

RESOLUTION NO. R-91-1073

RESOLUTION APPROVING ZONING PETITION NO. 89-63(A)
SPECIAL EXCEPTION & MODIFICATION PETITION OF THE ENGLE GROUP

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. 89-63(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on May 31, 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. 89-63(A), the petition of THE ENGLE GROUP, INC., BY MARVIN L. SANDERS, AGENT, for a SPECIAL EXCEPTION TO AMEND THE SITE PLAN FOR A PREVIOUSLY APPROVED PCD TO INCLUDE A DAY CARE CENTER (MAXIMUM 100 CHILDREN) AND INCREASE THE BUILDING SQUARE FOOTAGE, and for a MODIFICATION OF COMMISSION REQUIREMENTS ON RESOLUTION NO. R-90-61, CONDITION NO. 25 (ROAD CONSTRUCTION) on a parcel of land beginning at the southwesterly corner of Rosemount Drive, Lakes of Sherbrooke Phase 6, Plat Book 44, Pages 117 through 119, as in Section 35, Township 44 South, Range 42 East, inclusive; thence North $45^{\circ}57'48''$ East, along the westerly right-of-way of said Rosemount Drive, a distance of 35.99 feet; thence, North $00^{\circ}00'00''$ East, continuing along the westerly right-of-way line of said Rosemount Drive, a distance of 212.43 feet to the point of curvature of a curve to the left, having a radius of 300.00 feet; thence, northerly along said curve, continuing along the westerly right-of-way line of said Rosemount Drive, through a central angle of $31^{\circ}05'30''$, a distance of 162.80 feet to the northwest corner of said Rosemount Drive, and the southwest corner of Aquarius Boulevard, Lakes of Sherbrooke Phase 9, Plat Book 65, Page 146 through 150, inclusive; thence, continue northerly and northwesterly along said curve, and along the boundary of said Lakes of Sherbrooke Phase 9, through a central

angle of $41^{\circ}02'51''$, a distance of 214.92 feet to the point of reverse curvature of a curve, concave northeasterly, having a radius of 468.57 feet; thence, northwesterly along said curve, continuing along the boundary of said Lakes of Sherbrooke Phase 9, through a central angle of $44^{\circ}24'07''$, a distance of 363.12 feet to the end of said curve; thence, north $68^{\circ}57'12''$ West, a distance of 32.95 feet; thence, south $69^{\circ}49'49''$ West, a distance of 33.71 feet to the point of curvature of a curve to the right, having a radius of 266.00 feet; thence, westerly along said curve, through a central angle of $19^{\circ}32'05''$, a distance of 90.69 feet to the point of tangency; thence, South $89^{\circ}21'55''$ West, a distance of 25.00 feet; thence, south $44^{\circ}21'55''$ West, a distance of 35.36 feet to the intersection thereof with the easterly right-of-way line of Lyons Road, Official Records Book 6474, Page 1570, Et. Seq., thence, South $01^{\circ}38'24''$ East, along said easterly right-of-way line of Lyons Road, a distance of 228.01 feet; thence, South $00^{\circ}38'05''$ East, continuing along said easterly right-of-way line, a distance of 409.99 feet; thence, South $44^{\circ}17'45''$ East, continuing along said easterly right-of-way line, a distance 55.23 feet to the intersection thereof with the northerly right-of-way line of Lantana Road (S.R. 812), Official Records Book 6452, Page 1590; thence, South $87^{\circ}57'25''$ East, along said northerly right-of-way line, and along a line 71.50 feet north of, as measured at right angles to the south line of said Section 31, a distance of 2.81 feet; thence, South $88^{\circ}04'24''$ East, continuing along said northerly right-of-way line, and along a line 71.50 feet north of, as measured at right angles to the south line of said Section 32, a distance of 355.27 feet; thence, South $85^{\circ}24'28''$ East, continuing along said northerly right-of-way line, a distance of 247.29 feet to the POINT OF BEGINNING, and being located ON THE N.E. CORNER INTERSECTION OF LANTANA RD. AND LYONS RD., BOUND ON THE E. BY ROSEMOUNT DR., IN THE CG ZONING DISTRICT, was approved on May 31, 1991, as advertised, subject to the following conditions:

A. STANDARD CONDITIONS

1. The petitioner shall comply with all previous conditions of approval, unless expressly modified herein.
2. The site plan shall be amended to indicate compliance with all minimum property development regulations and land development requirements.
3. 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 33). 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. DAY CARE

1. The day care center shall be limited to a maximum of 100 students and a maximum of 5,000 square feet of floor area.
2. Landscaping along the perimeter of the outdoor activity area shall be upgraded along north, south and west perimeters to include twelve (12) foot tall native canopy trees, placed twenty (20) feet on center and a minimum twenty-four (24) inch high native hedge, maintained at a height of thirty-six (36) inches. All landscaping shall be placed on the exterior side of the required fence.

3. The site plan shall be amended to reflect five (5) drop-off stalls a minimum of twelve (12) feet wide by twenty (20) feet long.
4. The petitioner shall provide a minimum of one twelve (12) foot tall native canopy tree per 1,500 square feet of outdoor play area provided. All trees required by this condition shall be planted within the interior of the outdoor play area.
5. No outdoor loudspeaker system audible off site shall be operated on the site.
6. All playground equipment which is permanently attached to the ground shall meet property setback requirements.
7. Continuous storage or parking of school buses on the site shall not be permitted.

C. DUMPSTER

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

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site.
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water.

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. The Developer shall design the drainage system such that drainage from those areas which may contain hazardous or undesirable waste shall be separate from stormwater runoff from the remainder of the site.

3. Prior to Site Plan approval the property owner shall convey or verify conveyance of right of way for:
 - a. Lyons Road, 64 feet from centerline
 - b. Lantana Road, 71.5 feet from centerline
 - c. The construction of a right turn lane, east approach on Lantana Road at the project's entrance road. This right-of-way shall **be a** minimum of **150** feet in storage length, twelve feet in width and a taper length of **180** feet.

All free of encumbrances and encroachments. Developer 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.

4. The Property owner shall construct:
 - a. at the project's entrance and Lyons Road a left turn lane, north approach and a right turn lane, south approach;
 - b. at the project's entrance and Aquarius Boulevard a left turn lane, south approach;
 - c. the northern most road adjacent to this site shall be constructed as a 3 lane section

All concurrent with on-site paving and drainage improvements. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

5. 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 \$363,935.00 (6,617 trips X \$55.00 per trip).
6. Condition **No. 25**, Resolution **No. R-90-61**, Petition **No. 89-63**, which presently states:

"The property owner shall 4 lane Lyons Road from Lantana Road, north to a point **150** feet north of the project's entrance road onto Lyons Road, subject to approval by the County Engineer, prior to January 1, 1991."

Is hereby amended to read:

The property owner shall construct Lyons Road from Lantana Road North to a point 150 feet north of the project's entrance road onto Lyons Road as a 4 lane median divided section. This construction shall commence prior to January 1, 1993 and be completed prior to June 1, 1993 or prior to a Certificate of

Occupancy for any structure other than the day care center or concurrent with the 4 laning of Lantana Road, whichever of the three shall first occur. All canal crossings within the project limits shall be constructed to their ultimate configuration..

7. In order to comply with the mandatory traffic performance standards the Developer shall be restricted to the following phasing schedule:
 - a. No building permits shall be issued for the project after December 31, 1991. A minimum of 18,000 square feet shall be used as general office with a maximum of 50% medical; and,
 - b. No more than 21,212 square feet of general retail or the traffic equivalent of 2,121 trips per day shall be issued until Lake Worth Road is widened from the Florida Turnpike to State Road 7.
8. Only one entrance/exit shall be permitted onto Lyons Road and onto Lantana Road subject to approval by the County Engineer (other than the interior roadways within Sherbrooke, PUD).
9. The Developer shall install signalization if warranted as determined by the County Engineer at Lyons Road and Lantana Road. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition.

F. 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.

G. SIGNS

1. New signs for the entire development shall be limited as follows:
 - a. Maximum number: Three (3).
 - b. Maximum total sign face area: 100 square.
 - c. Maximum sign height: Ten (10) feet.
2. 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.

H. SITE SPECIFIC

1. The site plan shall be revised prior to Site Plan Review Committee approval to include:
 - a. Required number of drop of spaces with required dimensions.

- b. Handicapped spaces shall be indicated as thirteen (13) feet in width, if single space, or as twelve (12) feet with a five (5) foot access ramp between two (2) spaces.
- c. Required buffering around the outdoor recreation area.

I. 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 Roberts moved for approval of the Resolution.

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

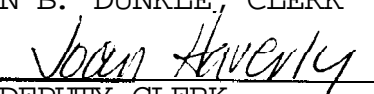
Karen T. Marcus, Chair	--	AYE
Carole Phillips	--	AYE
Carol A. Roberts	--	AYE
Carol J. Elmquist	--	AYE
Mary McCarty	--	ABSENT
Ken Foster	--	AYE
Maude Ford Lee	--	AYE

The Chair thereupon declared the resolution was duly passed and adopted this 20th day of August, 1991.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY: 
COUNTY ATTORNEY

JOHN B. DUNKLE, CLERK
BY: 
DEPUTY CLERK