

RESOLUTION NO. R-2012- 1068

RESOLUTION APPROVING ZONING APPLICATION CA-2012-00389  
(CONTROL NO. 2012-00090)  
a Class A Conditional Use  
APPLICATION OF School Development HC, LLC  
BY Urban Design Kilday Studios, AGENT  
(Somerset Academy Charter School)

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 notice and public hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended), have been satisfied; and

WHEREAS, Zoning Application CA-2012-00389 was presented to the Board of County Commissioners at a public hearing conducted on July 26, 2012; 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 recommendation of the Zoning Commission; and

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) 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 the request; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), 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 hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a a 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-2012-00389, the petition of School Development HC, LLC, by Urban Design Kilday Studios, agent, for a Class A Conditional Use to allow a School, Elementary or Secondary in the AGR 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, was approved on July 26, 2012, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Shelley Vana, Chair	-	Aye
Commissioner Steven L. Abrams, Vice Chairman	-	Aye
Commissioner Karen T. Marcus	-	Aye
Commissioner Paulette Burdick	-	Nay
Commissioner Burt Aaronson	-	Aye
Commissioner Jess R. Santamaria	-	Aye
Commissioner Priscilla A. Taylor	-	

The Chairperson thereupon declared that the resolution was duly passed and adopted on July 26, 2012.

Filed with the Clerk of the Board of County Commissioners on July 31, 2012.

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

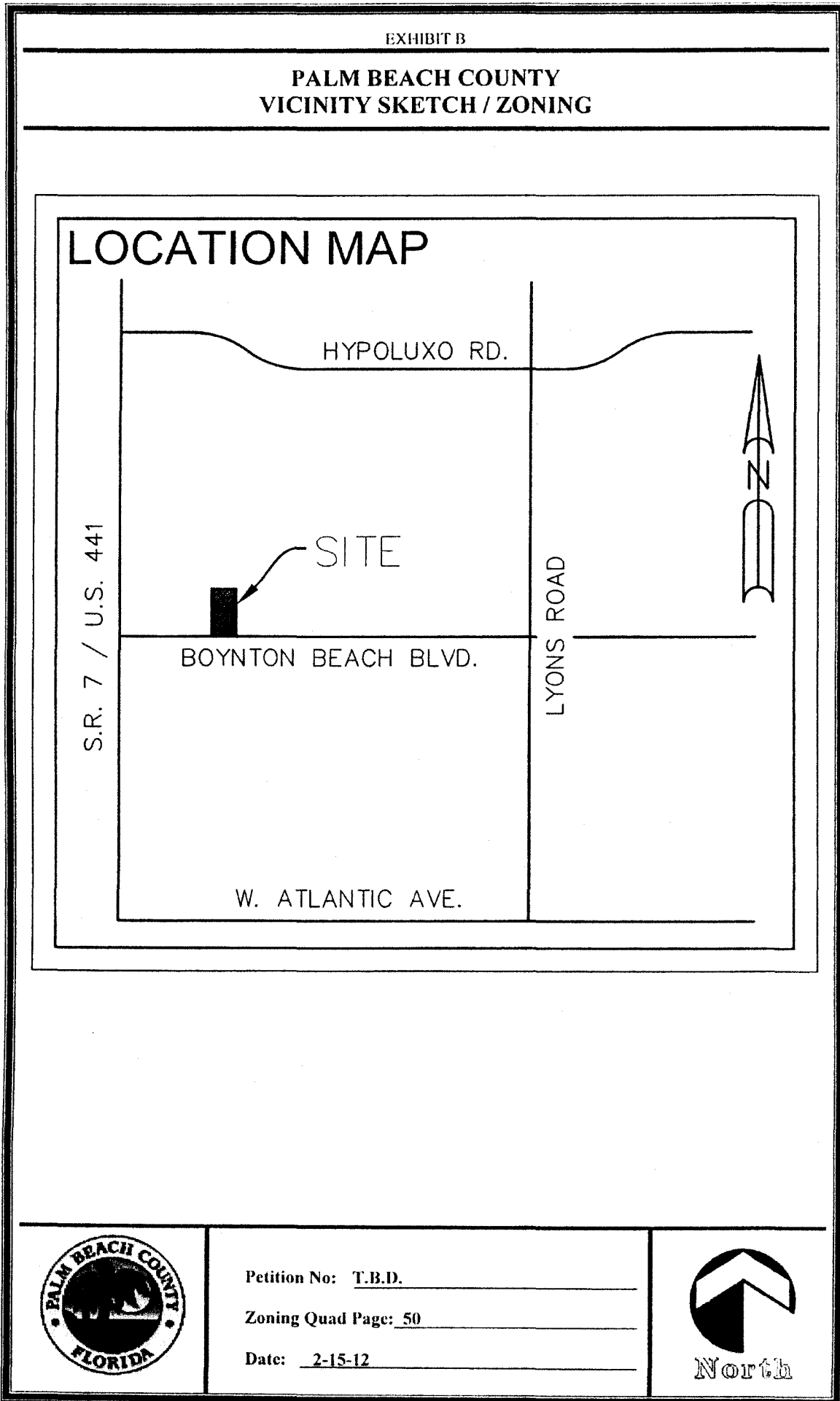
LEGAL DESCRIPTION

BEING A PORTION OF TRACTS 93, 94 105 AND 106 AND A PORTION OF ROAD, DYKE AND DITCH RESERVATION, 30 FEET IN WIDTH, ALL LYING WITHIN BLOCK 51, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF TRACT 95 OF SAID BLOCK 51; THENCE SOUTH 00°57'00" EAST, ALONG THE EAST LINE OF SAID TRACT 95, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING OF HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 89°03'00" EAST, A DISTANCE OF 506.43 FEET; THENCE SOUTH 00°57'00" EAST ALONG A LINE 476.43 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALELL WITH THE WEST LINE OF SAID TRACTS 94 AND 105, A DISTANCE OF 1204.17 FEET THENCE SOUTH 89°02'44" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF BOYNTON BEACH BOULEVARD ACCORDING TO OFFICIAL RECORDS BOOK 16189, PAGE 1405, SAID PUBLIC RECORDS, A DISTANCE OF 506.43 FEET; THENCE NORTH 00°57'00" WEST ALONG THE EAST LINE OF TRACTS 95 AND 104 OF SAID BLOCK 51, A DISTANCE OF 1204.21 FEET TO THE POINT OF BEGINNING.

CONTAINING 14.000 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1.The approved Preliminary Site plan is dated May 10, 2012. 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)

2.Use of the site shall be limited to a Secondary school only (middle and high school). (ONGOING: ZONING - Zoning)

#### ARCHITECTURAL REVIEW

1.At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for all Phase one buildings shall be submitted for final architectural review and approval. Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be designed to be generally consistent with the facade elevations prepared by Civica and dated March 26, 2012. 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 Property owner shall be restricted to the following phasing schedule:

a.No Building Permits for the site may be issued after December 31, 2022. 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 Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng)

2.Prior to the issuance of the first building permit, the property owner shall provide to Florida Department of Transportation (FDOT) by deed additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the project's entrance. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. The right of way should be continued across the project entrance and shall be free and clear of all encumbrances and encroachments. Property owner shall provide FDOT with sufficient documentation, including, at minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from tax collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Grantor must warrant that the property being conveyed to FDOT 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 County and FDOT 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, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG PERMIT: MONITORING-Eng)

3. The Property Owner shall construct:

- i) a right turn lane east approach on Boynton Beach Blvd. at the project entrance, 500 feet in length with a 50-ft taper or as approved by FDOT,
- ii) a left turn lane west approach on Boynton Beach Blvd. at the project entrance, 350 feet in length with a 50-ft taper and any associated median modifications or as approved by FDOT, and
- iii) dual left turn lanes and an exclusive right turn lane north approach on the project entrance at Boynton Beach Blvd.

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 from FDOT 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)

4. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall permit, fund, install and have operational the traffic signal at Boynton Beach Blvd. and the project entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall be paid by the Property Owner and shall also include all design costs and any required utility relocation and right of way or easement acquisition. (CO: MONITORING-Eng)

5. Pursuant to the traffic operations plan submitted by the applicant, the school must operate with staggered arrival and dismissal times for the high school and middle school students, separated by a minimum of one (1) hour or as approved by the County Engineer. (ONGOING: ENGINEERING-Eng)

6. 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)

7. Prior to final site plan approval by the DRO, the property owner shall provide releases from easement beneficiaries for construction of any portion of a proposed wall within easements along Boynton Beach Boulevard. (DRO: ENGINEERING - Eng)

#### PALM TRAN

1. Prior to Plat Recordation, 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 is required. (PLAT:ENG -Palm Tran)

#### PLANNING

1. Prior to Final Site Plan approval by the Development Review Officer (DRO), the architectural plans shall match the site plan, for a total of 87,688 square feet, not to exceed the maximum FAR of 0.15. (DRO-PLANNING-Planning)

#### 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)