

RESOLUTION NO. R-92- 188

RESOLUTION APPROVING ZONING PETITION NO. 89-130(A)
MODIFICATION OF COMMISSION REQUIREMENTS
PETITION OF R.M.R. DEVELOPMENT, 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. 89-130(A) was presented to the Board of County Commissioners of Palm Beach County, sitting as the Zoning Authority, at its Public Hearing conducted on October 24, 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. 89-130(A), the petition of R.M.R. DEVELOPMENT, INC., BY ROBERT A. BENTZ, AGENT, for a MODIFICATION OF COMMISSION REQUIREMENTS on a parcel of land lying in, as per Official Record Book 2057, Pages 1386 and 1387, described as Parcel 19: The East 200.00 feet of the West 425.00 feet of the North 221.00 feet of the South 281.00 feet of the Southwest 1/4 of the Northwest 1/4 of Section 35, Township 40 South, Range 42 East; TOGETHER WITH an easement for road purposes over and across the South 60.00 feet of the West 825.00 feet of the Southwest 1/4 of the Northwest 1/4 of Section 35; Subject to an easement for public utilities over the North 6.00 feet of the herein described parcels of land, and being located ON THE N SIDE OF ROEBUCK RD., APPROX. .08 MILE W OF LOXAHATCHEE RIVER RD., IN THE RTS ZONING DISTRICT, was approved on October 24, 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 of Palm Beach County.

B. BUILDING AND SITE DESIGN

1. The petitioner shall submit a revised site plan to the Site Plan Review Committee prior to February 7, 1992. The plan shall indicate ten (10) 12'x20' drop off spaces located near the entrance of the day care or obtain a variance from the Board of Adjustment. Tabular data shall be revised to comply with Zoning Code requirements. No permits for interior renovations shall be issued prior to Site Plan approval.
2. Condition No. 4 of Resolution No. R-90-855, Petition No. 89-130, which currently states:

"The day care center shall be limited to a maximum of 5,150 square feet in building area, 25 feet in height and a maximum total student population of 99."

Shall be amended to state:

"The day care center shall be limited to a maximum of 5,150 square feet in building area, 25 feet in height and a maximum total student population of 108."

3. The trash receptacle shall be completely screened by a six (6) foot high solid wood fence and located away from the outdoor play area. (Previously Condition No. 7 of Resolution No. R-90-855, Petition No. 89-130)
4. Play area shall be enclosed with a six (6) foot tall chain link fence. (Previously Condition No. 18 of Resolution No. R-90-855, Petition No. 89-130)

C. ENVIRONMENTAL RESOURCES MANAGEMENT

1. A plan to address the on-site Gopher Tortoise population shall be submitted to the Dept. of Environmental Resources Management for approval prior to site plan certification. (Previously Condition No. 11 of Resolution No. R-90-855, Petition No. 89-130)

D. HEALTH

1. Sewer service is available to the property. Therefore, no septic tank shall be permitted on the site. (Previously Condition No. 12 of Resolution No. R-90-855, Petition No. 89-130)
2. Water service is available to the property. Therefore, no well shall be permitted on the site to provide potable water. (Previously Condition No. 13 of Resolution No. R-90-855, Petition No. 89-130)

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. (Previously Condition **No.** 14 of Resolution **No.** R-90-855, Petition No. 89-130)

2. Prior to July 1, 1990 or prior to the issuance of the first Building Permit whichever shall first occur, the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for Roebuck Road, 60 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. (Previously Condition **No.** 15 of Resolution **No.** R-90-855, Petition **No.** 89-130)
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 presently is \$16,500.00 (300 trips X \$55.00 per trip). (Previously Condition **No.** 16 of Resolution **No.** R-90-855, Petition **No.** 89-130)
4. The Developer shall plat the subject property in accordance with provisions of Palm Beach County's Subdivision Platting Ordinance 73-4 as amended. (Previously Condition **No.** 17 of Resolution **No.** R-90-855, Petition **No.** 89-130)

F. LANDSCAPE

1. Prior to Site Plan Review Committee approval, the site plan shall be amended to indicate:
 - a. Alternative landscape strip number 3 shall be provided along the north, east and west property lines. This buffer shall include ten (10) foot canopy trees, twenty (20) feet on center. All native vegetation in this strip shall be preserved. When existing vegetation does not provide a 36" landscape barrier, additional native materials shall be provided to achieve this requirement.

- b. All native vegetation shall be preserved within the required fifteen (15) foot landscape buffer. (Previously Condition No. 1 of Resolution No. R-90-855, Petition No. 89-130)
2. A tree survey shall be submitted with the Site Plan Review Committee application. This survey shall be prepared at the same scale as the site plan. (Previously Condition No. 2 of Resolution No. R-90-855, Petition No. 89-130)
3. No vegetation removal permit shall be issued until a site inspection has taken place. At the time of inspection, areas of clearing shall be delineated and protective barriers in place. (Previously Condition No. 3 of Resolution No. R-90-855, Petition No. 89-130)

G. SIGNS

1. Point of Purchase signage shall be limited to one (1) 30 square foot, ten (10) foot tall monument type sign. (Previously Condition No. 10 of Resolution No. R-90-855, Petition No. 89-130)
2. Off-premise signs shall not be permitted on site. (Previously Condition No. 8 of Resolution No. R-90-855, Petition No. 89-130)

H. USE

1. Security lighting shall be low intensity and directed away from adjacent residential properties with reflective shields. (Previously Condition No. 5 of Resolution No. R-90-855, Petition No. 89-130)
2. No loud speaker system shall be permitted on site. (Previously Condition No. 6 of Resolution No. R-90-855, Petition No. 89-130)
3. Hours of operation shall be limited from 6:00 a.m. to 9:00 p.m., Monday through Saturday. (Previously Condition No. 9 of Resolution No. R-90-855, Petition No. 89-130)

I. COMPLIANCE

1. Condition No. 19 of Resolution No. R-90-855, Petition No. 89-130), which currently states:

"Failure to comply with any conditions of approval may result in 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. Appeals from such action may **be** taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Palm Beach County Zoning **Code.**"

Shall be amended to state:

"As provided in Zoning Code Sections **400.2** and **402.6**, failure **to** comply with any of these conditions of

approval at any time may result in one or more of the following:

- a. The denial or suspension of a building permit or certificate of occupancy and use; the issuance of a stop work order; the denial or suspension of any permit or approval for any developer, owner, contractor, agent, tenant, lessee, or user of the subject property;
 - b. The revocation of any special exception for the property, as well as any previously granted certifications of concurrency or exemptions therefrom;
 - c. Rezoning of the property;
 - d. The addition or modification of conditions, including a requirement that the development conform with updated standards of development applicable at the time of the finding of non-compliance;
 - e. Citation of the property owner for violation of the Zoning Code."
2. 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 Commissioners 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 McCarty 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 | -- | Aye |
| Ken Foster | -- | Aye |
| Maude Ford Lee | -- | Aye |

The Chair thereupon declared the resolution was duly passed and adopted this 4th day of February, 1992.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

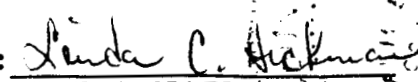
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

Milton T. Bauer, Clerk

BY:

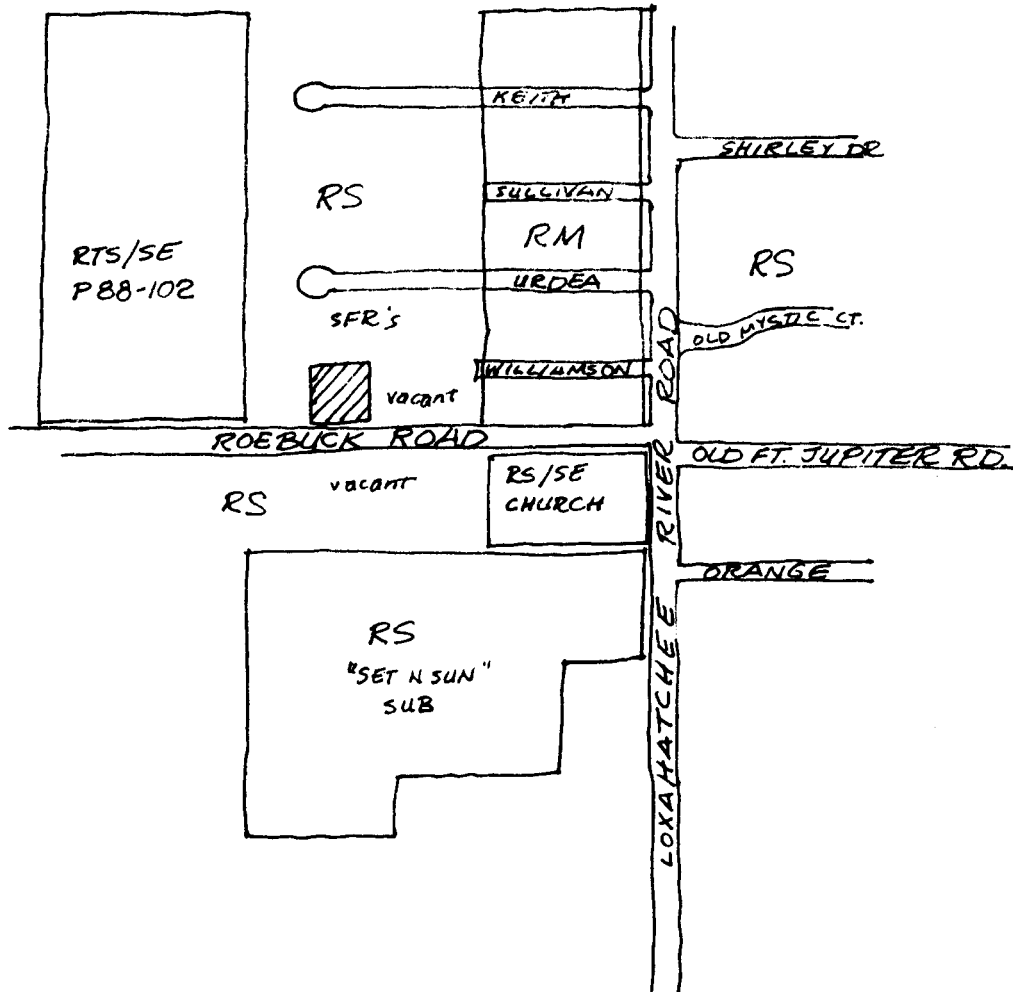

COUNTY ATTORNEY

BY:


DEPUTY CLERK

Sec. 35 Twp. 40 Rng. 42
Quadrant Sheet: 25
Aerial Page: 11

Vicinity Sketch



Request:

MODIFICATION OF COMMISSION REQUIREMENTS: RESOLUTION NO. R-90-855, CONDITION NO. 4 (INCREASE MAXIMUM NO. OF CHILDREN TO 108)

PETITION NO: 89-130 (A)

BCC DISTRICT: 1