

RESOLUTION NO. R-2019- 0898

RESOLUTION APPROVING ZONING APPLICATION DOA-2018-01914
(CONTROL NO. 1982-00184)
a Development Order Amendment
APPLICATION OF EALC Investments, LLC
BY Charles Putman & Associates, AGENT
(Get Ready Set Grow)

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 applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application DOA-2018-01914 was presented to the Board of County Commissioners at a public hearing conducted on June 27, 2019;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Development Order Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC 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 Application DOA-2018-01914, the Application of EALC Investments, LLC, by Charles Putman & Associates, Agent, for a Development Order Amendment to reconfigure the Site Plan, add square footage, and modify a Condition of Approval (Day Care), on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 27, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

Commissioner Mack Bernard, Mayor	-	Aye
Commissioner Dave Kerner, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on June 27, 2019.

Filed with the Clerk of the Board of County Commissioners on July 5th, 2019.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: [Signature]
COUNTY ATTORNEY

BY: [Signature]
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

EAST 1/2 OF SE 1/4 OF NE 1/4 OF SW 1/4, LESS AND EXCEPT THE EAST 60 FEET AND THE SOUTH 30 FEET FOR ROAD RIGHTS-OF-WAY, IN SECTION 27, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE FOLLOWING PROPERTY:

A PARCEL OF LAND LYING IN THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL OF LAND ALSO BEING A PORTION OF THE PLAT OF "NORTH OAKS", AS RECORDED IN PLAT BOOK 80, AT PAGES 187 – 191 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 27 AS SURVEYED AND ACCEPTED BY THE PALM BEACH COUNTY, THENCE WITH A BEARING OF N00°34'55"W, ALONG THE NORTH – SOUTH 1/4 LINE AS ACCEPTED BY PALM BEACH COUNTY, SAID LINE ALSO BEING THE CENTERLINE OF JOG ROAD, FOR A DISTANCE OF 2037.43 FEET TO A POINT; THENCE WITH A BEARING OF S89°18'31"W, FOR A DISTANCE OF 60.00 FEET TO A POINT LYING ON THE WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING, THENCE WITH A BEARING OF S00°34'55"W, ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD FOR A DISTANCE OF 7.25 FEET TO A POINT, SAID POINT ALSO BEING THE SE CORNER OF SAID PLAT OF "NORTH OAKS-P.U.D." THENCE WITH A S89°27'18"W, ALONG THE SOUTHERLY BOUNDARY LINE OF SAID PLAT OF "NORTH OAKS-P.U.D.", FOR A DISTANCE OF 274.84 FEET TO A POINT; THENCE WITH A BEARING OF N 00° 34'32" W FOR A DISTANCE OF 6.55 FEET TO A POINT; THENCE WITH A BEARING OF N 89° 18'31" E, FOR A DISTANCE OF 274.85 FEET, MORE OR LESS TO THE POINT OF BEGINNING.

LESS THAT PORTION CONVEYED FOR ROAD RIGHT OF WAY TO PALM BEACH COUNTY AND FURTHER DESCRIBED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA, CONTAINING 4.05 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

N.T.S.

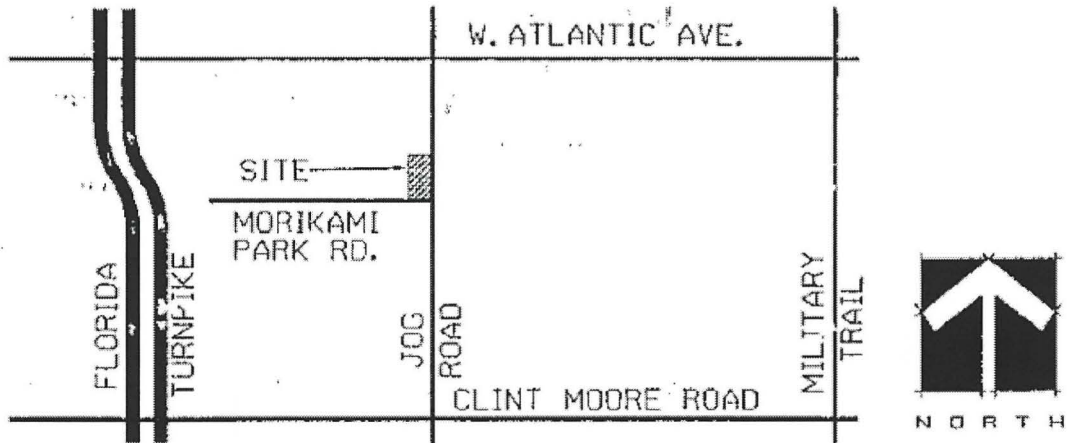


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous A Condition 1 of Resolution R-1999-1607, Control No.1982-00184, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolutions R-98-1111 (Petition 82-184(A)) have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Section E.8 of the ULDC and the Board of County Commissioners, unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-1999-1607 (Control 1982-00184) and R-1999-2068 (Control 1982-00184), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous A Condition 2 of Resolution R-1999-1607, Control No.1982-00184, 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 June 9, 1999. 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated April 4, 2019. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed right of way to provide for a "Corner Clip" at the intersection of Morikami Park Road and Jog Road. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous E Condition 1 of Resolution R-1999-2068, Control No.1982-00184)

2. Previously deleted per Resolution R-1999-1607 (Previous E Condition 2 of Resolution R-1999-1607, Control No.1982-00184)

3. MEDIAN LANDSCAPE: "CUTOUT" LANDSCAPE STRIPS WITHIN THE CONCRETE MEDIAN OF JOG ROAD

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 provide for landscape cutouts within the concrete median of Jog Road Right-of-Way contiguous to the frontage. As part of this permit process, the property owner shall enter into a Right of Way Concrete

Median Cutout; Landscape and Paver Block Installation Agreement, including appropriate Maintenance, Removal, and Indemnification agreements. When landscape plantings and the installation of paver blocks or similar materials are permitted by the County Engineer, the landscape material within the concrete cutouts shall be consistent with the landscaping theme approved by Palm Beach County for this roadway. All landscape material, installation, and maintenance requirements shall be subject to the standards set forth by the Palm Beach County Streetscape Standards. Alternative species and paver block material other than those listed in the County standards may be allowed subject to approval by the County Engineer. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

b. All required median landscaping, including an irrigation system, the cost of cutting out the concrete median and the installation of all landscape material, and paver block or similar materials shall be funded at the property owners expense. All landscape material, and paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation to the cut out areas. All landscape material shall be installed prior to the issuance of the first certificate of occupancy. (BLDGPMPT/CO: MONITORING - Engineering) [Note: COMPLETED]

c. Property Owners Documents or other restrictive covenant documents, evidencing this obligation shall be established or amended as required and shall be approved and recorded prior to the issuance of a building permit. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED] (Previous E Condition 3 of Resolution R-1999-2068, Control No.1982-00184)

4. The Property Owner shall construct a left turn lane west approach on Morikami Blvd. at Jog Road.

a. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. [Note: COMPLETED]

b. Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

c. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMPT/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous E Condition 4 of Resolution R-1999-2068, Control No.1982-00184)

5. Prior to August 1, 2020, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (DATE: MONITORING - Engineering)

ENVIRONMENTAL

1. A Wellfield Affidavit of Notification shall be submitted to Environmental Resources Management prior to DRC site plan certification. (DRC: ERM) [Note: COMPLETED] (Previous C Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

LANDSCAPE - GENERAL

1. Prior to December 27, 2019, the Property Owner shall replace all dead and missing plant materials on the entire subject property. (DATE: ZONING - Zoning)

LANDSCAPE - PERIMETER

2. LANDSCAPING ALONG NORTH AND WEST PROPERTY LINE (ADJACENT TO RESIDENTIAL) Landscaping and buffering along the north and west property line shall 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 for each twenty (20) linear feet of frontage with a maximum spacing of twenty-five (25) feet on center;

d. 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,

e. Twenty four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center and maintained at a minimum height of thirty six (36) inches. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous F Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

3. LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING JOG ROAD)

Landscaping and buffering along the east property line shall be upgraded to include:

a. A minimum twenty (20) foot wide landscape buffer strip;

b. A minimum two (2) to three (3) foot high undulating berm with an average height of two and one half (2 1/2) feet measured from top of curb;

c. One (1) canopy tree planted every twenty-five (25) feet on center;

d. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and,

e. 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. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous H Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

4. Landscaping and buffering along the south property line shall be upgraded to include:

a. A minimum fifteen (15) foot wide landscape buffer strip;

b. An undulating berm with an average height of two (2) feet as measured from top of curb;

c. One (1) canopy tree planted every thirty (30) feet on center;

d. One (1) palm or pine tree for each twenty (20) linear feet, with a maximum spacing of sixty (60) feet on center. A group of three or more palm or pine trees may not supersede the requirement for a canopy tree in that location; and,

e. 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. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous G Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

SIGNS

1. Freestanding point of purchase signs fronting on Jog Road 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. (BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous J Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

2. Signs fronting on Morikami Park Road shall be limited to directional signage only.

(BLDGPMT/ONGOING: BUILDING DIVISION - Zoning) (Previous J Condition 2 of Resolution R-1999-1607, Control No.1982-00184)

SITE DESIGN

1. Prior to the issuance of the final Certificate of Occupancy, the Property Owner shall install the landscape island on the east side of the parking lot, across from the drop-off area overhang as indicated on the approved Site Plan dated April 4, 2019. (CO: CODE ENF - Zoning)

USE LIMITATIONS

1. The day care center shall be limited to a maximum of two hundred and fifty (250) children. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous B Condition 1 of Resolution R-1999-1607, Control No.1982-00184)

2. Previous B Condition 2 of Resolution R-1999-1607, Control No.1982-00184, which currently states:

Total gross floor area shall be limited to a maximum of 17,500 square feet. (ONGOING: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: The ULDC establishes thresholds for adding square footage to an approved Site Plan.]

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant 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; the 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 Unified Land Development Code 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 of Approval; 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 the Code Enforcement Special Master 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 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.