

RESOLUTION NO. R-2008-0696

RESOLUTION APPROVING ZONING APPLICATION CA-2007-991
(CONTROL NO. 2005-193)
CLASS A CONDITIONAL USE
APPLICATION OF LEVY VENTURES
BY JON E SCHMIDT & ASSOCIATES, AGENT
(LEVY LEARNING CENTER)

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; and

WHEREAS, the Board of County Commissioners, pursuant to Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) 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 Palm Beach County Unified Land Development Code have been satisfied; and

WHEREAS, Zoning Application CA-2007-991 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2008; and

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 recommendations of the Zoning Commission; and

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

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Class A Conditional Use is consistent with the purposes, goals, objectives and policies of the Palm Beach County 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 Palm Beach County 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 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.
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, stormwater 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.

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) 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 Application CA-2007-991, the application of Levy Ventures, by Jon E Schmidt & Associates, agent, for a Class A Conditional Use to allow a School elementary or secondary (private) in the Residential Transitional Zining 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, was approved on April 24, 2008, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marcus moved for the approval of the Resolution.

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

Addie L. Greene, Chairperson	¥ Absent
Jeff Koons, Vice Chair	¥ Aye
Karen T. Marcus	¥ Aye
Robert J. Kanjian	¥ Aye
Mary McCarty	¥ Aye
Burt Aaronson	¥ Aye
Jess R. Santamaria	¥

The Chairperson thereupon declared that the resolution was duly passed and adopted on April 24, 2008.

Filed with the Clerk of the Board of County Commissioners on 16th day of May, 2008.

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

BY: 
COUNTY ATTORNEY

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PCN 00-42-42-24-05-000-0010

LOT 1, OF THE PLAT OF CHARLES E. WALTER, P.U.D., ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, AS IN PLAT BOOK 32 AT PAGES 84 AND 85, LESS AND EXCEPT THE LANDS DESCRIBED IN O.R. BOOK 5752, PAGE 269, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

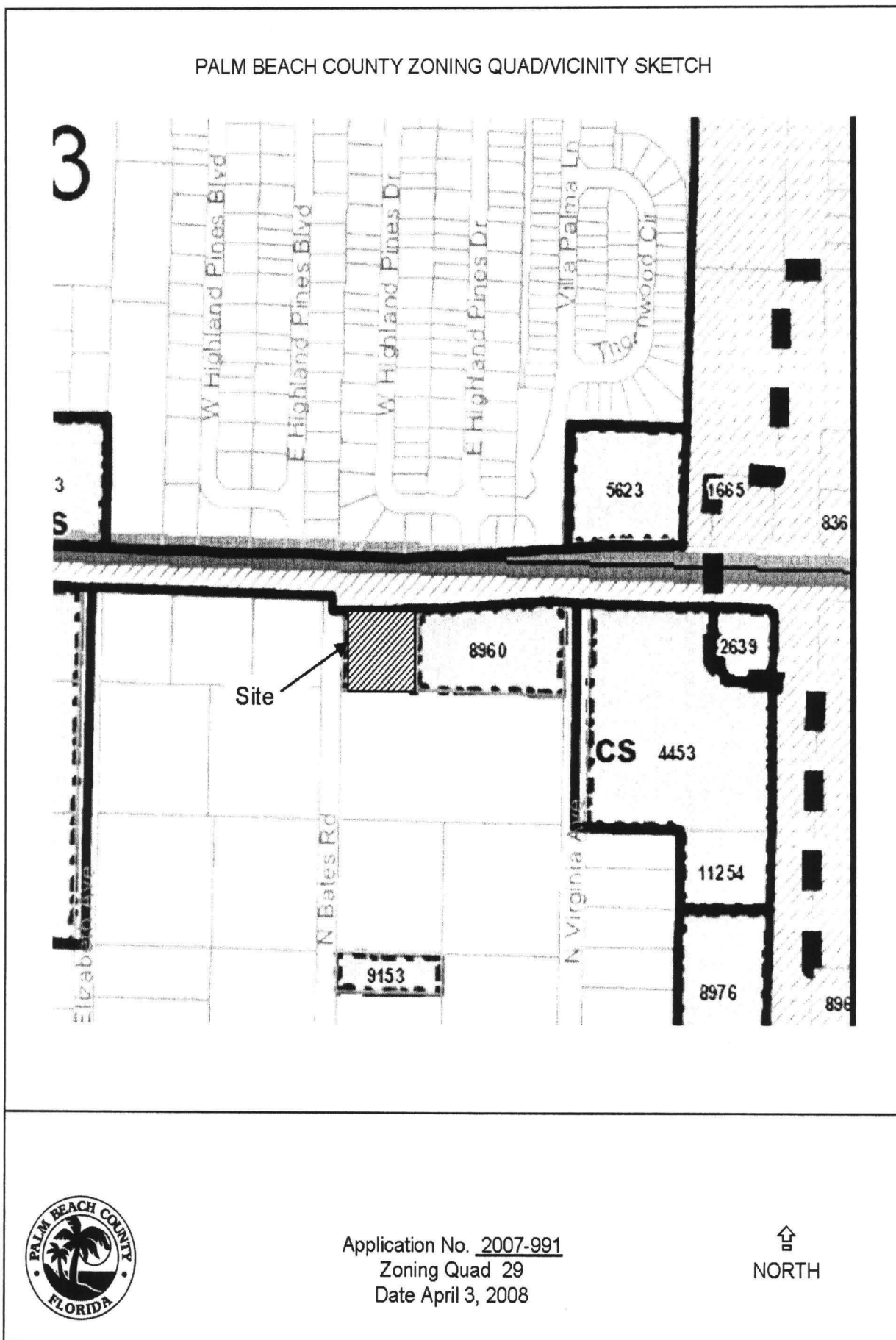


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site plan is dated February 15, 2008. All modifications must be approved by the Board of County Commissioners or Zoning Commission 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 two-story school 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. The maximum height of the building shall be thirty-five (35) feet. All heights shall be measured from finished grade to the highest point of the building, including air conditioning, mechanical equipment, satellite dishes and architectural features. (DRO: ARCH REVIEW - Zoning)
3. A trellis shall be provided along the south facade of the building screening the stairwell, to be generally consistent with the south building elevation prepared by Inter-plan, Inc., dated July 18, 2007, and shall include the following requirements:
 - a) trellis to be constructed of metal or a similar material. Design and choice of materials shall be subject to the review and approval by the Architectural Review Section at final approval by the Development Review Officer (DRO); and,
 - b) climbing vines shall be provided at both bases of the trellis to provide effective screening for the south stairwell. (DRO:ARCH REVIEW- Zoning)

ENGINEERING

1. TRAFFIC PERFORMANCE STANDARDS PHASING REQUIREMENTS

In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after December 31, 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. NORTHLAKE BOULEVARD IMPROVEMENTS

The Property owner shall:

- lengthen the existing left turn lane east approach on Northlake Boulevard at Bates Road to a distance of 400 feet storage, and a taper length of 50 feet or as approved by the County Engineer
- construct a restricted median opening (left turns from the east and west approach only) on Northlake Boulevard at Bates Road.
- right turn lane west approach on Northlake Boulevard at the project's entrance

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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.

- a. Permits required by Palm Beach County for the modification to the left turn lane construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng)
- b. Construction for this improvement shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING-Eng)

3. CORNER CLIP CONVEYANCE OF ROAD RIGHT OF WAY

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 a 25 foot corner clip at the intersection of Northlake Boulevard at Bates Road.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of a Building Permit.

Right of way conveyance 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. 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)

LANDSCAPING

1. Prior to final approval by the Development Review Officer (DRO), 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. (DRO: LANDSCAPE - Zoning)
2. The plan shall include: a minimum of sixty (60) percent of the canopy trees to be planted in the landscape buffers shall be native and 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. (DRO: LANDSCAPE Zoning)
3. The plan shall include: all palms required to be planted on the property 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. (DRO: 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. (DRO: LANDSCAPE - Zoning)

LANDSCAPING ALONG THE NORTH PROPERTY LINE (FRONTAGE OF NORTHLAKE BOULEVARD)

5. In addition to code requirements, landscaping along the north property line shall be upgraded to include:
- a. A vinyl coated chain-link fence, a minimum of four (4) feet in height; and,
 - b. Saw Palmetto may replace the ULDC requirement for medium sized shrubs. (BLDG PERMIT: LANDSCAPE Zoning)

LANDSCAPING ALONG THE SOUTH PROPERTY LINE (ABUTTING SINGLE-FAMILY RESIDENTIAL)

6. In addition to code requirements, landscaping along the south property line shall be upgraded to include:
- a. a six (6) foot opaque concrete block wall. This wall shall be designed and constructed identical to the walls located at the Square Lake North MUPD (Control No. 1989-65) and Square Lake South MUPD (Control No. 2001-043). Both sides of the wall shall be given a finished architectural treatment that is consistent with the color of the principal structure. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property;
 - b. one (1) pine for each twenty (20) linear feet of the property line. Pine shall be arranged in cluster of three (3) to five (5) pines with a maximum spacing of forty (40) feet between clusters. Height of pines shall range from twelve (12) feet to sixteen (16) feet;
 - c. Saw Palmetto shall replace the ULDC requirement for medium sized shrubs. (DRO: LANDSCAPE Zoning)

LANDSCAPING ALONG THE WEST PROPERTY LINES (FRONTAGE OF BATES ROAD)

7. Landscaping along the west property line shall include:
- a. one (1) native canopy tree for each twenty (20) linear feet of the property line;
 - b. six (6) foot opaque concrete block wall. This wall shall be designed and constructed identical to the walls located at the Square Lake North MUPD (Control No. 1989-65) and Square Lake South MUPD (Control No. 2001-043). Both sides of the wall shall be given a finished architectural treatment that is consistent with the color of the principal structure. Height of the wall shall be measured from the highest grade of the two adjoining properties or from the nearest adjacent finished floor of the proposed structure. Method of height shall be finalized subject to the review and approval by the Landscape Section to ensure screening effect is achieved for the adjacent property. Along the west property line, the north end of this wall shall return and connect to the northwest corner of the building, and the south end of this wall shall connect to the wall required under Landscape Condition 6.a;

- c. one (1) pine for each for each twenty (20) linear feet of the property line. Pine shall be arranged in cluster of three (3) to five (5) pines with a maximum spacing of forty (40) feet between clusters. Height of pines shall range from twelve (12) feet to sixteen (16) feet;
- d. Saw Palmetto shall replace the ULDC requirement for medium shrubs; and,
- e. large and small shrubs shall meet ULDC requirements. (DRO: LANDSCAPE Zoning)

SIGNS

- 1. Freestanding signs fronting on Northlake 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 - sixty (60) square feet;
 - c. maximum number of signs - one (1); and
 - d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS

- 1. The school enrollment shall not exceed a maximum of seventy-five (75) students. (ONGOING: CODE ENF - Zoning)
- 2. Hours of operation for the school shall be limited to 7:30 a.m. to 4:00 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)
- 3. No outdoor play areas or outdoor fund raising events shall be permitted. (ONGOING: CODE ENF - Zoning)
- 4. The property owner shall provide an annual report to the Zoning Division commencing on January 1, 2009. This report shall:
 - a. provide evidence of a minimum of twenty (20) percent of the enrolled students being bused and carpooled; and
 - b. provide a notarized copy of signed contract(s) verifying transportation service is provided for students. (DATE/ONGOING: CODE ENF - Zoning)

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; 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 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.

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 Board of County Commission 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 Board of County Commissioners.