

RESOLUTION NO. R-96-1733

RESOLUTION APPROVING ZONING PETITION PDD96-47
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT(PDD)
PETITION OF KENCO COMMUNITIES AT LAKES OF BOCA INC.;
LAKES AT BOCA RATON COMMERCIAL PROPERTY OWNER'S ASSOC. INC.; AND
LAKES AT BOCA RATON HOMEOWNER'S ASSOC., INC.
BY KIERAN KILDAY, AGENT
(LAKES AT BOCA MUPD)

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, is authorized and empowered to consider petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 5 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 92-20), have been satisfied; and

WHEREAS, Zoning Petition PDD96-47 was presented to the Board of County Commissioners at a public hearing conducted on September 26, 1996; and,

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

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

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 5, Section 5.3.D.9 (Action by Board of County Commissioners) 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 PDD96-47, the petition of Kenco Communities at Lakes of Boca Inc.; Lakes at Boca Raton Commercial Property Owner's Assoc. Inc.; and Lakes at Boca Raton Homeowner's Assoc., Inc. by Kieran Kilday, agent, for an Official Zoning Map Amendment from Residential Transitional Suburban (RTS) to the Multiple Use Planned Development (MUPD) Zoning District with daycare, general (135 children) (requested use) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on September 26, 1996, 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 Aaronson and, upon being put to a vote, the vote was as follows:

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

The Chair thereupon declared that the resolution was duly passed and adopted on October 24, 1996.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: *Richard Altier*
COUNTY ATTORNEY

BY: *Joan Hawley*
DEPUTY CLERK

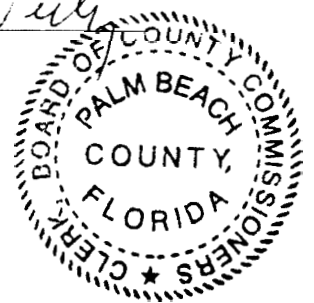


EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT A
Legal Description

A parcel of land lying in Section 1, Township 47 South, Range 41 East, said parcel of land being a portion of the "Replat of a Portion of Lakes at Boca Raton - Phase I" as recorded in Plat Book 68, Page 103 of the Public Records of Palm Beach County, Florida, said parcel being more particularly described as follows:

BEGINNING at the Northeast corner of said 'Replat of Lakes of Boca Raton - Phase I'

THENCE with a bearing of S. 00 degrees 57' 55" E., along the west right-of-way line of State Road 7 for a distance of 100.00 feet to a point;

THENCE with a bearing of S. 89 degrees 34' 23" W., for a distance of 184.51 feet to a point;

THENCE with a bearing of S. 00 degrees 19' 55" E., for a distance of 179.00 feet to a point;

THENCE with a bearing of S. 44 degrees 37' 14" W., for a distance of 56.52 feet to a point;

THENCE with a bearing of S. 89 degrees 34' 23" W. for a distance of 418.96 feet to a point;

THENCE with a bearing of S. 41 degrees 09' 50" W., for a distance of 37.40 feet to a point;

THENCE with a bearing of S. 07 degrees 14' 43" E., for a distance of 163.20 feet to a point;

THENCE with a bearing of S. 57 degrees 14' 16" E., for a distance of 38.30 feet to a point on the north right-of-way line of Yamato Road;

THENCE with a bearing of S. 72 degrees 46' 11" W., along said north right-of-way line of Yamato Road for a distance of 132.00 feet to a point;

THENCE with a bearing of N. 32 degrees 45' 44" E., for a distance of 32.14 feet to a point;

THENCE with a bearing of N. 07 degrees 14' 43" W., for a distance of 201.56 feet to a point;

THENCE with a bearing of N. 48 degrees 50' 10" W. for a distance of 33.19 feet to a point;

THENCE with a bearing of S. 89 degrees 34' 23" W., for a distance of 149.24 feet to a point of curvature concave to the South;

THENCE run Southwesterly along the arc of said curve, having a radius of 55.00 feet, and a central angle of 18 degrees 29' 00", for an arc distance of 17.74 feet to a point of tangency;

THENCE with a bearing of S. 71 degrees 05' 23" W., for a distance of 25.33 feet to a point on the Westerly boundary of aforesaid "Replat of a Portion of Lakes at Boca Raton - Phase I";

THENCE with a bearing of N. 22 degrees 58' 26" W., along said Westerly boundary of "Replat of a portion of Lakes at Boca Raton - Phase I", for a distance of 357.17 feet to the Northwest corner of said "Replat of a Portion of Lakes at Boca Raton - Phase I";

THENCE with a bearing of N. 89 degrees 34' 23" E., for a distance of 1101.40 feet to the POINT OF BEGINNING;

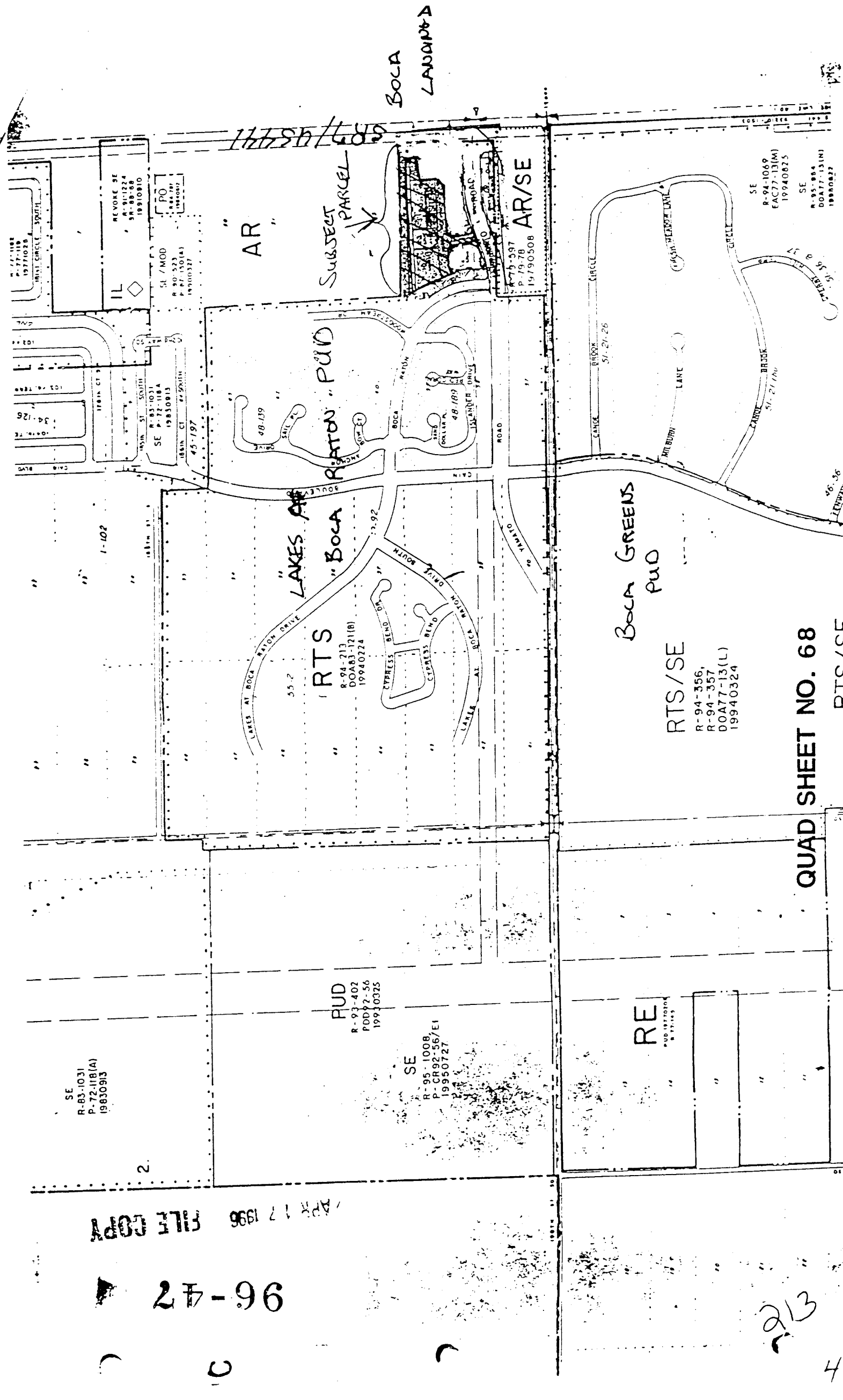
CONTAINING 309,324 square feet (7.10 Acres), more or less.

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96-42

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QUAD SHEET NO. 68

RTC / CE

BOCA LAUNDING

1775N/689

2.

EXHIBIT C

CONDITIONS OF APPROVAL

A. DAY CARE

1. The day care center shall be limited to a maximum of 135 children. (ONGOING: HEALTH)
2. One (1) minimum 36 inch high bollard shall be installed every five (5) feet on center within the landscape area along the south perimeter of the outdoor play area. (BLDG - Zoning)

B. HEALTH

1. Architectural plans for the day care facility and private school 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. (BLDG PERMIT: HEALTH/BLDG)

C. LANDSCAPING - STANDARD

1. All canopy trees required to be planted on site by this approval 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. (CO: LANDSCAPE - Zoning)
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)

D. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING SR7/US441)

1. Landscaping and buffering along the east property line shall be upgraded to include:
 - a. A minimum fifty (50) foot wide Type D landscape buffer strip; and,
 - b. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location. (DRC / CO: ZONING / LANDSCAPE)

E. ENGINEERING

1. The Developer shall replat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. The platting of this property may be phased in accordance with a phasing plan acceptable to the Office of the County Engineer and approved by the Development Review Committee. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (BLDG PERMIT: MONITORING - Eng)

2. 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 and shall be consistent with the landscaping theme adopted for this roadway. 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. (BLDG PERMIT: MONITORING - Eng)
- 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. (CO: MONITORING - Eng)
- 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. (CO: Monitoring - Eng)
- F. LANDSCAPING PERIMETER (EXCEPT RIGHT-OF-WAY BUFFERS ADJACENT TO SR7/US441 AND YAMATO ROAD, AND EAST PROPERTY LINE ADJACENT TO EXISTING LAKE)
1. Landscaping and buffering around the perimeter of the entire site, except adjacent to SR7/US441 and Yamato Road right-of-way buffer, and east property line adjacent to the existing lake, shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide Type C compatibility landscape buffer strip; and,
 - b. One (1) palm or pine tree for each thirty (30) linear feet of frontage. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location. (DRC / CO: ZONING / LANDSCAPE)
 2. Landscape islands shall be provided along the front and side facades of all structures. The minimum width of the required landscape islands shall be five (5) feet. The combined length of the required landscape islands shall be no less than 40% of the total length of the applicable side of the structure. All required landscape islands shall be planted with a minimum of one (1) tree every 20 feet on center and appropriate ground cover. (DRC/CO: ZONING / LANDSCAPE)

G. LIGHTING

1. All 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: BLIC / CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting shall be extinguished no later than 12:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)

H. MASS TRANSIT

1. Prior to final certification of the master plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate bus access and/or a bus stop(s) on or adjacent to the subject property. Bus access and/or bus stops shall be located and constructed by the petitioner in a manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer. The petitioner shall dedicate additional right-of-way to accommodate this requirement, if requested by the County Engineer. Bus stops, if required, shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use, and bicycle rack. (DRC: ZONING - School Board/Eng/Planning)

I. MUPD STANDARDS

1. Total gross floor area shall be limited to a maximum of 26,260 square feet. Expansion shall be limited to five per cent (5%) or 1,000 square feet, whichever is less. (DRC: ZONING)
2. To ensure consistency with the preliminary development plan dated June 27, 1996 presented to the Board of County Commissioners, no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures shall be relocated to portions of the site not previously covered. (CRC: ZONING)
3. All requested uses shall remain in the location indicated on the preliminary development plan approved by the Board of County Commissioners (exhibit dated June 27, 1996). (DRC: ZONING)
4. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings and signage. The covenant shall be recorded in a form and manner acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

5. Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRC: ZONING - Co Att)

J. PARKING

1. All delivery and/or loading areas shall be screened from view from the north property line by a twelve (12) foot high wing wall, measured from finished grade to highest point. The wing wall shall be constructed in a manner consistent with the color, character and architectural style of the principle structure. (CO: BLDG - Zoning)
2. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF)

K. PLANNING

1. A Declaration of Restrictive Covenant, ORB 9237 Pg 395 & 396, has been recorded on this property. The owners placed a restrictive covenant on the future development potential of land, if developed in accordance with the commercial land use potential, so as to limit the property to a general day care facility and a maximum of 20,000 square feet of commercial uses so as to mitigate the impacts of commercial development on the property from adjacent residential uses. If developed in accordance with the uses allowed by the residential land use designation, then the restriction shall not apply. (DRC: PLANNING)

L. SIGNS

1. Point of purchase and/or freestanding signs fronting on US441/SR7 shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - fifteen (15) feet;
 - b. Maximum sign face area per side - 150 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG)
2. Point of purchase and/or freestanding signs for each out parcel shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
 - b. Maximum sign face area per side - 80 square feet;
 - c. Maximum number of signs - one (1) per out parcel (total of three); and
 - d. Style - monument style only. (CO: BLDG)

M. COMPLIANCE

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 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.
(MONITORING)