

RESOLUTION NO. R-2020- 0058

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

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

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code (ULDC), Ordinance 2003-067, Supplement 25, have been satisfied;

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

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

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

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Class A Conditional Use;

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

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

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/DOA/CA-2019-00950, the Application of DR Horton, Inc., Lynx Zuckerman at Fort Myers, LLC, by WGINC, Agent, for a Class A Conditional Use to allow a Type 1 Restaurant with a Drive-Through, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on January 27, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

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

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

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

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:



## EXHIBIT A

### LEGAL DESCRIPTION

#### DESCRIPTION:

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

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

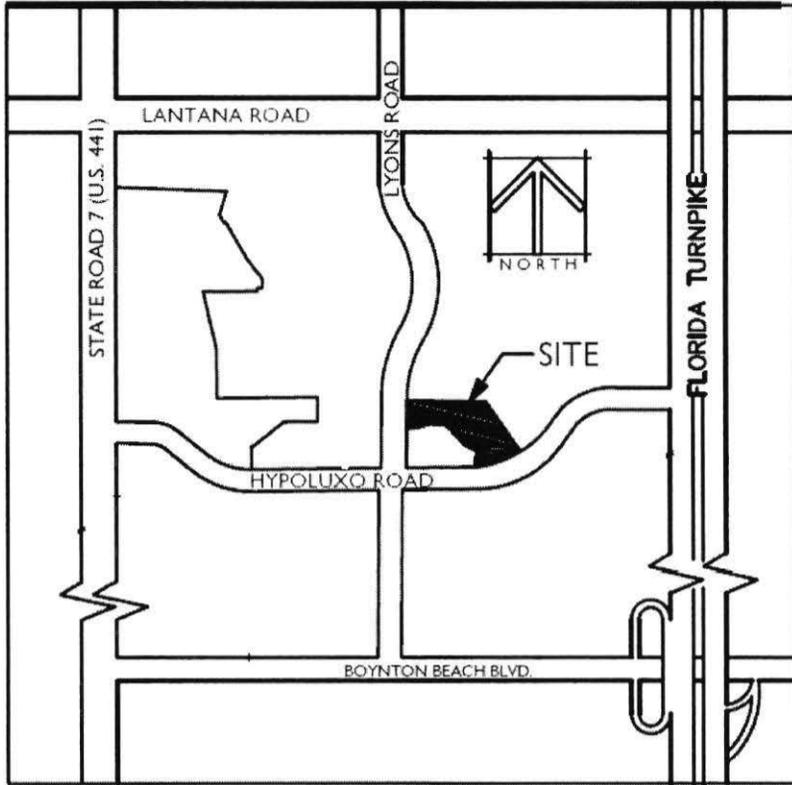
SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

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

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

EXHIBIT B  
VICINITY SKETCH

SITE & LOCATION MAP



CONTEXT MAP

N.T.S.

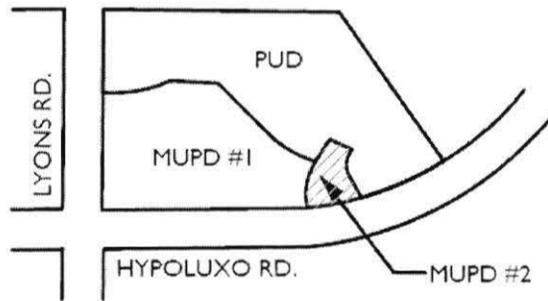


EXHIBIT C

CONDITIONS OF APPROVAL

**Class A Conditional Use- Type 1 Restaurant with a Drive-Through**

**ALL PETITIONS**

1. The approved Preliminary Site Plan is dated November 12, 2019. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

**COMPLIANCE**

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

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

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

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

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

**DISCLOSURE**

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