

RESOLUTION NO. R-2009- 1603

RESOLUTION APPROVING ZONING APPLICATION DOA/TDR-2009-00218  
(CONTROL NUMBER 2004-00247)  
DEVELOPMENT ORDER AMENDMENT  
APPLICATION OF Town Commons Acquisition Llc  
BY CMS Engineering, LLC, AGENT  
(Town Commons PUD)

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, as amended, 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 Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA/TDR-2009-00218 was presented to the Board of County Commissioners at a public hearing conducted on September 29, 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 recommendation of the Zoning Commission; 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 has considered the following findings of fact:

1. This Development Order Amendment 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 Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. 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.
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 Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. 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.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, 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.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.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 DOA/TDR-2009-00218, the application of Town Commons Acquisition Llc, by CMS Engineering, LLC, agent, for a Development Order Amendment to to modify the Master Plan, change unit types, add units, reconfigure the site plan, and modify 3 Conditions of Approval (Engineering and Planned Unit 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 September 29, 2009, 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 Vana and, upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared that the resolution was duly passed and adopted on September 29, 2009.

Filed with the Clerk of the Board of County Commissioners on October 1, 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 BOCK, CLERK, &  
COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



## EXHIBIT A

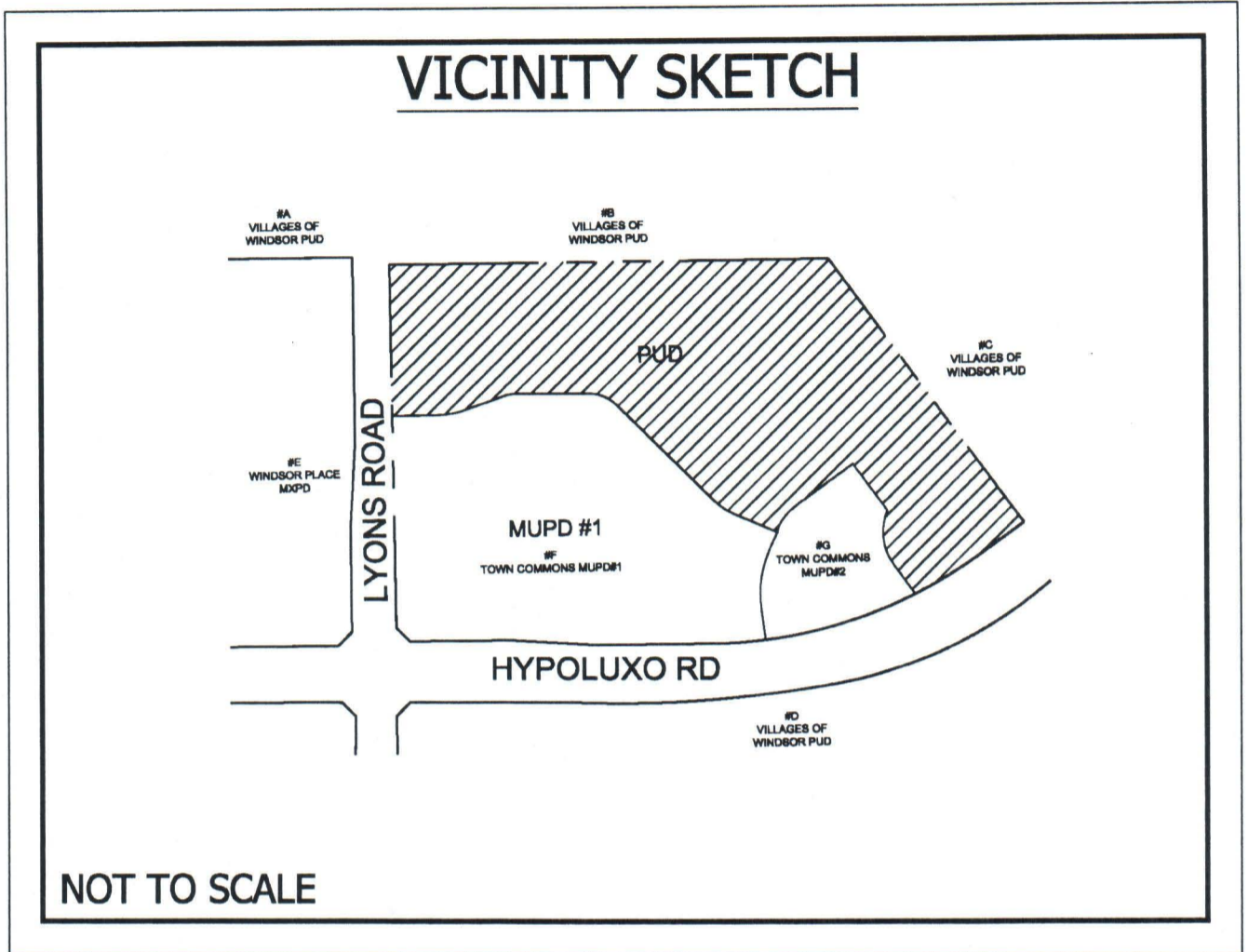
### LEGAL DESCRIPTION

A PORTION OF TRACTS "A", "B" AND "C", TOGETHER WITH ALL OF TRACT "L-1", TOWN COMMONS-PLAT ONE, ACCORDING TO PLAT THEREOF AS RECORDED IN PLAT BOOK 99, PAGE 68, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT "B"; THENCE N.89°26'07"E. ALONG THE NORTH LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 1,282.58 FEET TO THE NORTHEAST CORNER OF SAID TOWN COMMONS-PLAT ONE; THENCE S.36°11'44"E. ALONG THE EASTERLY LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 961.21 FEET TO THE MOST EASTERLY CORNER OF SAID TOWN COMMONS-PLAT ONE; THENCE S.53°48'16"W. ALONG THE SOUTHERLY LINE OF SAID TOWN COMMONS-PLAT ONE, A DISTANCE OF 151.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,370.00 FEET AND A CENTRAL ANGLE OF 09°48'52"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID SOUTHERLY LINE, A DISTANCE OF 234.67 FEET; THENCE N.36°11'29"W., A DISTANCE OF 101.63 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 180.11 FEET AND A CENTRAL ANGLE OF 56°14'03"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 176.77 FEET; THENCE N.36°11'44"W., A DISTANCE OF 139.70 FEET; THENCE S.53°48'15"W., A DISTANCE OF 264.57 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 29°22'15"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 25.63 FEET; THENCE S.24°26'00"W., A DISTANCE OF 3.45 FEET; THENCE N.66°00'15"W., A DISTANCE OF 129.51 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 212.00 FEET AND A CENTRAL ANGLE OF 21°00'18"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 77.72 FEET; THENCE N.44°59'57"W., A DISTANCE OF 398.67 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 45°00'00"; THENCE NORTHWESTERLY ALONG THE ARC A DISTANCE OF 87.96 FEET; THENCE N.89°59'57"W., A DISTANCE OF 216.39 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 112.00 FEET AND A CENTRAL ANGLE OF 20°00'00"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 39.10 FEET; THENCE S.70°00'03"W., A DISTANCE OF 116.85 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 400.00 FEET AND A CENTRAL ANGLE OF 19°07'21"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 133.50 FEET; THENCE S.89°07'24"W., A DISTANCE OF 75.59 FEET; THENCE CONTINUE WESTERLY ALONG SAID LINE, A DISTANCE OF 12.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TOWN COMMONS-PLAT ONE; THENCE N.00°33'53"W. ALONG SAID WEST LINE, A DISTANCE OF 451.47 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 933,634 SQUARE FEET / 21.433 ACRES, MORE OR LESS.  
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### ALL PETITIONS

1.All Petitions Condition 1 of Resolution R-2008-1699, Control Number 2004-247) which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-0118 (Control 2004-247), have been consolidated as contained herein. The property owner 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)

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2008-1699 (Control 2004-247), have been consolidated as contained herein. The property owner 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.All Petitions Condition 2 of Resolution R-2008-1699, Control Number 2004-247, 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, site and regulating plans are dated March 17, 2008 . 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)

Is hereby amended to read:

The preliminary master, site and regulating plans are dated June 22, 2009. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

3.All Petitions 3 of Resolution R-2008-118, Control 2004-247) which currently states.

Based on ULDC Article 2.E, this development order meets the requirements to receive a new three (3) year review date from the date of approval of Resolution R 2008-118 on January 24, 2008. (ONGOING: MONITORING

Is hereby deleted. [REASON: New development order [with this approval- condition not required]

4.Prior to final approval by the Development Review Officer (DRO), the Regulating Plans shall be amended to show details of the proposed boardwalk. (DRO: ZONING - 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 shall be issued until construction has commenced for:

1) Lyons Road widening as a 4-lane median divided section from Hypoluxo Road to Lantana Road plus the appropriate paved tapers. [NOTE: COMPLETED]

2) an additional north approach through lane at the intersection of Lantana Road and

Lyons Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)  
[NOTE: COMPLETED]

3) an additional left turn lane south approach and an additional west approach through lane at the intersection of Lantana Road and Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING - Eng)  
[NOTE: COMPLETED] (Previous Condition E1a of Resolution R-2008-1699, Control No. 2004-247)

b. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: MONITORING - Eng)  
(Previous Condition E1b of Resolution R-2008-1699, Control No. 2004-247)

c. Previous Condition E1c of Resolution R-2008-1699, Control No. 2004-247, which currently states:

No Building Permits for the master/site may be issued after January 1, 2010. A time extension for this condition may be approved by the County Engineer only if 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)

Is hereby amended to read:

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. Acceptable surety required for the offsite road improvements as outlined in Condition No. E.1.a.1, E.a.2 and E.a.3 shall be posted with the Office of the Land Development Division on or before October 28, 2005. Surety shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING - Eng) (Previous Condition E2 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

3. The property owner shall provide for the acquisition funding costs of any additional right-of-way for the construction of improvements identified in Condition No. E.a.1, E.1 .a.2 and E.a.3 above. Acceptable surety shall be provided to the Office of the County Engineer prior to October 28, 2005. Notification by the Property owner shall be given to the Land Development Division. (DATE: MONITORING - Eng) (Previous Condition E3 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

4. On or before October 1, 2005, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of the improvements identified in Condition No. E.1 .a.1, E.1 .a.2, and E.1 .a.3 as referenced above, subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the Land Development Division. (DATE: MONITORING - Eng) (Previous Condition E4 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

5.The property owner shall fund the construction plans and the construction of improvements identified in Condition No. E.1. a.1, E.1. a.2, and E.1. a.3 above. Palm Beach County shall then be responsible for the construction of the required improvements. Funding of the construction plans and construction shall be completed on or before December 1, 2005. All canal crossings within the project limits shall be constructed to their ultimate configuration. (DATE: MONITORING - Eng) (Previous Condition E5 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

6.Roadway improvements identified in the Condition above shall also include design, irrigation and installation as well as the perpetual maintenance of median landscaping as approved by the Streetscape Section. Landscaping and irrigation shall strictly conform to the specifications and standards of Palm Beach County's Only Trees, Irrigation, and Sod (OTIS) program. At the Developer's option funding for the required OTIS program may be provided to Palm Beach County. Payment for the County's installation and perpetual maintenance of landscaping and irrigation shall be based on the approved fee schedule as it currently exists or as it may from time to time be amended. (ONGONG: ENGINEERING - Eng) (Previous Condition E6 of Resolution R-2008-1699, Control No. 2004-247)

7.The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Eng) (Previous Condition E7 of Resolution R-2008-1699, Control No. 2004-247)

8.Prior to June 1, 2005, the Property Owner shall fund a proportionate share of the cost of signal installation if warranted as determined by the County Engineer at Lyons Road and Hypoluxo Road, 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 24 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (DATE: MONITORING - Eng) (Previous Condition E8 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

9.Prior to final approval by the Development Review Officer (DRO), the Master Site Plans shall be amended to show access, which conforms to minimum code requirements. (DRO: ENGINEERING - Eng) (Previous Condition E9 of Resolution R-2008-1699, Control No. 2004-247)

10.The proposed 80 townhouse dwelling units as shown on the site plan shall be developed as condominium ownership. However, if a variance for the access provisions of Article 11 of the ULDC is granted by the Board of Adjustment, the ownership type for the 80 units may be administratively changed from condominium to fee simple ownership at the final DRO process. (DRO: ENGINEERING-Eng) (Previous Condition E10 of Resolution R-2008-1699, Control No. 2004-247) [NOTE: COMPLETED]

11.Prior to final approval of the Site Plan by the Development Review Officer, the Property owner shall provide an acceptable drainage study, including proposed grading cross sections for the North and East property lines, identifying any historical drainage. The project's stormwater management system shall be designed to address any historical drainage and the property owner shall provide drainage easements, as required, to accommodate offsite drainage. (DRO: ENGINEERING-Eng)

#### LANDSCAPE - GENERAL

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

2.A minimum of fifty (50) percent of all (new and replacement) trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. Canopy diameter: seven (7) feet - diameter shall be determined by the average

canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,  
d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 1 of Resolution R-2008-1699, Control Number 2004-247)

3. 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. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 2 of Resolution R-2008-1699, Control Number 2004-247)

4. Field adjustment of plant materials and berm locations may be permitted to accommodate pedestrian sidewalks/bike paths, existing vegetation and transverse utility or drainage easement crossings. (BLDG PERMIT: LANDSCAPE - Zoning) (Previous Landscape Condition 3 of Resolution R-2008-1699, Control Number 2004-247)

#### LANDSCAPE - PERIMETER-ALONG THE SOUTH PROPERTY LINE (HYPOLUXO ROAD)

5. Previous Landscape Condition 4 of Resolution 2008-1699 Control number 2004-247 which currently states :

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 of three (3) to four (4) foot high undulating berm with an average height of three and one half (3.5) feet measured from the 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 height of twelve (12) feet;
- e. additional landscaping such as paths, pedestrian pavilion, trellises, focal points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated June 11, 2004, Ordinance 2004-062, and the master/site plan dated December 14, 2007; and,
- f. all of the details pursuant to condition C.1. e shall be reflected on the regulating plan prior to the final master/site plan approval by the Development Review Officer (DRO). (DRO/BLDG PERMIT)

Is hereby amended to read:

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 of three (3) to four (4) foot high undulating berm with an average height of three and one half (3.5) feet measured from the 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 height of twelve (12) feet;
- e. additional landscaping such as paths, pedestrian pavilion, trellises, focal



points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated June 11, 2004, Ordinance 2004-062, and the master/site plan dated June 22, 2009; and, the Regulating plan dated April 27, 2009. (DRO/BLDG PERMIT: LANDSCAPE/ PLANNING-Zoning)

**LANDSCAPE - PERIMETER-ALONG THE WEST PROPERTY LINE (LYONS ROAD FRONTAGE)**

6.Previous Landscape Condition 5 of Resolution 2008-1699 Control number 2004-247 which currently states:

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 height of twelve (12) feet;
- 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 June 11, 2004, Ordinance 2004-062, and the master/site plan dated December 14, 2007; and,
- f. all of the details pursuant to condition C.I .e shall be reflected on the regulating plan prior to the final master/site plan approval by the Development Review Officer (DRO). (DRO/BLDG PERMIT: LANDSCAPE/PLANNING - Zoning)

Is hereby amended to read:

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 height of twelve (12) feet;
- 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 June 11, 2004, Ordinance 2004-062, and the master/site plan dated June 22, 2009; and,
- f. all of the details pursuant to the regulating plan dated April 27, 2009. (BLDG PERMIT:LANDSCAPE/PLANNING - Zoning) )

**LANDSCAPE - PERIMETER-ALONG THE NORTH PROPERTY LINE (ABUTTING RESIDENTIAL)**

7.Previous Landscape Condition 6 of Resolution 2008-1699 Control number 2004-247 which currently states:

Landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum forty (40) foot wide landscape buffer strip;
- b. a minimum three (3) to four (4) foot high undulating berm with an average height of two 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 height of twelve (12) feet;
- e. landscaping abutting units consisting of two or more stories shall be upgraded to consist of three or more canopy trees a minimum of sixteen (16) feet in height at installation, subject to review and approval by the Landscape Division;
  - 1. additional landscaping such as paths, pedestrian pavilions, focal points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated June 11, 2004, Ordinance 2004-062, and the master/site plan dated February 16, 2005; and,
- g. all of the details pursuant to condition C.1 .e shall be reflected on the regulating plan prior to the final approval by the Development Review Officer (DRO).

Is hereby amended to read:

Landscaping and buffering along the north property line shall be upgraded to include:

- a. a minimum forty (40) 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 height of twelve (12) feet;
- e. landscaping abutting units consisting of two or more stories shall be upgraded to consist of three or more canopy trees a minimum of sixteen (16) feet in height at installation, subject to review and approval by the Landscape Division;
- f. additional landscaping such as paths, pedestrian pavilions, focal points and special planting for this buffer shall be in accordance to the Design Guidelines & Standards for Future Development dated June 11, 2004, Ordinance 2004-062, and the master/site plan dated June 22, 2009; and,
- g. all of the details pursuant the Regulating Plan dated April 27, 2009.  
(BLDG PERMIT: LANDSCAPE/PLANNING -Zoning) (Previous Landscaping Condition 6 of Resolution R-2008-1699, Control Number 2004-247)

#### PALM TRAN

1.The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Palm Tran Condition 3 of R-2008-1699, Control No, 2004-247)

2.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-PalmTran) (Previous Palm Tran Condition 4 of R-2008-1699, Control No. 2004-247)

#### PLANNED DEVELOPMENT

1.Prior to the recordation of the first plat, all property included in the legal description of the petition shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:

- a. Formation of a single master property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.
- b. All recreation parcels shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover of the POA-HOA, the recreation parcel shall be turned over to the association at no cost to the residents.
- c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the planned development. This Declaration shall be amended when additional units are added to the PUD. (PLAT: ENG/CTY ATTY - Zoning) (Previous Planned Unit Development Condition 1 of Resolution R-2008-1699, Control Number 2004-247)

2. Previous Planned Unit Development Condition 2 of Resolution R-2008-1699, Control Number 2004-247 which currently states:

Decorative paving treatment (stamped concrete or pie-cast concrete pavers) shall be provided at the following locations as indicated on the master/site plan/regulating plan dated March 17, 2008:

- a. the main entrance of to the subject site with a minimum of 6,339 square feet;
- b. the cul-de-sacs located adjacent to the south and west property lines with a minimum of 6,999 square feet;
- c. the T-intersection located at the terminus of the main entry road with a minimum of 2,099 square feet; and,
- d. the semi cul-de-sac (eyebrow) located adjacent to lots 31 through 34, as indicated on the master/site plan dated December 14, 2007, with a minimum of 7,059 square feet. (BLDG PERMIT: ZONING -Zoning)

Is hereby amended to read:

Decorative paving treatment (stamped concrete/asphalt or pre-cast concrete pavers) shall be provided at the following locations as indicated on the master/site plan dated June 22, 2009 and the regulating plan dated April 27, 2009:

- a. the main entrance to the subject site with a minimum of 6,339 square feet;
- b. the cul-de-sac located adjacent to the south property line with a minimum of 6,424 square feet;
- c. the T-intersection located at the terminus of the main entry road with a minimum of 2,099 square feet; and,
- d. the T-intersection located at the terminus of the west entry road with a minimum of 2,099 square feet. (DRO/BLDG PERMIT: DRO/ZONING - Zoning)

3. A minimum of six (6) shade structures shall be provided in the north, west, south and northeast buffers, and in the Pedestrian Oriented Zone (POZ) The design of each shade structure shall be subject to the following:

- a. a minimum dimension of sixty-four (64) square feet;
- b. a minimum height of twelve (12) feet, measuring from the highest point to finished grade. The shade structure shall have a pitched roof with treatment consistent with the roof treatment of the adjacent residential principal structures.
- c. benches shall be provided within the shade structure; and,
- d. prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the shade structures shall be submitted for review and approval by the Architectural Review Section. (DRO: ARCH REVIEW - Zoning) (Previous Planned Unit Development Condition 3 of Resolution R-2008-1699, Control Number 2004-247)

4. The meandering pathway located within the north, northeast, west and south buffers, the Pedestrian Oriented Zone (POZ) shall be subject to the following:

- a. a minimum of six (6) feet in width;
- b. prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the pedestrian pathway shall be submitted for review and approval by the Architectural Review Section. (BLDG PERMIT: ARCH REVIEW Zoning) (Previous Planned unit Development Condition 4 of Resolution R-2008-1699, Control Number 2004-247)

5. Previous Planned unit Development Condition 5 of Resolution R-2008-1699, Control Number 2004-247, which currently states:

A pedestrian plaza shall be provided in the location as indicated on the master/site plan dated March 17, 2008, and pursuant to the layout as indicated on the Regulating plan dated March 17, 2008, and subject to the following:

- a. shall consist of a minimum of 1,960 square feet of decorative concrete pavers or stamped/colored concrete;
- b. a three (3) tier fountain shall be placed in the center of the pedestrian plaza; and,
- c. prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the fountain shall be submitted for review and approval by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

is hereby amended to read:

A pedestrian plaza shall be provided in the location as indicated on the master/site plan dated June 22, 2009, and pursuant to the layout as indicated on the Regulating plan dated April 27, 2009, and subject to the following:

- a. shall consist of a minimum of 1,960 square feet of decorative concrete pavers or stamped/colored concrete;
- b. a three (3) tier fountain shall be placed in the center of the pedestrian plaza; and,
- c. prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the fountain shall be submitted for review and approval by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

6. Planned Unit Development Condition 6 of Resolution R-2008-1699, Control Number 2004-247, which currently states:

Design and layout of the bulkhead shall be subject to the following:

- a. railing shall be provided along the edge of bulkhead;
- b. concrete or metal or a combination of both shall be provided along the pathway adjacent to the bulkhead; and,
- c. prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the fountain shall be submitted for review and approval by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

Is hereby amended to read:

Prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the fountain shall be submitted for review and approval by the Architectural Review section. (DRO: ARCH REVIEW - Zoning)

7. Planned Unit Development Condition 7 of Resolution R-2008-1699, Control Number 2004-247, which currently states:

A school bus shelter shall be provided in the location as indicated on the master/site plan dated March 17, 2008, and subject to the following:

- a. shall consist of minimum dimensions of five (5) feet in width and ten (10) feet in length;
- b. a minimum height of twelve (12) feet, measuring from the highest point to finished grade.

The shade structure shall have a pitched roof with treatment consistent with the roof treatment of the adjacent residential principal structures; and,  
 c. Prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the bus shelter shall be submitted for review and approval by the Architectural Review section. (DRO/BLDG PERMIT: DRO/ZONING - Zoning)

is hereby amended to read:

A school bus shelter shall be provided in the location as indicated on the master/site plan dated June 22, 2009, and subject to the following:

- a. shall consist of minimum dimensions of five (5) feet in width and ten (10) feet in length;
- b. a minimum height of twelve (12) feet, measuring from the highest point to finished grade. The shade structure shall have a pitched roof with treatment consistent with the roof treatment of the adjacent residential principal structures; and,
- c. Prior to final approval of the master/site plan by the Development Review Officer (DRO), details of the bus shelter shall be submitted for review and approval by the Architectural Review section. (DRO/BLDG PERMIT: DRO/ZONING - Zoning)

8.Planned Unit Development Condition 8 of Resolution R-2008-271, Control Number 2004-247, which currently states:

Prior to final approval of the master/site plan by the Development Review Officer (DRO), a vehicular access point shall be located at the west end of the subject site between the private civic area and lot 53, at a minimum dimension of twenty-six (26) feet in width, as indicated on the site plan dated March 17, 2008. (DRO: DRO - Zoning)

is hereby amended to read:

Prior to final approval of the master/site plan by the Development Review Officer (DRO), a vehicular access point shall be located at the west end of the subject site between the private civic area and lot 53, at a minimum dimension of twenty-six (26) feet in width, as indicated on the site plan dated June 22, 2009. (DRO: DRO - Zoning)

#### PLANNING

1.The underlying Commercial High (CH), Commercial High Office (CH-O), and Low Residential 2 (LR-2) land uses for this entire 40 acre MLU, which includes this 15.23 acre portion of the MLU, shall be as follows:

Land Use	Acreage	Intensity/Density	
	Min. – Max.	Min.	Max.
Commercial High	14.3 ac.	N/A	94,900 sq. ft.
Com. High-Office	2.7 – 3.3 ac	24,000 sq. ft.	30,000 sq. ft.
Low Residential 2	10.8 – 13.2 ac.	60 units	80 units
Open Space	5.0 ac – no max*	N/A	N/A
Lake Tracts	3.0 – 5.0 ac	N/A	N/A

\* A minimum of 4 acres must be utilized for open space. These four acres shall not be applied to the recreation and/or parks requirements or any other required dedication of land. Water retention, lakes, drainage, and canals shall not be considered usable open space.

Based on the above information, additional development may still be permitted provided the above thresholds are not exceeded. In addition, all future development must comply with the mix of other uses as specified in the proposed amendment, Town Commons MLU II (LGA 2004-00036), Ord. 2004-062. (ONGOING: PLANNING-Planning) (Previous Condition Planning 1. of Resolution R-2008-1699, Control No. 2004-247)

2. Development of the overall 40 acre site shall comply with the Conceptual Master Plan. (Exhibit 4 of Ordinance 2004-062) 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 MLU 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. (ONGOING: PLANNING-Planning) (Previous Condition Planning 2. of Resolution R-2008-1699, Control No. 2004-247)

3. Prior to final site plan approval by the Development Review Officer (DRO), development of the site shall comply with the Design Guidelines and Standards for Future Development (Exhibit 5 of Ord. 2004-062). (DRO: PLANNING- Planning) (Previous Condition Planning 3. of Resolution R-2008-1699, Control No. 2004-247)

4. All structures requiring a building permit, having frontage on the Pedestrian Oriented Zone, as depicted on the adopted Conceptual Master Plan (Exhibit 4, Ord. 2004-062), shall be subject to the Planning Division's Review for consistency with the Design Guidelines and Standards for Future Development (Exhibit 5 of Ord. 2004-062). (BLDG PERMIT: MONITORING - Planning) (Previous Condition Planning 4. of Resolution R-2008-1699, Control No. 2004-247)

5. Prior to final master/site plan approval by the Development Review Officer (DRO), architectural elevations for all frontages abutting the Pedestrian Oriented Zone, as depicted on the Conceptual Master Plan, shall be submitted for review to the Planning Division to ensure consistency with the intent of the Design Guidelines. (DRO: PLANNING - Planning) (Previous Condition Planning 5. of Resolution R-2008-1699, Control No. 2004-247)

6. Prior to final master/site plan approval by the Development Review Officer (DRO), the Land Use Breakdown table on all plans (Master plan, site plan, conceptual master plan, and land use allocation map) shall be amended to include the following: a note below the table indicating that a minimum of 4 acres must be utilized for open space. These four acres shall not be applied to the recreation and/or parks requirements or any other required dedication of land. Water retention, lakes, drainage, and canals shall not be considered usable open space"; and the notes under the proposed column that explain the land use breakdown for LR-2 and Open Space shall be of larger font or included below the table in larger font. (DRO: PLANNING - Planning) (Previous Condition Planning 6. of Resolution R-2008-1699, Control No. 2004-247)

7. All landscaping shall be subject to the Boynton Beach Turnpike Interchange Corridor - Design Guidelines and Standards Manual, dated March 10, 2003. All trees within the perimeter landscape buffers shall be provided at a maximum of one per twenty-five (25) linear feet (Section 3.C.1.) and all trees within the Right-of-Way buffers shall be provided at a maximum of one per fifteen (15) linear feet (Section 3.D.1). (ONGOING: LANDSCAPE - Planning) (Previous Condition Planning 7. of Resolution R-2008-1699, Control No. 2004-247)

8. Prior to final master/site plan approval by the Development Review Officer (DRO), The property owner shall be required to complete the following:

a. notations stating Pedestrian connections to Villages of Windsor to be paved to the property line" shall be indicated on the Master/Site Plans for the two pedestrian connections to Villages of Windsor PUD, and at the locations shown on the certified master/site plan dated December 14, 2007 and,

b. these connections shall align with the pedestrian connections in the Villages of Windsor PUD (Petition 96-018B). (DRO: PLANNING Planning) (Previous Condition Planning 8. of Resolution R-2008-1699, Control No. 2004-247)

9. Prior to the issuance of a Certificate of Occupation (CO), the property owner shall complete pavement of these required pedestrian connections pursuant to Conditions H.10.a and H.10.b. (CO: MONITORING - Planning) (Previous Condition Planning 9. of

10. Prior to final approval by the Development Review Officer (DRO), the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per article 5.G. in the ULDC. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in Article 5.G. in the ULDC. (DRO: PLANNING Planning)

11. On an annual basis, beginning August 1, 2010, or as otherwise stipulated in the Declaration of Restrictive Covenants for Workforce Housing, the property owner, master homeowners association or individual Workforce Housing dwelling unit owner, shall submit an annual report/update to the Planning Division and HCD documenting compliance with the Declaration of Restrictive Covenants for Workforce Housing. (DATE/ONGOING: MONITORING Planning/HCD)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

#### "NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (Previous Condition School Board 1 of Resolution R-2008-1699 (DOA/EAC2007-894)) (ONGOING: SCHOOL BOARD)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelters shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelters shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelters shall be the responsibility of the residential property owner. (CO: MONITORING - School Board) Previous Condition School Board 1 of Resolution R 2008-1699

#### 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)