

RESOLUTION NO. R-91- 990

RESOLUTION APPROVING ZONING PETITION NO. 90-41
SPECIAL EXCEPTION PETITION OF SARRIA-CABRERA ENT., INC.

WHEREAS, the Board of County Commissioners, as the governing body, 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 notice and hearing requirements, as provided for in Chapter 402.5 of the Palm Beach County Zoning Code, have been satisfied; and

WHEREAS, Petition No. 90-41 was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on April 25, 1991; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, has considered the evidence and testimony presented by the applicant and other interested parties, and the recommendations of the various county review agencies and the recommendations of the Planning Commission; and

WHEREAS, this approval is subject to the Zoning Code, Section 402.9 (Mandatory Review of Development Approvals) and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners, sitting as the Zoning Authority, made the following findings of fact:

1. This proposal is consistent with the requirements of the Comprehensive Plan and local land development regulations.

WHEREAS, Chapter 402.5 of the Zoning Code, requires that the action of the Board of County Commissioners, sitting as the Zoning Authority, be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Petition No. 90-41, the petition of SARRIA-CABRERA ENT., INC., BY ROBERT A. BENTZ, AGENT, for a SPECIAL EXCEPTION FOR A DAY CARE CENTER (MAXIMUM 85 CHILDREN) lying on a parcel of land in Lots 1 thru 5, Block 33, Section 6, Township 45 S., Range 43 E., Hypoluxo Village Plat #2, unrecorded, and being located ON THE N.W. CORNER OF VENETIAN RD. & HYPOLUXO RD., IN THE RS ZONING DISTRICT, was approved on April 25, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS:

1. Prior to site plan certification, the site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
2. Development of the site is limited to the uses and site design shown on the site plan approved by the Board of County Commissioners (Exhibit 21). Any modifications must be approved by the Board of County Commissioners

unless the proposed use or design changes are permitted pursuant to Section 402.7 (E)2 (b) (Site Plan Review Committee Powers and Standards of Review).

B. ADVERTISING

1. All on site signs shall comply with the Palm Beach County Sign Code, Ordinance No. 72-23, and shall indicate principal uses only. Specifically, no snipe signs, banners, balloons or other prohibited types of advertisement shall be permitted on site.

C. DAY CARE

1. The site shall be limited to a maximum of eighty-five (85) children and 3,320 square feet gross floor area.
2. The site plan shall be amended to reflect a four (4) foot wide sidewalk running in front of the drop-off spaces and connecting to the day care entrance.
3. A minimum six (6) foot high wooden fence shall be provided along the entire length of the north perimeter of the property.
4. The outdoor activity area shall be surrounded by a six (6) foot high chain-link fence along the east, south and west perimeters.
5. No outdoor loudspeaker system audible off site shall be operated on the site.
- 6.. Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m.
7. All playground equipment which is permanently attached to the ground shall meet property setback requirements.

D. DUMPSTER

1. All garbage and refuse receptacles shall be confined to a designated area. Dumpsters or other trash collection devices shall be concealed behind CBS walls having an architectural treatment compatible with the principal building. The open end of the enclosure shall have an obscure, opaque gate.

E. ENGINEERING

1. The Developer shall provide discharge control and treatment for 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 on-site the stormwater runoff generated by a three (3) year-one (1) hour storm with a total rainfall of 3 inches as required by the Permit Section, Land Development Division. In the event that the subject site abuts a Department of Transportation maintained roadway, concurrent approval from the Florida Department of Transportation will also be required. 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.

2. Prior to August 1, 1991 or prior to the issuance of the first building permit, whichever shall first occur, the property owner shall convey to Palm Beach County Roadway Production Division by road right-of-way warranty deed for Hypoluxo Road, ~~50 feet from centerline 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate at intersections as determined by the County Engineer.
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 at the time of the building permit presently is \$11,000.00 (200 trips X \$55.00 per trip).
4. No access to the site shall be permitted from Venetian Drive.
5. Property owner shall construct a four (4) foot wide concrete sidewalk along Venetian Way adjacent to this property concurrent with paving and drainage permits. Completion shall be prior to a Certificate of Occupancy.
6. The access driveway to the west of the property shall be limited to an exit only.

F. HEALTH

1. The application and engineering plans to construct on site potable water supply and on site sewage disposal system shall be submitted to the Health Unit prior to site plan certification.
2. The property owner shall connect to a public water and sewer supply when available to the property.
3. The entire lot shall be demucked prior to any construction.

G. LANDSCAPE

1. Landscaping along the perimeters of the property shall be upgraded to include:
 - a. Twelve (12) foot tall native canopy trees, placed twenty (20) feet on center and a thirty-six (36) inch tall continuous opaque hedge along the north, south and west perimeters with the exception of the areas adjacent to the outdoor recreation area. The landscaping along the north perimeter shall be located on the exterior of the required wooden fence.

- b. Landscaping along the perimeter of the outdoor activity area shall be upgraded to include minimum twelve (12) foot tall native canopy trees placed fifteen (15) feet on center and a thirty-six (36) inch continuous opaque hedge. All landscaping shall be planted on the exterior side of the six (6) foot high required chain-link or wooden fence.
2. The petitioner shall provide a minimum of one twelve (12) foot tall native canopy tree per seven-hundred fifty (750) square feet of outdoor play area. All trees required by this condition shall be planted within the outdoor play area.
3. All trees shall be planted in compliance with Health and Rehabilitative Services and Arbor Society requirements.
4. Prior to site plan certification, the petitioner shall amend the site plan to conform with the requirements of Zoning Code Section 500.35 (Landscape Code) adopted by the Board of County Commissioners on March 5, 1991.

H. LANDSCAPE WITHIN MEDIAN

1. If permittable by the State Department of Transportation or County Engineering Department, the petitioner shall landscape the median of the abutting portion of Hypoluxo Road. This landscaping will include:
 - a. One (1) minimum ten (10) foot tall native tree for every thirty (30) feet of the abutting median length and appropriate ground cover and irrigation.
 - b. Understory groupings and/or hedges along at least half of the length of the abutting portion of the median.
2. All materials shall be selected, installed and maintained according to xeriscape principles. This landscaping shall be the perpetual maintenance obligation of the property owner. Landscaping shall be completed prior to April 25, 1992.

I. LIGHTING

1. Outdoor lighting used to illuminate the premises shall be low intensity, shielded and directed away from adjacent properties and streets.
2. All outdoor lighting, except security lighting, shall be extinguished no later than 6:00 p.m.

J. RECYCLE SOLID WASTE

1. The property owner shall participate in a recycling program when available in the area. The program shall include paper, plastic, metal and glass products, as programs are available.

K. SCHOOL BOARD

1. The property owner shall provide a separate designated area on this proposed daycare site for student bus pick-up subject to approval by the Palm Beach County School Board. This separate area shall be identified on the proposed site plan prior to site plan approval. This area shall be planted completely with sod, irrigated, and permanently maintained by the property owner.

L. SIGNS

- 1, Signs shall be limited as follows:
 - a. Only one sign shall be permitted.
 - b. Maximum sign height - fifteen (15) feet.
 - c. Total sign area - fifty (50) square feet.
 - d. Prior to site Plan Review Committee approval, a Master Sign Program shall be submitted, which specifies sign location, sign size and unified graphics and color.
2. If, prior to the issuance of a building permit for the project, the Sign Code is amended to be more restrictive than the conditions of approval, the regulations of the amended Sign Code shall supersede the sign-related conditions of approval.

M. USE LIMITATION

1. Continuous storage or parking of school buses on the site shall not be permitted.

N. COMPLIANCE;

1. As provided in the Palm Beach County Zoning Code, Sections 400.2 and 402.6, failure to comply with any of these conditions of approval at any time may result in:
 - a. 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; and/or
 - b. The revocation of the Special Exception and any zoning which was approved concurrently with the Special Exception as well as any previously granted certifications of concurrency or exemptions therefrom; and/or
 - c. A requirement of the development to conform with updated standards of development, applicable 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.

Appeals of any departmental-administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning Code. Appeals of any revocation of Special Exception, Rezoning, or other actions based on a Board of County Commission decision, shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit.

Commissioner Elmquist moved for approval of the Resolution.

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

Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	ABSENT
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	AYE
Ken Foster	--	AYE
Maude Ford Lee	--	ABSENT

The Chair thereupon declared the resolution was duly passed and adopted this 23rd day of July, 1991.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

BY: [Signature]
COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK
BY: [Signature]
DEPUTY CLERK

