

RESOLUTION NO. R-98- 11

RESOLUTION APPROVING ZONING PETITION DOA78-31(B)
DEVELOPMENT ORDER AMENDMENT
PETITION OF NOAH'S ARK LEARNING CENTER
BY KEVIN MCGINLEY, AGENT
(NOAH'S ARK LEARNING CENTER AKA HEALING HUGS DAYCARE)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 of the Palm Beach County Unified Land Development Code, have been satisfied; and

WHEREAS, Zoning Petition DOA78-31(B) was presented to the Board of County Commissioners at a public hearing conducted on January 8, 1998; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 5, Section 5.8 (Compliance with Time Limitations), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners made the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 5 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 Petition DOA78-31(B), the petition of Noah's Ark Learning Center, by Kevin McGinley, agent, for a Development Order Amendment (DOA) to Reconfigure site plan and modify Condition F.1 (maximum number of children) 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 8, 1998, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Roberts moved for the approval of the Resolution.

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

Burt Aaronson, Chair	--	Absent
Maude Ford Lee, Vice Chair	--	Aye
Ken Foster	--	Aye
Karen T. Marcus	--	Aye
Mary McCarty	--	Absent
Warren Newell	--	Aye
Carol A. Roberts	--	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 8, 1998.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY **ITS** BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK

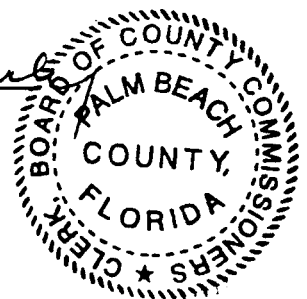


EXHIBIT A
LEGAL DESCRIPTION

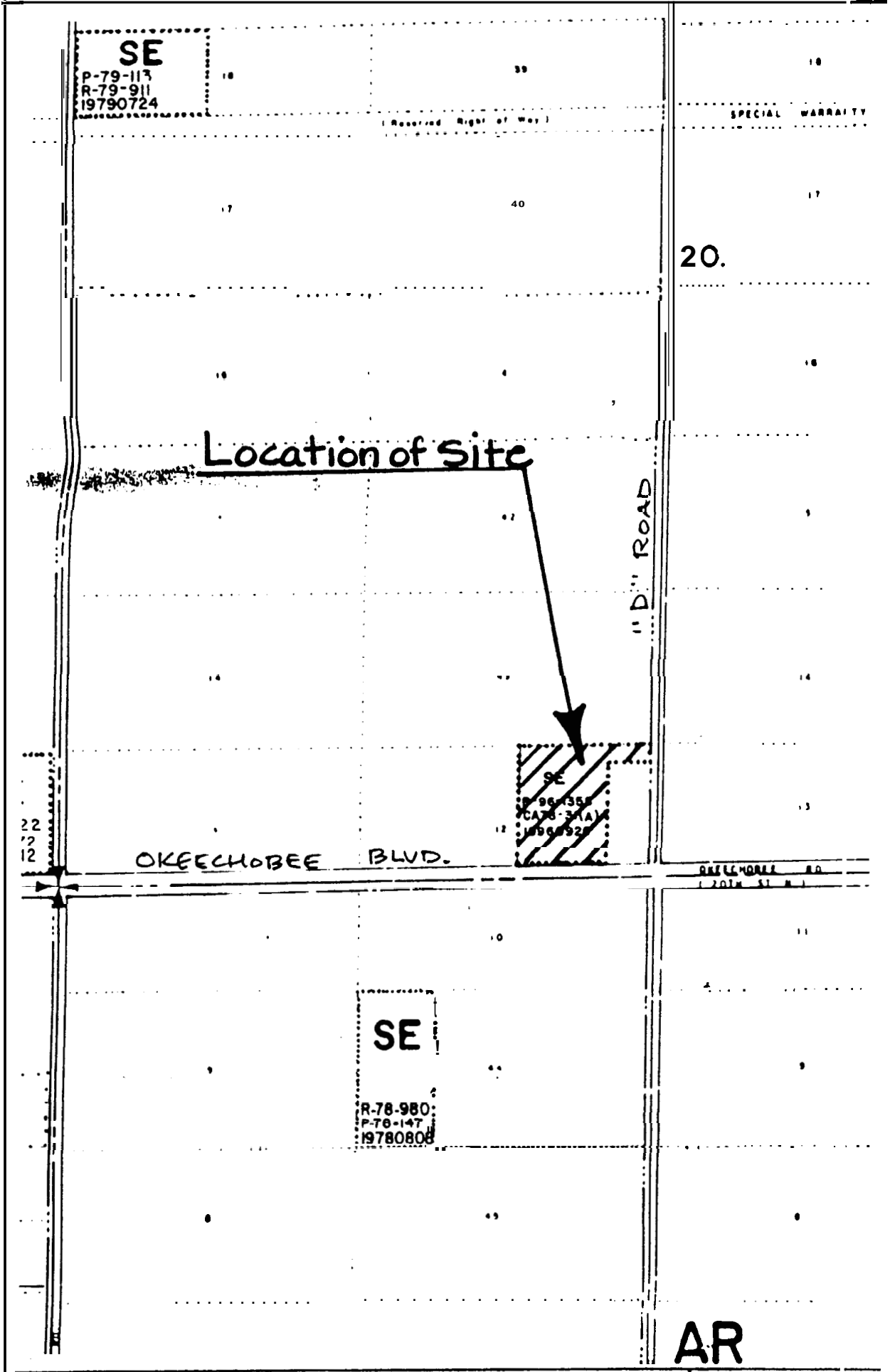
Noah's Ark, A Child's Learning Center, Inc.
14563 Okeechobee Road
Loxahatchee, FL 33470

Legal description:

The East **591.88** feet of Tract **12**, Block "**C**", LOXAHATCHEE GROVES, less the East **200** feet of the South **435.6** feet of tract **12**, in Block "**C**", LOXAHATCHEE GROVES, according to the Plat thereof on file in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book **12**, Page **29**; said lands situate, lying and being in Palm Beach County, Florida.

EXHIBIT B

PALM BEACH COUNTY
VICINITY SKETCH / ZONING





	Petition Number: <u>78-31 B</u>	 NORTH
	Zoning Quad Page _____	
	Date: <u>9/17/97</u>	

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in BOLD and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. Condition A. 1 of Resolution R-96-1358, Petition 78-31(A) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-78-282 (Petition 78-31), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified.

~~It~~ hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-96-1358 (Petition 78-31(A)), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.8 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated October 12, 1997. 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)

B. HEALTH

1. Application and engineering plans to construct a non-transient non-community water supply system in accordance with Chapter ~~62-555~~ FAC and Palm Beach County ~~ECR-II~~ must be submitted to the Palm Beach County Public Health Unit prior to final site plan approval. (Previously Condition ~~B.1~~ of Resolution R-96-1358, Petition 78-31(A) (DRC: HEALTH))
2. The location of the OSTDS and non-transient non-community well shall be shown on final site plan. (Previously Condition B.2 of Resolution R-96-1358, Petition 78-31(A) (DRC: HEALTH))
3. Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Public Health Unit, in accordance with Chapter ~~10D-24FAC~~ prior to issuance of a building permit. (Previously Condition B.3 of Resolution R-96-1358, Petition 78-31(A) (BLDG PERMIT: HEALTH))

4. Application and engineering plans to upgrade the existing onsite sewage treatment and disposal system (OSTDS) in accordance with Rule 10D-6FAC and Palm Beach County ECR-I must be submitted to the Palm Beach County Health Department prior to final site plan review. (DRC: HEALTH)
5. Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Health Department in accordance with Rule 10D-24 FAC prior to issuance of a building permit. (BLDG: HEALTH/BLDG;
6. No **food** preparation or processing will be allowed on this site when an OSTDS is required. (ONGOING: HEALTH/CODE ENF)

C. LANDSCAPING ALONG SOUTH PROPERTY LINE (ABUTTING OKEECHOBEE ROAD)

1. Landscaping and buffering along the perimeter property lines shall be upgraded to include:
 - a. A minimum twenty **(20)** foot wide landscape buffer strip;
 - b. One **(1)** canopy tree planted thirty **(30)** feet on center;
 - c. A group of three **or** more palm or pine trees may supersede the requirement for a canopy tree in that location;
 - d. Thirty **(30)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height of thirty six **(36)** inches; and
 - e. Credit may be given for existing or relocated trees **or** palms provided they meet current ULDC requirements. (Previously Condition C.I of Resolution R-96-1358, Petition 78-31(A) (DRC / CO: ZONING / LANDSCAPE)

D. LANDSCAPING ALONG WEST PROPERTY LINE 100 FEET NORTH AND 100 FEET SOUTH (ADJACENT TO OUTDOOR PLAY AREA)

1. Landscaping and buffering along the west property line **100** feet north and **100** feet south shall be upgraded to include:
 - a. A minimum twenty **(20)** foot wide landscape buffer strip;
 - b. One **(1)** canopy tree planted thirty **(30)** feet on center;
 - c. A group of three **or** more palm **or** pine trees may supersede the requirement for a canopy tree in that location;
 - d. Thirty **(36)** inch high shrub or hedge material spaced no more than twenty four **(24)** inches on center at installation, to be maintained at a minimum height **of** forty eight **(48)** inches; and
 - e. Credit may be given for existing or relocated trees **or** palms provided they meet current ULDC requirements. (Previously Condition D.I of Resolution R-96-1358, Petition 78-31(A) (DRC / CO: ZONING / LANDSCAPE)

E. ENGINEERING

1. Within ninety **(90)** days of the Special Exception approval, the petitioner shall convey to Palm Beach County an additional ten **(10)** feet for the ultimate right-of-way for Okeechobee Boulevard. (Previously Condition E.1 of Resolution R-96-1358, Petition 78-31(A) (DATE: ENG)
[Completed]

F. USE LIMITATION

1. Condition F.1 of Resolution R-96-1358, Petition 78-31(A) which currently states:

The day care center shall be limited to a maximum of **40 children**.

Is hereby amended to read:

The daycare center shall be limited to a maximum of 87 children.
(ONGOING: DRC/ HEALTH)
2. The place of worship shall be limited to a maximum of **120 seats**.
(Previously Condition F.2 of Resolution R-96-1358, Petition 78-31(A)
(ONGOING: DRC/ BLDG)
3. The day care center shall operate during weekdays only. (Previously Condition F.3 of Resolution R-96-1358, Petition 78-31(A) (ONGOING: CODE ENF)
4. Landscape requirements shall be completed prior to October 1, **1997**.
(Previously Condition F.4 of Resolution R-96-1358, Petition 78-31(A)
(DATE/LANDSCAPE: MONITORING - Zoning)

G. COMPLIANCE

1. Condition G.1 of Resolution R-96-1358, Petition 78-31(A) which currently states:

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; 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.

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 Fifteenth Judicial Circuit.

It is hereby amended to read:

1. 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; 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 noncompliance, 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 majority vote of the Code Enforcement Board 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 5.8 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 Fifteenth Judicial Circuit. (MONITORING)