer provides acceptable surety in the form of cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng).

2) In order to request release of the surety for this traffic signal at Indiantown Road and 130th Avenue North, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at this intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENG-Eng)

## ENVIRONMENTAL

1. A Preserve Management Plan and form of recordation such as Conservation Easement, Restrictive Covenant or Plat, shall be approved by ERM and recorded by the property owner prior to final approval by the Development Review Officer (DRO). (DRO: ERM-ERM)
2. An upland preserve set-aside devoid of all development areas and easements, equal to or greater than two and two tenth (2.2) acres of the native upland vegetation shall remain as depicted on the site plan dated February 14, 2008. (DRO: ERM-ERM)
3. A Preserve Management Plan shall be approved by ERM prior to final approval by the Development Review Officer (DRO). The preserve management plan shall include all preserve areas within the development. A Conservation Easement, or other instrument approved by ERM shall be required for all preserve areas prior to approval of the Preserve Management Plan. (DRO: ERM-ERM)

## HEALTH

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall apply for and obtain a construction permit for an onsite sewage treatment and disposal system (OSTDS), in accordance with Chapter 64E-6 FAC, and Palm Beach County ECR-I. (DRO: HEALTH-Health)
2. Prior to the issuance of a building permit, the property owner shall submit an application and engineering plans for approval of an onsite drinking water system by the Palm Beach County Health Department, in accordance with Chapter 64E-8, FAC, and Palm Beach County ECR-II (BLDG PERMIT: MONITORING-Health)

## LANDSCAPING-STANDARDS

1. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with the conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)
2. A minimum of sixty-five (65) 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. (DRO: LANDSCAPE - Zoning)
3. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (DRO: LANDSCAPE - Zoning)
4. Preservation areas may be excluded from perimeter landscape buffer planting, subject to the following:
- a. prior to final approval by the Development Review Officer (DRO), documentation that demonstrates native preserve area vegetation will meet or exceed the screening provided by required perimeter landscaping shall be submitted to the Landscape Section for review and approval; and,
  - b. additional native vegetation may be relocated or added to preserve areas to meet the intent of this condition. (DRO: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ADJACENT TO RECREATIONAL VEHICLE PARK)

5. In addition to the code requirements, landscaping and buffer width along the east 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) pine for each twenty (20) linear feet of the property line; and shall be planted in clusters of five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation and have a maximum spacing of forty (40) feet between clusters;
  - c. Saw Palmetto shall replace the ULDC requirement for medium shrubs. (DRO: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF 130<sup>th</sup> AVENUE NORTH)

6. In addition to the code requirements, landscaping and buffer width along the east property line shall be upgraded to include:
- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
  - b. one (1) pine for each twenty (20) linear feet of the property line; and shall be planted in clusters of five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation and have a maximum spacing of forty (40) feet between clusters;
  - c. Saw Palmetto shall replace the ULDC requirement for medium shrubs; and,
  - d. a three (3) foot high (two railed) split rail fence to be installed meandering between proposed and existing vegetation within this buffer (DRO: LANDSCAPE - Zoning)

7. Prior to the final approval by the Development Review Officer (DRO), the property owner shall revise the plan to eliminate a minimum of sixteen (16) parking spaces located between the entry portico and the dry detention area. This area shall have a minimum width of twenty (20) feet, and shall be utilized as an interior landscape buffer with the following planting requirements:
  - a. a total of nine (9) native canopy trees;
  - b. three (3) groups of pine clusters . Each cluster shall have a five (5) to seven (7) pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation, and have a maximum space of forty (40) feet between clusters;
  - c. Saw Palmetto shall be planted at every one hundred (100) square feet of the planting area. (DRO: LANDSCAPE - Zoning)
8. Decorative pavers or stamped concrete in a rustic style and color shall be provided in areas where shown on the site plan dated February 14, 2008. (DRO: ZONING-Zoning)

### 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. (ONGOING: CODE ENF - Zoning)
2. All outdoor, freestanding lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
3. All outdoor, freestanding lighting fixtures shall be setback a minimum distance of seventy (70) feet from the south property line and thirty (30) feet from the east property line. (BLDG PERMIT: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 9:00 p.m., excluding security lighting only. (ONGOING: CODE ENF - Zoning)
5. Prior to the final approval by the Development Review Officer (DRO), the property owner shall submit a revised site plan with proposed lighting. Bollard lighting shall be incorporated to reduce visual impact on neighbors east of the subject site.

### SIGNS

1. Freestanding signs fronting on 130th Avenue North shall be limited as follows:
  - a. maximum sign height, measured from finished grade to highest point - four (4) feet;
  - b. maximum sign width-eight (8) feet;
  - c. maximum sign face area per side – thirty-two (32) square feet;
  - d. style - monument only;
  - e. location - a maximum distance of fifty (50) feet from either side of the access drive measured from edge of pavement; and,
  - f. maximum number of signs one (1) for the entire site. (BLDG PERMIT: BLDG - Zoning)

### USE LIMITATIONS

1. The maximum capacity for the daycare facility shall not exceed two hundred (200) children at any one time. An annual report verifying the capacity shall be submitted to the Zoning Division commencing on January 31, 2009. (ONGOING/DATE: CODE ENF/ZONING - Zoning)

2. Total gross floor area for the two buildings shall be limited to a maximum of fourteen thousand (14,000) square feet. No further expansion of the facility shall be permitted except subject to a Development Order Amendment. (BLDG PERMIT: BLDG/ZONING - Zoning)
3. Hours of operation for the daycare shall be limited to 6:30 a.m. to 8:00 p.m. Monday through Friday. No weekend operations shall be permitted. (ONGOING: CODE ENF - Zoning)
4. Outdoor speaker or public address systems shall not be permitted on the property, except for emergency warning and security systems. (ONGOING: CODE ENF - Zoning)
5. The outdoor activity areas shall not be in use before 8:00 am or after 8:00 pm. (ONGOING: CODE ENF - Zoning)

#### 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 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 15th Judicial Circuit. (ONGOING: MONITORING - Zoning)

This resolution is effective when filed with the Clerk of the Board of County Commissioners.