

RESOLUTION NO. R-2009- 1227

RESOLUTION APPROVING ZONING APPLICATION CA-2009-00210

(CONTROL NO. 2007-00371)

CLASS A CONDITIONAL USE

Application of Henry Taylor

By Jon E Schmidt & Associates, Agent

(LaMensa Academy)

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-2009-00210 was presented to the Board of County Commissioners at a public hearing conducted on July 23, 2009; 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 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-2009-00210, the application of Henry Taylor, by Jon E Schmidt & Associates, agent, for a Class A Conditional Use to allow a Day Care, General in the AR 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 July 23, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burt Aaronson moved for the approval of the Resolution.

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

Commissioner John F. Koons, Chairman	--	Aye
Commissioner Burt Aaronson, Vice Chairman	--	Aye
Commissioner Karen T. Marcus	--	Aye
Commissioner Shelley Vana	--	Aye
Commissioner Steven L. Abrams	--	Aye
Commissioner Jess R. Santamaria	--	Aye
Commissioner Priscilla A. Taylor	--	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 23, 2009.

Filed with the Clerk of the Board of County Commissioners on August 31, 2009.

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: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A
LEGAL DESCRIPTION

PARCEL NO. AB-39

North 390.25 feet of South 639.25 feet of East 209 feet of West 667 feet of West ½ of Section 17, Township 42 South, Range 41 East, Palm Beach County, Florida. Subject to an easement for road and drainage purposes over the North 50 feet thereof.

AND

PARCEL NO. AB-36

The North 390.25 feet of the South 639.25 feet of the East 209.00 feet of the West 458.00 feet of the West one-half (W ½) of Section 17, Township 42 South, Range 41 East, Palm Beach County, Florida; Subject to an easement for road and drainage purposes to Indian Trail Water Control District over the North 50 feet.

EXHIBIT B
VICINITY SKETCH

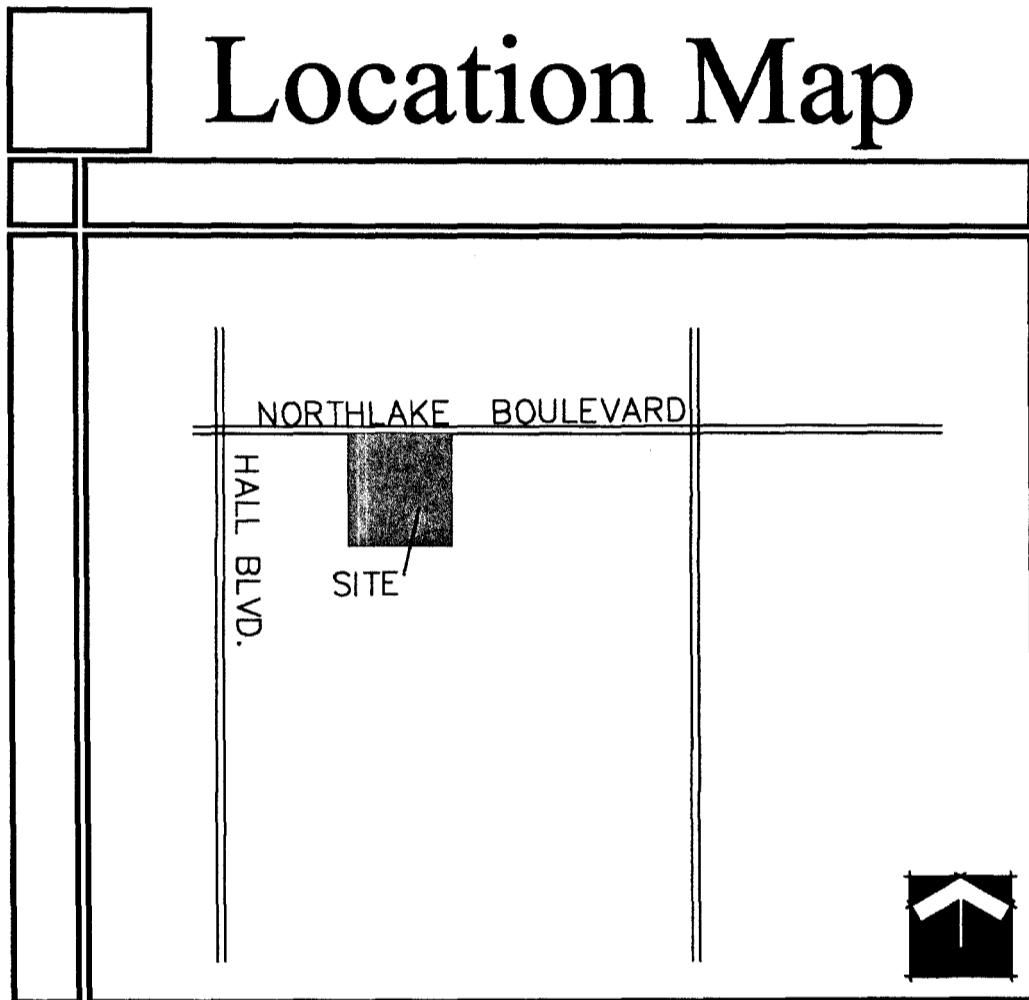


EXHIBIT C

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 June 2, 2009. 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 Development Review Officer (DRO) approval, the architectural elevations for all buildings 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)

ENGINEERING

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

a. No building permits for the site shall be issued after December 31, 2013. 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.E of the Unified Land Development Code. (DATE: MONITORING Eng)

2. The Property owner shall construct a left turn lane east approach on Northlake Blvd at project entrance and a right turn lane west approach on Northlake Blvd at the project entrance.

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.

a. Permits required by the Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING-Eng).

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy (CO: MONITORING - Eng)

3. Prior to issuance of the first building permit the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDG PERMIT: MONITORING-Eng)

LANDSCAPE - GENERAL

1. Prior to final approval by the Development Review Officer, the property owner shall submit a Landscape Plan and/or an Alternative Landscape Plan including the Rural Parkway to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related and Rural Parkway conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

2. All Pines required to be planted on the property by this approval shall meet the following minimum standards at installation:

a. Pines shall be planted in clusters of five (5) to seven (7) Pines. Pine height shall be a minimum of twelve (12) feet to sixteen (16) feet at installation and have a maximum

spacing of forty (40) feet between clusters; and,
b. credit may be given for existing Pines provided they meet current 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 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)

LANDSCAPE - INTERIOR-OUTDOOR ACTIVITY AREA

5.A six (6) foot high solid wood fence shall be provided along the south side and west side (only to the northern corner of the building) of the outdoor activity area. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-ALONG EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

6.In addition to the code requirements, landscaping along the East property line (abutting residential) shall be upgraded to include:

- a. one (1) additional pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters; and,
- b. Saw Palmetto shall replace the ULDC requirement for medium sized shrubs. (BLDG PERMIT: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

7.In addition to the code requirements, landscaping along the South property line (abutting residential) shall be upgraded to include:

- a. one (1) additional pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- b. Saw Palmetto shall replace the ULDC requirement for medium sized shrubs;
- c. Arecas, planted at a height of forty-eight inches (48") to seventy-two inches (72") and 36" on center, shall replace the ULDC requirement for large sized shrubs; and,
- d. a six (6) foot high solid wood fence. (BLDG PERMIT: LANDSCAPE - Zoning)

LIGHTING

1.All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (BLDG PERMIT: BLDG - Zoning)

2.All outdoor, freestanding lighting fixtures be setback fifty (50) feet from the south property line and thirty (30) feet from the east property line. (BLDG PERMIT: BLDG - Zoning)

3.All outdoor lighting shall be extinguished no later than 7:30 p.m., excluding security lighting only. (ONGOING: CODE ENF - Zoning)

4.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 - Zoning)

PLANNING

1.Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide a Rural Parkway Landscape Plan, which shall recreate the native habitat appropriate for the site, subject to review and approval by the Landscape Section and the Planning Division, and at a minimum shall include the following:

- a. an overall fifty (50) foot wide Rural Parkway that includes the twenty (20) foot right-

of-way buffer;

- b. An eight (8) foot wide paved multipurpose meandering pathway;
- c. The minimum quantities of trees and shrubs within the twenty (20) foot right-of-way portion shall be consistent with Article 7, and quantities for the remaining thirty (30) foot Rural Parkway shall be determined based on site restrictions and existing native vegetation. These overall quantities may be adjusted prior to final approval of the landscape plan to achieve a native habitat;
- d. A minimum of eighty percent 80% native vegetation. Credit may be given for native vegetation that is relocated or is part of an approved mitigation plan; and
- e. Flowering trees and/or shrubs; (DRO:LANDSCAPE/PLANNING-Planning)

2. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall submit a Rural Parkway Management Plan (RPMP) maintenance agreement for perpetual maintenance of the Rural Parkway subject to approval by Planning. (DRO-PLANNING-Planning)

3. Prior to recordation of a Plat or issuance of a Plat Waiver or other approval as allowed by the Subdivision Ordinance, the property owner shall submit a recorded Rural Parkway Easement. The Easement shall include but is not limited to: an approved Rural Parkway Landscape Plan, an approved Rural Parkway Maintenance Plan. (PLAT: MONITORING-Planning)

4. The conservation easement for the Rural Parkway shall include, but not be limited to, the following items:

a. The Rural Parkway easement shall not include:

- i. Walls or berms in the Rural Tier;
- ii. No structures shall be allowed in the Rural Parkway Easement with the exception of a bus shelter, benches/pedestrian gathering area, and a drinking water fountain;

b. The Rural Parkway easement may include:

- i. A ten (10) foot utility easement located adjacent to the right-of-way and a bus stop easement;
- ii. Other drainage/utility easements may only be permitted which transverse (run perpendicular to) the Rural Parkway Easement to place drainage/utilities in the developable portion of the approved site plan.
- iii. Other drainage easements may be permitted in the Rural Parkway Easement solely for the purposes of draining the Rural Parkway subject to approval by the County Engineering Department and the Planning Division.
- iv. Overlap of the Rural Parkway and Embankment Easement as long as the purposes of both easements are consistent. (ONGOING: PLANNING-Planning)

5. Prior to June 1, 2012, should a Rural Parkway Conservation Easement not be recorded for the subject property by the property owner in a form acceptable to the County Attorney, Engineering Department, and Planning Division, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. (DATE: MONITORING-Planning)

6. The property owner shall commence construction of the Rural Parkway, consistent with the approved Landscape Plan and in accordance with the Rural Parkway Management Plan, within 30 calendar days of issuance of the building permit. (BLDG PERMIT: MONITORING-Landscape/Planning)

7. The Rural Parkway shall be complete and in compliance with the Rural Parkway Landscape Plan and Management Plan prior to the release of the Certificate of Occupancy (CO) subject to a final inspection by a Landscape inspector and designated Planning staff. (CO: MONITORING-Landscape/Planning)

SIGNS

1. Freestanding sign fronting on Northlake Boulevard 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 - one hundred (100) square feet;
- c. maximum number of signs - one (1); and
- d. style - monument style only. (BLDG PERMIT: BLDG - Zoning)

USE LIMITATIONS - DAY CARE

1. Hours of operation for the daycare shall be limited to 6:00 a.m. to 7:00 p.m. Monday through Friday. (ONGOING: CODE ENF - Zoning)

2. Hours of operation for outdoor activities shall be limited to 9:00 a.m. to 5:00 p.m. daily. (ONGOING: CODE ENF-Zoning)

3. Outdoor play equipment shall be setback a minimum of ninety (90) feet from the south property line. (BLDG PERMIT: BUILDING - Zoning)

4. The maximum number of children that are permitted to occupy the outdoor activity area at any given time during hours of operation is sixty (60). (ONGOING: CODE ENF Zoning)

5. The maximum number of children that are permitted to occupy the outdoor activity area during special events is one-hundred fifty (150). Special events shall occur no more than four (4) times in a thirty (30) day period. (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 (CO); 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 Unified Land Development Code (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. (ONGOING: MONITORING - Zoning)