

RESOLUTION NO. R-99- 104

RESOLUTION APPROVING ZONING PETITION DOA78-040(A)
DEVELOPMENT ORDER AMENDMENT
PETITION OF NICHOLAS & JOAN WELLMAN
BY KEVIN MCGINLEY, AGENT
(WELLMAN PLAZA)

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 DOA78-040(A) was presented to the Board of County Commissioners at a public hearing conducted on January 28, 1999; 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 DOA78-040(A), the petition of Nicholas & Joan Wellmand, by Kevin McGinley, agent, for a Development Order Amendment (DOA) to redesignate land uses and add daycare, general (125 children) (requested use) 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 28, 1999, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McCarthy moved for the approval of the Resolution.

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

Maude Ford Lee, Chair	—	Absent
Warren Newell, Vice Chair	—	Aye
Karen T. Marcus	—	Absent
Carol A. Roberts	—	Aye
Mary McCarty	—	Aye
Burt Aaronson	—	Aye
Tony Masilotti	—	Aye

The Chair thereupon declared that the resolution was duly passed and adopted on January 28, 1999.

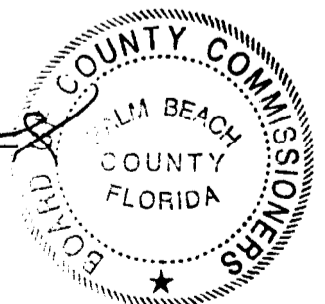
APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

DOROTHY H. WILKEN, CLERK

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBITA
LEGAL DESCRIPTION

Tracts "A", "B" and "C", Plat of Melaleuca Trail, being a parcel of land lying in Section 25, Township 44 South, Range 42 East, as recorded in Plat Book 82, Pages 157 - 158, Public Records of Palm Beach County, FL.

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. All previous conditions of approval applicable to the subject property, as contained in Resolution R-78-286 (Petition 78-040) have been consolidated 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 November 23, 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)
3. **All nonconforming residential buildings shall be removed within two (2) years of the Special Exception approval.** (Previous Condition 8 of Resolution R-78-286 of Petition 78-040)

B. BUILDING AND SITE DESIGN

1. Similar architectural character and treatment shall be provided on all sides of the proposed buildings including roof treatment. (BLDG PERMIT: BLDG - Zoning)
2. Total gross floor area shall be limited to a maximum of 24,250 square feet with the following breakdown:
 - a. Tract A - 4,250 square feet of convenience store with gas sales (existing), 2,800 square feet of retail use;
 - b. Tract B - 9,200 square feet of retail use;
 - c. Tract C - 8,000 square feet of daycare center with 125 children. (DRC: ZONING)
3. The maximum height of all buildings shall be one story and not exceed twenty five (25) feet measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
4. All 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)

C. DAYCARE CENTER

1. The day care center shall be limited to a maximum licenced capacity of 125 children. (ONGOING: HEALTH)

2. The minimum setback for the outdoor play/recreational equipment shall be twenty five (25) feet from all residentially zoned or used property lines. (DRC: ZONING)
3. Hours of operation for the daycare facility shall be limited from 6:00 a.m. to 8:00 p.m. Monday to Friday only. Hours of operation on Saturday and Sunday shall be limited from 10 a.m. to 4:00 p.m. (ONGOING: CODE ENF- Zoning)
4. The outdoor play area shall not be used for activities after 6:00 p.m. or before 8:00 a.m. Monday to Friday only. Hours of operation on Saturday and Sunday shall be limited from 10 a.m. to 4:00 p.m.. (ONGOING: CODE ENF- Zoning)
5. A six (6) foot high dark color , vinyl coated chain link fence shall be installed along the perimeter of the outdoor play area and planting as per Section 6.4.28.e of the ULDC. (CO: LANDSCAPE)

D. DUMPSTER

1. All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within twenty five (25) feet of the west property line and shall be confined to the areas designated on the site plan dated November 23, 1998. (DRC / ONGOING: ZONING /CODE ENF)

E. ENGINEERING

1. Petitioner shall prevent vehicular access from the northeast parking area of the small retail store to the parking areas of the large retail store, bank and office buildings. (Previous Condition 1 of Resolution R-78-286 of Petition 78-040)
2. Petitioner shall construct the center entrance on Military Trail in conjunction with the construction of the large retail store. (Previous Condition 2 of Resolution R-78-286 of Petition 78-040)
3. Petitioner shall construct the north entrance on Military Trail in conjunction with the bank and office buildings. (Previous Condition 3 of Resolution R-78-286 of Petition 78-040)
4. Petitioner shall close the center entrance on Military Trail when the north entrance is completed. The center entrance can be reopened when a median on Military Trail is constructed. (Previous Condition 4 of Resolution R-78-286 of Petition 78-040)
5. Petitioner shall construct a left turn lane, south approach, on Military Trail when the north entrance is constructed. (Previous Condition 5 of Resolution R-78-286 of Petition 78-040)
6. Within ninety (90) days of the Special Exception approval, the Petitioner shall convey an additional twenty-seven (27) feet of right-of-way for the ultimate right-of-way for Military Trail. (Previous Condition 6 of Resolution R-78-286 of Petition 78-040)

7. **Within ninety (90) days of the Special Exception approval, the Petitioner shall convey an additional fourteen (14) feet of right-of-way for the ultimate right-of-way for Melaleuca Lane (6th Avenue South).** (Previous Condition 7 of Resolution R-78-286 of Petition 78-040)

8. LANDSCAPE WITHIN MEDIAN OF COUNTY MAINTAINED ROADWAYS

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 the adjacent median of Military Trail right-of-way and shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. 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. The property owner shall also be responsible to supplement any existing landscape material previously planted in this median and all new landscape material 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 owner's expense. All existing 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' 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 evidencing this obligation, prior to issuance of a building permit to reflect this obligation. (BLDG. PERMIT: MONITORING - Eng.)

F. HEALTH

1. Architectural plans must be submitted to the Environmental Health Section, Palm Beach County Health Department in accordance with Rule 10d-241-AC prior to issuance of a building permit. (BLDG. PERMIT: HEALTH/BLDG)

G. 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; and,
 - d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:
- a. Palm heights: twelve (12) feet clear trunk;
 - b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
 - c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
3. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location. (CO: LANDSCAPE - Zoning)

H. LANDSCAPING - INTERIOR

- 1. One landscape island shall be provided for every ten (10) parking space;. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRC: ZONING)
- 2. Foundation plantings or grade level planters shall be provided along the front and side facades of all structures to consist of the following:
 - a. The minimum width of the required landscape areas shall be five (5) feet;
 - b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (DRC / CO: ZONING / LANDSCAPE)

I. LANDSCAPING ALONG THE NORTH PROPERTY LINE (ABUTTING COMMERCIAL)

- 1. Landscaping and buffering along the above property line shall be upgraded to include:
 - a. A minimum ten (10) foot wide landscape buffer strip; and
 - b. A six (6) foot high opaque wood fence. (CO: LANDSCAPE)
- 2. The following landscaping requirements shall be installed on the exterior side of the required fence:
 - a. One (1) canopy tree planted every thirty (30) feet on center;
 - b. One (1) palm or pine tree for each twenty-five (25) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may supersede the requirement for a canopy tree in that location; and
 - c. Twenty four (24) 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. (CO: LANDSCAPE)

3. Along the interior side of the required fence, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches. (CO: LANDSCAPE)

J. LANDSCAPING ALONG THE NORTH 380 FEET OF EAST PROPERTY LINE (ABUTTING MILITARY TRAIL)

1. Landscaping and buffering along the above property line shall be upgraded to include:
 - a. A minimum fifteen (15) foot wide landscape buffer strip;
 - b. A continuous two (2) foot high berm measured from top of curb;
 - c. One (1) canopy tree planted every thirty (30) feet on center;
 - c. One (1) palm or pine tree for each twenty-five (25) 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; and
 - d. Twenty four (24) 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. (CO: LANDSCAPE)

K. LANDSCAPING ALONG THE NORTH 370 FEET OF WEST PROPERTY LINE AND (ACROSS FROM RESIDENTIAL)

1. Landscaping and buffering along the above property line shall include:
 - a. A minimum ten (10) foot wide landscape buffer strip;
 - b. A six (6) foot high opaque concrete wall. This wall shall continue and extend a minimum of sixty (60) feet along the north residential property line. The exterior side of the wall shall be given a finished architectural treatment which is compatible and harmonious with abutting development;
 - c. Building permit for this wall shall be obtained prior to or concurrent with the issuance of the building permit for the daycare center. This wall shall be completed 30 days prior to the commencement of the construction of the daycare center. (CO/MONITORING: LANDSCAPE)
2. The following landscaping requirements shall be installed on the exterior side of the required wall:
 - a. One (1) canopy tree for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;
 - b. One (1) palm for each twenty-five (25) linear feet of property line with a maximum spacing of sixty (60) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree; and
 - c. Twenty four (24) inch high shrub or hedge material installed on the plateau of the berm. Shrub or hedge material shall be spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)
3. Along the interior side of the required wall, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty six (36) inches. (CO: LANDSCAPE)

L. 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: BLDG / CODE ENF - Zoning)
2. All outdoor lighting fixtures shall not exceed twenty five (25) feet in height, and measured from finished grade to highest point. (CO: BLDG - Zoning)
3. All outdoor lighting poles shall be located a minimum setback of thirty five (35) feet from any residential property line or use. (CO: BLDG - Zoning)
4. All outdoor lighting shall be extinguished no later than 10:00 p.m., excluding security lighting only. (ONGOING: CODE ENF)
5. 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)

M. MUPD

1. To ensure consistency with the site plan dated November 23, 1998 presented to the Board of County Commissioners, no more than twenty-five (25) per cent 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. (DRC: ZONING)
2. All requested uses shall remain in the location indicated on the site plan approved by the Board of County Commissioners dated November 23, 1998. (DRC: ZONING)

N. SIGNS

1. Prior to the January 28, 1999 BCC hearing, the petitioner shall submit building permit and tag numbers for the two existing signs on the site. The petitioner shall also provide dimensions of the existing signs on the revised site plan. (BCC: ZONING)
2. Proposed freestanding sign fronting on Military Trail (retail use, Tract B) 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); and
 - d. Style - monument style only. (CO: BLDG)
3. Proposed freestanding sign fronting on Military Trail (daycare center, Tract C) shall be limited as follows:
 - a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. Maximum sign face area per side - 40 square feet;
 - c. Maximum number of signs - one (1); and
 - d. Style - monument style only. (CO: BLDG)

4. No additional sign shall be permitted on the Melaleuca Lane frontage. (CO: BLDG)
5. No off-premise signs or relocated billboards shall be permitted on the site. (ONGOING/DRC: CODE ENF/ZONING)
6. Wall signs shall not be permitted on the west facades of the proposed buildings. (CO: BLDG)

O. USE LIMITATION (EXCLUDING EXISTING 4,250 S.F. CONVENIENCE STORE WITH GAS AND RETAIL SALES ONLY)

1. Retail business activity shall not be allowed on site, including deliveries, prior to 6:00 a.m. nor continue later than 10:00 p.m. daily. (ONGOING: CODE ENF - Zoning)
2. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility. (ONGOING: CODE ENF - Zoning)
3. Repair or maintenance of vehicles shall not be permitted on site. (ONGOING: CODE ENF - Zoning)
4. Outdoor retail business activities shall not be allowed on site, excluding deliveries only. (ONGOING: CODE ENF - Zoning)
5. Parking of delivery vehicles or trucks shall not be permitted on site. (ONGOING: CODE ENF)

P. 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)
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)