

RESOLUTION NO. R-2020- 0057

RESOLUTION APPROVING ZONING APPLICATION ZV/DOA/CA-2019-00950
(CONTROL NO. 2004-00248)
a Development Order Amendment
APPLICATION OF DR Horton, Inc., Lynx Zuckerman at Fort Myers, LLC
BY WGINC, AGENT
(Town Commons MUPD 2)

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 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

WHEREAS, Zoning Application ZV/DOA/CA-2019-00950 was presented to the Board of County Commissioners at a public hearing conducted on January 27, 2020;

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 (Application Processes and 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 Processes) 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.B.6.C (Board Action) 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 ZV/DOA/CA-2019-00950, the Application of DR Horton, Inc., Lynx Zuckerman at Fort Myers, LLC, by WGINC, Agent, for a Development Order Amendment to reconfigure the Site Plan; add/delete building square footage and add buildings; modify uses; relocate an access point; modify Conditions of Approval; and, restart the Commencement of Development Clock, 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 January 27, 2020, 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 Bernard and, upon being put to a vote, the vote was as follows:

Commissioner Dave Kerner, Mayor	-	Aye
Commissioner Robert S. Weinroth, Vice Mayor	-	Aye
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Mary Lou Berger	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on January 27, 2020.

Filed with the Clerk of the Board of County Commissioners on February 21st, 2020

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON R. BOCK,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY


BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

DESCRIPTION:

A PORTION OF TRACT "A", TOWN COMMONS-PLAT ONE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 99, PAGE 68 A ALL OF PARCEL B AND A PORTION OF PARCEL A AND TRACT R, TOWN COMMONS PUD/MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 118, PAGES 6 THROUGH 11 ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL B; THENCE SOUTHWESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD LINE AS SHOWN ON SAID TOWN COMMONS PUD/MUPD PLAT ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS N26°22'52"W, HAVING A RADIUS OF 1370.00 FEET, A CENTRAL ANGLE OF 19°00'12", AN ARC DISTANCE OF 454.39 FEET TO THE CENTERLINE OF TOWN COMMONS DRIVE, AS SHOWN ON SAID TOWN COMMONS - PLAT ONE; THENCE N.07°21'52"W. ALONG SAID CENTERLINE OF TOWN COMMONS DRIVE, A DISTANCE OF 100.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 31°47'52"; THENCE NORTHERLY ALONG SAID CENTERLINE OF TOWN COMMONS DRIVE AND THE ARC A DISTANCE OF 166.49 FEET; THENCE N.24°26'00"E. ALONG SAID CENTERLINE OF TOWN COMMONS DRIVE, A DISTANCE OF 61.56 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 29°22'15"; THENCE NORTHEASTERLY ALONG SAID CENTERLINE OF TOWN COMMONS DRIVE AND THE ARC A DISTANCE OF 25.63 FEET; THENCE N.53°48'15"E. ALONG SAID CENTERLINE OF TOWN COMMONS DRIVE AND ITS EASTERLY PROJECTION, A DISTANCE OF 264.57 FEET; THENCE S.36°11'44"E. ALONG THE NORTHERLY PROJECTION OF THE EASTERLY LINE OF AFORESAID PARCEL B AND SAID EAST LINE, A DISTANCE OF 139.70 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.69°57'26"E., A RADIAL DISTANCE OF 180.11 FEET; THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID PARCEL B ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 56°14'03", A DISTANCE OF 176.77 FEET; THENCE S.36°11'29"E. ALONG THE EASTERLY LINE OF SAID PARCEL B, A DISTANCE OF 101.63 FEET TO THE POINT TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

CONTAINING 134,896 SQUARE FEET OR 3.097 ACRES, MORE OR LESS.

LYING IN SECTION 7, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

EXHIBIT B
VICINITY SKETCH

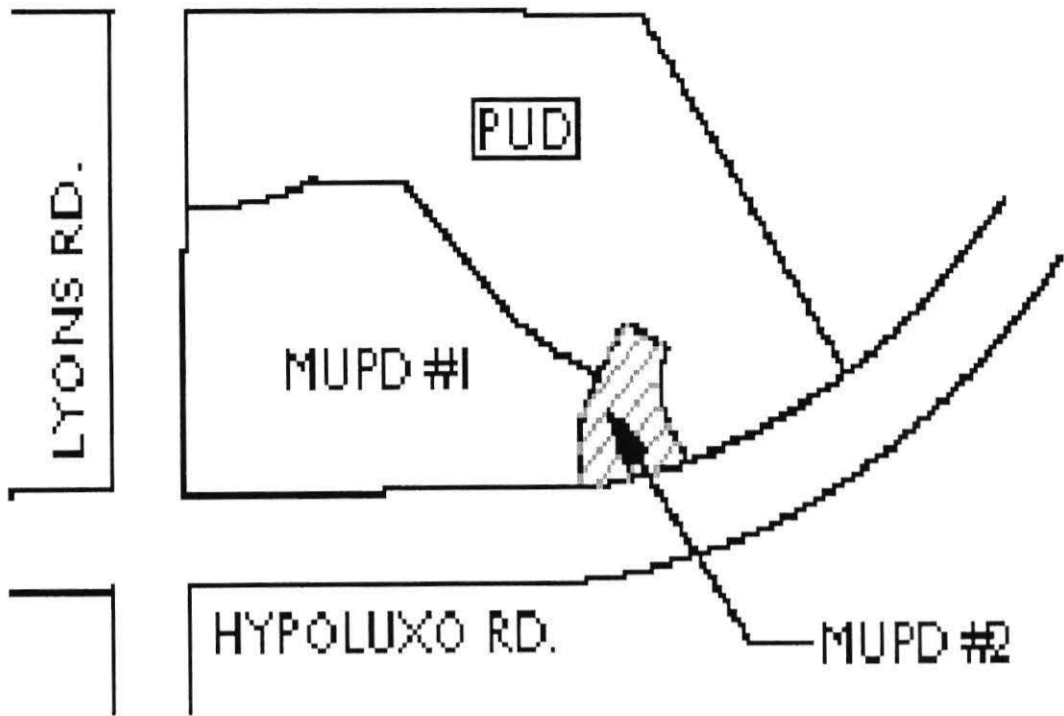


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2008-1700 (Control 2004-00248), 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: MONITORING - Zoning)

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2013-1764 (Control 2004-00248), 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: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

The approved Preliminary Site Plan is dated October 10, 2013. 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)

Is hereby amended to read:

The approved Preliminary Site Plan is dated November 12, 2019. 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)

3. Previous ALL PETITIONS Condition 4 of Resolution R-2013-1764, Control No.2004-00248, 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 R2008-004 on January 3, 2008. (ONGOING: MONITORING-Zoning) (Previous Condition All Petitions 3 of Resolution R-2008-1700, Control 2004-00248)

Is hereby amended to read:

Based on Article 2.E of the Unified Land Development Code, this development order meets the requirements to receive a new three (3) year review date from the date of approval of this resolution. (DATE/ONGOING: MONITORING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

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, 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)

Is hereby deleted. [REASON: Replaced by another build-out condition]

2. Deleted per resolution R-2013-1764 (Previous ENGINEERING Condition 2 of Resolution R-2013-1764, Control No.2004-00248)

3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2013-1764, Control No.2004-00248)

4. 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 the intersection of 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 - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2013-1764, Control No.2004-00248)

5. Prior to issuance of the first building permit, the property owner shall provide an acceptable line of sight easement to the Palm Beach County Roadway Production's Right of Way Section, as determined by the County Engineer. (BLDGPM: MONITORING - Engineering)

6. 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, 2024, or as amended. 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)

7. The Property Owner shall dedicate by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road (Town Commons Drive). This right of way shall be a minimum of 200 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.

After final acceptance of the location, legal sketches and dedication documents, and recordation of appropriate deeds and documents, Palm Beach County shall release the surety bond documents, as stated below, to the Property Owner.

a. Prior to the issuance of the first Building Permit, the Property Owner shall provide to Palm Beach County Engineering and Right of Way Acquisition Section of Roadway Production Division, (1) documentation in the form of letters of no objection to the release of any utility easement along and over the proposed right of way dedication, and (2) submittal of all documentation noted above, as determined and approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

b. Prior to the issuance of the first Building Permit, the Property Owner shall provide Palm Beach County Right of Way Acquisition Section of Roadway Production Division a surety bond, the amount of which is to be determined by the Property Owner's Engineer and approved by the County Engineer, reflecting the total cost of relocation of all the utility poles required to dedicate the above Right of Way. (BLDGPMT: MONITORING - Engineering)

c. Prior to the issuance of the first Certificate of Occupancy, relocation of all the utility poles must be completed by the Property Owner to provide the above Right of Way free and clear. (BLDGPMT/CO: MONITORING - Engineering)

8. The Property Owner shall make a payment for the 50% of the full design and construction cost of the right turn lane, east approach, on Hypoluxo Road at project entrance (Town Commons Drive). This turn lane shall be 200 ft in length and 50 ft in taper, or as approved by the County Engineer. Design and Construction cost of the turn lane shall be based upon an acceptable certified Cost Estimate provided by the Property Owner's Engineer and approved by the County Engineer. Payment shall be made prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

LANDSCAPE - GENERAL

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

Fifty (50) percent of the canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning) (Previous Landscaping Condition 1 of Resolution R-2008-1700, Control 2004-00248)

Is hereby amended to read:

Fifty (50) percent of the canopy trees required to be planted in the perimeter buffer shall be a minimum of fourteen (14) feet in height at installation. (BLDGPMT: ZONING - Zoning)

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

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2013-1764, Control No.2004-00248)

3. Field adjustment of plant materials and berm locations may be permitted to accommodate pedestrian sidewalks/bike paths, existing vegetation and traverse utility or drainage easement crossings. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2013-1764, Control No.2004-00248)

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

4. Previous LANDSCAPE - PERIMETER Condition 4 of Resolution R-2013-1764, Control No.2004-00248, 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 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 minimum overall heights 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 as indicated on the site plan dated March 17, 2008; and,
- f. all of the details pursuant to Condition C.1.e shall be reflected on the regulating plan prior to the final 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 south property line shall be upgraded to include:

- a. a minimum fifty (50) foot wide landscape buffer strip, except that a reduction shall be permitted to accommodate a twelve (12) foot dedication of R-O-W for a right turn lane;
- 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) accent or flowering tree for each fifty (50) linear feet of the property line with a maximum spacing of seventy-five (75) feet between clusters. Accent and flowering trees shall have minimum overall heights of twelve (12) feet; and,
- e. additional landscaping such as paths, pedestrian pavilion, focal points and special planting for this buffer shall be provided. (BLDG/PMT: ZONING - Zoning)

LANDSCAPE - PERIMETER-ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

5. Landscape width and berm requirements along the east property line shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip;
- b. a continuous two (2) foot high berm measured from top of curb;
- c. one (1) canopy tree planted for each twenty (20) linear feet of the property line;
- d. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation, and,
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty-six (36) inches at installation. (BLDG/PMT: ZONING - Zoning)

LANDSCAPE - INTERIOR

6. Previous LANDSCAPE - INTERIOR Condition 6 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

Foundation planting or grade level planters shall be provided along the front, side and rear

facades of all buildings, except in loading areas, to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length of the required landscaped areas shall be no less than fifty (50) percent of the total length of each side of the structure or as shown on the site plan dated March 17, 2008; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade, shrubs and appropriate ground cover. (DRO/BLDG PERMIT: DRO/LANDSCAPE Zoning) (Previous Landscaping Condition 6 of Resolution R-2008-1700, Control 2004-00248) (BLDGPMT: ZONING - Zoning)

Is hereby deleted. [REASON: Applicant will meet Code Foundation Planting of eight 8 foot and 40% for front and sides or subject to a Type 1 Waiver .]

LIGHTING

1. All pedestrian outdoor lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 1 of Resolution R-2013-1764, Control No.2004-00248)

2. All parking lot lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point and shall be setback seventy-five (75) feet from the south property line. Lighting fixtures along the east property line shall not exceed fifteen (15) feet in height measured from finished grade to highest point and shall be setback thirty (30) feet from the east property line. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2013-1764, Control No.2004-00248)

3. All lighting fixtures except for pedestrian and parking lot lights shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 3 of Resolution R-2013-1764, Control No.2004-00248)

4. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 4 of Resolution R-2013-1764, Control No.2004-00248)

PARKING

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on site, except within designated loading and delivery areas. (ONGOING: CODE ENF - Zoning) (Previous PARKING Condition 1 of Resolution R-2013-1764, Control No.2004-00248)

PLANNING

1. Previous PLANNING Condition 1 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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 Min. – Max.	Intensity/Density	
		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)

Is hereby amended to read:

The site is subject to the conditions identified in Land Use Amendment LGA 2018-18, Ord. 2018-30 as follows:

Land Use	Acres	Intensity/Density ¹	
	Min. - Max	Minimum	Maximum
Commercial High (CH) (Area 1)	14.3	N/A	94,900 SF
Commercial High (CH/2) (Area 2)	3.10	N/A	30,000 SF*
Low Residential 2 units per acre (LR-2) (Area 3)	10.8 – 25.7	60 units	80 units (see Condition 3)
Usable Open Space ³	40	N/A	
Total	40	N/A	

*Or, uses allowed under CH or LR-2 future land use up to the equivalent number of trips per day.

(ONGOING: PLANNING - Planning)

2. Previous PLANNING Condition 2 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby amended to read:

Per, LGA 2018-18, Ord. 2018-30, Condition B, development of the overall 40 acre site shall comply with the Conceptual Master Plan. (Exhibit 2 of Ordinance 2018-30) 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)

3. Previous PLANNING Condition 3 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

4. Previous PLANNING Condition 4 of Resolution R-2013-118, Control No.2004-00247,

which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

5. Previous PLANNING Condition 5 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

6. Previous PLANNING Condition 6 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby amended to read:

Per, LGA 2018-18, Ord. 2018-30, development of the overall 40-acre site shall comply with the Open Space requirement. The land associated with this requirement shall adhere to the definition for Usable Open Space in the Comprehensive Plan Introduction and Administration Element. (ONGOING: PLANNING - Planning)

7. Previous PLANNING Condition 7 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

8. Previous PLANNING Condition 8 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

9. Previous PLANNING Condition 9 of Resolution R-2013-118, Control No.2004-00247, which currently states:

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)

Is hereby deleted. [REASON: No longer applicable.]

10. Prior to the release 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 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. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 10 of Resolution R-2013-118, Control No.2004-00247)

11. On an annual basis, beginning January 31, 2015, 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) (Previous PLANNING Condition 11 of Resolution R-2013-118, Control No.2004-00247)

SIGNS

1. Freestanding point of purchase sign fronting Hypoluxo Road shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. Maximum sign face area per side - eighty (80) square feet;
- c. Maximum number of signs for the overall site - one (1);
- d. Style - monument style only. (BLDGPM: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2013-1764, Control No.2004-00248)

2. Wall signs shall be limited to twenty-four (24) inches high. (CO: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2013-1764, Control No.2004-00248)

3. Previous SIGNS Condition 3 of Resolution R-2013-1764, Control No.2004-00248, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to remove the condition reference to the main entry wall signs as indicated on the certified site plan dated March 17, 2008. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Condition is no longer applicable with the revised plan.]

SITE DESIGN

1. Prior to approval of the final development plan by the Development Review Officer (DRO), the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by

the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - County Attorney) (Previous SITE DESIGN Condition 1 of Resolution R-2013-1764, Control No.2004-00248)

2. Prior to approval of the final development plan by the Development Review Officer (DRO), the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - County Attorney) (Previous SITE DESIGN Condition 2 of Resolution R-2013-1764, Control No.2004-00248)

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.