

RESOLUTION NO. R-2022- 0386

RESOLUTION APPROVING ZONING APPLICATION SV/PDD/CA-2021-00460
(CONTROL NO. 2012-00424)
an Official Zoning Map Amendment
APPLICATION OF Greg Jacob, All Seasons of Delray Beach LLC - Peter L Odorico
BY WGINC, AGENT
(All Seasons Delray Beach)

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 as amended, have been satisfied;

WHEREAS, Zoning Application SV/PDD/CA-2021-00460 was presented to the Board of County Commissioners at a public hearing conducted on April 28, 2022;

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 an Official Zoning Map 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 SV/PDD/CA-2021-00460, the Application of Greg Jacob, All Seasons of Delray Beach LLC - Peter L Odorico, by WGINC, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District, 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 April 28, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

Commissioner Robert S. Weinroth, Mayor	- Aye
Commissioner Gregg K. Weiss, Vice Mayor	- Aye
Commissioner Maria G. Marino	- Aye
Commissioner Dave Kerner	- Aye
Commissioner Maria Sachs	- Aye
Commissioner Melissa McKinlay	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 28, 2022.

Filed with the Clerk of the Board of County Commissioners on April 28th, 2022

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2021-00009.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

Legal Description Parent Parcel (9.729 AC)

TRACT 81, THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 26, LYING WITHIN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

LESS AND EXCEPT THAT PARCEL IN ORDER OF TAKING RECORDED IN O. R. BOOK 18414, PAGE 774, DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WITHIN TRACT 81, BLOCK 20, PALM BEACH FARMS CO. PLAT NO. 1, AS RECORDED IN PLAT BOOK 2, PAGE 26, IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT SOUTHWEST CORNER OF SAID TRACT 81, THENCE NORTH 01 DEGREES 52 MINUTES 21 SECONDS WEST, ALONG THE WEST LINE OF SAID TRACT 81, A DISTANCE OF 667.98 FEET; THENCE NORTH 89 DEGREES 23 MINUTES 19 SECONDS EAST, ALONG THE NORTH LINE OF SAID TRACT 81, A DISTANCE OF 45.01 FEET; THENCE SOUTH 01 DEGREES 52 MINUTES 21 SECONDS EAST, ALONG A LINE 45.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE WEST LINE OF SAID TRACT 81, A DISTANCE OF 667.98 FEET; THENCE SOUTH 89 DEGREES 23 MINUTES 19 SECONDS WEST ALONG THE SOUTH LINE OF SAID TRACT 81, A DISTANCE OF 45.01 FEET TO THE POINT OF BEGINNING. BEARINGS ARE BASED ON THE WEST LINE OF BLOCK 20 HAVING AN ASSUMED BEARING OF NORTH 01 DEGREES 52 MINUTES 21 SECONDS WEST.

PARCEL 2:

TRACT 82, THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 26, LYING WITHIN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST.

TOTAL 9.729, ACRES, 423808 SQUARE FEET.

Legal Description On-site Preserve Parcel A (0.975 AC)

BEING A PORTION OF TRACT 82, THE PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 2, PAGE 26, LYING WITHIN SECTION 20, TOWNSHIP 46 SOUTH, RANGE 42 EAST. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT 82; THENCE, ALONG THE EAST LINE OF SAID TRACT 82, NORTH 01°50'58" WEST, A DISTANCE OF 229.21 FEET; THENCE, DEPARTING SAID EAST LINE, SOUTH 88°09'02" WEST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 01°50'58" EAST, A DISTANCE OF 183.76 FEET; THENCE SOUTH 89°23'19" WEST, A DISTANCE OF 242.09 FEET; THENCE NORTH 00°36'12" WEST, A DISTANCE OF 43.03 FEET; THENCE NORTH 89°06'02" EAST, A DISTANCE OF 13.10 FEET; THENCE NORTH 01°41'56" WEST, A DISTANCE OF 140.50 FEET; THENCE NORTH 89°24'49" EAST, A DISTANCE OF 227.68 FEET TO THE POINT OF BEGINNING.

CONTAINING 42,470 SQUARE FEET OR 0.9750 ACRES, MORE OR LESS.

Legal Description Off-site Preserve Parcel B (5 AC)

A PORTION OF TRACTS 31 AND 32, BLOCK 61, PALM BEACH FARMS COMPANY PLAT NO.3 ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45

THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID TRACT 31, THENCE
NORTH 00°37'11" WEST, ALONG THE WEST LINE OF SAID TRACT 31, A DISTANCE
OF
55.00 FEET; THENCE NORTH 89°28'29" EAST, ALONG A LINE PARALLEL WITH AND
55.00 FEET
NORTH OF THE SOUTH LINE OF SAID TRACTS 31 AND 32, A DISTANCE OF 647.08
FEET
TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE
NORTH
00°58'21" WEST, A DISTANCE OF 466.70 FEET; THENCE NORTH 89°28'29" EAST, A
DISTANCE OF 466.70 FEET TO THE WEST RIGHT OF WAY LINE OF STATE ROAD 7,
AS
DESCRIBED IN OFFICAL RECORDS BOOK 11107, PAGE 992 OF THE PUBLIC
RECORDS
OF SAID PALM BEACH COUNTY; THENCE SOUTH 00°58'21" EAST, ALONG SAID
WEST
RIGHT OF WAY LINE, A DISTANCE OF 466.70 FEET; THENCE SOUTH 89°28'29"
WEST,
ALONG A LINE PARALLEL WITH AND 55.00 FEET NORTH OF THE SOUTH LINE OF
SAID
TRACTS 31 AND 32, A DISTANCE OF 466.70 FEET TO THE POINT OF BEGINNING.

AREA: 217,803 SQFT 5.000 ACRES

EXHIBIT B
VICINITY SKETCH

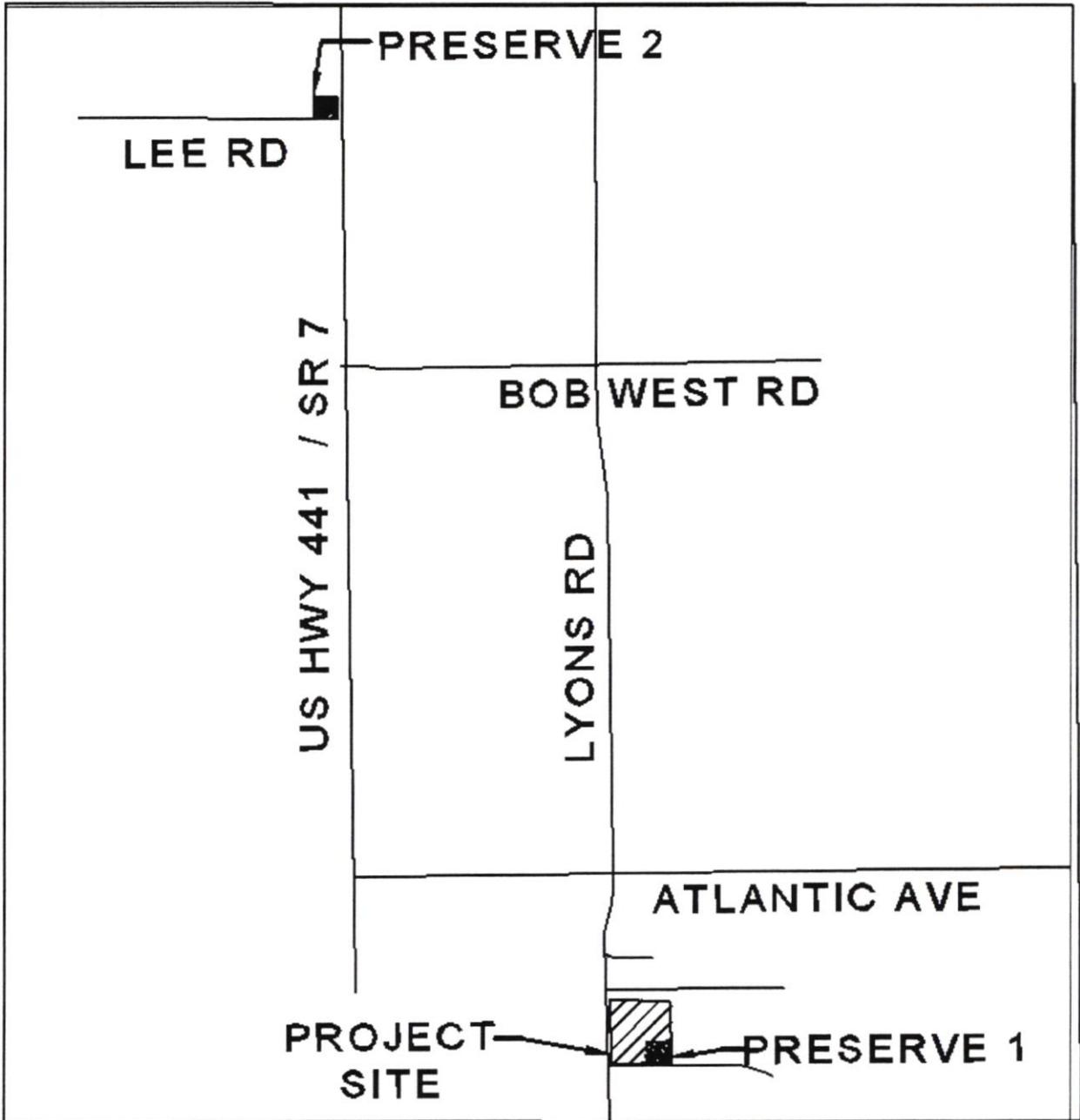


EXHIBIT C

CONDITIONS OF APPROVAL

PDD- PLANNED DEVELOPMENT DISTRICT

ALL PETITIONS

1. The approved Site Plan is dated February 16, 2022. 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: MONITORING - Zoning)

ENGINEERING

1. 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, 2026, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. 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. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Lyons Road, 55 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. 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 not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

4. The Property Owner shall submit an access and drainage easement to the County over 156th Court over the north 25 feet of the property. The easement shall be approved by the Land Development Division prior to recordation. The easements shall be recorded by the

Property Owner prior to the final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

5. Within ninety (90) days notice by the County Engineer, the Property Owner shall provide a roadway construction easement to Palm Beach County along Lyons Road, a minimum of 10 feet in width, or as otherwise approved by the County Engineer. This roadway construction easement shall also contain an isosceles trapezoid connecting the Corner Clips across this Property Owner's entrance. 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. (ONGOING: ENGINEERING - Engineering)

6. The Property Owner shall reconstruct Linton Boulevard from Lyons Road to the project entrance to be consistent with Palm Beach County standards for a non-plan collector roadway, as approved by the County Engineer. 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 Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)

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

7. Prior to the recordation of the plat, the Property Owner shall abandon or release, and relocate if necessary, the roadway easement over the south 15 feet of the property. (PLAT: MONITORING - Engineering)

8. Compensating storage shall be provided for any loss of storage due to the proposed driveway on Linton Boulevard within the County right-of-way. During the review of the right-of-way permit, if the proposed driveway does not reduce the designed storage for Lyons Road and Linton Boulevard, then this condition can be marked complete.

a. Permits required from Palm Beach County for this construction shall be obtained within 60 days of the first building permit. (ONGOING: MONITORING - Engineering)

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

9. Prior to the Final Site Plan approve, the Property Owner shall remove any easements from the site plan that have already been abandoned. (DRO: ENGINEERING - Engineering)

10. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

11. Landscape Within the Median of Lyons Road

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Lyons Road. 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

Commissioner's approval. Median landscaping installed by the 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 c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

c. 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: MONITORING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Lyons Road. 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. (BLDGPM: MONITORING - Engineering)

PLANNING

1. Per LGA 2021-009, Condition 1: The development of the site with a CLF shall provide a minimum of 4.87 acres of offsite preserve area and 0.97 acres of onsite preserve area. (ONGOING: PLANNING - Planning)

2. Offsite Preserve 2: uses shall be subject to FLUE Policy 1.5.1-n and offsite parking associated with the adjacent farmers market shall be prohibited. (ONGOING: PLANNING - Planning)

3. The areas designated as AGR Preserve are intended to support, preserve and perpetuate bona fide agricultural and open space uses, and to preserve any environmentally significant upland or wetland habitats located within that designated area. The following are a general list of permitted and prohibited uses that are including but not limited to the following:

1. Permitted Uses. Areas designated for AGR preserve may use the Property for:

a. Crop production, pasture, equestrian activities, wholesale or retail nursery operation, fallow land or as specified in Comprehensive Plan Policy 1.5.1-n unless further limited by conditions specific to the request;

b. Construction and maintenance of structures essential to the uses listed in subsection 1a., above, such as barns, stables, pumps, and pump houses, but specifically excluding agricultural support structures such as processing facilities, which are prohibited;

c. Wetland restoration and maintenance, or bona fide agriculture as defined by the Code;

d. Those other activities authorized within a Preservation Area consistent with the most current uses permitted by the Code and consistent with applicable provisions of the Comprehensive Plan.

2. Prohibited Uses. Any use of or on the Property that is not specifically listed or included in Section 2, above, or that is inconsistent with agricultural, environmentally significant uplands or wetlands, or open space preservation is prohibited by this Easement. (ONGOING: PLANNING - Planning)

4. Prior to Final Approval by the Development Review Officer (DRO), all applicable plans and documents shall be amended to be consistent with LGA 2021-009 as approved by the Board of County Commissioners. (DRO: PLANNING - Planning)

5. Submit an approved Preserve Management Plan for each preserve area prior to approval by the Development Review Officer (DRO). The management plans shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan for exotic removal and maintenance. The preserve management Plan shall be approved by ERM. (DRO: PLANNING - Planning)

6. Prior to the release of the 1st Building Permit for the Development Area, all of 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.

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

- 1) 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;
- 2) a list of permitted uses, uses not permitted, and prohibited activities.

b. 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. (BLDGPM: MONITORING - Planning)

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.