

RESOLUTION NO. 2008-007

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES APPROVING ZONING APPLICATION CA-2006-734 (CONTROL NO. 2006-248) CLASS A CONDITIONAL USE APPLICATION OF PLANET KIDS XII INC; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AND EFFECTIVE DATE.

WHEREAS, the Council, as the governing body of Loxahatchee Groves, Florida pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the Council, pursuant to Article 2 (Development Review Process) of the Town of Loxahatchee Groves Unified Land Development Code is authorized and empowered to consider, approve, approve with conditions or deny Class A Conditional Uses; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 of the Town of Loxahatchee Groves Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application CA-2006-00734 was presented to the Council at a public hearing conducted on October 2, 2007 and February 5, 2008; and

WHEREAS, the Council has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendations of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the Town of Loxahatchee Groves Unified Land Development Code (ULDC) and other provisions requiring that development commence in a timely manner.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Loxahatchee Groves as follows:

Section 1. Each "WHEREAS" clause set forth above is true and correct and herein incorporated by this reference.

Section 2. The Town Council has considered the findings in the staff report and makes the following findings of fact:

1. This Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Town of Loxahatchee Groves Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.

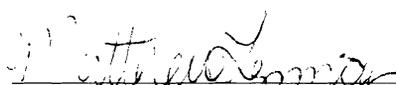
2. This Class A Conditional Use complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Town of Loxahatchee Groves Unified Land Development Code. This Class A Conditional Use also meets applicable local land development regulations. This Class A Conditional Use, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
3. This Class A Conditional Use, with conditions as adopted, is compatible as defined in the Town of Loxahatchee Groves 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.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Class A Conditional Use, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.
6. This Class A Conditional Use, with conditions as adopted, will result in logical, timely and orderly development patterns.
7. This Class A Conditional Use, with conditions as adopted, is consistent with applicable Neighborhood Plans.
8. This Class A Conditional Use has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
9. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Class A Conditional Use.

Section 3. Article 2.A.1.K.3.b of the Town of Loxahatchee Groves Unified Land Development Code requires that the action of the Town Council of Loxahatchee Groves be adopted by resolution. Therefore, the Town Council of the Town of Loxahatchee Groves approves, Zoning Application CA-2006-734, the application of Planet Kids XII Inc, by Land Research Management, Inc., agent, for a Class A Conditional Use to allow a daycare, general in the Agricultural Residential Zoning District, 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 as indicated in EXHIBIT "B", attached hereto and made a part hereof subject to the conditions of approval described in EXHIBIT "C", attached hereto and made a part hereof.

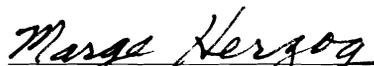
ADOPTED by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 17 day of February 2008.

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

ATTEST:


TOWN CLERK or Authorized Representative

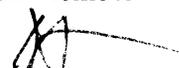

Mayor David Browning


Vice Mayor

APPROVED AS TO LEGAL FORM:


Office of the Town Attorney


Council Member


Council Member

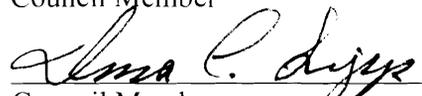

Council Member

EXHIBIT A

LEGAL DESCRIPTION

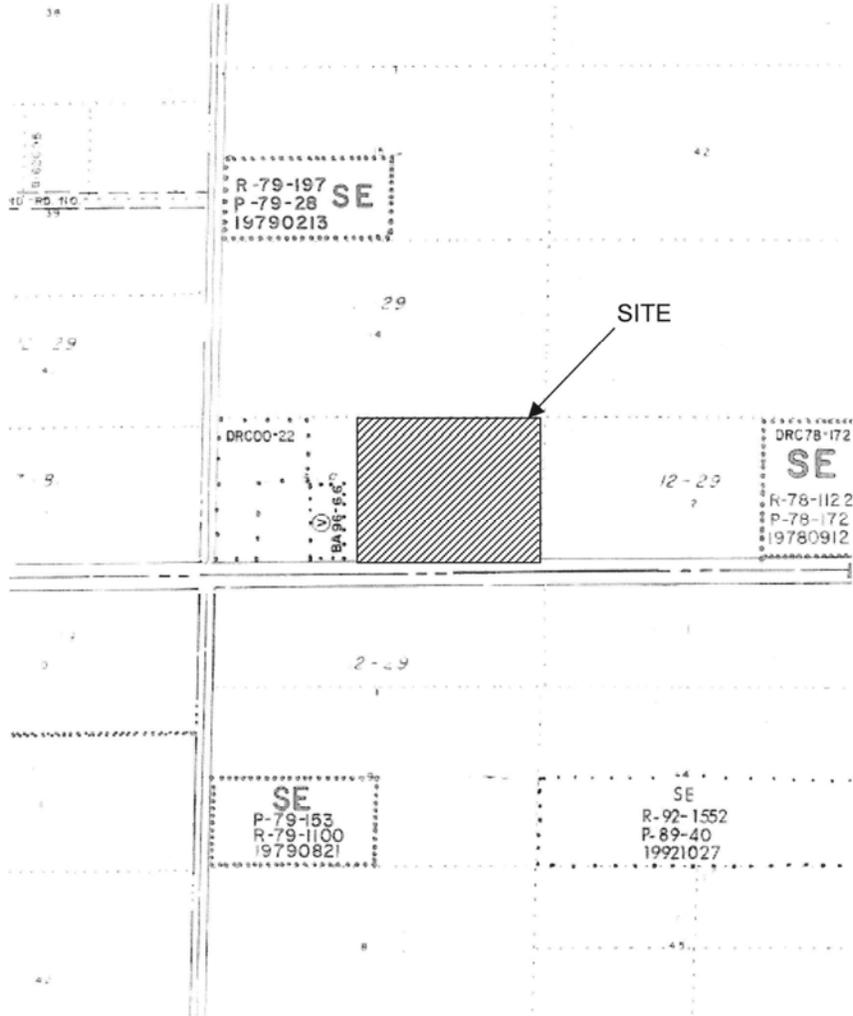
THE WEST 5 ACRES OF TRACT 12, BLOCK "B", LOXAHATCHEE GROVES, ALSO DESCRIBED AS:

THE WEST 402.5 FEET OF TRACT 12, BLOCK "B" LOXAHATCHEE GROVES, A SUBDIVISION IN PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, IN PLAT BOOK 12, PAGE 29.

RESERVING EASEMENT OVER THE NORTH 20 FEET OF PREMISES FOR DRAINAGE AND UTILITY PURPOSES.

EXHIBIT B
VICINITY SKETCH

PALM BEACH COUNTY ZONING QUAD/VICINITY SKETCH



Application No. 2006-734
Zoning Quad 76
Date February 1, 2007



EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Town Council of Loxahatchee Groves. The approved Preliminary Site Plan is dated December 18, 2006. 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 - Zoning)

ARCHITECTURAL REVIEW

1. At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the daycare facility shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCH REVIEW - Zoning)
2. Design of gutters and downspouts shall be integrated into the architectural design of the daycare facility. Painting of the gutters and downspout shall not constitute architectural integration. (DRO: ARCH REVIEW Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after February 22, 2010. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2. CONVEYANCE OF RIGHT OF RIGHT OF WAY - Okeechobee Road

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for Okeechobee Road 60 feet from centerline.

All right of way deed(s) and associated documents shall be provided and approved prior to December 21, 2007 or prior to the issuance of a Building

Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. 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. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate provisions for Expanded Intersection Details and "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE/BLDG. PERMIT: MONITORING-Eng)

3. Prior to issuance of the first building permit, the property owner shall provide a temporary roadway construction easement along Okeechobee Road to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG PERMIT: MONITORING-Eng)

HEALTH

1. Prior to final site plan approval by the Development Review Officer, the property owner shall submit site plans and architectural plans for the proposed child care facility to the Palm Beach County Health Department (PBCHD), and meet with staff of the PBCHD to discuss the plans for establishing and operating the facility. (DRO: HEALTH - Health)

LANDSCAPE – STANDARD

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDG PERMIT: LANDSCAPE - Zoning)

2. A minimum of fifty (50) percent of all trees to be planted in the landscape buffers shall meet the following minimum standards at installation:
 - a. tree height: fourteen (14) feet;
 - b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
 - c. canopy diameter: seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,
 - d. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning)
3. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: LANDSCAPE - Zoning)
4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures shall not exceed 25 feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)
2. All outdoor, freestanding lighting fixtures shall be setback 20 feet from all property lines. (BLDG PERMIT: BLDG - Zoning)
3. All outdoor lighting shall be extinguished one-half (1/2) hour after operating hours excluding security lighting only. (ONGOING: CODE ENF - Zoning)

MASS TRANSIT

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran)
2. Prior to the issuance of the first Building Permit, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding

and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (PLAT/BLDG PERMIT: ENG-Monitoring)

SIGNS

1. Freestanding signs fronting on Okeechobee Boulevard shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point six (6) feet;
 - b. maximum sign face area per side forty-eight (48) square feet;
 - c. maximum number of signs one (1); and
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

1. The capacity (at one time) of the day care center shall be limited to a maximum of sixty (60) children. (ONGOING: HEALTH - Zoning)
2. Business hours of operation for the daycare facility shall be limited from 6:30 a.m. to 7:00 p.m. Monday to Friday and 8:00 a.m. to 5:00 p.m. on Saturday. Sunday business operations shall not be permitted. (ONGOING: CODE ENF-Zoning)
3. Hours of operation for outdoor activities shall be limited to 8:00 a.m. to 6:00 p.m. Monday through Friday and 8:30 a.m. to 5:00 p.m. on Saturday. (ONGOING: CODE ENF-Zoning)

COMPLIANCE

1. In granting this approval, the Town Council of Loxahatchee Groves 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

a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

b. 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

c. Referral to code enforcement; and/or

d. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a 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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as 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 Town Council of Loxahatchee Groves decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)

This resolution will become effective when filed with the Clerk of the Town of Loxahatchee Groves