

RESOLUTION NO. R-2001- 0595

RESOLUTION APPROVING ZONING PETITION DOA76-003(F)
DEVELOPMENT ORDER AMENDMENT
PETITION OF KINDERCARE LEARNING CENTER
BY KEVIN MCGINLEY, AGENT
(LECHALET SHOPPING CENTER)

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 DOA76-003(F) was presented to the Board of County Commissioners at a public hearing conducted on April 26, 2001; 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.

- a. 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 DOA76-003(F), the petition of Kindercare Learning Center, by Kevin McGinley, agent, for a Development Order Amendment (DOA) to reconfigure site plan and to allow a general daycare on a parcel of land legally described in EXHIBITA, 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 April 26, 2001, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Masilotti moved for the approval of the Resolution.

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

Warren H. Newell, Chair	-	Aye
Carol A. Roberts, Vice Chair	-	Absent
Karen T. Marcus		Aye
Mary McCarty		Aye
Burt Aaronson		Aye
Tony Masilotti		Aye
Addie L. Greene		Absent

The Chair thereupon declared that the resolution was duly passed and adopted on April 26, 2001.

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

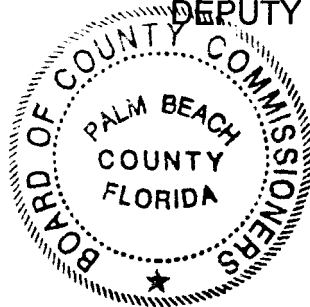


EXHIBIT A

LEGAL DESCRIPTION

ALL THAT PART OF TRACT "A" OF THE PLAT OF LE CHALET CENTER, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 32, PAGE 23, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

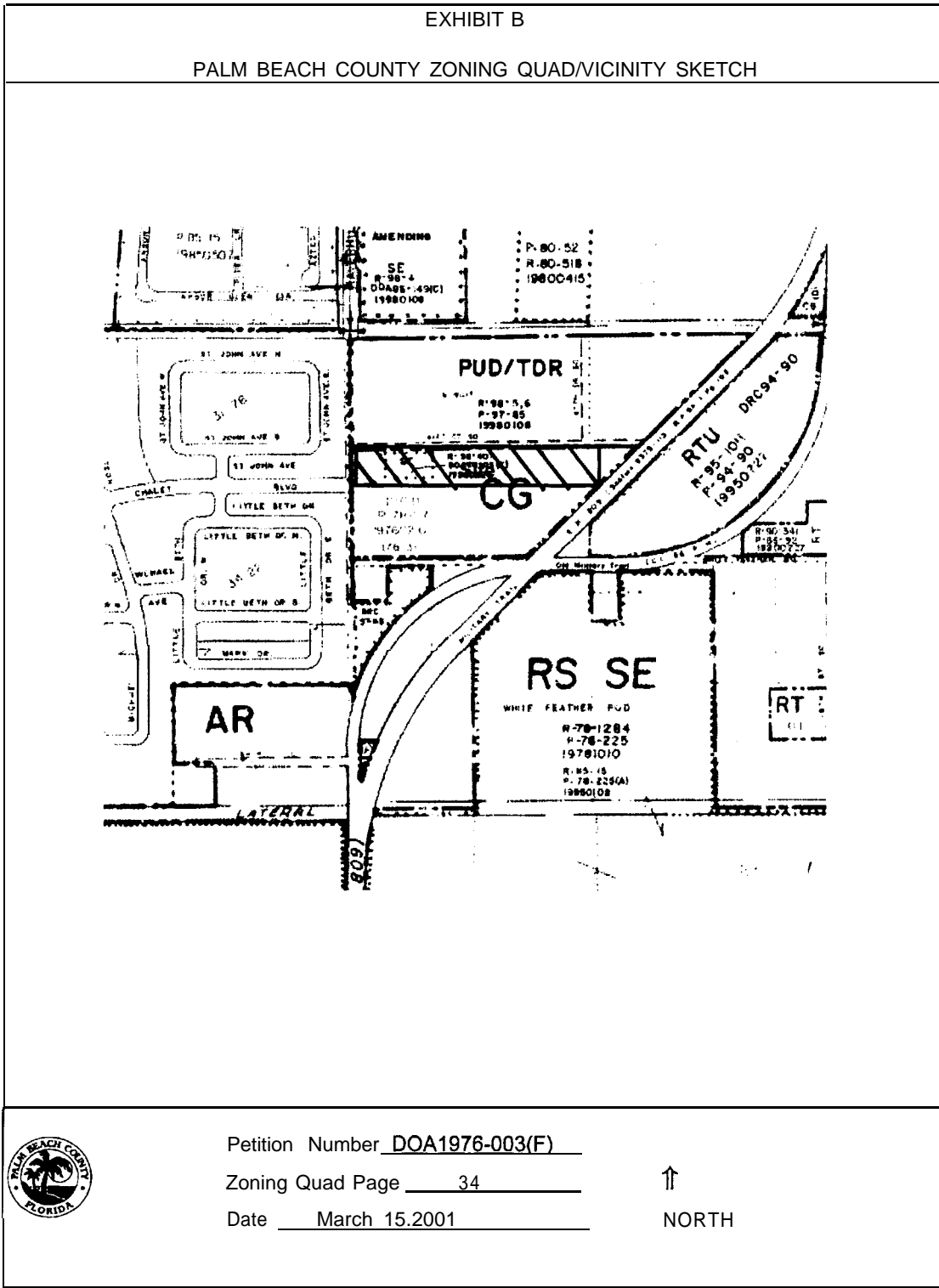
COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "A", BEAR NORTH 88°40'34" WEST ALONG THE NORTH LINE OF SAID TRACT "A", A DISTANCE OF 396.06 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 01°19'26" WEST, A DISTANCE OF 36.60 FEET; THENCE SOUTH 46°18'00" WEST, A DISTANCE OF 342.06 FEET TO A POINT OF INTERSECTION WITH A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 795.69 FEET, AND THE NORTHERLY RIGHT-OF-WAY LINE OF LECHALET BOULEVARD AS SHOWN ON SAID PLAT, SAID POINT BEARS NORTH 35°07'41" EAST FROM THE RADIUS POINT OF SAID CURVE; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 10°26'28", A DISTANCE OF 145.00 FEET; THENCE NORTH 24°41'13" EAST, RADIAL TO SAID CURVE, A DISTANCE OF 144.00 FEET; THENCE NORTH 01°19'26" EAST, A DISTANCE OF 79.31 FEET TO AN INTERSECTION WITH THE NORTH LINE OF SAID TRACT "A"; THENCE SOUTH 88°40'34" EAST ALONG SAID NORTH LINE, A DISTANCE OF 311.83 FEET TO THE POINT OF BEGINNING AFORE DESCRIBED.

CONTAINING **1,408** ACRES (61,310 SQUARE FEET) **MORE OR LESS.**

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B

VICINITY SKETCH



Petition Number DOA1976-003(F)

Zoning Quad Page 34

Date March 15, 2001

↑
NORTH

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-98-407, Petition DOA76-003(E) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-76-1 17 (Petition 76-03), 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-96-407, Petition DOA76-003(E), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section 5.6 of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING-Zoning)

2. Condition A.2 of Resolution R-98-407, Petition DOA76-003(E) which currently states:

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 January 5, 1998. 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)

Is hereby amended to read:

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 March 2, 2001. 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. BUILDING AND SITE DESIGN

1. **All existing air conditioning and mechanical equipment shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principle structure or equivalent landscape material. (BLDG PERMIT: BLDG - Zoning) (Previously Condition B.I of Resolution R-96-407, Petition DOA76-003(E))**

2. **All new roof mounted air conditioning and mechanical equipment shall be roof mounted and screened from view on all sides in a manner consistent with the color, character and architectural style of the principle structure.** (BLDG PERMIT: BLDG -Zoning) (Previously Condition B.2 of Resolution R-96-407, Petition DOA76-003(E))
3. **Developer shall provide ninety (90) percent opaque screening on the North and South property line of the subjectsite.** (Previously Condition 8.3 of Resolution R-96-407, Petition DOA76-003(E)) (COMPLETED)

C. DAYCARE (Petition DOA76-003(F))

1. The day care center shall be limited to a maximum of 200 children. (ONGOING: HEALTH)
2. Hours of operation for the daycare center shall be limited from 6:30 a.m. to 7:30 p.m. Monday through Friday and 7:30 a.m. to 5:30 p.m. Saturday. (ONGOING: CODE ENF)
3. The outdoor play area shall not be used for activities before 8:00 a.m. or after 6:00 p.m. (ONGOING: CODE ENF)

D. HEALTH

1. **Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 10D-4FAC.** (ONGOING: HEALTH/CODE ENF) (Previously Condition C. 1 of Resolution R-98-407, Petition DOA76-003(E))
2. **Any toxic or hazardous waste which may be generated from this facility shall be properly handled and disposed of in accordance with Rule 10D-104 FAC.** (ONGOING: HEALTH/CODE ENF) (Previously Condition C.2 of Resolution R-96-407, Petition DOA76-003(E))
3. **Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent.** (ONGOING: HEALTH/CODE ENF) (Previously Condition C.3 of Resolution R-96-407, Petition DOA76-003(E))
4. Architectural plans must be submitted to the Institutional /Child Care Section, Palm Beach County Health Department in accordance with Rule 64E-13FAC prior to issuance of a building permit. (BLDG: HEALTH/BLDG)

E. ENGINEERING

1. **Developer shall record a plat and dedicate the following rights-of-way:**
 - a) **Sixty (60) feet from the centerline for Military Trail (SR809) (complete)**
 - b) **Forty (40) feet from the centerline with Le Chalet Boulevard (complete)**
 - c) **Thirty (30) feet from the centerline for Haverhill Road, south of the intersection with Le Chalet Boulevard (complete)**

d) Eighty (80) feet for Le Chalet Boulevard. (complete) (Previously Condition E. 1 of Resolution R-96-407, Petition DOA76-003(E))

2. **Developer shall construct the necessary turn lanes at:**

a) The intersection of Military Trail (SR: 809) and Le Chalet Boulevard, left turn lane on the south approach, a right turn lane on the north approach and a left turn lane on the west approach.

(complete)

b) The intersection of Le Chalet Boulevard and the Shopping Center's central entrance, a left turn lane on the east approach, a four (4) lane entrance on the north and south approach, and a left turn lane on the west approach. (complete)

c) The intersection of Le Chalet Boulevard and Haverhill Road, a left turn lane on the east, west and north approach, as warranted. (complete) (Previously Condition E.2 of Resolution R-96-407, Petition DOA76-003(E))

3. Condition E.3 of Resolution R-96-407, Petition DOA76-003(E) which currently states:

Prior to July 1, 1998 the property owner shall obtain an approval for a revised site plan from the Development Review Committee. The revised site plan shall meet all provisions of the ULDC. (DATE: MONITORING - Eng)

Is hereby deleted. [REASON: New site plans have been certified.]

F. LANDSCAPING - STANDARD

1. **All canopy trees required to be planted on site by this approval, affected area of Petition 76-03(E), shall meet the following minimum standards at installation:**

a. Tree height: fourteen (14) feet.

b. Trunk diameter: 3.5 inches measured 4.5 feet above grade.

c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,

d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements, (CO: LANDSCAPE - Zoning) (Previously Condition D. 1 of Resolution R-96-407, Petition DOA76-003(E))

G. LANDSCAPING - INTERIOR

1. **Prior to the issuance of the Certificate of Completion or July 29, 1998, whichever comes first, foundation plantings shall be installed on the east facade of the existing 7,500 square foot building of the north portion (north of LeChalet Blvd) and shall consist of the following:**

a. The existing planting area shall be maintained at a minimum width of ten (10) feet;

- b. **The length of the required landscaped areas shall be maintained along the entire length of the east facade of the building; and,**
- c. **Landscape areas shall be planted with one (1) native canopy tree every twenty (20) feet on center, twenty-four (24) inch high native shrub or hedge material installed and maintained as required by the ULDC and appropriate ground cover. Credit for the existing hedge may be given if maintained at a height of thirty-six (36) inches. (DATE/CC: MONITORING / LANDSCAPE) (Previously Condition F. 1 of Resolution R-96-407, Petition DOA76-003(E))**

H. LANDSCAPING- PERIMETER (1.41 ACRE AFFECTED AREA OF PETITION 76-03 (F))

- 1. The petitioner shall install a fifteen (15) foot wide landscape buffer along the north property line and a fifteen (15) foot wide right-of way landscape buffer along the south property line fronting Le Chalet Blvd. (CO: LANDSCAPE)

I. LIGHTING

- 1. **All new outdoor lighting used to illuminate the subject property and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning) (Previously Condition G.1 of Resolution R-96407, Petition DOA76-003(E))**
- 2. **All new outdoor lighting fixtures shall not exceed twenty (20) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning) (Previously Condition G.2 of Resolution R-98-407, Petition DOA76-003(E))**
- 3. **All outdoor lighting within the affected area of Petition 76-03(E) shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING: CODE ENF) (Previously Condition G.3 of Resolution R-96-407, Petition DOA76-003(E))**
- 4. **The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF) (Previously Condition G.4 of Resolution R-98-407, Petition DOA76-003(E))**

J. SIGNS

- 1. **All freestanding signs, including point of purchase, entrance wall and directional signs shall comply with the following:**
 - a. **Maximum sign height, measured from finished grade to highest point - six (6) feet;**
 - b. **Maximum sign face area per side - 60 square feet;**
 - c. **Maximum number of signs - One (1) along Le Chalet Boulevard; and,**
 - d. **Style -monument style only. (DRC/BLDG PERMIT: ZONING/BLDG) (Previously Condition H.1 of Resolution R-96-407, Petition DOA76-003(E))**

2. **No wall signs shall be permitted for the existing 7,500 square foot building.** (ONGOING/BLDG PERMIT: CODE ENF/BLDG -Zoning) (Previously Condition H.2 of Resolution R-98-407, Petition DOA76-003(E))
3. **No off-premise signs or relocated billboards shall be permitted on the site.** (ONGOING/DRC: CODE ENF/ZONING) (Previously Condition H.3 of Resolution R-96-407, Petition DOA76-003(E))

K. USE LIMITATION

1. Condition I.1 of Resolution R-96-407, Petition DOA76-003(E) which currently states:

All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (exhibit dated January 5, 1998). (DRC: ZONING)

Is hereby amended to read:

All requested uses shall remain in the locations indicated on the preliminary development plan approved by the Board of County Commissioners (exhibit dated March 2, 2001). (DRC: ZONING)

2. **Hours of operation, including deliveries, shall be limited to 6:00 a.m. to 10:00 p.m. daily.** (ONGOING: CODE ENF -Zoning) (Previously Condition 1.2 of Resolution R-98-407, Petition DOA76-003(E))
3. **The use of the north portion of the site (north of LeChalet Boulevard) shall be limited to gross floor area of 60,000 square feet.** (DRC: ZONING) (Previously Condition 1.3 of Resolution R-96-407, Petition DOA76-003(E))

L. COMPLIANCE

1. **In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner 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: MONITORING - Zoning) (Previously Condition J.I of Resolution R-96-407, Petition DOA76-663(E))
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; 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 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.**

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) (Previously Condition J.2 of Resolution R-96-407, Petition DOA76-003(E))