

RESOLUTION NO. R-2017- 0004

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2016-00849
(CONTROL NO. 2016-00079)
a Class A Conditional Use
APPLICATION OF George Moraitis
BY iPlan and Design LLC, AGENT
(Children's Academy of Lake Worth)

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;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application Z/CA-2016-00849 was presented to the Board of County Commissioners at a public hearing conducted on January 5, 2017;

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 recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Class A Conditional Use;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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 Z/CA-2016-00849, the Application of George Moraitis, by iPlan and Design LLC, Agent, for a Class A Conditional Use to allow a General Daycare, on a parcel of land generally described as shown on the legal description 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 January 5, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

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

Commissioner Paulette Burdick, Mayor	- Aye
Commissioner Melissa McKinlay, Vice Mayor	- Aye
Commissioner Hal R. Valeche	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Steven L. Abrams	- Aye
Commissioner Mary Lou Berger	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 5, 2017.

Filed with the Clerk of the Board of County Commissioners on January 18th, 2017.

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY:


COUNTY ATTORNEY

BY:


DEPUTY CLERK



The seal is circular with a double-line border. The outer ring contains the text 'PALM BEACH COUNTY COMMISSIONERS' at the top and 'FLORIDA' at the bottom, separated by a star on the left. The inner ring contains the text 'COUNTY COMMISSIONERS' at the top and 'DEPUTY CLERK' at the bottom, also separated by a star on the left.

EXHIBIT A

LEGAL DESCRIPTION

LOT 128, LESS THE EAST 27.53 FEET, AND ALL OF LOT 129 AND THE EAST 33.86 FEET OF LOT 130, LAKE OSBORNE SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 42; LESS THE SOUTH 40 FEET THEREOF, ALSO LESS THE NORTH 40 FEET OF THE SOUTH 80 FEET OF THE WEST 36.81 FEET FOR CANAL RIGHT OF WAY, AS CONVEYED BY QUIT CLAIM DEED RECORDED IN O.R. BOOK 1921, PAGE 1507, ALSO EXCEPT THE NORTH 8 FEET TAKEN FOR LANTANA ROAD IN THE ORDER OF TAKING RECORDED IN O.R. BOOK 4822, PAGE 1582, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

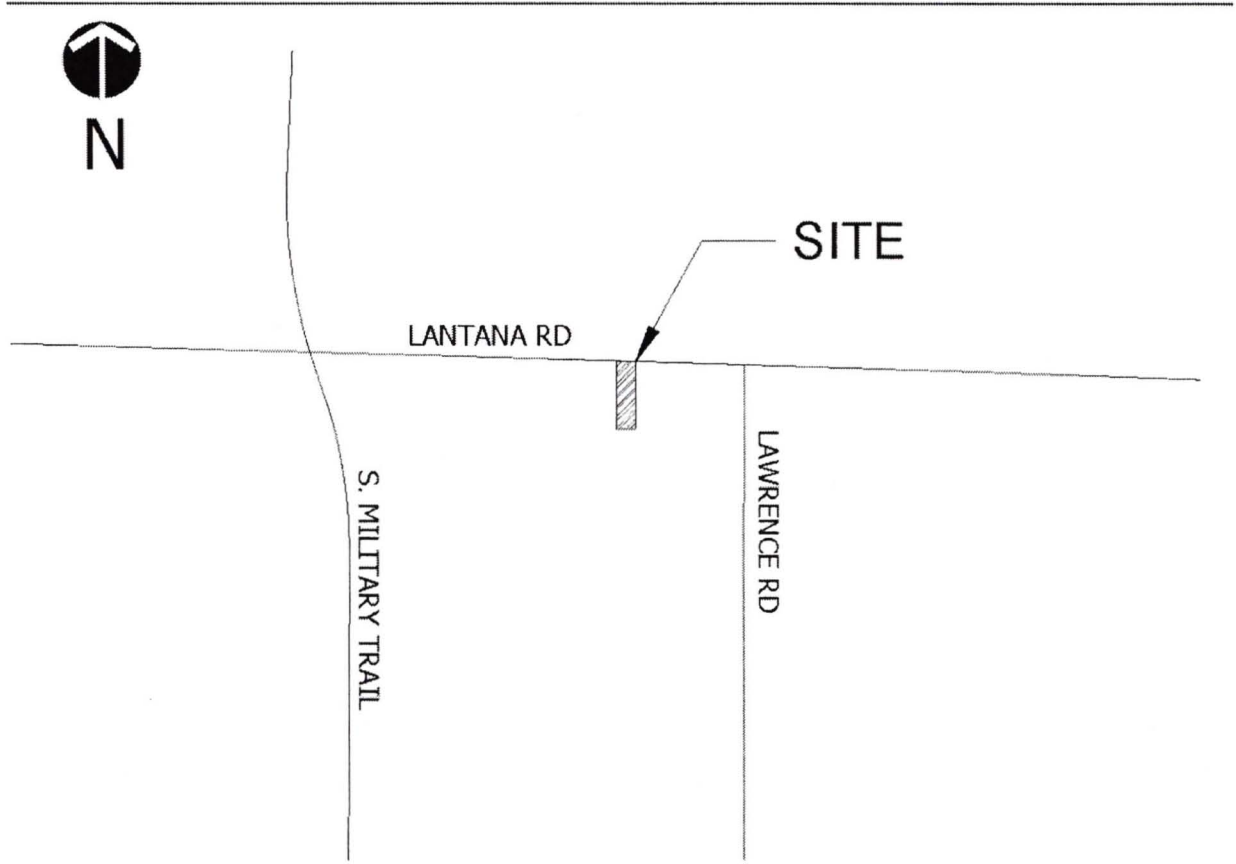


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Preliminary Site Plan is dated October 13, 2016. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

Prior to final approval by the Development Review Officer, the Architectural Elevations shall be finalized in compliance with Article 5.C. Architectural Elevations shall be generally consistent with the Architectural Elevations dated October 10, 2016. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. Modifications beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (DRO: ZONING - Zoning)

ENGINEERING

1. The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for Lantana Road, fifty-five (55) feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. 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, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County 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. 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, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDG/PMT/ONGOING: MONITORING - Engineering)

2. 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 December 31, 2019. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

3. The Property Owner shall construct a left turn lane east approach on Lantana Road at the project's access point. 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.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDG/PMT: MONITORING - Engineering)

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

4. The applicant must update the traffic study before the final site plan approval by removing the library from the trip generation and all other calculations, as applicable. (DRO: ENGINEERING - Engineering)

ENVIRONMENTAL - PRESERVATION OF VEGETATION

1. Prior to Final Plan Approval by the Development Review Officer, the Property Owner shall submit an application for the Preservation of Vegetation to the Department of Environmental Resource Management (ERM). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to Final Plan Approval by the Development Review Officer (DRO), the Property Owner shall submit a Final Site Plan with a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show:

a. the temporary location for the relocated Vegetation and identify what type of tree barricades will be utilized;

b. the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;

c. a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation; and

d. the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO: ERM - ERM)

3. No vegetation shall be removed or relocated and no Preservation of Vegetation permit; as per Article 14, shall be issued until ERM conditions 1 and 2 are satisfied. (ONGOING: ERM – ERM)

4. Prior to any Site Grading or Land Clearing activity/permit; and any Building Permit(s) issuance, the Property Owner shall submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions. (ONGOING: ERM – ERM)

5. Failure to comply with the all Landscape Preservation of Vegetation Conditions contained herein, shall result in a Stop Work Order being placed on the site and applicable fines assessed. (ONGOING: ERM – ERM)

LANDSCAPE – PRESERVATION OF VEGETATION

1. Prior to Final Approval by the Development Review Officer, the Final Site and Regulating Plans shall be revised as follows:

a. the number of trees planted in the Incompatibility buffers shall be revised to meet Code (1 per 20 lineal feet);

b. revise the Site Plan and Tabular Tree List to indicate tree numbers 99 and 100 to remain and be sufficiently protected;

c. revise the Site Plan and Tabular Tree List to indicate that Saw Palmetto number 117 is to be relocated; and,

d. revise and remove tree number 121 from the Site Plan and Tabular Tree List. (DRO: ZONING - Zoning)

2. Prior to Final Plan approval by the Development Review Officer, the Property Owner shall submit a Final Site Plan with a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. The Plan(s) shall show:

- a) the temporary location for the relocated Vegetation and identify what type of tree barricades will be utilized;
- b) the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;
- c) a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation; and
- d) the above requirements (a thru c) shall be updated in the Tree Disposition Chart. (DRO: ZONING - Zoning)

3. Prior to Final Development Review Officer (DRO) approval, the Property Owner shall:

- a. submit an application for a Vegetation Barricade Permit to the Building Division. The application shall be routed to the Zoning Division for coordinated review by Zoning, ERM and Building Divisions;
- b. include the approved DRO plan(s) with the approved Disposition Chart with the barricade permit application;
- c. complete the installation of all vegetation protection barricades and tagging; and,
- d. schedule inspections and receive a "Pass" status with Zoning Landscape Inspectors prior to any tree removal activity. (BLDG PERMIT/DRO: – ZONING - Zoning)

4. No vegetation shall be removed or relocated and no Building Permit(s) shall be issued until Landscape Conditions 1 and 2 are satisfied. (ONGOING/BLDG PERMIT: ZONING – Zoning)

5. Failure to comply with the Landscape – Preservation of Vegetation, conditions 1 thru 3 may result in a Stop Work Order being placed on the site and applicable fines assessed. (ONGOING: ZONING – Zoning)

LANDSCAPING- SOUTH PROPERTY LINE

6. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revise to show no easement overlap within south property line. (DRO: ZONING - Zoning)

LAKE WORTH DRAINAGE DISTRICT

1. Prior to platting, technical compliance, or issuance of permits by this District, LWDD will require the property owner to convey, either by Warranty Deed to Exclusive Easement Deed, the north 40 feet of the south 80 feet of the L-16 Canal to match the easement per ORB 19797 PG 1281 to the east. (PLAT: ENGINEERING - Lake Worth Drainage District)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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: ZONING - 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; the 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 Unified Land Development Code 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 of Approval; 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 the 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: ZONING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.