

RESOLUTION NO. R-2014- 0567

RESOLUTION APPROVING ZONING APPLICATION ZV/W/TDD/DOA-2013-02609
(CONTROL NO. 2004-00616)
a Development Order Amendment
APPLICATION OF KRG Atlantic Delray Beach, LLC
BY Urban Design Kilday Studios, AGENT
(Delray Marketplace)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

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

WHEREAS, Zoning Application ZV/W/TDD/DOA-2013-02609 was presented to the Board of County Commissioners at a public hearing conducted on April 24, 2014;

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 Palm Beach County Unified Land Development Code (Ordinance 2003-067 as amended) is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner;

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

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS hereby incorporates by reference the Findings of Fact in the staff report addressing the standards contained in Article 2.B.2.B for a Development Order Amendment; and,

WHEREAS, Article 2.A.1.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/W/TDD/DOA-2013-02609, the petition of KRG Atlantic Delray Beach, LLC, by Urban Design Kilday Studios, agent, for a Development Order Amendment to reconfigure the site plan and add land area in the Traditional Marketplace Development (TMD) Zoning District, on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on April 24, 2014, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on April 24, 2014.

Filed with the Clerk of the Board of County Commissioners on April 25th, 2014.

This resolution shall not become effective unless or until the effective date of Large Scale Land Use Amendment No. LGA-2014-005.

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
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY
FLORIDA

EXHIBIT A

OVERALL LEGAL DESCRIPTION

DEVELOPMENT AREA:

ALL OF THE PLAT OF, DELRAY MARKETPLACE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 115, AT PAGE 19 THROUGH 26 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 35.839 ACRES, MORE OR LESS.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL (RURAL PARKWAY):

ALL OF TRACTS B, C, D AND A PORTION OF TRACT A, DELRAY MARKETPLACE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 115, AT PAGE 19 THROUGH 26 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT NORTHEAST CORNER OF SAID TRACT D, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 01°03'00" EAST ALONG THE EAST LINE OF SAID PLAT, FOR 1,288.38 FEET TO A SOUTHERLY LINE OF SAID PLAT, THE FOLLOWING TWO (2) COURSES BEING ALONG SAID SOUTHERLY AND SOUTH LINES OF SAID PLAT; THENCE SOUTH 44°29'01" WEST, FOR 45.09 FEET; THENCE SOUTH 89°00'55" WEST, FOR 67.82 FEET TO THE WEST LINE OF SAID TRACT B; THENCE NORTH 01°03'00" WEST ALONG SAID WEST LINE AND THE NORTHERLY EXTENSION THEREOF, FOR 470.27 FEET TO THE WEST LINE OF SAID TRACT C; THENCE CONTINUE NORTH 01°03'00" WEST ALONG SAID WEST LINE AND THE NORTHERLY EXTENSION THEREOF, FOR 402.34 FEET TO THE WEST LINE OF SAID TRACT D; THENCE CONTINUE NORTH 01°03'00" WEST ALONG SAID WEST LINE, FOR 447.39 FEET TO THE NORTH LINE OF SAID PLAT; THENCE NORTH 89°00'55" EAST ALONG SAID NORTH LINE, FOR 100.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 3.019 ACRES, MORE OR LESS.

TOGETHER WITH:

A PORTION OF TRACT "B", DELRAY MARKETPLACE PRESERVE 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 111, AT PAGE 95 THROUGH 97 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "B", SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 89°08'50" WEST ALONG THE SOUTH LINE OF SAID TRACT "B", FOR 258.64 FEET; THENCE NORTH 00°51'10" WEST, FOR 659.09 FEET TO THE NORTH LINE OF SAID TRACT "B", THE FOLLOWING TWO (2) COURSES BEING ALONG THE NORTH AND THE EAST LINE OF SAID TRACT "B"; THENCE NORTH 89°00'55" EAST, FOR 256.15 FEET; THENCE SOUTH 01°04'09" EAST, FOR 659.69 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 3.896 ACRES, MORE OR LESS.
FOR A COMBINED TOTAL OF 36.716 ACRES, MORE OR LESS.

PRESERVE 1:

ALL OF TRACTS A, B, C, AND D, DELRAY MARKETPLACE PRESERVE 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111, AT PAGE 98 THROUGH 99, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 17.276 ACRES, MORE OR LESS.

PRESERVE 2:

ALL OF TRACTS A AND C, ASCOT-LYONS & ATLANTIC PUD PRESERVE PARCEL 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 110, AT PAGE 62 THROUGH 64, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 9.860 ACRES, MORE OR LESS.

PRESERVE 3:

ALL OF TRACT C AND THE EAST 619.00 FEET OF TRACT A, DELRAY MARKETPLACE PRESERVE 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111, AT PAGE 95 THROUGH 97 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 11.388 ACRES, MORE OR LESS.

TOGETHER WITH:

TRACT B, DELRAY MARKETPLACE PRESERVE 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111, AT PAGE 95 THROUGH 97 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL;

A PORTION OF TRACT "B", DELRAY MARKETPLACE PRESERVE 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 111, AT PAGE 95 THROUGH 97 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT "B", SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 89°08'50" WEST ALONG THE SOUTH LINE OF SAID TRACT "B", FOR 258.64 FEET; THENCE NORTH 00°51'10" WEST, FOR 659.09 FEET TO THE NORTH LINE OF SAID TRACT "B", THE FOLLOWING TWO (2) COURSES BEING ALONG THE NORTH AND THE EAST LINE OF SAID TRACT "B"; THENCE NORTH 89°00'55" EAST, FOR 256.15 FEET; THENCE SOUTH 01°04'09" EAST, FOR 659.69 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 9.097 ACRES, MORE OR LESS.

FOR A COMBINED AREA OF 20.485 ACRES, MORE OF LESS.

PRESERVE 4:

ALL OF TRACT D, ASCOT-LYONS & ATLANTIC PUD PRESERVE PARCEL 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 110, AT PAGE 62 THROUGH 64, INCLUSIVE OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS CONTAIN 4.962 ACRES, MORE OR LESS.

RURAL PARKWAY:

ALL OF TRACTS B, C, D AND A PORTION OF TRACT A, DELRAY MARKETPLACE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 115, AT PAGE 19 THROUGH 26 INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT NORTHEAST CORNER OF SAID TRACT D, SAID POINT BEING THE POINT OF BEGINNING; THENCE SOUTH 01°03'00" EAST ALONG THE EAST LINE OF SAID PLAT, FOR 1,288.38 FEET TO A SOUTHERLY LINE OF SAID PLAT, THE FOLLOWING TWO (2) COURSES BEING ALONG SAID SOUTHERLY AND SOUTH

LINES OF SAID PLAT; THENCE SOUTH 44°29'01" WEST, FOR 45.09 FEET; THENCE SOUTH 89°00'55" WEST, FOR 67.82 FEET TO THE WEST LINE OF SAID TRACT B; THENCE NORTH 01°03'00" WEST ALONG SAID WEST LINE AND THE NORTHERLY EXTENSION THEREOF, FOR 470.27 FEET TO THE WEST LINE OF SAID TRACT C; THENCE CONTINUE NORTH 01°03'00" WEST ALONG SAID WEST LINE AND THE NORTHERLY EXTENSION THEREOF, FOR 402.34 FEET TO THE WEST LINE OF SAID TRACT D; THENCE CONTINUE NORTH 01°03'00" WEST ALONG SAID WEST LINE, FOR 447.39 FEET TO THE NORTH LINE OF SAID PLAT; THENCE NORTH 89°00'55" EAST ALONG SAID NORTH LINE, FOR 100.00 FEET TO THE POINT OF BEGINNING.

SAID LANDS CONTAIN 3.019 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

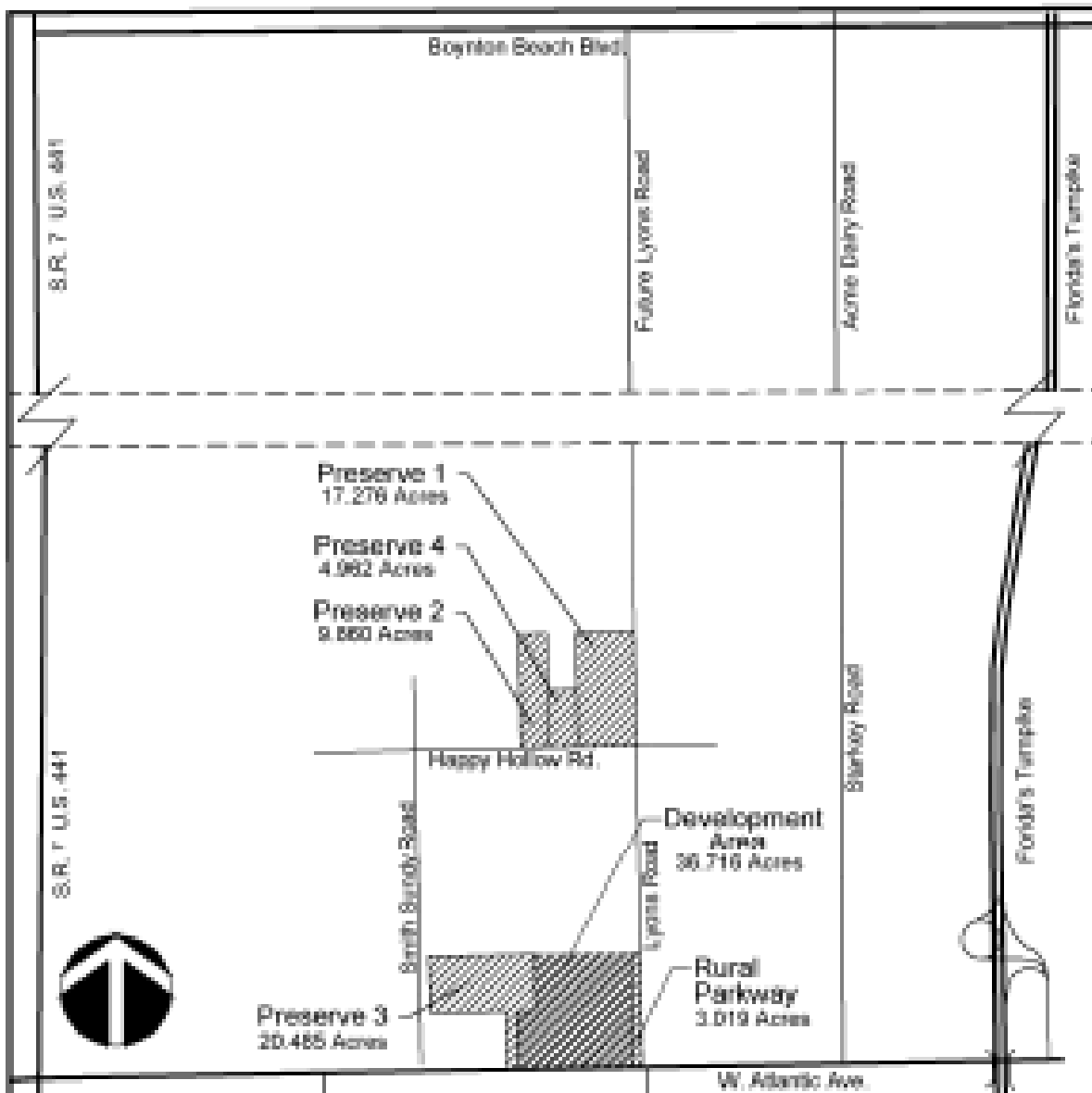


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. Previous ALL PETITIONS condition 1 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

The approved Preliminary Site Plan is dated April 18, 2011. 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 (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated February 13, 2014. 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 (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS condition 2 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2010-447 (Control 2004-616), 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified.

Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2011-1110 (Control No. 2004-00616), 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

3. 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 date of approval of this resolution. (Previous ALL PETITIONS condition 3 of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Zoning)

4. Prior to platting in accordance with the Unified Land Development Code (ULDC) Article 3.F.1.H.2, Control No. 1974-00061 (Triple C Groves) shall be amended or abandoned to resolve all geographic overlap with the boundary of the Development Area. Overlap with Preserve Area may be permitted only if consistent with the ULDC and Conditions of Approval. (PLAT: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. Prior to final approval by the Development Review Officer (DRO), architectural elevations for Building A1 and Building I shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations shall be designed to be consistent with Articles 5.C and 3.F., as amended, of the Unified Land Development Code (ULDC) and shall reflect a character that is generally consistent with the elevations prepared by Scott Partnership dated June 21, 2005. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all conditions of approval, and all ULDC requirements. (Previous ARCHITECTURAL REVIEW condition 1 of

Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED]

2. Design of gutters and downspouts shall be integrated into the architectural design of each building, excluding the freestanding multifamily buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (Previous ARCHITECTURAL REVIEW condition 2 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning)

3. Each freestanding multifamily dwelling unit shall include a garage that exceeds the minimum residential parking dimensions or a separate storage closet for trash receptacles, as deemed acceptable to the Architectural Review Section. (Previous ARCHITECTURAL REVIEW condition 3 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning)

4. Decorative gates, doors or other acceptable means of screening shall be provided for the opening to the service areas of Buildings B1, D, E, FG, H and I. These screening features shall:

- a. have a minimum height of eight (8) feet measured from finished grade to highest point;
- b. have a maximum height no greater than the height of the adjacent building facade;
- c. be architecturally consistent with the building;
- d. remain closed when the service areas are not in use; and,
- e. be subject to review and approval by the Architectural Review Section. (Previous ARCHITECTURAL REVIEW condition 5 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ARCHITECTURAL REVIEW - Zoning)

5. The drive-thru facility for Building C1 shall incorporate an overhead canopy designed to the following standards:

- a. a minimum length and width adequate to cover all queuing lanes below;
- b. a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- c. a pitched roof with a minimum slope of 4:12. No flat roof shall be permitted;
- d. lighting for the canopy shall be flush mounted or recessed;
- e. a maximum of one (1) canopy sign not exceeding eighteen (18) inches in height shall be permitted. Signage shall be limited to the side of the canopy providing vehicle entry only; and,
- f. the final design and details for the canopy shall be subject to review and approval by the Architectural Review Section. (Previous ARCHITECTURAL REVIEW condition 7 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED]

6. Prior to final approval by the Development Review Officer (DRO), the design and detail for the following amenities shall be subject to review and approval by the Architectural Review Section and reflected on the Regulating Plan:

- a. plazas;
 - b. amphitheater;
 - c. pedestrian gathering areas;
 - d. trellis;
 - e. water features;
 - f. bus shelters;
 - g. entry features;
 - h. street furniture;
 - i. freestanding light fixtures;
 - j. Building I focal point; and,
 - k. Building A2 focal point consistent with rendering "Option 1" dated February 22, 2011.
- All amenities shall be designed to be compatible with the architectural character of the principal buildings and to establish a consistent theme for the project. (Previous ARCHITECTURAL REVIEW condition 8 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning)

7. Prior to final approval by the Development Review Officer (DRO), the site plan shall be

revised to indicate a trellis with climbing vine or other entry feature acceptable to the DRO as follows:

a. over each sidewalk at the entryways from West Atlantic Avenue; and,
b. the final design and detail for these amenities shall be subject to review and approval by the Architectural Review Section. (Previous ARCHITECTURAL REVIEW condition 9 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning)

8. In addition to ULDC requirements at least 60% of the Primary Frontages shall have arcades a minimum of 10 feet in width and 12 feet minimum height. The requirement for the arcades to be contiguous may be amended subject to a variance approval. [ZR-2007-005] (Previous ARCHITECTURAL REVIEW condition 10 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED]

9. Prior to building permit application, the architectural elevations for the residential units shall be submitted for review and approval by the Architectural Review Section. All elevations shall be:

a. given a similar architectural treatment that is generally consistent with the architectural character of the principal structures in the development. (Previous ARCHITECTURAL REVIEW condition 11 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPM: ARCHITECTURAL REVIEW - Zoning)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner has relied on the Atlantic Avenue CRALLS designation (Policy 1.2-f.35 of the transportation element of the Comprehensive Plan) and as such must enter into a funding agreement to the satisfaction of County Engineer, to pay for the construction of the 6-laning of West Atlantic Avenue from Florida's Turnpike to Jog Road and the 4-laning of West Atlantic Avenue from Lyons Road to Starkey Road. (Previous ENGINEERING condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

2. Previous ENGINEERING condition 2.a of Resolution R-2011-1110, Control No.2004-00616, 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, 2017. 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 - Engineering)

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

3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (Previous ENGINEERING condition 3 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering)

4. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the Project's north Entrance and Lyons Road. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation. (ONGOING: ENGINEERING - Engineering)

a. No Building Permits shall be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPM: MONITORING - Engineering)

b. In order to request release of the surety for this traffic signal 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 both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (Previous ENGINEERING condition 4 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering)

5. Prior to December 1, 2005, the Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Lyons Road and West Atlantic Avenue. (DATE: MONITORING - Engineering)

a. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. In order to request release of the surety for the traffic signal at this intersection 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 both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (Previous ENGINEERING condition 5 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

6. The location of back-out angled parking on the main streets in the TMD is subject to review and approval by the County Engineer, and may be required to be removed or relocated prior to final DRO approval. (Previous ENGINEERING condition 6 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ENGINEERING - Engineering) [Note: COMPLETED]

7. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for the roads below. All Right of way conveyances shall be free of all encumbrances and encroachments, unless noted otherwise. Developer 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. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee 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 prior to dedication. 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 provisions for Expanded Intersection Details and Corner Clips.

a. Lyons Road 55 feet from centerline, prior to January 1, 2006 (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. West Atlantic Avenue an additional 70 feet of right of way to provide for a total of 126 feet of right of way. Right of way shall be free and clear of all encumbrances and encroachments prior to widening of Atlantic Avenue. Prior to final DRO approval for the development parcel, Property Owner shall enter into an agreement with Right of Way Acquisition Section to allow encroachments until right of way is required for widening. The agreement shall require that the property owner be responsible for the costs associated with removing and relocating all encroachments within the ultimate right of way. (DRO: ENGINEERING - Engineering) [Note: COMPLETED]

c. Expanded Intersection right of way at West Atlantic Avenue and Lyons Road on an alignment approved by the County Engineer. Right of way shall be free and clear of all encumbrances and encroachments prior to widening of Atlantic Avenue. Prior to final DRO approval for the development parcel, Property Owner shall enter into an agreement with Right of Way Acquisition Section to allow encroachments until right of way is required for widening. The agreement shall require that the property owner be responsible for the costs associated with removing and relocating all encroachments within the ultimate right of way. (Previous ENGINEERING condition 7 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ENGINEERING - Engineering) [Note: COMPLETED]

8. Prior to 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 right turn lanes on West Atlantic Avenue at both of the project's entrances. This right of way shall be a minimum of 280 feet in 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. (Previous ENGINEERING condition 8 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPM: MONITORING - Engineering)

9. The Property owner shall construct:

- i. Right turn lane east approach on West Atlantic Avenue at both Project Driveways.
- ii. Left turn lane west approach on West Atlantic Avenue at the Project's west driveway OR a traffic separator within Atlantic Avenue at the Project's west driveway to restrict left turns in and out of this driveway, subject to FDOT approval.
- iii. Left turn lane south approach on Lyons Road at the Projects north entrance.
- iv. Right turn lane north approach on Lyons Road at both Project entrances.
- v. A temporary access to West Atlantic Avenue at existing Lyons Road that provides a minimum 200 foot throat distance and a north approach left, through and right turn lane.

a. Any and all costs associated with this 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. (ONGOING: ENGINEERING - Engineering)

b. Construction for the improvements in a 9.i., 9.ii., and EITHER 9.iii. and 9.iv. OR 9.v. shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

c. If both driveways on Lyons Road are not constructed as part of the first phase of development or are not constructed at the same time, then the right turn lanes required in 9.iv. shall be constructed concurrent with the associated driveway or as otherwise required by the County Engineer. (Previous ENGINEERING condition 9 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering)

10. The property owner shall:

a. Reimburse Palm Beach County \$175,000 for right of way acquisition costs for construction of Lyons Road as a 2-lane median divided section from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes on the north approach at Atlantic Avenue and Lyons Road, prior to April 30, 2010. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. Make a payment to Palm Beach County to cover all costs to extend the TCE for Parcels 903 and 904, the construction easements or portion of easements required for the construction of Lyons Road, for an amount of time sufficient to cover the length of construction, if the property owner has not completed that portion of Lyons Road prior to the expiration of the TCEs under Condition 17.a., within thirty (30) days written notice from the County Engineer. (Previous ENGINEERING condition 10 of Resolution R-2011-1110,

Control No.2004-00616) (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

11. On or before August 1, 2006, 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 Lyons Road a minimum of 110 feet in width plus provisions for Expanded Intersection Details at the intersection of Lyons Road and West Atlantic Avenue. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the Land Development Division. (Previous ENGINEERING condition 11 of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Engineering) [Note: COMPLETED]

12. Prior to September 30, 2010, the property owner shall make available to Palm Beach County Land Development for bidding purposes:

a. Construction plans for Lyons Road as a 2-lane median divided section from the north project driveway south to West Atlantic Avenue. The plans shall include separate left turn, right turn and through lanes at the north approach at Atlantic Avenue and Lyons Road. (Previous ENGINEERING condition 12.a of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Engineering) [Note: COMPLETED]

13. Prior to July 1, 2005 the property owner shall convey a temporary roadway construction easement along Lyons Road and West Atlantic Avenue to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (Previous ENGINEERING condition 13 of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Engineering) [Note: COMPLETED]

14. On or before January 1, 2006, the property owner shall convey to Palm Beach County sufficient 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 West Atlantic Avenue and Lyons Road along the property frontage; and up to a maximum of an additional 800 feet 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 retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as 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. 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. (Previous ENGINEERING condition 14 of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Engineering) [Note: COMPLETED]

15. Prior to final DRO approval, the site plan shall be amended to comply with the FDOT conceptual approval letter at both project driveways on West Atlantic Avenue. (Previous ENGINEERING condition 15 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ENGINEERING - Engineering)

16. Condition number 9.b. which requires turn lane improvements on Lyons Road to be completed prior to issuance of the first Certificate of Occupancy shall be considered

complied with when payments or construction required in Condition number 17 have been made within the timeframe required in that condition. (Previous ENGINEERING condition 16 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: ENGINEERING - Engineering)

17. The property owner shall either:

a. Commence construction of Lyons Road as a 2-lane median divided section built to PBC Thoroughfare Road standards from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes and tapers on the north approach at Atlantic Avenue and Lyons Road, prior to bid opening for both the County's portion of Lyons Road and Atlantic Avenue. The construction for Lyons Road shall tie into road conditions at the Atlantic Avenue north right of way line at the time of Lyons Road construction. 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. During construction, the property owner shall provide access to Palm Beach County contractors for construction of the County's portion of Lyons Road as well as maintain access to adjacent farms, as necessary. (ONGOING: ENGINEERING - Engineering)

b. Or, if Lyons Road construction has not commenced prior to bid opening for both the County's portion of Lyons Road and Atlantic Avenue, the Property Owner shall make a payment to Palm Beach County Engineering Department for an amount of the bid amount plus 10%, for all construction costs, including administration, testing and construction management, associated with the construction of Lyons Road as a 2-lane median divided section built to PBC Thoroughfare Road standards from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes and tapers on the north approach at Atlantic Avenue and Lyons Road, within thirty (30) days written notice from the County Engineer. The bid amount shall be based on bid received by Palm Beach County for this work. The developer shall be responsible for any and all costs in excess of this amount. If any of the actual costs exceed this amount, the developer shall pay Palm Beach County Engineering Department for that excess amount within sixty (60) days written notice from the County Engineer. If the payment amount is in excess of the actual costs, Palm Beach County shall refund the excess amount to the Property Owner. (ONGOING: ENGINEERING - Engineering)

c. At time of payment as required in 17.b, all permits from all regulating agencies required to construct the improvements above shall be transferred to Palm Beach County and copies provided to Land Development. (ONGOING: ENGINEERING - Engineering)

d. If Property Owner elects to construct Lyons Road, construction of Lyons Road shall be completed prior to issuance of the first Certificate of Occupancy for the site or within 6 months from commencement of Lyons Road construction, whichever shall occur first. (Previous ENGINEERING condition 17 of Resolution R-2011-1110, Control No.2004-00616) (CO/ONGOING: MONITORING - Engineering)

18. Prior to final site plan approval by the DRO, the property owner shall amend the drainage easement providing legal positive outfall to include all of the private property between this project site and the point of legal positive outfall. (Previous ENGINEERING condition 18 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ENGINEERING - Engineering)

19. Prior to issuance of the first building permit, the property owner shall combine the property into a single lot of record in accordance with Article 11 of the ULDC. (Previous ENGINEERING condition 19 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPM: MONITORING - Engineering)

HEALTH

1. Property owners and operators of facilities generating industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of

Environmental Protection (FDEP), the Palm Beach County Health Department and the agency responsible for sewage works are provided and used. (Previous HEALTH condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Health Department)

2. Previous HEALTH condition 2 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

The property owner shall utilize Best Management Practices to minimize the breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce the impacts of mosquito control activities on the surrounding natural areas.

Is hereby deleted. [REASON: code requirement]

3. Prior to the issuance of the first building permit the property owner shall submit a written detailed plan acceptable to the Palm Beach County Health Department for the control of fugitive dust particulates on the site during all phases of site development. The property owner or a representative of the property owner shall be available to meet with staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (Previous HEALTH condition 3 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPM: MONITORING - Health Department) [Note: COMPLETED]

LANDSCAPE - GENERAL

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

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (Previous LANDSCAPE - GENERAL condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

2. Field adjustment of wall, fence, and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (Previous LANDSCAPE - GENERAL condition 3 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR

3. Landscaped diamonds with a minimum planting area of twenty-five (25) square feet shall be provided within all rows of abutting 90-degree parking. These diamonds shall be located at the common intersection of four (4) parking spaces and be spaced a maximum of four (4) parking spaces apart. A minimum of one (1) canopy tree, palm, flowering tree, or accent tree and appropriate ground cover shall be provided within each diamond. (Previous LANDSCAPE - INTERIOR condition 4 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

4. Notwithstanding ULDC requirements, foundation planting or grade level planters shall be provided along the following:

- a. north facade of Building B1;
- b. south facades of Buildings C1, C2, and D;
- c. west facade of Building H;
- d. north and east facade of Building I;
- e. the minimum width of these landscape areas shall be ten (10) feet;
- f. the length of these landscaped areas shall be no less than sixty (60) percent of the total length of the applicable building facade;
- g. landscape areas shall be planted with a minimum equivalent of one (1) canopy tree, pine tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover; and,
- h. trees and/or palms required within the above referenced areas of Building I only shall

have the following minimum height at installation:

- 1) twenty-four (24) feet or greater for a minimum twenty-five (25) percent of all required trees and/or palms;
- 2) eighteen (18) feet to twenty-four (24) feet for a minimum fifty (50) percent of all required trees and/or palms; and,
- 3) sixteen (16) feet to eighteen (18) feet for a maximum twenty-five (25) percent of all required trees and/or palms. (Previous LANDSCAPE - INTERIOR condition 6 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR-FOCAL POINT WEST OF BUILDING I

5. Prior to final approval by the Development Review Officer (DRO), the site plan shall indicate a landscape focal point at the terminus of the access drive on the west side of Building I. The design and location of this landscape focal point shall be subject to Zoning Division review and approval. (Previous LANDSCAPE - INTERIOR condition 8 of Resolution R-2011-1110, Control No.2004-00616) (DRO: LANDSCAPE - Zoning)

LANDSCAPE - INTERIOR

6. Previous LANDSCAPE - INTERIOR condition 9 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Prior to final approval by the Development Review Officer (DRO), the Regulating Plan shall be amended to include details of the landscape plantings for the divider median and terminal island adjacent to the north and west of Building I's dumpster and loading service area. The planting program shall screen the service area from the view of the multifamily units to the north and west. (DRO: ZONING - Landscape)

Is hereby amended to read:

Prior to final approval by the Development Review Officer (DRO), the Regulating Plan shall be amended to include details of the landscape plantings for the divider median and terminal island adjacent to the north and west of Building I's dumpster and loading service area. The planting program shall screen the service area from the view of the multifamily units. (DRO: ZONING - Landscape)

LANDSCAPE - PERIMETER

7. In addition to ULDC requirements the north and west perimeter landscape buffers shall be upgraded to include:

- a. a minimum of one (1) native palm for each twenty (20) linear feet of the applicable property line with a maximum spacing of sixty (60) feet between clusters and
- b. a minimum of one (1) pine tree for each thirty (30) linear feet of the applicable property line. Pines shall be planted in clusters with a minimum of five (5) pines, and with a maximum spacing of one hundred and fifty (150) feet between clusters. (Previous LANDSCAPE - PERIMETER condition 10 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

8. A minimum of fifty (50) percent of all (new and replacement) trees to be planted in the landscape buffers shall meet the following minimum standard at installation: Tree height: fourteen (14) feet. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (Previous LANDSCAPE - PERIMETER condition 11 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

9. In addition to ULDC requirements, the south right-of-way buffer shall be upgraded to include:

- a. a minimum of one (1) native palm or one (1) pine tree for each thirty (30) linear feet of the applicable property line. The palms or pines may be planted in clusters. (Previous LANDSCAPE - PERIMETER condition 12 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: LANDSCAPE - Zoning)

LIGHTING

1. All outdoor, freestanding lighting fixtures exceeding twenty (20) feet in height shall be

setback a minimum distance of forty (40) feet from the north and west property lines. (Previous LIGHTING condition 1 of Resolution R-2011-1110, Control No.2004-00616) (BLDG/PMT: BUILDING DIVISION - Zoning)

2. All outdoor, freestanding lighting fixtures shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting only. (Previous LIGHTING condition 2 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material or street lighting. (Previous LIGHTING condition 3 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

PALM TRAN

1. The location of two easements for Bus Stop Boarding and Alighting Areas, subject to the approval of Palm Tran, shall be shown on the Master Plan and/or site plan prior to final approval by the Development Review Officer (DRO). The purpose of these easements are for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (Previous PALM TRAN condition 1 of Resolution R-2011-1110, Control No.2004-00616) (DRO: PALM-TRAN - Palm-Tran) [Note: COMPLETED]

2. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County easements for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (Previous PALM TRAN condition 2 of Resolution R-2011-1110, Control No.2004-00616) (PLAT: ENGINEERING - Palm-Tran)

PARKS

1. Prior to final DRO approval a minimum of 800 square feet of indoor recreation space shall be delineated and provided to the tenants and owners of residential units in perpetuity without membership charges. (Previous PARKS condition 1 of Resolution R-2011-1110, Control No.2004-00616) (DRO: PARKS AND RECREATION - Monitoring)

PLANNED DEVELOPMENT-TRADITIONAL MARKETPLACE DEVELOPMENT (TMD)

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

a. Formation of a single master property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.

b. All indoor recreation space shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover to the POA/HOA, the indoor recreation space shall be turned over to the association at no cost to the residents.

c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the traditional development. This Declaration shall be amended when additional units or square footage is added to the TMD. (Previous PLANNED DEVELOPMENT condition 1 of Resolution R-2011-1110, Control No.2004-00616) (PLAT: COUNTY ATTORNEY - Zoning)

2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, and site plans a disclosure statement identifying and notifying of the existence of active agricultural uses in the vicinity of the development and of Florida Statute 823.14, the Florida Right to Farm Act." The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on August 25, 2006, and shall continue

on an annual basis until all residential units within the development have been sold or the property owner relinquishes control to a homeowners association. (Previous PLANNED DEVELOPMENT condition 2 of Resolution R-2011-1110, Control No.2004-00616) (DATE/ONGOING: MONITORING - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), the applicant shall provide a Rural Parkway Landscape Plan, for the entire Delray Marketplace TMD Rural Parkway Preserve area, subject to approval by the Planning Division, to include a minimum of 60% native shrubs and a minimum of 90% native trees and palms. (Previous PLANNING condition 1 of Resolution R-2011-1110, Control No.2004-00616) (DRO: PLANNING - Planning)

2. Prior to final approval by the Development Review Officer, submit a signed copy of the AGR Preserve Management Plans approved by ERM for each Agricultural Preserve parcel. (Previous PLANNING condition 2 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ENVIRONMENTAL RESOURCE MANAGEMENT - Planning)

3. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall add a Preservation Area/Proposed Uses" notes section on page 1 of the Master Plan and include the following:

a. The preservation areas approved, as part of this application shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

PERMITTED USES:

- 1) Crop production, pasture or equestrian purposes;
- 2) Civic purposes, such as schools, libraries or fire stations;
- 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the AGR-TMD if approved by the Department of Environmental Resources Management and managed for environmental resource values;
- 4) Wetland or bona fide agricultural uses per the ULDC;
- 5) Other uses as permitted by the required conservation easements;
- 6) Other uses as may be permitted within the protected area of an AGR-TMD consistent with the Comprehensive Plan and the Unified Land Development Code. (Previous PLANNING condition 3 of Resolution R-2011-1110, Control No.2004-00616) (DRO/ONGOING: PLANNING - Planning)

4. Prior to plat recordation for the Delray Marketplace TMD development area, the conservation easements for all of the Preservation parcels shall be recorded, as approved by the County Attorney's Office, the Department of Environmental Resources Management, and the Planning Division.

The conservation easements for all of these preserve parcels shall contain:

a) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;

b) a list of permitted uses, uses not permitted, and prohibited activities.

c) Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (Previous PLANNING condition 4 of Resolution R-2011-1110, Control No.2004-00616) (PLAT: ENGINEERING - Planning)

5. Previous PLANNING condition 5 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Prior to plat recordation for the Delray MarketPlaceTMD Development area, the conservation easement for the 100-foot Lyons Road Rural Parkway Preserve Area shall be recorded for the development area and for the preserve Parcel 1 as approved by the County Attorney's Office, the Engineering Department, and the Planning Division. The conservation easement for the 100' Lyons Road Rural Parkway Preserve Area shall contain:

a. A Landscape Plan that conforms with the approved Rural Parkway Landscape Plan, but not be limited to the following items:

- 1) 90% native trees and palms, and 60% native shrubs;
- 2) a multipurpose path and an equestrian path;
- 3) undulating berms, no taller than five feet; and
- 4) benches/pedestrian gathering area with a water fountain. At least one (1) pedestrian gathering area shall be provided within the 100-foot wide Lyons Road Rural Parkway along this project frontage.

b. The Rural Parkway easement shall not include:

- 1) walls; and,
- 2) structures with the exception of a bus shelter, benches/pedestrian gathering area, and water fountains.

c. The Rural Parkway easement may include:

- 1) A bus stop easement;
- 2) other drainage/utility easements may only be permitted which traverse (run perpendicular to) the Lyons Road Rural Parkway Easement to place drainage/utilities in the developable portion of the TMD; and,
- 3) Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division.
- 4) A ten (10) foot utility easement located adjacent to the Lyons Road right-of-way.

d. A maintenance agreement for continual maintenance of the Rural Parkway that will contain language allowing for the transfer of maintenance to a property owners association or a deed to the County for the County's ownership and maintenance.

e. Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division.

Is hereby amended to read:

Prior to plat recordation for the Delray MarketPlaceTMD Development area, the conservation easement for the 100-foot Lyons Road Rural Parkway Preserve Area shall be recorded for the development area and for the Preserve Parcel 1 as approved by the County Attorney's Office, the Engineering Department, and the Planning Division. The conservation easement for the 100' Lyons Road Rural Parkway Preserve Area shall contain:

a. A Landscape Plan that conforms with the approved Rural Parkway Landscape Plan, but not be limited to the following items:

- 1) 90% native trees and palms, and 60% native shrubs;
- 2) a multipurpose path and an equestrian path;
- 3) undulating berms, no taller than five feet; and
- 4) benches/pedestrian gathering area. At least one (1) pedestrian gathering area shall be provided within the 100-foot wide Lyons Road Rural Parkway along this project frontage.

b. The Rural Parkway easement shall not include:

- 1) walls; and,
- 2) structures with the exception of a bus shelter and benches/pedestrian gathering areas.

c. The Rural Parkway easement may include:

- 1) A bus stop easement;
- 2) other drainage/utility easements may only be permitted which traverse (run perpendicular to) the Lyons Road Rural Parkway Easement to place drainage/utilities in the developable portion of the TMD; and,
- 3) Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division.
- 4) A ten (10) foot utility easement located adjacent to the Lyons Road right-of-way.

d. A maintenance agreement for continual maintenance of the Rural Parkway that will contain language allowing for the transfer of maintenance to a property owners association or a deed to the County for the County's ownership and maintenance.

e. Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENGINEERING - Planning)

6. Should the 100-foot wide Lyons Road Rural Parkway conservation easement not be placed on this property in a form acceptable to the County Attorney, Engineering Department, and Planning Division, prior to February 1st, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. (Previous PLANNING condition 6 of Resolution R-2011-1110, Control No.2004-00616) (DATE: MONITORING - Planning) [Note: COMPLETED]

7. Previous PLANNING condition 7 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to February 1st, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed.

Is hereby amended to read:

Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to March 1st, 2016, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING - Planning)

8. Prior to the issuance of a building permit for any buildings on site, the property owner shall commence construction of the Rural Parkway. (Previous PLANNING condition 8 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPM: PLANNING - Planning) [Note: COMPLETED]

9. Prior to the issuance of a Certificate of Occupancy for any buildings on site, the property owner shall complete construction of the Rural Parkway. (Previous PLANNING condition 9 of Resolution R-2011-1110, Control No.2004-00616) (CO: BUILDING - Planning) [Note: COMPLETED]

10. Previous PLANNING condition 10 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Development on the site shall be limited to a maximum of 320,000 square feet of non-residential uses and 86 dwelling units.

Is hereby amended to read:

Development on the site shall be limited to a maximum of 320,000 square feet of non-residential uses and 96 dwelling units. (ONGOING: PLANNING - Planning)

11. Previous PLANNING condition 11 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide draft updated conservation easements reflecting the change in the development parcel, allowable/prohibited uses and governing Control numbers.

Is hereby deleted. [REASON: no longer applicable]

12. Prior to final site plan approval by the Development Review Officer (DRO), the property owner shall provide the final draft of the Rural Parkway Conservation Easement and Planting Plan for all parcels abutting Lyons Road. (Previous PLANNING condition 12 of Resolution R-2011-1110, Control No.2004-00616) (DRO: PLANNING - Planning) [Note: COMPLETED]

13. Submit an as-built of the entire Rural Parkway associated with the Development Order prior to final approval by the Development Review Officer (DRO). (DRO: PLANNING - Planning)

14. The Single Family structure located on Preserve 3 shall either be converted to an allowable use as identified in the ULDC or removed, with all applicable approvals and or completed demolition permits prior to the approval of the Plat. (PLAT: MONITORING - Planning)

SCHOOL BOARD

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (Previous SCHOOL BOARD condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the school bus shelter shall be constructed by the property owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter(s) shall be the responsibility of the residential property owner. (Previous SCHOOL BOARD condition 2 of Resolution R-2011-1110, Control No.2004-00616) (CO: MONITORING - School Board)

SIGNS

1. Wall signs shall be prohibited on the north and west facade of Building I. (Previous SIGNS condition 1 of Resolution R-2011-1110, Control No.2004-00616) (BLDGPMPT: BUILDING DIVISION - Zoning)

2. Painted wall signs shall be prohibited. (Previous SIGNS condition 2 of Resolution R-

SITE DESIGN

1. Prior to final approval by the Development Review Officer (DRO), a minimum of 60 percent of the building facade shall be designated as Primary Frontage and designed to the Standards for Primary Frontage (excepting the "contiguous" requirement) with the remainder of the building facade designed to Standards for Secondary Frontage for the following facades:

- a. Building A2 (Freestanding Building) east facade;
- b. Building B1 south facade;
- c. Building C2 north facade; and,
- d. Building H north facade. (Previous SITE DESIGN condition 1 of Resolution R-2011-1110, Control No.2004-00616) (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED]

2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate additional decorative paving treatment (pre-cast concrete paver blocks or stamped concrete) as follows:

- a. within the intersections located immediately north of the access drives from West Atlantic Avenue; and,
- b. this paving shall cover the entire area of the applicable drive aisle surface as shown on the approved plan. (Previous SITE DESIGN condition 2 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ZONING - Zoning) [Note: COMPLETED]

3. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to show 100% Primary Frontage for Buildings I-SE west faade and I-SW east faade; and, 100% Secondary Frontage for Freestanding Building C1 north and west facades. (Previous SITE DESIGN condition 3 of Resolution R-2011-1110, Control No.2004-00616) (DRO: ZONING - Zoning) [Note: COMPLETED]

4. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to eliminate any overlap of the Parking Plaza with the required minimum dimensions and plantings of the Terminal Islands. (DRO/ONGOING: ZONING - Zoning)

5. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to provide a minimum of three (3) additional trellis structures to shade the benches indicated in the Parking Plaza for a total of seven (7) trellis structures provided in the Parking Plaza. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted on the property. (Previous USE LIMITATIONS condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

2. Repair or maintenance of vehicles shall not be permitted on the property, excluding incidental and emergency repairs. (Previous USE LIMITATIONS condition 2 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

3. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property, excluding events in the Amphitheater Plaza or other events authorized by a Special Permit. (Previous USE LIMITATIONS condition 3 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

4. One (1) single tenant occupying more than 25,000 square feet shall be permitted within each of the following buildings only, as indicated on the site plan dated April 18, 2011:

- a. Building A1;
- b. Building B1;
- c. Two (2) single tenants occupying more than 25,000 square feet shall be permitted within Building I; and
- d. The indoor entertainment use shall be considered one of the approved single tenants occupying more than 25,000 square feet. The indoor entertainment use may be located within Building B1 or Building I. (Previous USE LIMITATIONS condition 4 of Resolution R-

2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

5. One Type I restaurant that exceeds 1,500 square feet shall be permitted and shall remain in the location as designated on the master plan or shall be subject to the ULDC as amended whichever is less restrictive. (Previous USE LIMITATIONS condition 5 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: CODE ENF - Zoning)

UTILITIES

1. If any relocation/modifications to the County's existing facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (Previous UTILITIES condition 1 of Resolution R-2011-1110, Control No.2004-00616) (ONGOING: PBC WATER UTILITIES - PBC Water Utilities)

2. Previous UTILITIES condition 2 of Resolution R-2011-1110, Control No.2004-00616, which currently states:

Prior to the first Certification of Completion for the project, the Property Owner shall grant to Palm Beach County a minimum 20 feet wide utility easement crossing the preserve area adjacent to the west boundary of the to be developed parcel.

Is hereby amended to read:

Prior to the Certification of Occupancy (CO) for Building E, the Property Owner shall grant to Palm Beach County a minimum 20 feet wide utility easement crossing Tract C of Preserve 3. (CO/ONGOING: PBC WATER UTILITIES - PBC Water Utilities)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: ZONING - Zoning)

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

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: ZONING - Zoning)

DISCLOSURE

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