

RESOLUTION NO. R-2016-0130

RESOLUTION APPROVING ZONING APPLICATION PDD-2015-01732  
(CONTROL NO. 2015-00119)

an Official Zoning Map Amendment to a Planned Development District  
APPLICATION OF Herbert Kahlert, Gerald Barbarito  
BY Urban Design Kilday Studios, AGENT  
(Hamlet Estates at Lake Worth)

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;

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, (ULDC), have been satisfied;

WHEREAS, Zoning Application PDD-2015-01732 was presented to the Board of County Commissioners at a public hearing conducted on January 28, 2016;

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;

WHEREAS, the, Board of County Commissioners pursuant to Article 2 (Development Review Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

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

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

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.1.B of the ULDC; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the ULDC 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 PDD-2015-01732, the application of Herbert Kahlert, Gerald Barbarito, by Urban Design Kilday Studios, Agent, for an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Multiple Use Planned Development (MUPD) and Agriculture Residential (AR) Zoning Districts to the Planned Unit Development (PUD) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as indicated on a vicinity sketch in EXHIBIT B, attached hereto and made a part hereof, was approved on January 28, 2016 subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	- Aye
Commissioner Hal R. Valeche, Vice Mayor	- Aye
Commissioner Paulette Burdick	- Aye
Commissioner Shelley Vana	- Absent
Commissioner Steven L. Abrams	- Absent
Commissioner Melissa McKinlay	- Aye
Commissioner Priscilla A. Taylor	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 28, 2016.

Filed with the Clerk of the Board of County Commissioners on February 8th, 2016.

This resolution shall not become effective unless or until the effective date of Comprehensive Plan Amendment No. LGA-2015-00013.

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 Parcel A, VILLAGE CORNER MUPD, as recorded in Plat Book 87, Page 20, of the Public Records of Palm Beach County, Florida;

TOGETHER WITH:

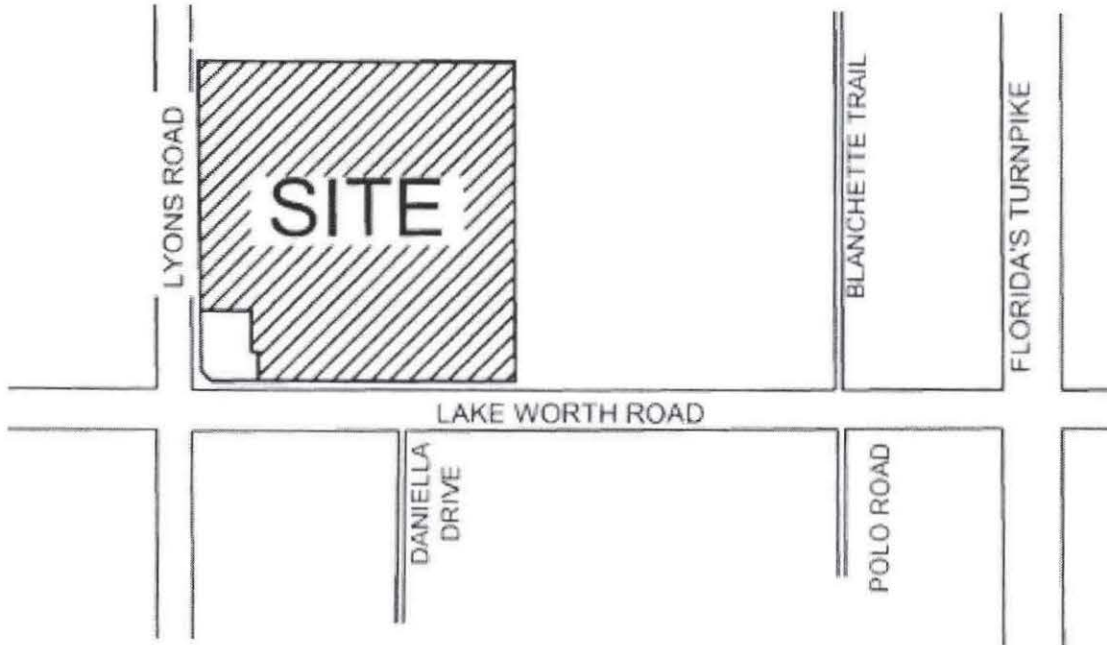
Tracts 55 and 58, Block 24, of PALM BEACH FARMS COMPANY PLAT NO. 3, according to the Plat thereof, recorded in Plat Book 2, Page 45 through 54, inclusive, of the Public Records of Palm Beach County, Florida, EXCEPTING that part of Tract 58 as conveyed to the County of Palm Beach by Deed recorded in Deed Book 898, Page 687, for road purposes; being more particularly described as follows:

BEGINNING at the Southeast corner of said Parcel A; Thence South 89°02'33" West along the South line of Parcel A, for 282.05 feet; Thence North 00°57'19" West, for 174.33 feet; Thence South 89°01'52" West, for 53.00 feet; Thence North 00°58'08" West, for 170.00 feet; Thence South 89°02'12" West, for 285.63 feet to the West line of Parcel A, the following five (5) courses being along the West lines of said Parcel A; Thence North 01°00'38" West, for 43.71 feet; Thence North 01°55'38" West, for 38.82 feet; Thence North 00°58'08" West, for 206.19 feet; Thence North 01°53'10" West, for 230.91 feet; Thence North 01°00'38" West, for 387.90 feet to the North line of Parcel A; Thence North 89°04'31" East along said North line and the North line of Tract 55, Block 24, for 1,285.07 feet to the East line of Tract 55, Block 24; Thence South 00°58'46" East along said East line and the East line of Tract 58, Block 24, for 1,263.05 feet to the South line of Tract 58, Block 24, the three following courses being the South and West lines of Said Tract 58; Thence South 89°02'33" West, for 619.00 feet; Thence North 89°55'31" West, for 41.01 feet; Thence North 00°58'46" West, for 11.26 feet to the POINT OF BEGINNING.

Said lands lying and situate in Palm Beach County, Florida.

Said lands contain 34.56 acres, more or less.

EXHIBIT B  
VICINITY SKETCH





## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **PDD- Residential Planned Development District**

##### **ALL PETITIONS**

1. The approved Preliminary Master Plan is dated November 12, 2015. 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)

##### **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, 2018. 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 - Engineering)

2. Prior to issuance of the first building permit, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code.

The platting of this property may be phased in accordance with a phasing plan acceptable to the Office of the County Engineer and approved by the Development Review Officer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (BLDGPMPT: MONITORING - Engineering)

3. 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 Lake Worth Road at the project's entrance road. 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 shall 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 Property Owner 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 Property Owner, the Property Owner 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. (BLDGPMPT: MONITORING - Engineering)

4. The Property Owner shall construct:

right turn lane, east approach on Lake Worth Road at the project's entrance.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with 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. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

5. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from Lyons Road between Lake Worth Road and the north property line, and a maximum of an additional 800 feet of this adjacent roadway, and drainage from the commercial site at the northeast corner of Lake Worth Road and Lyons Road. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. This condition shall be considered satisfied if another project has constructed drainage facilities for the required road segment or if an entity has posted surety to ensure construction of drainage facilities for the required road segment. (BLDGPM/CO: MONITORING - Engineering)

6. Prior to the issuance of the first building permit, the Property Owner shall provide a temporary roadway construction easement to Palm Beach County along Lyons Road. This roadway construction easement shall also contain an isosceles trapezoid connecting the Corner Clips across this property owners entrance and a minimum of ten (10) feet east of the east right of way line of Lyons Road. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/CO: MONITORING - Engineering)

7. Prior to issuance of the first building permit, the Property Owner shall abandon the 20ft drainage, construction and access easement and provide a new outfall for the gas-station outparcel as necessary.

(BLDGPM/CO: MONITORING - Engineering)

#### 8. MAJOR THOROUGHFARE ROAD DISCLOSURE

a. Prior to the recordation of the first plat, the Property Owner shall include in the homeowners documents and all sales contracts, as well as all sales brochures, Master Plans and related Site Plans a disclosure statement identifying Lake Worth Road and Lyons Road as planned thoroughfare roadways adjacent to or through this property. This shall also include the ultimate number of lanes for the roads. Information which appears in written form shall appear in bold print. (PLAT: MONITORING - Engineering)

b. The Property Owner shall submit documentation of compliance with this condition on an



annual basis to the Monitoring Section of Planning, Zoning and the Building Department. The next report shall be submitted on or before March 31, 2017 and shall continue on an annual basis until all units within the development have been sold or the Property Owner relinquishes control to the homeowners association. (ONGOING: MONITORING - Engineering)

#### **ENVIRONMENTAL**

1. A Phase II Environmental Audit shall be submitted to ERM for review and approval prior to DRO Final Plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

#### **LANDSCAPE - PERIMETER**

1. Prior to Final Approval by the Development Review Office (DRO), the Property Owner shall revise the Final Regulating Plan to include the Tree Log chart in accordance with the tree survey dated September 28, 2015. (DRO: ZONING - Zoning)

#### **LANDSCAPE - PERIMETER-LANDSCAPING ALONG SOUTH AND WEST PROPERTY LINES (LAKE WORTH ROAD AND LYONS ROAD FRONTAGES)**

2. Landscaping and buffering along the south and west property lines shall be upgraded to include:

- a. A minimum thirty (30) foot wide landscape buffer strip with a maximum five (5) feet overlap into a utility easement;
- b. Equivalent of one (1) canopy tree planted every twenty (20) feet of linear property line;
- c. Equivalent of one (1) palm or pine tree for each twenty-five (25) linear feet of frontage with a maximum spacing of fifty (50) feet between clusters. A group of three or more palms/pines in a cluster may not supersede the requirement for a canopy tree in that location; and,
- d. Twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of thirty-six (36) inches. (ONGOING: ZONING - Zoning)

#### **PLANNING**

1. Prior to the issuance of the first Building Permit, 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 ULDC Article 5.G. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in ULDC Article 5.G. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning. (BLDG/PMT: MONITORING - Planning)

2. On an annual basis, beginning January 1, 2019, or as otherwise stipulated in the Declaration of Restrictive Covenants, the owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. (DATE/ONGOING: MONITORING - Planning)

3. The site is subject to the conditions contained in Land Use Amendment LGA 2015-013 NEC Lake Worth - Lyons Road. (ONGOING: PLANNING - Planning)

#### **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). (ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter 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 shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board)

## **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: ZONING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the 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 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 of Approval; 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)

## **DISCLOSURE**

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.