

RESOLUTION NO. R-2005-0818

RESOLUTION APPROVING ZONING APPLICATION DOA2004-296
(CONTROL NUMBER 2000-039)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF TOWN COMMONS LLC
BY LAND DESIGN SOUTH, INC., AGENT
(TOWN COMMONS MUPD #1)

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, and the Palm Beach County Unified Land Development Code, is authorized and empowered to consider petitions relating to zoning; 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 DOA2004-296 was presented to the Board of County Commissioners at a public hearing conducted on April 28, 2005; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the petitioner and other interested parties, and the recommendations of the various county review agencies; and

WHEREAS, this approval is subject to Article 2.E (Compliance with Time Limitations), 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 has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the Palm Beach County Comprehensive Plan.
2. This Development Order Amendment complies with the relevant and appropriate portions of Article 6, Supplementary Use Standards; of the Palm Beach County Unified Land Development Code.
3. This Development Order Amendment is consistent with the requirements of the Palm Beach County Unified Land Development Code.
4. This Development Order Amendment, 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.
5. This Development Order Amendment, with conditions as adopted, complies with the standards imposed on it by applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
6. This Development Order Amendment meets applicable local land development regulations.
7. This Development Order Amendment, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

8. This Development Order Amendment has a concurrency determination and complies with Article 11 (Adequate Public Facility Standards) of the Palm Beach County Unified Land Development Code.
9. This Development Order Amendment, 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.
10. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.

WHEREAS, Article 2.K.3.b 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 DOA2004-296, the petition of Town Commons LLC, by Land Design South, Inc., agent, for a Development Order Amendment to delete land area and reconfigure the site plan for a Multiple Use Planned Development 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on April 28, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

Tony Masilotti, Chairman	- Aye
Addie L. Greene, Vice Chairperson	- Aye
Karen T. Marcus	- Aye
Jeff Koons	- Aye
Warren H. Newell	- Absent
Mary McCarty	- Absent
Burt Aaronson	- Aye

The Chairman thereupon declared that the resolution was duly passed and adopted on April 28, 2005.


Filed with the Clerk of the Board of County Commissioners on 31 day of May, 2005.

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




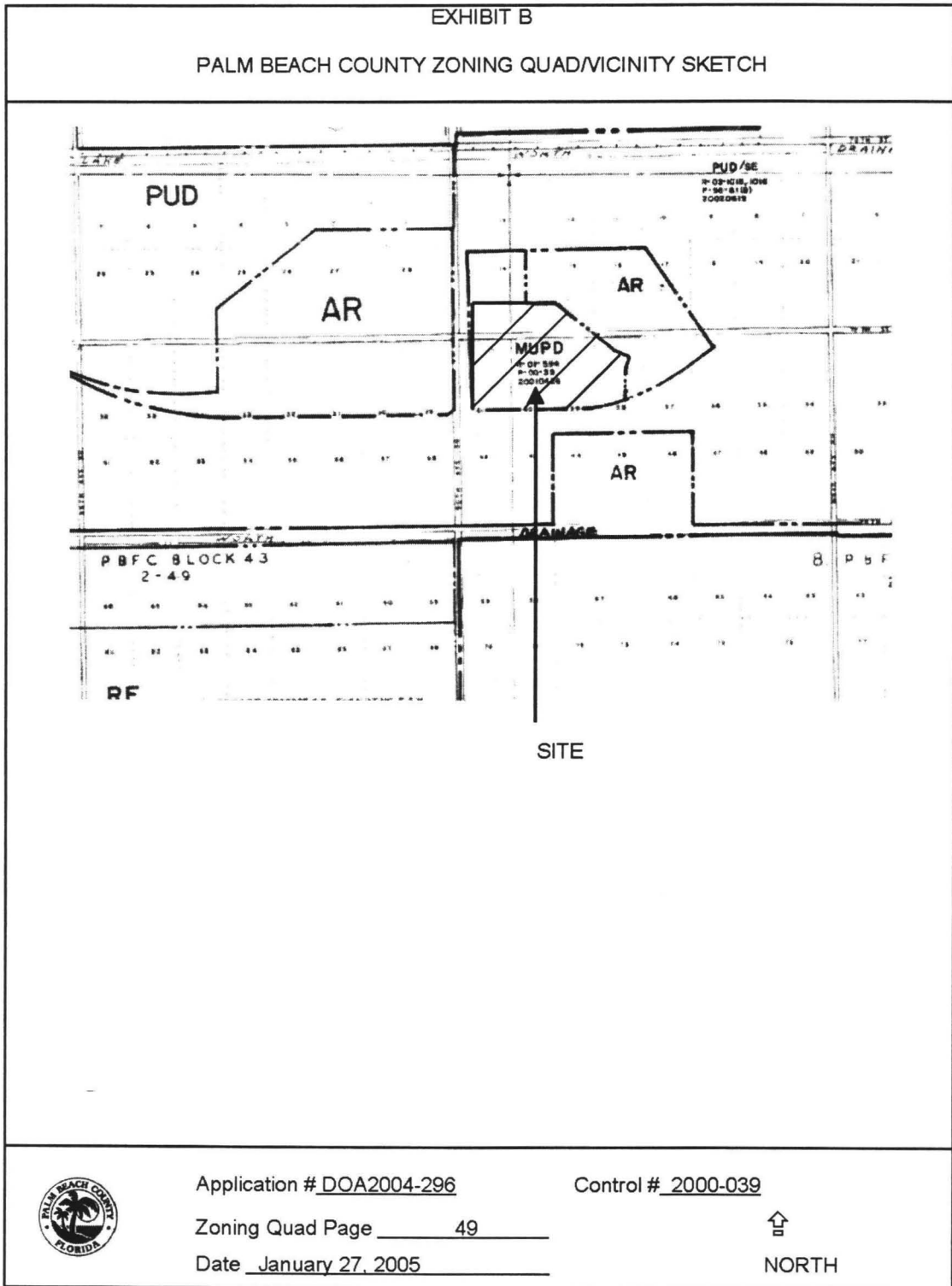
EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS "A" AND "B", AND ALL OF TRACT "L-2", TOWN COMMONS-PLAT ONE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 99, PAGE 68 AND 69 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT "B"; THENCE S.00°00'03"W. ALONG THE EAST LINE THEREOF, A DISTANCE OF 383.47 FEET TO THE POINT OF BEGINNING; THENCE S.89°59'57"E., A DISTANCE OF 165.27 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 45°00'00"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 87.96 FEET; THENCE S.44°59'57"E., A DISTANCE OF 398.67 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 212.00 FEET AND A CENTRAL ANGLE OF 21°00'18"; THENCE SOUTHEASTERLY ALONG THE ARC A DISTANCE OF 77.72 FEET; THENCE S.66°00'15"E., A DISTANCE OF 129.51 FEET; THENCE S.24°26'00"W., A DISTANCE OF 58.11 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 31°47'52"; THENCE SOUTHERLY ALONG THE ARC A DISTANCE OF 166.49 FEET; THENCE S.07°21'52"E., A DISTANCE OF 100.50 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.07°22'40"W., A RADIAL DISTANCE OF 1,370.00 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 06°13'50", A DISTANCE OF 148.98 FEET; THENCE N.77°08'45"W., A DISTANCE OF 51.40 FEET; THENCE S.89°26'07"W., A DISTANCE OF 289.33 FEET; THENCE N.86°47'19"W., A DISTANCE OF 87.62 FEET; THENCE SOUTH, A DISTANCE OF 12.02 FEET; THENCE N.86°47'19"W., A DISTANCE OF 163.19 FEET; THENCE S.89°26'07"W., A DISTANCE OF 300.00 FEET; THENCE N.45°33'53"W., A DISTANCE OF 56.57 FEET; THENCE N.00°33'53"W., A DISTANCE OF 118.50 FEET; THENCE N.12°55'52"W., A DISTANCE OF 51.42 FEET; THENCE N.00°33'53"W., A DISTANCE OF 120.63 FEET; THENCE N.01°49'30"W., A DISTANCE OF 250.06 FEET; THENCE N.00°33'53"W., A DISTANCE OF 78.97 FEET; THENCE N.89°07'24"E., A DISTANCE OF 75.59 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 400.00 FEET AND A CENTRAL ANGLE OF 19°07'21"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 133.50 FEET; THENCE N.70°00'03"E., A DISTANCE OF 116.85 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 20°00'00"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 39.10 FEET; THENCE S.89°59'57"E., A DISTANCE OF 51.12 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
VICINITY SKETCH



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Date January 27, 2005

NORTH

EXHIBIT C

CONDITIONS OF APPROVAL

NOTE: All previous conditions of approval are shown in **BOLD** and will be carried forward with this petition unless expressly modified.

A. ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolutions R-2001-0594 (Petition 2000-039), have been consolidated as contained herein. The petitioner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the ULDC and the Board of County Commissioners, unless expressly modified. (ONGOING: MONITORING – Zoning)
2. Condition A.1 of Resolution R-2001-0594, Petition 2000-039, 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 master plan is dated July 25, 2000 and the approved site plan is dated March 16, 2001. 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)

Is hereby amended to read:

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 March 11, 2005. 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)

B. ARCHITECTURAL CONTROL

1. **The proposed retail buildings (Phase 1, Pod A) shall be designed and constructed to be consistent with the facade elevations by Marc Wiener, A.I.A dated September 26, 2000. (BLDG PERMIT: BLDG – Zoning)**
(Previous Condition B.1 of Resolution R-2001-0594, Petition 2000-039)
2. **Similar architectural character and treatment, including but not limited to color, material, fenestration and roof lines, shall be provided on all sides of the building. (BLDG PERMIT: BLDG – Zoning)** (Previous Condition B.2 of Resolution R-2001-0594, Petition 2000-039)
3. **Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations for Phase 1, Pod A to the Zoning Division for review by both the Zoning and Planning Divisions. Elevations of all remaining buildings in Phase 1 shall also be designed and constructed consistent with these approved elevations. Consistency shall mean having similar colors, roof design/pitch/and treatment, materials, fenestration, and horizontal and vertical architectural details. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT –**

Zoning/Planning) (Previous Condition B.3 of Resolution R-2001-0594, Petition 2000-039)

4. **Prior to the issuance of the building permit for Phases 2, 3 and 4 of Pod A, the petitioner shall submit architectural elevations for each phase to the Zoning Division for review by both the Zoning and Planning Divisions. Elevations of all remaining buildings on the site shall also be designed and constructed consistent with these approved elevations. Consistency shall mean having similar colors, roof design/pitch/and treatment, materials, fenestration, and horizontal and vertical architectural details. Development shall be consistent with the approved architectural elevations. (DRO: BLDG PERMIT – Zoning/Planning) (Previous Condition B.4 of Resolution R-2001-0594, Petition 2000-039)**

C. BUILDING AND SITE DESIGN

1. **Total gross floor area shall be limited to a maximum of 94,900 square feet for Pod A. Expansion shall be subject to approval by the Board of County Commissioners. (DRO: ZONING – Zoning) (Previous Condition C.1 of Resolution R-2001-0594, Petition 2000-039)**
2. **The maximum height for all structures including air conditioning, mechanical equipment and satellite dishes shall not exceed thirty-five (35) feet. All heights shall be measured from finished grade to highest point except in conformance with Section 6.5.H. (exceptions to height regulations). (BLDG PERMIT: BLDG – Zoning/Planning) (Previous Condition C.2 of Resolution R-2001-0594, Petition 2000-039)**
3. **All ground or roof mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (BLDG PERMIT: BLDG – Zoning) (Previous Condition C.3 of Resolution R-2001-0594, Petition 2000-039)**

D. LANDSCAPING STANDARD

1. **Fifty percent (50%) of the canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:**
 - a. **Tree height: fourteen (14) feet;**
 - b. **Trunk diameter: 3.5 inches measured 4.5 feet above grade;**
 - c. **Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,**
 - d. **Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE – Zoning) (Previous Condition D.1 of Resolution R-2001-0594, Petition 2000-039)**
2. **All palms required to be planted on site 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. (CO: LANDSCAPE – Zoning) (Previous Condition D.2 of Resolution R-2001-0594, Petition 2000-039)**

E. ENGINEERING

1. **Prior to the recordation of the first plat the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for the construction of a right turn lane on:**

- Hypoluxo Road at the projects west entrance;
- Lyons Road at the projects south entrance road.

This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include “Corner Clips” where appropriate as determined by the County Engineer. The 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. (PLAT: ENGINEERING – Eng) (Previous Condition E.1 of Resolution R-2001-0594, Petition 2000-039)

2. **Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along both Lyons Road and Hypoluxo Road to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.2 of Resolution R-2001-0594, Petition 2000-039)**

3. **The Property owner shall provide construction plans for Hypoluxo Road as a 3 lane section (expandable to 6 lanes) from Lyons Road east to the project’s east entrance onto Hypoluxo Road plus the appropriate paved tapers unless these construction plans have been completed by others prior to issuance of the first building permit. These construction plans shall be approved by the County Engineer based upon Palm Beach County’s minimum Construction Plan Standards as they presently exist or as they may from time to time be amended. The difference in cost between a 3 lane section designed to County thoroughfare standards and a 2 lane section minimum commercial access drive shall be eligible for traffic fare share impact fee credits. These construction plans shall be completed prior to the issuance of a building permit. Plan costs shall be approved by the County Engineer. All canal crossings (bridges and/or culverts) within the project limits shall be constructed to their ultimate paved configuration. Required utility relocations shall be coordinated through the Engineering Department, Roadway Production Division. (BLDG PERMIT/MONITORING – Eng) (Previous Condition E.3 of Resolution R-2001-0594, Petition 2000-039)**

4. **The Property owner shall construct:**

- a) **Hypoluxo Road as a 3 lane section from Lyons Road east to the project’s east entrance onto Hypoluxo Road unless otherwise constructed by others.**

- b) **A Right turn lane south approach and a left turn lane north approach on Lyons Road at the projects south entrance road.**
 - c) **A left turn lane north approach at the projects west entrance onto Hypoluxo Road. This entrance shall then be restricted to a right turn lane in, right turn out at the time of the widening of Hypoluxo Road.**
 - d) **A right turn lane, east approach, on Hypoluxo Road at the project's west entrance 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.**
 - B) **Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring – Eng) (Previous Condition E.4 of Resolution R-2001-0594, Petition 2000-039)**
 - C) **Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING – Eng) (Previous Condition E.4 of Resolution R-2001-0594, Petition 2000-039)**
5. **In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:**
- A) **No building Permits shall be issued until construction has begun for Lantana Road as a 4 lane section from Lyons Road to the Florida Turnpike plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.5 of Resolution R-2001-0594, Petition 2000-039)**
 - B) **No building Permits shall be issued until construction has begun for Lyons Road as a 2 lane section from its present terminus south of Lantana Road to Melrose Place plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.5 of Resolution R-2001-0594, Petition 2000-039)**
 - C) **No building Permits shall be issued until construction has begun for Hypoluxo Road as a 2 lane facility from SR 7 to Lyons Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.5 of Resolution R-2001-0594, Petition 2000-039)**
6. **Unless otherwise posted by others prior to October 26,2001, acceptable surety is required for the off-site road improvements for the construction of Lyons Road as a 2 lane section from Hypoluxo Road to Melrose Place plus the appropriate paved tapers. This surety shall be posted with the Office of the Land Development Division on or before October 26, 2001. Surety in the amount of 110% shall be based upon a Certified Cost Estimate provided by the Developer's Engineer. At any time during the duration of the surety the County Engineer shall have the authority to determine that sufficient progress has not been made for any and all required work. In the event such a determination is made Palm Beach County shall have the right to request funds be drawn for the surety (surety drawn) and Palm Beach County may then complete all required work. (TPS-Maximum 6 month time extension) (DATE: MONITORING – Eng) (Previous Condition E.6 of Resolution R-2001-0594, Petition 2000-039)**

7. **Prior to the issuance of a building permit the Developer shall plat the subject property in accordance with provisions of Article 8 of the Unified Land Development Code. (BLDG PERMIT: MONITORING – Eng) (Previous Condition E.7 of Resolution R-2001-0594, Petition 2000-039)**
8. **The Property Owner shall fund a proportionate share of the cost of signal installation if warranted as determined by the County Engineer at the intersection of Boynton Beach Boulevard and Lyons Road. This funding shall be shared with any and all other developers with this same condition based on each developer's pro rata share of the total project traffic impacting this intersection. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. Should signalization not be warranted after 12 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (ONGOING: MONITORING – Eng) (Previous Condition E.8 of Resolution R-2001-0594, Petition 2000-039)**

F. LANDSCAPING ALONG THE SOUTH PROPERTY LINE (HYPOLUXO ROAD FRONTAGE)

1. **Landscaping and buffering along the south property line shall be upgraded to include:**
 - a. **a minimum fifty (50) foot wide landscape buffer strip;**
 - b. **a minimum three (3) to four (4) foot high undulating berm with an average height of three and one half (3.5) feet measured from top of curb;**
 - c. **one (1) canopy tree planted for each twenty (20) linear feet of frontage with maximum thirty (30) feet on center spacing;**
 - d. **one (1) palm, pine tree, accent or flowering tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Accent and flowering trees shall have a minimum overall heights of twelve (12) feet; and,**
 - e. **additional landscaping such as paths, pedestrian pavilion, focal points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated November 9, 1998, Ordinance 98-59. (CO: LANDSCAPE/Planning – Zoning) (Previous Condition F.1 of Resolution R-2001-0594, Petition 2000-039)**

G. LANDSCAPING ALONG THE WEST PROPERTY LINE (LYONS ROAD FRONTAGE)

1. **Landscaping and buffering along the west property line shall be upgraded to include:**
 - a. **a minimum thirty-five (35) 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 (2.5) feet measured from top of curb;**
 - c. **one (1) canopy tree planted for each twenty (20) linear feet of frontage with maximum thirty (30) feet on center spacing;**
 - d. **one (1) palm, pine tree, accent or flowering tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Accent and flowering trees shall have a minimum overall heights of twelve (12) feet; and,**
 - e. **additional landscaping such as paths, pedestrian pavilion, focal points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated November 9, 1998, Ordinance 98-59. (CO:**

H. LANDSCAPING - INTERIOR

1. **A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet.** (DRO: ZONING – Zoning) (Previous Condition H.1 of Resolution R-2001-0594, Petition 2000-039)
2. Condition H.2 of Resolution R-2001-0594, Petition 2000-039, which currently states:

Foundation planting or grade level planters shall be provided along the front, side and rear facades of all buildings, except in loading area, to consist of the following:

- a. **The minimum width of the required landscape areas shall be eight (8) feet;**
- b. **The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure or as shown on the site plan dated March 16, 2001; and,**
- c. **Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover.** (DRO/CO: ZONING/LANDSCAPE – Zoning)

Is hereby amended to read:

Foundation planting or grade level planters shall be provided along the front, side and rear facades of all buildings, except in loading area, to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than 50% of the total length of each side of the structure or as shown on the site plan dated March 11, 2005; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. (DRO: ZONING/LANDSCAPE – Zoning)

I. LIGHTING

1. **All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets.** (BLDG PERMIT/ONGOING: BLDG/CODE ENF – Zoning) (Previous Condition I.1 of Resolution R-2001-0594, Petition 2000-039)
2. **All pedestrian outdoor lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point.** (BLDG PERMIT: BLDG – Zoning) (Previous Condition I.2 of Resolution R-2001-0594, Petition 2000-039)
3. **All parking lot lighting fixtures shall not exceed thirty-five (35) feet in height measured from finished grade to highest point and shall setback forty-five (45) feet from the south property line and thirty (30) feet from the west property line.** (BLDG PERMIT: BLDG – Zoning) (Previous Condition I.3 of Resolution R-2001-0594, Petition 2000-039)

4. **All lighting fixtures except for pedestrian and parking lot lights shall not exceed twenty-five (25) feet in height measured from finished grade to highest point.** (BLDG PERMIT: BLDG – Zoning) (Previous Condition I.4 of Resolution R-2001-0594, Petition 2000-039)
5. **All outdoor lighting shall be extinguished no later than 12:30 a.m. on weekdays and 1:30 a.m. on weekends excluding security lighting only.** (ONGOING: CODE ENF – Zoning) (Previous Condition I.5 of Resolution R-2001-0594, Petition 2000-039)
6. **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) (Previous Condition I.6 of Resolution R-2001-0594, Petition 2000-039)

J. MASS TRANSIT

1. **Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer.** (DRC: ZONING) (Previous Condition J.1 of Resolution R-2001-0594, Petition 2000-039)
2. **Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner.** (CO: MONITORING – Eng) (Previous Condition J.2 of Resolution R-2001-0594, Petition 2000-039)

K. MUPD

1. **Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director.** (DRC: ZONING – Co Atty) (Previous Condition K.1 of Resolution R-2001-0594, Petition 2000-039)
2. **Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or**

amended without written approval from the Zoning Director. (DRC: ZONING – Co Atty) (Previous Condition K.2 of Resolution R-2001-0594, Petition 2000-039)

L. PLANNING

1. **The underlying land uses, associated maximum acreages, and intensities for the LS/MU designation for the entire subject property shall be as follows:**

<u>Large Scale Multiple Use</u>	<u>Acreage</u>	<u>Maximum s.f./du</u>
Commercial High (CH)	14.3 (max.)	94,900 s.f.
Commercial High Office (CH-0)	10.8 (max.)	151,390 s.f.
Low Residential-2 (clustered)	8.0 (max.)	80 units
Open Space	2.0 (min.)	--
<u>Lake/Drainage</u>	<u>4.9 (--)</u>	<u>--</u>
Total	40 acres	

Based on the above information, if Petition 2000-039 is approved, additional commercial development, with the exception of commercial office uses, will not be permitted. In addition, all future pods of development must comply with the mix of other uses as specified in Ordinance 98-59. (DRO: PLANNING – Planning) (Previous Condition L.1 of Resolution R-2001-0594, Petition 2000-039)

2. **Development of the overall 40 acre site shall comply with the preliminary master plan. (Exhibit 2 of Ordinance 98-59) Any changes which affect more than 20% of the land area, and/or which result in the project no longer meeting the intent of the LSMU language in the Comprehensive Plan as determined by the Planning Director shall be remanded back to the Local Planning Agency and Board of County Commissioners for public hearings. (DRO/ONGOING: PLANNING) (Previous Condition L.2 of Resolution R-2001-0594, Petition 2000-0)**
3. **Prior to final site plan certification, for calculation of square footage purposes, all outdoor seating which is an extension of a commercial use, and all general public seating shall be indicated on the site plan. (DRO: PLANNING – Planning) (Previous Condition L.3 of Resolution R-2001-0594, Petition 2000-039)**
4. **Development of the site shall comply with Design Guidelines & Standards for Future Development dated November 9, 1998, which are attached as Exhibit 3 in Ordinance 98-59. (ONGOING: PLANNING – Planning) (Previous Condition L.4 of Resolution R-2001-0594, Petition 2000-039)**
5. **Prior to final site plan approval for each Pod (Pod A, B, C, etc.), architectural elevations for buildings that are adjacent to open spaces on the ordinance required Master Plan, dated July 25, 2000, shall be submitted for review by the Planning Division (DRO: PLANNING – Planning) (Previous Condition L.5 of Resolution R-2001-0594, Petition 2000-039)**
6. **Prior to the issuance of each building permit for a primary structure, the architectural elevations for buildings on the Master Plan, dated July 25, 2000, shall be subject to the Planning Division’s review for consistency with the Design Guidelines. (BLDG PERMIT: MONITORING – PLANNING) (Previous Condition L.6 of Resolution R-2001-0594, Petition 2000-039)**

7. **Prior to final site plan certification by the Development Review Committee (DRC), cross sections for loading areas, including a lighting plan, shall be submitted to the Planning Division for review, to ensure compatibility between the commercial portion and the residential portion of the site (Pod C). (DRC: PLANNING) (Previous Condition L.7 of Resolution R-2001-0594, Petition 2000-039)**
8. **Prior to final site plan certification by the Development Review Committee (DRC), in order to further Rec. 41 of the West Boynton Area Community Plan, the site plan shall be amended to include additional shade trees along the pathway near the 0.8 acre lake tract, between the 7,500 s.f. restaurant and the pathway along Hypoluxo Road. (DRC: PLANNING) (Previous Condition L.8 of Resolution R-2001-0594, Petition 2000-039)**

M. PARKING

1. **Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF – Zoning) (Previous Condition M.1 of Resolution R-2001-0594, Petition 2000-039)**
2. **Prior to site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate loading area for the 5,000 square foot restaurant. (DRO: ZONING) (Previous Condition M.2 of Resolution R-2001-0594, Petition 2000-039)**

N. SIGNS

1. **Main Entry sign (identification of tenants) fronting on Lyons Road and Hypoluxo Road shall be limited as follows:**
 - a. **Maximum sign height, measured from finished grade to highest point - twelve (12) feet;**
 - b. **Maximum sign face area per side - sixty (60) square feet;**
 - c. **Maximum number of signs - total (2) one (1) for each access point;**
 - d. **Style - monument style only; and,**
 - e. **Location - median at access point. (CO: BLDG – Zoning) (Previous Condition N.1 of Resolution R-2001-0594, Petition 2000-039)**
2. **Main Entry wall signs (identification of project) fronting on Lyons Road and Hypoluxo Road 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) pair for each road frontage;**
 - d. **Style - monument style only; and,**
 - e. **Location - on both sides of access point. (CO: BLDG – Zoning) (Previous Condition N.2 of Resolution R-2001-0594, Petition 2000-039)**
3. **Freestanding point of purchase signs fronting Hypoluxo Road and Lyons Road shall be limited as follows:**
 - a. **Maximum sign height, measured from finished grade to highest point - ten (10) feet and eight (8) feet for the easternmost point of purchase sign located on Hypoluxo Road;**
 - b. **Maximum sign face area per side - eighty (80) square feet;**

- c. **Maximum number of signs for the overall site (Pod A) - three (3);**
 - d. **Style - monument style only.** (CO: BLDG – Zoning) (Previous Condition N.3 of Resolution R-2001-0594, Petition 2000-039)
4. **No relocated billboards shall be permitted on the site.** (ONGOING/DRO: CODE ENF/ZONING – Zoning) (Previous Condition N.4 of Resolution R-2001-0594, Petition 2000-039)
 5. **Wall signs shall be limited to twenty-four (24) inches high per tenant except for the grocery store’s wall sign, which shall be limited to thirty-six (36) inches. Wall signs shall be limited to the following:**
 - Phase 1 - Retail buildings - south facade only;**
 - Phase 2 - Bank - south and west facades only;**
 - Phase 3 - Restaurant - south and west facades only; and,**
 - Phase 4 - Bank - north and west facades only.** (CO: BLDG – Zoning) (Previous Condition N.5 of Resolution R-2001-0594, Petition 2000-039)

O. USE LIMITATIONS

1. **Retail business activity shall not be allowed on site, excluding deliveries, prior to 7:00 a.m. nor continue later than 12:00 a.m. daily except for the restaurants which may open to 1:00 a.m. on weekends (Fridays and Saturdays).** (ONGOING: CODE ENF – Zoning) (Previous Condition O.1 of Resolution R-2001-0594, Petition 2000-039)
2. Condition O.2 of Resolution R-2001-0594, Petition 2000-039, which currently states:

Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space shown on the site plan dated March 16, 2001. (ONGOING: CODE ENF)

Is hereby amended to read:

Parking of delivery vehicles or trucks shall not be permitted on site except within the designated loading space shown on the site plan dated March 11, 2005. (ONGOING: CODE ENF – Zoning)
3. **No outdoor storage of any materials, pallets, refuse, equipment or accumulated debris shall be allowed in the rear of the shopping center.** (ONGOING: CODE ENF – Zoning) (Previous Condition O.3 of Resolution R-2001-0594, Petition 2000-039)
4. **All storage areas shall be screened on all four sides. The storage area shall be enclosed by a minimum eight (8) foot high concrete block or panel wall. A solid, opaque gate shall be provided at the opening of the enclosure. All heights shall be measured from finished grade to the highest point of the enclosure.** (BLDG PERMIT/ONGOING: BLDG/CODE ENF – Zoning) (Previous Condition O.4 of Resolution R-2001-0594, Petition 2000-039)
5. **Prior to final DRC certification of the master/site plan, the petitioner shall revise concurrency application to be consistent with the site plan dated March 16, 2001.** (DRC: CONCURRENCY) (Previous Condition O.5 of Resolution R-2001-0594, Petition 2000-039)

P. COMPLIANCE

1. **In granting this approval, the Board of County Commissioners 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) (Previous Condition P.1 of Resolution R-2001-0594, Petition 2000-039)

- 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 a majority vote of the Code Enforcement Board 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 5.8 of the U LDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise 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 Fifteenth Judicial Circuit. (MONITORING) (Previous Condition P.2 of Resolution R-2001-0594, Petition 2000-039)