

RESOLUTION NO. R-95-861

RESOLUTION APPROVING ZONING PETITION DOA83-82(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF LIONEL G. ASTOR

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 DOA83-82(A) was presented to the Board of County Commissioners at a public hearing conducted on June 22, 1995; 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 reservation and therefore 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 **Z/DOA83-82(A)** the petition of Lionel G. Astor for a Development Order Amendment in the Transitional Suburban (RTS) Zoning District to amend the site plan, add square footage, increase number of children, and modify Conditions 6, 10 & 11 for an existing day care, previously approved 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 June 22, 1995, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarty moved for the approval of the Resolution.

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

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

The Chair thereupon declared that the resolution was duly passed and adopted this 22nd day of June, 1995.

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

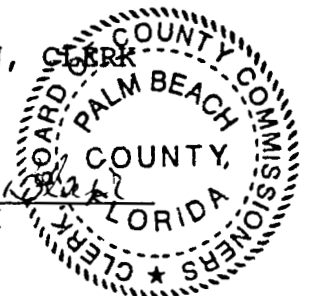


EXHIBIT A
LEGAL DESCRIPTION

A parcel of land lying in Southwest One-Quarter, Section 10, Township **47**, Range 42, being more particularly described as follows:

Beginning at the South Quarter corner of said Section 10; thence North 01'08'18" West, along the East line of the Southwest Quarter of said Section 10, said line being coincident with the Westerly line of BOCA **MADERA UNIT 2**, as recorded in Plat Book 32, Pages 53 and 60, of the Public Records of Palm Beach County, Florida, a distance of 740.54 feet to the North West corner of said Plat, said point also being the Southeast corner of the St. Andrews School Parcel, as recorded in **O.R.** Book 1457, Page **184**, of the Public Records of Palm Beach County, Florida; thence South 88'51'42" West, along the South line of said parcel, a distance of 115.00 feet to the Southwest Quarter of said parcel; thence North 01'08'18" West, along a line 115.00 feet West of, as measured at right angles to, and parallel to the said East line of the Southwest Quarter of said Section 10, said line also being the West line of said St. Andrews Parcel, a distance of 237.08 feet to the South East corner of a Florida Power and Light Parcel, as recorded in **O.R.** Book 1880, Page 371, of the Public Records of Palm Beach County, Florida; thence South 89'34'54" West, along the South line of said parcel, said line being parallel to the North line of the Southwest Quarter of said Section 10, a distance of 252.48 feet to a point on the Easterly Right-of-way line of Jog Road, as recorded in **O.R.** Book 1799, Page 1404, of the Public Records of Palm Beach County, Florida, said point being on the arc of a circular curve to the left, whose radius point bears North 76'21'05" East, from the last described point; thence ----- Southerly and Easterly along the arc of said curve, along the Easterly Right-of-way line, having a radius of 1857.00 feet, an arc distance of 514.07 feet to a Point of Reverse Curvature; thence Southerly and Easterly along the arc of said curve, along said Easterly Right-of-way line, having a radius of 1963.00 feet, an arc distance of 536.29 feet to a point on the South line of said Southwest Quarter, Section 10; thence North 89'23'42" East, along said South line, a distance of 0.87 feet to the said South Quarter corner of said Section 10, and the Point of Beginning of this description.

Said lands situate, lying and being in Palm Beach County, Florida.

Containing 3.499 acres more or less.

EXHIBIT B
VICINITY SKETCH

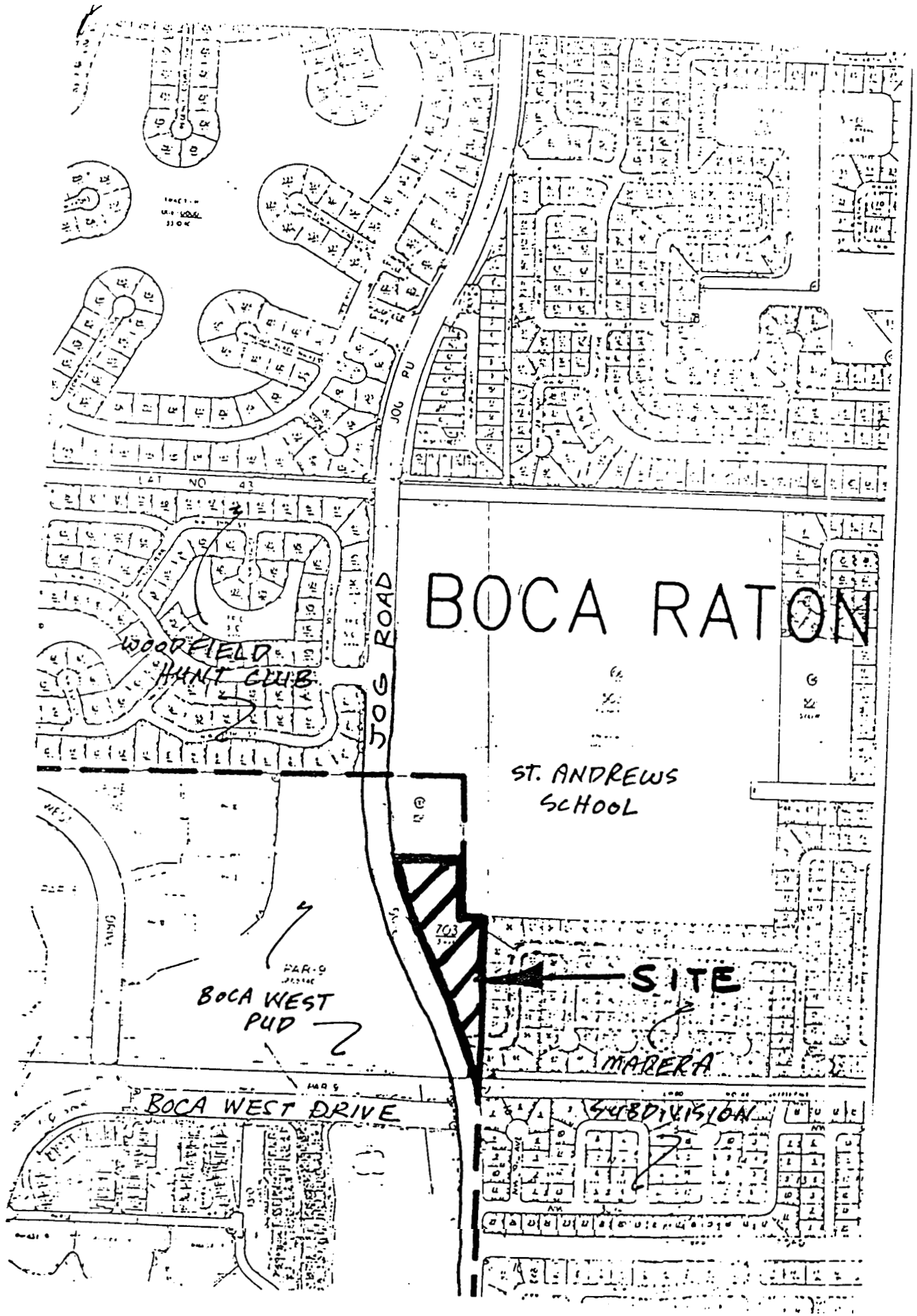


EXHIBIT C

CONDITIONS OF APPROVAL

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

A. GENERAL

1. The property owner shall convey to the public an **access easement along the south property line for the existing roadway serving the property to the east per the County Engineer's approval, prior to Site Plan Certification.** (Previously Condition 1 of Resolution R-83-1006, Petition 83-82).
2. The developer shall construct concurrent with on-site paving and drainage improvements on Jog Road at the project's entrance road a right turn lane, south approach and a left turn lane, north approach. (Previously Condition 3 of Resolution R-83-1006, Petition 83-82 .
3. The development shall retain onsite 85% of the storm water runoff generated by a three (3) year storm per requirements of the Permit Section, Land Development Division. (Previously Condition 4 of Resolution R-83-1006, Petition 83-82). May be deleted. Reason - Code Requirement.
4. Within ninety (90) days of this approval, the property owner shall convey by either Quit Claim Deed or Easement, the south 40 feet of the subject parcel for the required right-of-way for the L-44 Canal. (Previously Condition 5 of Resolution R-83-1006, Petition 83-82).
5. Reasonable precautions shall be exercised during site development to insure that dust particles from this property do not become a nuisance to neighboring properties. (Previously Condition 7 of Resolution R-83-1006, Petition 83-82).
6. Reasonable measures shall be employed during site development to insure that no pollutants from this property will enter adjacent or nearby surface waters. (Previously Condition 8 of Resolution R-83-1006, Petition 83-82).
7. Outdoor play area shall be located at the north end of the property adjacent to St. Andrews School. (Previously Condition 9 of Resolution R-83-1006, Petition 83-82:.
8. A gate shall be installed to prevent after hours access to the parking lot. (Previously Condition 12 of Resolution R-83-1006, Petition 83-82).
9. The day care center shall be limited to a maximum of 300 children. (BUILDING/HEALTH-Zoning)

B. SITE DESIGN

1. Condition 6 of Resolution R-83-1006 which currently states:

The developer shall construct along the entire northern and eastern sides of the property a solid six-foot high fence supplemented by one canopy tree per 20 linear feet to provide buffering for adjacent residences.

Is hereby amended to state:

Prior to the issuance of any building permit for Phase 11, the petitioner shall install a three (3) foot high sodded earthen berm within a twenty five (25) foot wide landscape buffer along the east property line. The berm shall be topped with:

- a. twenty four (24) inch high hedge material planted twenty four (24) inches on center, to be maintained at a minimum height of forty eight (48) inches; and
- b. fourteen (14) foot tall canopy trees planted twenty (20) feet on center on alternating sides of the hedge.

In the area south of the existing paved parking lot, adjacent to the proposed grass parking area, the berm shall be located on the west side of the existing canopy trees. All existing canopy trees and native vegetation within 30 feet of the east property line shall be incorporated into the buffer in addition to the hedge and trees required above. (BUILDING-Zoning)

2. Prior to certification of the site plan by the Development Review Committee, the petitioner shall amend the site plan to include a cross section detail of the landscape/buffer requirements along the east property line. (ZONING)
3. Condition 10 of Resolution R-83-1006, Petition 83-82, which currently states:

The existing canal berm shall be retained or replaced with a berm of equivalent height and vegetation.

Is hereby amended to state:

The existing canal berm shall be relocated to provide a berm of equivalent height and vegetation. (Previously Condition No. 10 of Resolution R-83-1006, Petition No. 83-82). (ZONING)

4. Condition 11 of Resolution R-83-1006, Petition 83-82, which currently states:

No structure or play area will be placed within 55 feet of the south 740 feet of the eastern property line and this setback shall be maintained at a flat grade.

Is hereby amended to state:

No structure or play area shall be placed within 55 feet of the south 740 feet of the eastern property line (Previously Condition No. 11 of Resolution R-83-1006, Petition No. 83-82). (ZONING)

C. HEALTH

1. Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Public Health Unit in accordance with Chapter 10D-24 FAC prior to issuance of a building permit. (HEALTH)

E. ENGINEERING

1. The developer shall contribute Three Thousand Five hundred and Seventy Five Dollars (3,575.00) toward the cost of meeting this project's direct and identifiable impact, to be paid at the time of the building permit. (Previously Condition 2 of Resolution R-83-1006, Petition 83-32).
2. 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, Zoning Petition Number 83-82(A), to be paid at the time of issuance of the Building Permit presently is \$24,300.00 (442 additional trips X \$55.00 per trip). (IMPACT FEE COORDINATOR)
3. LANDSCAPE WITHIN MEDIAN
 - A. Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department for a permit to landscape all adjacent median(s) of all abutting rights-of-way. When permitted by Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the Palm Beach County Engineering and Public Works Department March 1994 Streetscape Standards. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BUILDING-Engineering)
 - B. All required median landscaping, including an irrigation system if required shall be installed at the property owners expense. All landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed on or before the issuance of a Certificate of Occupancy. (ENGINEERING-Building)
 - C. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a certificate of occupancy to reflect this obligation. (ENGINEERING-County Attorney)

F. SIGNS

1. No new freestanding, wall or entry signs shall be permitted on site. (BUILDING-Zoning)

G. COMPLIANCE

1. 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; cease and desist 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 Conditional Use and any/or zoning which was approved concurrently with the Conditional Use;
 - 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;
 - 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 Conditional Use, 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. (MONITORING)