

RESOLUTION NO. R-2020- 0723

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD/DOA-2019-01902  
(CONTROL NO. 2006-00011)  
a Development Order Amendment  
APPLICATION OF Bethesda Health Inc  
BY Urban Design Kilday Studios, AGENT  
(Bethesda West Hospital)

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 26, have been satisfied;

WHEREAS, Zoning Application ZV/PDD/DOA-2019-01902 was presented to the Board of County Commissioners at a public hearing conducted on June 25, 2020;

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

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

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/PDD/DOA-2019-01902, the Application of Bethesda Health Inc, by Urban Design Kilday Studios, Agent, for a Development Order Amendment to a Class A Conditional Use to reconfigure the Site Plan; add square footage and buildings; add land area; and, to restart the commencement clock, on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on June 25, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth moved for the approval of the Resolution.

The motion was seconded by Commissioner McKinlay 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 June 25, 2020.

Filed with the Clerk of the Board of County Commissioners on June 29th, 2020.

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK  
BOARD OF COUNTY COMMISSIONERS  
PALM BEACH COUNTY, FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1

BETHESDA WEST HOSPITAL MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 113 AT PAGE 73 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS TRACTS "RW-1" AND "RW-2". TOGETHER WITH

PARCEL 2

THAT PART OF TRACT 101, BLOCK 51, THE PALM BEACH FARMS COMPANY PLAT NO. 3, AS IN PLAT BOOK 2, PAGES 45 TO 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SECTION 30, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RUN SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 30, 150.0 FEET TO THE CENTERLINE OF BOYNTON WEST ROAD (SR #804); THENCE RUN EASTERLY ALONG THE CENTERLINE OF SAID SR #804, 1019.11 FEET TO A POINT; THENCE RUN NORTHERLY AT AN ANGLE OF 90°00' (TURNED FROM WEST TO NORTH) FROM THE CENTERLINE OF SR #804 A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING. FROM THE POINT OF BEGINNING, RUN EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF SR #804, 208.17 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES TO THE SAID RIGHT-OF-WAY LINE OF SR #804, 200.00 FEET TO A POINT; THENCE WESTERLY, PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SR #804, 208.17 FEET TO A POINT; THENCE AT AN ANGLE OF 90°00' (TURNED FROM EAST TO SOUTH) WITH THE LAST DESCRIBED COURSE, RUN 200.00 FEET TO THE POINT OF BEGINNING.

AND

THAT PART OF TRACT 101 AND TRACT 102, BLOCK 51, THE PALM BEACH FARMS COMPANY PLAT NO. 3, AS IN PLAT BOOK 2, PAGES 45 TO 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SECTION 30, TOWNSHIP 45 SOUTH, RANGE 42 EAST, RUN SOUTHERLY ALONG THE WEST LINE OF SAID SECTION 30, 150.0 FEET TO THE CENTERLINE OF BOYNTON WEST ROAD (SR #804); THENCE RUN EASTERLY ALONG THE CENTERLINE OF SAID SR #804, 1227.28 FEET TO A POINT; THENCE RUN NORTHERLY AT AN ANGLE OF 90°00' (TURNED FROM WEST TO NORTH) FROM THE CENTER LINE OF SR #804 A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING. FROM THE POINT OF BEGINNING, RUN EASTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF SR #804, 217.80 FEET TO A POINT; THENCE NORTHERLY AND AT RIGHT ANGLES TO THE SAID RIGHT-OF-WAY LINE OF SR #804, 200.00 FEET TO A POINT, THENCE WESTERLY, PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SR #804, 217.80 FEET TO A POINT; THENCE AT AN ANGLE OF 90°00' (TURNED FROM EAST TO SOUTH) WITH THE LAST DESCRIBED COURSE, RUN 200.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT LAND TAKEN BY ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 10707, PAGE 61, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 126 STATE ROAD 7 FEE SIMPLE RIGHT OF WAY  
A PORTION OF TRACT 101 AND TRACT 102, BLOCK 51, THE PALM BEACH

FARMS CO. PLAT NO, 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 30, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

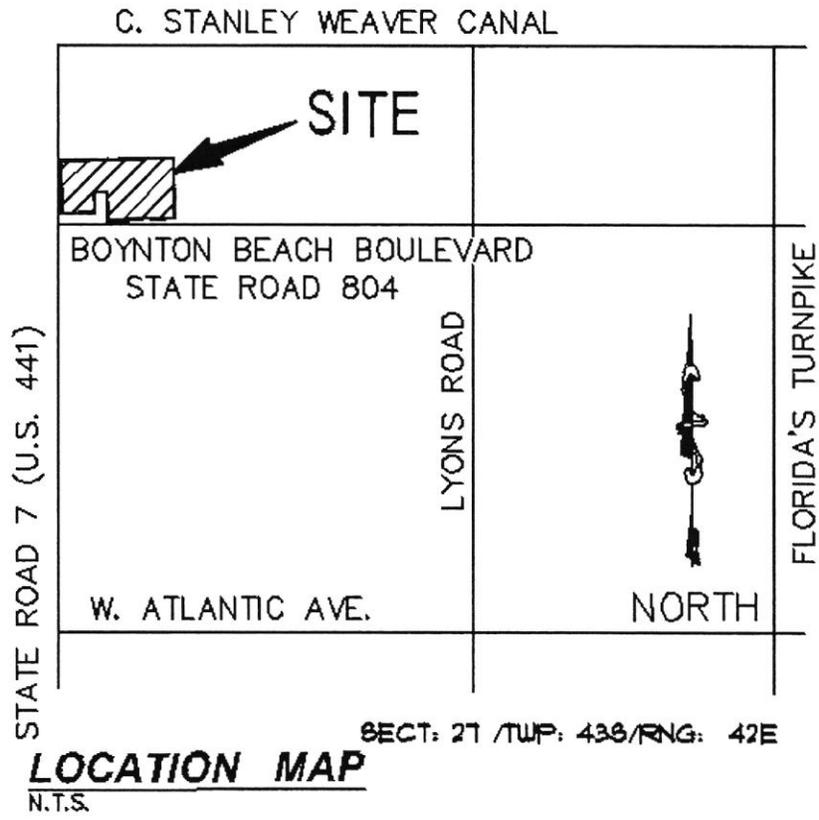
COMMENCE AT A FOUND PALM BEACH COUNTY BRASS DISC IN CONCRETE MARKING THE NORTHWEST CORNER OF SAID SECTION 30; THENCE NORTH 89° 02' 01" EAST, A DISTANCE OF 1.308 METERS (4.29 FEET) TO A POINT ON THE BASELINE OF SURVEY FOR STATE ROAD 7 (U.S. 441) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP FOR SECTION 93210-2524, THENCE SOUTH 00° 57' 59" EAST ALONG SAID BASELINE OF SURVEY, A DISTANCE OF 44.080 METERS (144.62 FEET) TO A POINT ON THE BASELINE OF SURVEY FOR STATE ROAD 804 (BOYNTON BEACH BOULEVARD) AS SHOWN ON SAID MAP; THENCE NORTH 89° 06'26" EAST ALONG SAID BASELINE OF SURVEY, A DISTANCE OF 231.542 METERS (759.65 FEET); THENCE NORTH 00° 53' 34" WEST AT A RIGHT ANGLE TO THE LAST DESCRIBED COURSE, A DISTANCE OF 12.192 METERS (40.00) FEET TO A POINT ON THE NORTHERLY EXISTING RIGHT OF WAY LINE FOR STATE ROAD 804 (BOYNTON BEACH BOULEVARD); THENCE NORTH 89° 06' 26" EAST ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE AND A LINE 12.192 METERS (40.00 FEET) NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, A DISTANCE OF 77.607 METERS (254.62 FEET) TO THE POINT OF BEGINNING; THENCE NORTH 00° 53' 34" WEST A DISTANCE OF 11.658 METERS (38.25 FEET); THENCE NORTH 89° 06' 26" EAST A DISTANCE OF 129.839 METERS (425.98 FEET); THENCE SOUTH 00° 53' 34" EAST, A DISTANCE OF 11.658 METERS (38.25 FEET) TO A POINT ON THE NORTHERLY EXISTING RIGHT OF WAY LINE FOR SAID STATE ROAD 804 (BOYNTON BEACH BOULEVARD); THENCE SOUTH 89° 06' 26" WEST ALONG SAID NORTHERLY EXISTING RIGHT OF WAY LINE AND A LINE 12.192 METERS (40.00 FEET) NORTHERLY OF AND PARALLEL WITH SAID BASELINE OF SURVEY, A DISTANCE OF 129.839 METERS (425.98 FEET) TO THE POINT TO BEGINNING.

ALL OF SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 2,624,810 SQUARE FEET/60.2573 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

#### **Development Order Amendment (Class A Conditional Use)**

##### **ALL PETITIONS**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2012-775, Control No.2006-00011, which currently states:

The approved Preliminary Site Plan is dated April 18, 2012. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission.

##### **Is hereby amended to read:**

The approved Preliminary Site Plan is dated March 9, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2012-0775 (Control No. 2006-00011), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

3. Previous ALL PETITIONS Condition 2 of Resolution R-2012-775, Control No.2006-00011, which currently states:

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.

##### **Is hereby amended to read:**

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

##### **ARCHITECTURAL REVIEW**

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2012-775, Control No.2006-00011, which currently states:

At time of submittal for final approval by the Development Review Officer (DRO), the architectural elevations for the primary Hospital building shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ZONING - Arch. Review) (Previous Architectural Review Condition 1. of Resolution R-2011-0425) (DRO: ARCHITECTURAL REVIEW - Zoning)

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

2. The maximum height for the two Medical Office Buildings (MOB) A and B located on the west portion of the site shall not exceed thirty-eight (38) feet. Mechanical Equipment and

other uses cited in Article 3.D.1.E.4 of the ULDC may exceed the maximum height in accordance with this section. All heights shall be measured from finished grade to highest point. (BLDGPM: ARCHITECTURAL REVIEW - Zoning) (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2012-775, Control No.2006-00011)

## **ENGINEERING**

1. Previous ENGINEERING Condition 1 of Resolution R-2012-775, Control No.2006-00011, which currently states:

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

a. No Building Permits for the site may be issued after December 31, 2016. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING-Eng) (DATE: MONITORING - Engineering)

b. Building Permits for more than:

- 190,090 square feet of gross leasable Hospital floor area
- 55,486 square feet of gross leasable Medical Office floor area shall not be issued until contract has been awarded for the construction of Hypoluxo Road as a 4 lane facility from Lyons Road to Hagen Ranch Road plus the appropriate paved tapers. (BLDG PERMIT: MONITORING-Eng) (Previous Engineering Condition 1 of Resolution R-2011-0425, Control No. 2006-011) [Note: COMPLETED]

### **Is hereby amended to read:**

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

a. No Building Permits for the site may be issued after December 31, 2023. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

b. Building Permits for more than:

- 190,090 square feet of gross leasable Hospital floor area
- 55,486 square feet of gross leasable Medical Office floor area shall not be issued until contract has been awarded for the construction of Hypoluxo Road as a 4 lane facility from Lyons Road to Hagen Ranch Road plus the appropriate paved tapers. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

2. Prior to the issuance of a building permit the property owner shall provide to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the project's middle and east 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. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDG PERMIT: MONITORING-Eng) [Note: COMPLETED] (Previous Engineering Condition E4 of Resolution R-2011-0425, Control No. 2006-011)

Prior to issuance of the first building permit, the property owner shall provide a cross access easement to the property owner to the north and the property owner to the south. Locations of these cross access easements shall be approved by the County Engineer. Legal Sufficiency for this cross access easement shall be approved by the County

Attorney. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2012-775, Control No.2006-00011)

3. The Property owner shall construct:

- right turn lane south approach on SR 7 at the project's entrance onto SR 7.
- restricted median opening and associated left turn north approach on SR 7 at the project's entrance onto SR 7.
- right turn lane east approach on Boynton Beach Boulevard at each of the project's entrances onto Boynton Beach Boulevard.
- relocate the proposed median opening on Boynton Beach Boulevard to the project's middle entrance onto Boynton Beach Boulevard to provide for a left turn lane east and west approaches.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from the Florida Department of Transportation this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: MONITORING - Eng) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2012-775, Control No.2006-00011)

4. Landscape Within the Median of SR 7 and Boynton Beach Boulevard

a. The Property Owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of S R 7 and Boynton Beach Boulevard. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph D below.

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. [Note: COMPLETED]

d. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along SR 7 and Boynton Beach Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended.

(CO/ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2012-775, Control No.2006-00011)

5. SIGNALIZATION REQUIRMENTS - Boynton Beach Boulevard and the project's middle entrance:

The Property Owner shall fund the cost of signal installation if warranted as determined by the Florida Department of Transportation at Boynton Beach Boulevard and the project middle entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation.

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. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. In order to request release of the surety for the traffic signal at Boynton Beach Boulevard and the project middle entrance, 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 this location. 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. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2012-775, Control No.2006-00011)

6. The signal surety amount posted as per condition number Eng 5.a shall be updated due to the long gap between when the signal surety was posted and the current application and the significant increase in cost since posting of the initial surety.

a. No new building permits shall be issued until the initial signal surety amount already posted for the intersection of Boynton Beach Blvd and the project's main entrance (middle driveway) has been adjusted based on the latest cost estimates, as determined by the Director of the Traffic Division and the balance has been posted with the Traffic Division. (BLDGPMT: MONITORING - Engineering)

7. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

8. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Boynton Beach Boulevard, 60 feet, measured from centerline of the proposed right of way on an alignment approved by the FDOT or County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project s entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney s opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney s fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has

been completed. (BLDGPMT: MONITORING - Engineering)

9. The Property Owner shall fund the construction plans and the construction to lengthen the existing right turn lane east approach on Boynton Beach Boulevard at the middle Project entrance. This turn lane shall be lengthened to a minimum 280 feet in length plus 50 foot paved taper. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for improvements identified above shall be obtained from the Florida Department of Transportation prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

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

## **HEALTH**

1. The property owner shall not develop any areas of the site that is identified as contaminated or potentially contaminated as determined through environmental site assessments performed by a qualified professional, unless the property owner is in receipt or written comments from the Florida Department of Environmental Protection (FDEP) or Palm Beach County's Environmental Resource Management (ERM) approving the assessment and any site rehabilitation for which FDEP or ERM has jurisdiction. (ONGOING: CODE ENF-Health-ERM) [Note: COMPLETED] (Previous HEALTH Condition 1 of Resolution R-2012-775, Control No. 2006-00011)

## **LANDSCAPE - GENERAL**

1. Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDGPMT: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2012-775, Control No. 2006-00011)

2. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2012-775, Control No. 2006-00011)

3. Field adjustment of berm 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. (BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2012-775, Control No. 2006-00011)

4. All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer (DRO). (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2012-775, Control No. 2006-00011)

5. 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.

(BLDGPMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 5 of Resolution R-2012-775, Control No. 2006-00011)

6. A minimum of sixty (60%) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

a. tree height: fourteen (14) feet;

b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;

c. canopy diameter: seven (7) feet diameter shall be determined by the average canopy

radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and,

d. credit may be given for existing or relocated trees provided they meet ULDC requirements.

(BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 6 of Resolution R-2012-775, Control No. 2006-00011)

#### **LANDSCAPE - PERIMETER**

#### **7. LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTHEAST AND SOUTHWEST PROPERTY LINES (FRONTAGE OF BOYNTON BEACH BOULEVARD)**

Landscaping and buffering along the southeast and southwest property lines shall be upgraded to include:

a. a minimum twenty-five (25) foot wide landscape buffer strip, No width reduction shall be permitted;

b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;

c. one (1) native canopy tree (Live Oak) for each twenty-five (25) linear feet of the property line;

d. one (1) palm (Royal Palm) tree for each fifty (50) feet on center; Ixora 'Nora Grant' shall be planted in a bed at the base of each Royal Palm;

e. one (1) small shrub for each two (2) linear feet of the property line;

f. Shrub shall be a minimum of eighteen (18) inches at installation;

g. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum of twenty-four (24) inches at installation; and,

h. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum of thirty (30) inches at installation. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 7 of Resolution R-2012-775, Control No. 2006-00011)

#### **8. LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE WEST PROPERTY LINE**

In addition to the code requirements and the proposed landscaping, landscaping and/or buffer width along the west property line shall be upgraded to include:

a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDGPM: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 8 of Resolution R-2012-775, Control No. 2006-00011)

#### **9. LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES**

In addition to the code requirements and the proposed landscaping, landscaping and/or buffer width along the north and east property lines shall be upgraded to include:

a. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDGPM: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 9 of Resolution R-2012-775, Control No. 2006-00011)

#### **PALM TRAN**

1. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement 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. (PLAT: ENGINEERING - Palm-Tran) [Note: COMPLETED] (Previous PALM TRAN Condition 1 of Resolution R-2012-775, Control No. 2006-00011)

2. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the

approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM-TRAN - Palm-Tran) [Note: COMPLETED] (Previous PALM TRAN Condition 2 of Resolution R-2012-775, Control No. 2006-00011)

3. Prior to final approval by the Development Review Officer (DRO), the property owner shall amend the Master Site Plan to indicate mass transit circulation, bus access, and/or bus stops on or adjacent to the subject property. (DRO: PALM-TRAN - Zoning) [Note: COMPLETED] (Previous PALM TRAN Condition 3 of Resolution R-2012-775, Control No. 2006-00011)

## **SIGNS**

1. Previous SIGNS Condition 1 of Resolution R-2012-775, Control No.2006-00011, which currently states:

Freestanding signs fronting on Boynton Beach Boulevard and US Highway No. 441 (State Road 7) shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - twelve (12) feet;
- b. maximum sign face area per side one hundred and fifty (150) square feet;
- c. maximum number of signs - two (2) per frontage;
- d. style - monument style only;
- e. location - Boynton Beach Boulevard and U S Highway No. 441 (State Road 7). (BLDG PERMIT: BLDG - Zoning) (Previous Sign Condition 1 of Resolution R-2011-0425)

**Is hereby deleted.** [REASON: Code Requirement and subject of Concurrent Type 2 Variance.]

## **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.