

RESOLUTION NO. R-2005- 0819

RESOLUTION APPROVING ZONING APPLICATION PDD2004-298
(CONTROL NO. 2004-248)
OFFICIAL ZONING MAP AMENDMENT
TO A PLANNED DEVELOPMENT DISTRICT (PDD)
APPLICATION OF TOWN COMMONS LLC
BY LAND DESIGN SOUTH, INC., 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 petitions relating to zoning; and

WHEREAS, the notice and hearing requirements, as provided for in Article 2 (Development Review Procedures) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067), have been satisfied; and

WHEREAS, Zoning Application PDD2004-298 was presented to the Board of County Commissioners at a public hearing conducted on April 28, 2005; and,

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

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This official zoning map amendment (rezoning) is consistent with the Palm Beach County Comprehensive Plan;
2. This official zoning map amendment (rezoning) is consistent with the requirements of the Palm Beach County Unified Land Development Code;
3. This official zoning map amendment (rezoning) with approved conditions is compatible with surrounding uses and zones, as defined in the Palm Beach County Unified Land Development Code, is generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land;
4. This official zoning map amendment (rezoning) with approved conditions does not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment;
5. This official zoning map amendment (rezoning) with approved conditions will result in a logical and orderly development pattern;
6. This official zoning map amendment (rezoning) complies with Article 11, (Adequate Public Facilities) of the Palm Beach County Unified Land Development Code, Ordinance 92-20; and,
7. This official zoning map amendment (rezoning) with approved conditions is consistent with the requirements of all other applicable local land development regulations.

WHEREAS, Article 2.K.3.b (Action by Board of County Commissioners) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application PDD2004-298, the application of Town Commons LLC by Land Design South, Inc., agent, for an Official Zoning Map Amendment from the Agricultural Residential Zoning District to the Multiple Use Planned Development 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 attached as EXHIBIT B, attached hereto and made a part hereof, was approved on April 28, 2005, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Aaronson moved for the approval of the Resolution.

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

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

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

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

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

BY:

COUNTY ATTORNEY

BY:

EXHIBIT A

LEGAL DESCRIPTION

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

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT C; THENCE S.53°48'16"W. ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 151.50 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,370.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 09°48'35", A DISTANCE OF 234.56 FEET TO THE POINT OF BEGINNING (A RADIAL LINE FROM SAID POINT BEARS N.26°23'09"W.); THENCE CONTINUE WESTERLY ALONG THE ARC OF SAID 1,370.00 FOOT RADIUS CURVE, THROUGH A CENTRAL ANGLE OF 19°00'29", A DISTANCE OF 454.50 FEET; THENCE N.07°21'52"W., 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 THE ARC A DISTANCE OF 166.49 FEET; THENCE N.24°26'00"E., 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 THE ARC A DISTANCE OF 25.63 FEET; THENCE N.53°48'15"E., A DISTANCE OF 264.59 FEET; THENCE S.36°11'44"E., A DISTANCE OF 139.82 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE, CONCAVE TO THE EAST, OF WHICH THE RADIUS POINT LIES S.69°58'23"E., A RADIAL DISTANCE OF 180.00 FEET; THENCE SOUTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 56°13'16", A DISTANCE OF 176.61 FEET; THENCE S.36°11'29"E., A DISTANCE OF 101.65 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 134,930 SQUARE FEET OR 3.098 ACRES, MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS AND RIGHTS-OF-WAY OF RECORD.

EXHIBIT B
VICINITY SKETCH

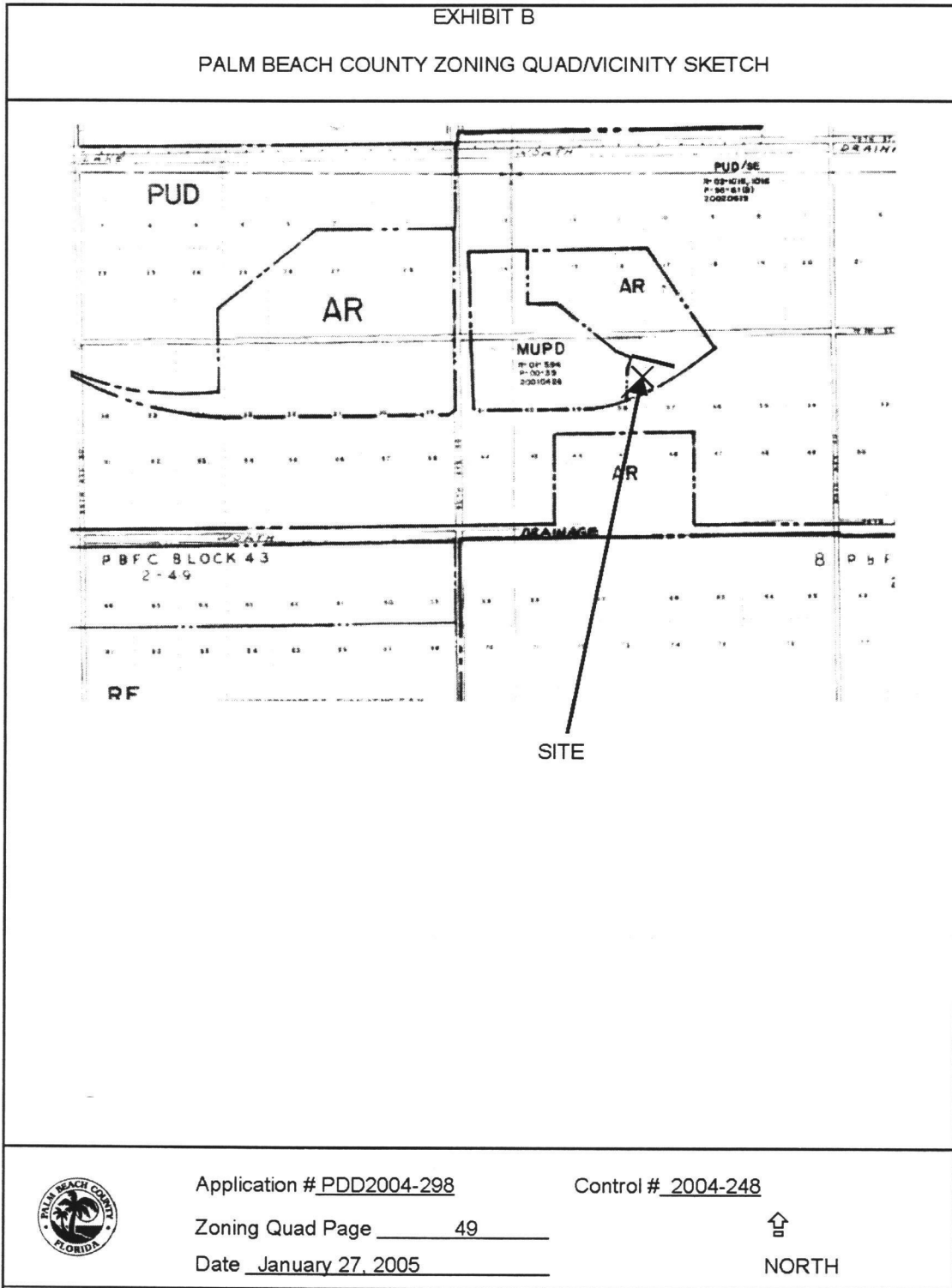


EXHIBIT C

CONDITIONS OF APPROVAL

A. ALL PETITIONS

1. Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved master, site and regulating plans are dated February 16, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING – Zoning)
2. Future development of the phase II office, as indicated on the site plan dated February 16, 2005, shall be subject to approval by the Board of County Commissioners. (ONGOING: ZONING – Zoning)

B. LANDSCAPING STANDARD

1. 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)
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. (BLDG PERMIT: LANDSCAPE – Zoning)
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. (BLDG PERMIT: LANDSCAPE – Zoning)

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

1. Landscaping and buffering along the south property line shall be upgraded to include:
 - a. a minimum fifty (50) foot wide landscape buffer strip;
 - b. a minimum three (3) to four (4) foot high undulating berm with an average height of three and one half (3.5) feet measured from top of curb;
 - c. one (1) canopy tree planted for each twenty (20) linear feet of frontage with maximum thirty (30) feet on center spacing;
 - d. one (1) palm, pine tree, accent or flowering tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Accent and flowering trees shall have 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 February 16, 2005; 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)

D. LANDSCAPING ALONG THE EAST PROPERTY LINE (ABUTTING RESIDENTIAL)

- 1. 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 PERMIT: LANDSCAPE – Zoning)

E. ENGINEERING

- 1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
 - a. No Building Permits shall be issued until construction has commenced for:
 - 1) Lyons Road widening as a 4-lane median divided section from Hypoluxo Road to Lantana Road, plus the appropriate paved tapers.
 - 2) an additional north approach through lane at the intersection of Lantana Road and Lyons Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng)
 - 3) an additional left turn lane south approach and an additional west approach through lane at the intersection of Lantana Road and Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng)
 - b. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: MONITORING – Eng)
 - c. No Building Permits for the site may be issued after January 1, 2010. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study, which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Article 2.E of the Unified Land Development Code. (DATE: MONITORING – Eng)
- 2. Acceptable surety required for the offsite road improvements as outlined in Condition No. E.1.a.1, E.1.a.2 and E.1.a.3 shall be posted with the Office of the **Land Development Division** on or before October 28, 2005. Surety

shall be in the amount of 110% of a Certified Cost Estimate provided by the Developer's Engineer and approved by the County Engineer. This surety may be required to be adjusted within 30 days notification from the County Engineer. This revision shall be based upon an updated cost estimate prepared by the Roadway Production Division at the time the final construction plans are completed. (TPS - Maximum 6 month time extension) (DATE: MONITORING – Eng)

3. The property owner shall provide for the acquisition funding costs of any additional right-of-way required for the construction of improvements identified in Condition No. E1a 1, E1a 2 and E1a 3 above. Acceptable surety shall be provided to the Office of the County Engineer prior to August 24, 2005. Notification by the property owner shall be given to the **Land Development Division**. (DATE: MONITORING – Eng)
4. On or before October 1, 2005, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of the improvements identified in Condition No. E.1.a.1, E.1.a.2, and E.1.a.3 as referenced above, subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the **Land Development Division**. (DATE: MONITORING – Eng)
5. The property owner shall fund the construction plans and the construction of improvements identified in Condition No. E.1.a.1, E.1.a.2 and E.1.a.3 above. Palm Beach County shall then be responsible for the construction of the required improvements. Funding of the construction plans and construction shall be completed on or before December 1, 2005. All canal crossings within the project limits shall be constructed to their ultimate configuration. (DATE: MONITORING – Eng)
6. Roadway improvements identified in the Condition above shall also include design, irrigation and installation as well as the perpetual maintenance of median landscaping as approved by the Streetscape Section. Landscaping and irrigation shall strictly conform to the specifications and standards of Palm Beach County's Only Trees, Irrigation, and Sod (OTIS) program. At the Developer's option funding for the required OTIS program may be provided to Palm Beach County. Payment for the County's installation and perpetual maintenance of landscaping and irrigation shall be based on the approved fee schedule as it currently exists or as it may from time to time be amended. (ONGONG: ENG – Eng)
7. 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 on Hypoluxo Road at the project's entrance road. This right-of-way shall be a minimum of 280 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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)
8. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENG – Eng)

9. 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 – Eng)

F. LANDSCAPING - INTERIOR

1. 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 February 16, 2005; and,
 - c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building façade, shrubs and appropriate ground cover. (DRO/BLDG PERMIT: DRO/LANDSCAPE – Zoning)
2. 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 – Co Atty)
3. 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 – Co Atty)

G. LIGHTING

1. All pedestrian outdoor lighting fixtures shall not exceed fifteen (15) feet in height measured from finished grade to highest point. (CO: BLDG – Zoning)
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. (CO: BLDG – Zoning)
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. (CO: BLDG – Zoning)

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)

H. 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)

I. PLANNING

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

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

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

Based on the above information, additional development may still be permitted provided the above thresholds are not exceeded. In addition, all future development must comply with the mix of other uses as specified in the proposed amendment, Town Commons MLU II (LGA 2004-00036), Ordinance 2004-062. (DRO/ONGOING: PLANNING – Planning)

2. Development of the overall 40 acre site shall comply with the Conceptual Master Plan. (Exhibit 4 of Ordinance 2004-062) Any changes which affect more than 20% of the land area, and/or which result in the project no longer meeting the intent of the MLU language in the Comprehensive Plan as determined by the Planning Director shall be remanded back to the Local Planning Agency and Board of County Commissioners for public hearings. (DRO/ONGOING: PLANNING - Planning)
3. Prior to final site plan approval by the Development Review Officer (DRO), development of the site shall comply with the Design Guidelines and Standards for Future Development (Exhibit 5 of Ord. 2004-062). (BLDG PERMIT: BLDG – Planning)
4. The height of the buildings on the CH-O portion of this MLU, as depicted on the Conceptual Master Plan (Exhibit 4, Ord. 2004-062), is limited to a maximum of 35 feet at the eave. (BLDG PERMIT: BLDG - Planning)
5. All structures requiring a building permit, having frontage on the Pedestrian Oriented Zone, as depicted on the adopted Conceptual Master Plan (Exhibit 4, Ordinance 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 Ordinance 2004-062). (BLDG PERMIT: BLDG - Planning)

6. Prior to any DRO approval, architectural elevations for all frontages abutting the Pedestrian Oriented Zone, as depicted on the Conceptual Master Plan, shall be submitted for review to ensure consistency with the intent of the Design Guidelines. (DRO: PLANNING – Planning)
7. Prior to final 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)
8. 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.). (CO/ONGOING: LANDSCAPE – Planning)

J. 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. (CO: BLDG – Zoning)
2. Wall signs shall be limited to twenty-four (24) inches high. (CO: BLDG – Zoning)
3. – 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 February 16, 2005. (DRO: DRO – Zoning)

K. COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING – Zoning)
2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:
 - a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of

- the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- b. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
 - d. Referral to code enforcement; and/or
 - e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a 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 Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: MONITORING – Zoning)