

RESOLUTION NO. R-2017- 0697

RESOLUTION APPROVING ZONING APPLICATION SV/DOA/R-2015-01464  
(CONTROL NO. 2008-00421)  
a Development Order Amendment  
APPLICATION OF Mazzoni William Trs, M&M Realty Partner's @ Hagen Ranch LLC -  
Jack Morris  
BY Urban Design Kilday Studios, AGENT  
(Hagen Commercial MUPD)

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 pursuant to 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 SV/DOA/R-2015-01464 was presented to the Board of County Commissioners at a public hearing conducted on May 25, 2017;

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, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Process) for a Development Order Amendment;

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 Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; 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 SV/DOA/R-2015-01464, the Application of Mazzoni William Trs, M&M Realty Partner's @ Hagen Ranch LLC - Jack Morris, by Urban Design Kilday Studios, Agent, for a Development Order Amendment to reconfigure the Site Plan; delete square footage; add an access point; add uses; allow an Alternative MUPD Landscape Buffer; and modify and delete Conditions of Approval (Architectural Review, Landscaping, Engineering, Signs, Use Limitation), on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was

approved on May 25, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Berger moved for the approval of the Resolution.

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

- Commissioner Paulette Burdick, Mayor - Aye
- Commissioner Melissa McKinlay, Vice Mayor - Absent
- Commissioner Hal R. Valeche - Aye
- Commissioner Dave Kerner - Aye
- Commissioner Steven L. Abrams - Aye
- Commissioner Mary Lou Berger - Aye
- Commissioner Mack Bernard - Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on May 25, 2017.

Filed with the Clerk of the Board of County Commissioners on June 8th, 2017.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

BY: [Signature]  
COUNTY ATTORNEY

BY: [Signature]  
DEPUTY CLERK  


## EXHIBIT A

### LEGAL DESCRIPTION

TRACTS 103, 104, LESS THE SOUTH 30.0 FEET THEREOF, AND THAT PORTION OF THE 30 FOOT ROAD RIGHT OF WAY LYING WEST OF TRACT 104, BLOCK 49, PALM BEACH FARMS COMPANY PLAT NO. 3, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE RIGHT OF WAY FOR BOYNTON BEACH BOULEVARD (STATE ROAD NO. 804), AS DESCRIBED IN OFFICIAL RECORDS BOOK 6690, PAGE 1384 AND OFFICIAL RECORDS BOOK 6366, PAGE 721, AND LESS THAT PORTION OF TRACTS 103 AND 104, DESCRIBED AS PARCELS "A" AND "C", AS RECORDED IN OFFICIAL RECORDS BOOK 8898, PAGE 220.

#### PARCEL A:

PARCELS OF LAND OF LAND IN TRACTS 103, 104, AND 105, BLOCK 49 OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF TRACT "S" OF PALM ISLES, A P.U.D., AS RECORDED IN PLAT BOOK 67, PAGES 116 THRU 127, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE ON A GRID BEARING OF S.00°56'17"E., ALONG THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID TRACT "S", A DISTANCE OF 1.00 FOOT; THENCE S.89°03'17"W., ALONG THE NORTH RIGHT OF WAY LINE OF WEST BOYNTON BEACH BOULEVARD, A DISTANCE OF 174.63 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°03'17"W., ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 484.51 FEET TO THE WEST LINE OF SAID TRACT 104; THENCE N.00°56'17"W., ALONG SAID WEST LINE, A DISTANCE OF 565.12 FEET TO THE NORTHWEST CORNER OF SAID TRACT; THENCE N.89°03'43"E., ALONG THE NORTH LINE OF SAID TRACT, A DISTANCE OF 31.91 FEET; THENCE S.02°52'10"E., A DISTANCE OF 225.24 FEET TO A LINE 39.50 FEET EAST OF AND PARALLEL WITH THE SAID WEST LINE OF TRACT 104; THENCE S.00°56'17"E., ALONG SAID PARALLEL LINE, A DISTANCE OF 287.99 FEET; THENCE S.45°56'30"E., A DISTANCE OF 56.57 FEET TO A LINE 12.00 FEET NORTH OF AND PARALLEL WITH THE SAID NORTH RIGHT OF WAY LINE OF WEST BOYNTON BEACH BOULEVARD; THENCE N.89°03'17"E., ALONG SAID PARALLEL LINE A DISTANCE OF 355.74 FEET; THENCE S.77°15'17"E., A DISTANCE OF 50.70 FEET TO THE POINT OF BEGINNING; TOGETHER WITH PARCEL C, DESCRIBED AS FOLLOWS:

#### PARCEL C:

A STRIP OF LAND 30.00 FEET IN WIDTH FOR ROAD RIGHT OF WAY PURPOSES BEING A PORTION OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, PALM BEACH COUNTY PUBIC RECORDS, SITUATE IN SECTION 21, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

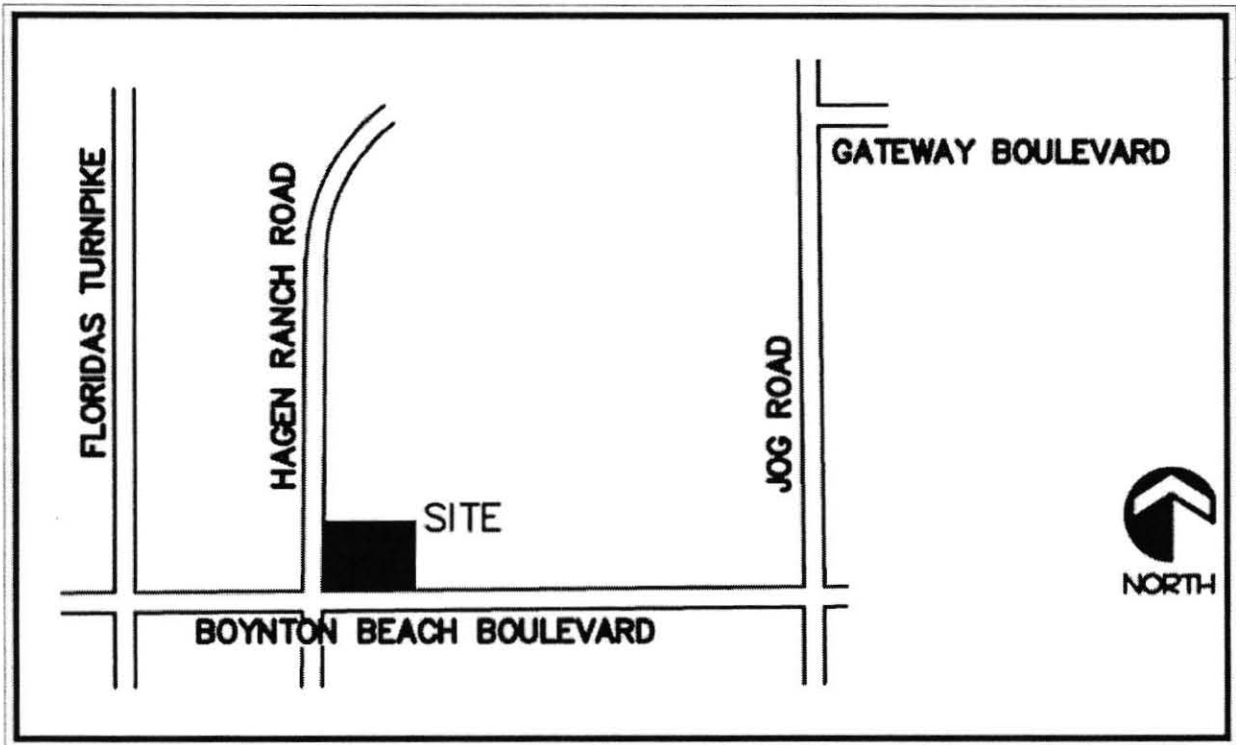
ALL OF THE 30.00 FOOT ROAD RIGHT OF WAY LYING BETWEEN TRACTS 104 AND 105, BLOCK 49, AS SHOWN ON THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54 IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS THE SOUTH 95.00 FEET THEREOF.

(THE ABOVE DESCRIBED PARCEL C BEING A PART OF THE LAND QUIT CLAIMED TO WILLIAM MAZZONI BY QUIT CLAIM DEED RECORDED IN OFFICIAL RECORD BOOK 8746, PAGE 534 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA).

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.  
CONTAINING 345,304 SQUARE FEET/7.9271 ACRES, MORE OR LESS.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2009-898, Control No.2008-00421, which currently states:

The approved Preliminary Site Plan is dated February 23, 2009. Modifications 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 or the Zoning Commission.

##### Is hereby amended to read:

The approved Preliminary Site, Preliminary Regulating, Phasing and Master Sign Plans are dated March 9, 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2009-0898 (Control No. 2008-00421), 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 Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: ZONING - Zoning)

##### ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2009-898, Control No.2008-00421, which currently states:

At time of submittal for Final Development Review Officer (DRO) approval, the architectural elevations for the primary building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements.

##### Is hereby amended to read:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the buildings shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated March 9, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2009-898, Control No.2008-00421, which currently states:

A divider median shall be provided between each drive thru lane of Building #5 (Financial Institution), and as follows:

Minimum width of five (5) feet, excluding curb;

A planting area shall be provided at each end of the median and shall have a minimum five

(5) feet by five (5) feet of planting area extended beyond the boundary of the overhead canopy;

One (1) palm tree with a minimum ten (10) feet of grey-wood and appropriate ground cover shall be installed in each planting area; and,

The remaining portion of the median shall be paved with decorative paving such as pre-cast concrete pavers, stamped concrete or any other materials acceptable to the Landscape Section. (DRO: ARCHITECTURAL REVIEW - Architectural Review)

**Is hereby deleted.** [REASON: There is no longer a Financial Institution proposed.]

3. Prior to Final Approval by the Development Review Officer (DRO), the site plan shall be revised to indicate the specific height of each building to be consistent with the approved Architectural Elevations. (DRO: ZONING - Zoning)

## **ENGINEERING**

1. The median opening on Boynton Beach Boulevard, approximately 680 feet east of the intersection at Hagen Ranch Road, shall be modified to prohibit u-turning vehicles from the eastbound lanes on Boynton Beach Boulevard.

a. The Property Owner shall apply to and obtain a permit from Florida Department of Transportation to modify the median opening to prohibit u-turning vehicles at this location prior to issuance of the first building permit. Appropriate signage prohibiting u-turns shall be provided. (BLDGPMT: MONITORING - Engineering)

b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 1 of Resolution R-2009-898, Control No.2008-00421)

2. Previous ENGINEERING Condition 2 of Resolution R-2009-898, Control No.2008-00421, which currently states:

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

a. No building permits for the site shall be issued after December 31, 2010. 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) (DATE: MONITORING - Engineering)

**Is hereby amended to read:**

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

a. No Building Permits for the site 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)

3. Previous ENGINEERING Condition 3 of Resolution R-2009-898, Control No.2008-00421, which currently states:

Prior to the issuance of a building permit, the Property Owner shall convey to Palm Beach County Land Development Division by warranty deed additional right-of-way for the construction of a right turn lane at the project entrance on Hagen Ranch Rd. 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. The right of way should be continued across the project entrance. 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. 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. (BLDG PERMIT: MONITORING-Eng)

**Is hereby amended to read:**

Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Acquisition Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Hagen Ranch 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 the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. 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. 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, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County 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 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG/PMT: MONITORING - Engineering)

4. The Property Owner shall construct a right turn lane south approach on Hagen Ranch Road at the project entrance. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

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

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDG/PMT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2009-898, Control No.2008-00421)

5. Previous ENGINEERING Condition 5 of Resolution R-2009-898, Control No.2008-00421, which currently states:

The Property Owner shall modify the median on Hagen Ranch Road to restrict left turns in to the site from southbound lanes on Hagen Ranch Road, permit only left turns out from the site, and include adequate space for left turning vehicle storage within the median, by increasing the width of the median, as approved by the County Engineer. Right in and right out access from Hagen Ranch Road shall be permitted. The proposed driveway location may be required to shift north and align with the driveway on the west side of Hagen Ranch Road to provide adequate sight distance for vehicles exiting both sites.

a. The Property Owner shall apply to Palm Beach County to construct a channelized median for left turns out from the site prior to issuance of the first building permit. (BLDG/PMT: MONITORING - Engineering)

b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

**Is hereby amended to read:**

The Property Owner shall modify the median on Hagen Ranch Road to restrict left turns in to the site from southbound lanes on Hagen Ranch Road, permit only left turns out from



the site, and include adequate space for only ONE left turning vehicle storage within the median, by increasing the width of the median, as approved by the County Engineer. Right in and right out access from Hagen Ranch Road shall be permitted. The proposed driveway location may be required to shift north and align with the driveway on the west side of Hagen Ranch Road to provide adequate sight distance for vehicles exiting both sites.

- a. The Property Owner shall receive a right-of-way permit from Palm Beach County to construct a channelized median for left turns out from the site prior to issuance of the first building permit. (BLDGPMPT: MONITORING - Engineering)
- b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMPT/CO: MONITORING - Engineering)
- c. This condition shall be considered complete if a traffic signal is installed at this intersection location. (ONGOING: ENGINEERING - Engineering)

6. Previous ENGINEERING Condition 6 of Resolution R-2009-898, Control No.2008-00421, which currently states:

The Property Owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 76 feet of right of way from centerline of Boynton Beach Boulevard, for the expanded intersection at Hagen Ranch Road, or as otherwise in accordance with the Thoroughfare Plan, prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. 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, including a topographic survey. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include corner clips. (BLDG PERMIT: MONITORING-Eng)

**Is hereby amended to read:**

The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Boynton Beach Boulevard, 76 feet, measured from centerline of the proposed right of way on an alignment approved by the FDOT or County Engineer

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a 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)

7. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot(s) of record in accordance with provisions of Article 11 of the

8. The Property Owner shall modify the east side of the northbound lane pavement to receive the southbound to northbound u-turns on Hagen Ranch Road at Boynton Beach Boulevard, as approved by the County Engineer. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

9. 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 those segments of Hagen Ranch Road and Boynton Beach Boulevard along the property frontage; and a maximum of an additional 800 feet of each of these adjacent roadway(s). 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 through 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. (BLDGPMT: MONITORING - Engineering)

#### 10. Landscape Within the Median of Hagen Ranch Road

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Hagen Ranch Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMT/CO: MONITORING - Engineering)

c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the

date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Hagen Ranch Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPM: MONITORING - Engineering)

#### 11. Landscape Within the Median of Boynton Beach Boulevard

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Boynton Beach Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Boynton Beach Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPM: MONITORING - Engineering)

12. No Building Permits shall be issued until the Property Owner makes a proportionate share payment of \$175,329.00 to add a second right turn lane on the north approach at the intersection of Boynton Beach Blvd and Hagen Ranch Rd. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition 13. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPM: MONITORING - Engineering)

13. Pursuant s.163.3180(5)(h)2., F.S., proportionate share payments shall be based on the improvement cost at the time of payment. The parties hereto agree that the payment amounts set forth in this Agreement shall be subject to the following calculation to account for changes in road development costs that may occur between the effective date of this Agreement and the date each proportionate share payment is due.

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where, Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect.

(ONGOING: ENGINEERING - Engineering)

14. The Property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineer on Hagen Ranch Rd at the northern project entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

The Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to request the monies to construct the traffic signal. (ONGOING: ENGINEERING - Engineering)

15. Prior to issuance of building permits for more than 40,000 SF, the Property Owner shall submit a traffic study to the Traffic Division to determine whether removal of the westbound right-turns overlap with southbound left-turns on Boynton Beach Blvd at Hagen Ranch Rd is warranted. If removal of the overlap is determined by the County Engineer, the Property Owner shall be responsible for any associated costs for this modification. (BLDGPM: MONITORING - Engineering)

### **ZONING - LANDSCAPING**

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. (BLDGPM: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2009-898, Control No.2008-00421)

2. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPM/ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2009-898, Control No.2008-00421)

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

- clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- credit may be given for existing or relocated palms provided they meet current ULDC requirements. (ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 3 of Resolution R-2009-898, Control No.2008-00421)

4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate traversing utility or drainage easements crossings and existing vegetation. (BLDGPM: ZONING - Zoning) (Previous

ZONING - LANDSCAPING Condition 4 of Resolution R-2009-898, Control No.2008-00421)

**ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)**

5. In addition to the Code requirements, landscaping and buffering along the north and east property lines shall provide screening for the adjacent residential units and be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. Staggered sabal palms to provide screening for the adjacent residential units; and,
- c. Within the east buffer only, a six (6) foot high wall shall be installed on top the plateau of a two (2) foot berm. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous ZONING - LANDSCAPING Condition 5 of Resolution R-2009-898, Control No.2008-00421)

**ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE ON BOYNTON BEACH BOULEVARD)**

6. Previous ZONING - LANDSCAPING Condition 6 of Resolution R-2009-898, Control No.2008-00421, which currently states:

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

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
- c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line; and
- d. one (1) palm (Royal Palm) tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm.

**Is hereby amended to read:**

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

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;
- c. one (1) native canopy tree for each twenty-five (25) linear feet of the property line; and
- d. one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each palm. (BLDGPMT/ONGOING: ZONING - Zoning)

**ZONING - LANDSCAPING-LANDSCAPING AND BUFFERING ALONG THE WEST PROPERTY LINE (FRONTAGE ON HAGEN RANCH ROAD)**

7. Previous ZONING - LANDSCAPING Condition 7 of Resolution R-2009-898, Control No.2008-00421, which currently states:

In addition to the code requirements landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. one (1) native canopy tree (Live Oak) for each fifteen (15) linear feet of the property line; and,
- c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters.

**Is hereby amended to read:**

In addition to the Code requirements landscaping and buffering along the west property

line shall be upgraded to include:

a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted:

b. one (1) native canopy tree for each twenty (20) linear feet of the property line; and,

c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDGPMT/ONGOING: ZONING - Zoning)

## **SIGNS**

1. Previous SIGNS Condition 1 of Resolution R-2009-898, Control No.2008-00421, which currently states:

Freestanding signs on Hagen Ranch Road and Boynton Beach Boulevard shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point shall be eight (8) feet;

b. maximum sign face area per side - one hundred (100) square feet; and,

c. maximum number of signs per frontage - one (1). (BLDGPMT/ONGOING: ZONING - Zoning)

**Is hereby deleted.** [REASON: Allow signage as allowed per Code.]

## **USE LIMITATIONS**

1. Previous USE LIMITATIONS Condition 1 of Resolution R-2009-898, Control No.2008-00421, which currently states:

Retail business activity shall not be allowed on the property, including deliveries, prior to 7:00 a.m. nor continue later than 9:00 p.m. Monday through Saturday and 8:00 a.m. to 6:00 p.m. Sunday.

**Is hereby amended to read:**

Hours of operation for all non-residential uses, including deliveries, are limited to the hours of 6:00 AM to 11:00 PM daily. These restrictions shall not apply to stocking activities or any other activity that is internal to a building. (ONGOING: CODE ENF - Zoning)

2. Previous USE LIMITATIONS Condition 2 of Resolution R-2009-898, Control No.2008-00421, which currently states:

Prior to the final site plan approval by the DRO officer, the site plan shall be revised to remove the restaurant, Type II requested use and replace with retail. (DRO: ZONING - Zoning)

**Is hereby deleted.** [REASON: Site plan includes General Retail.]

3. The following uses shall be prohibited on the subject site:

a. Indoor Entertainment for Bingo Hall;

b. Vehicle Sales and Rental; and

c. Car Wash. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2009-898, Control No.2008-00421)

4. If an auto retail store is established, the Property Owner shall place signs in the parking lot stating the prohibition of on-site repair and maintenance of vehicles. (ONGOING: MONITORING - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2009-898, Control No.2008-00421)

## **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; 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.