

RESOLUTION NO. R-2024- 0412

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/CA-2023-01491

(CONTROL NO. 2013-00296)

a Development Order Amendment

APPLICATION OF Elan Polo Gardens Owner LLC, Konover South LLC - David Coppa

BY JMorton Planning & Landscape Architecture, AGENT

(Polo Gardens MUPD)

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, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application ABN/DOA/CA-2023-01491, the Application of Konover South LLC – David Coppa & Elan Polo Gardens Owner LLC, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Abandonment to abandon resolution R-2023-0551 which approved a Class A Conditional Use for a Hospital, a Development Order Amendment to modify the overall MUPD to modify the Site Plan to add and delete uses, and to modify Conditions of Approval, and a Class A Conditional Use to allow a Type 1 Restaurant with a drive-through on 25.79 acres was presented to the Board of County Commissioners at a public hearing conducted on April 25, 2024;

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,

1. The foregoing recitals are true and correct and are incorporated herein.

2. Zoning Application ABN/DOA/CA-2023-01491, the Application of Elan Polo Gardens Owner LLC, Konover South LLC - David Coppa, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to modify the overall MUPD to modify the Site Plan to add and delete uses, and modify Conditions of Approval on 25.79 acres, 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 25, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Baxter moved for the approval of the Resolution.

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

Commissioner Maria Sachs, Mayor	- Aye
Commissioner Maria G. Marino, Vice Mayor	- Aye
Commissioner Gregg K. Weiss	- Aye
Commissioner Michael A. Barnett	- Aye
Commissioner Marci Woodward	- Aye
Commissioner Sara Baxter	- Aye
Commissioner Mack Bernard	- Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on April 25, 2024.

Filed with the Clerk of the Board of County Commissioners on April 25, 2024.

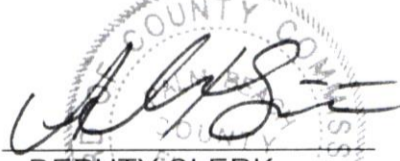
This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK




EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS 13 AND 14, BLOCK 28, OF THE PALMS BEACH FARMS CO. PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
PARCEL A

TRACT 4 AND THE EAST 40 FEET OF TRACT 5, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS AND EXCEPT THEREFROM THAT PORTION OF SUBJECT PROPERTY TAKEN BY PALM BEACH COUNTY AS DESCRIBED IN THAT STIPULATED ORDER OF TAKING RECORDED MARCH 7, 1990 IN OFFICIAL RECORDS BOOK 6377, PAGE 854, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT:

PARCEL I

A PORTION OF TRACTS 4 AND 5, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 4; THENCE N.00°56'30"W. ALONG THE WEST LINE OF SAID TRACT 4, A DISTANCE OF 4.79 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 569.86 FEET; THENCE N.89°02'30"E. ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957 OF SAID PUBLIC RECORDS, A DISTANCE OF 43.18 FEET; THENCE S.00°33'30"W., A DISTANCE OF 254.91 FEET; THENCE S.02°17'54"W., A DISTANCE OF 72.90 FEET; THENCE S.14°42'20"W., A DISTANCE OF 73.49 FEET; THENCE S.03°15'02"W., A DISTANCE OF 171.96 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 5; THENCE S.89°03'30"W. ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 40.00 FEET; THENCE N.00°56'30"W. ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 296.11 FEET; THENCE N.02°17'54"E., A DISTANCE OF 28.12 FEET; THENCE N.00°33'30"E., A DISTANCE OF 54.52 FEET; THENCE N.02°11'32"W., A DISTANCE OF 125.03 FEET; THENCE N.00°33'30"E., A DISTANCE OF 70.97 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957 OF SAID PUBLIC RECORDS; THENCE N.89°02'30"E. ALONG SAID SOUTH LINE, A DISTANCE OF 37.85 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 5; THENCE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 574.64 FEET TO THE POINT OF BEGINNING.

PARCEL II

A PORTION OF TRACT 5, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE S.00°56'30"E. ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 85.36 FEET; THENCE S.89°02'30"W. ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957 OF SAID PUBLIC RECORDS, A DISTANCE OF 37.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°02'30"W. ALONG SAID SOUTH LINE, A DISTANCE OF 2.15 FEET; THENCE S.00°56'30"E. ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 278.52 FEET; THENCE N.02°17'54"E., A DISTANCE OF 28.12 FEET; THENCE N.00°33'30"E., A DISTANCE OF 54.52 FEET; THENCE N.02°11'32"W., A DISTANCE OF 125.03 FEET; THENCE N.00°33'30"E. A DISTANCE OF 70.97 FEET TO THE POINT OF BEGINNING.

PARCEL B

A PORTION OF TRACT A, OF FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 183, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO BEING A PORTION OF TRACT 13 AND 14, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO.3, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 13; THENCE N.89°03'30"E. ALONG THE NORTH LINE THEREOF, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°03'30"E. ALONG THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 1,219.64 FEET TO THE NORTHEAST CORNER OF SAID TRACT 14; THENCE S.00°56'30"E ALONG THE EAST LINE OF SAID TRACT 14, A DISTANCE OF 110.00 FEET; THENCE S.89°03'30"W ALONG A LINE 110.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 1,319.64 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 13; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 60.00 FEET; THENCE N.89°03'30"E ALONG A LINE 50.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 13, A DISTANCE OF 100.00 FEET; THENCE N.00°56'30"W. ALONG A LINE 100.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID TRACT 13, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

PARCEL C

A PORTION OF TRACT A, OF FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 183, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO BEING A PORTION OF TRACT 13 AND 14, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO.3, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 13; THENCE S.00°56'30"E. ALONG THE WEST LINE THEREOF, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING; THENCE N.89°03'30"E. ALONG A LINE 110.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 797.03 FEET; THENCE S.00°31'39"E., A DISTANCE OF 514.76 FEET; THENCE S.89°03'30"W., A DISTANCE OF 749.20 FEET; THENCE S.42°11'26"W., A DISTANCE OF 43.78 FEET; THENCE N.04°40'47"W., A DISTANCE OF 217.35 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 13; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 329.82 FEET THE POINT OF BEGINNING.

ALSO DESCRIBED AS:

A PORTION OF PARCEL A, FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 123, PAGES 80 THROUGH 95, TOGETHER WITH A PORTION OF TRACTS 4 AND 5, BLOCK 28, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL A; THENCE S.00°56'30"E. ALONG THE EAST LINE THEREOF, A DISTANCE OF 546.74 FEET; THENCE DEPARTING SAID EAST LINE, S.89°03'30"W., A DISTANCE OF 1,275.60 FEET; THENCE N.47°56'30"W., A DISTANCE OF 52.25 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID PARCEL A; THENCE ALONG THE WEST LINE OF SAID PARCEL A, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; N.04°40'47"W., A DISTANCE OF 89.49 FEET; THENCE N.00°56'30"W., A DISTANCE OF 389.82 FEET; THENCE N.89°03'30"E., A DISTANCE OF 100.00 FEET; THENCE N.00°56'30"W., A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL A; THENCE S.89°03'30"W., A DISTANCE OF 100.00 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 4, BLOCK 28; THENCE N.00°56'30"W. ALONG THE WEST LINE THEREOF, A DISTANCE OF 4.79 FEET; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF POLO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 28941, PAGE 7 OF SAID PUBLIC RECORDS, THE FOLLOWING FIVE (5) COURSES AND DISTANCES; N.03°15'02"E., A DISTANCE OF 171.96 FEET; THENCE N.14°42'20"E., A DISTANCE OF 73.49 FEET; THENCE N.02°17'54"E., A DISTANCE OF 72.90 FEET; THENCE N.00°33'30"E., A DISTANCE OF 254.91 FEET; THENCE S.89°02'30"W., A DISTANCE OF 43.19 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 4, BLOCK 28; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 29.25 FEET; THENCE N.89°03'30"E. ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 659.82 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 4, BLOCK 26; THENCE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 603.90 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID PARCEL A; THENCE N.89°03'30"E. ALONG SAID NORTH LINE, A DISTANCE OF 659.82 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACT 5, BLOCK 28, PALM BEACH FARMS PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PAM BEACH COUNTY, FLORIDA.

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5, BLOCK 28; THENCE S.00°56'30"E. ALONG THE EAST LINE THEREOF, A DISTANCE OF 52.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 33.22 FEET; THENCE S.89°02'30"W., A DISTANCE OF 40.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST 40.00 FEET OF SAID TRACT 5, BLOCK 28; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 33.23 FEET; THENCE N.89°03'30"E. ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING

SAID LANDS LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST.

PALM BEACH COUNTY, FLORIDA.

CONTAINING 1,123,577 SQUARE FEET/25.7938 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

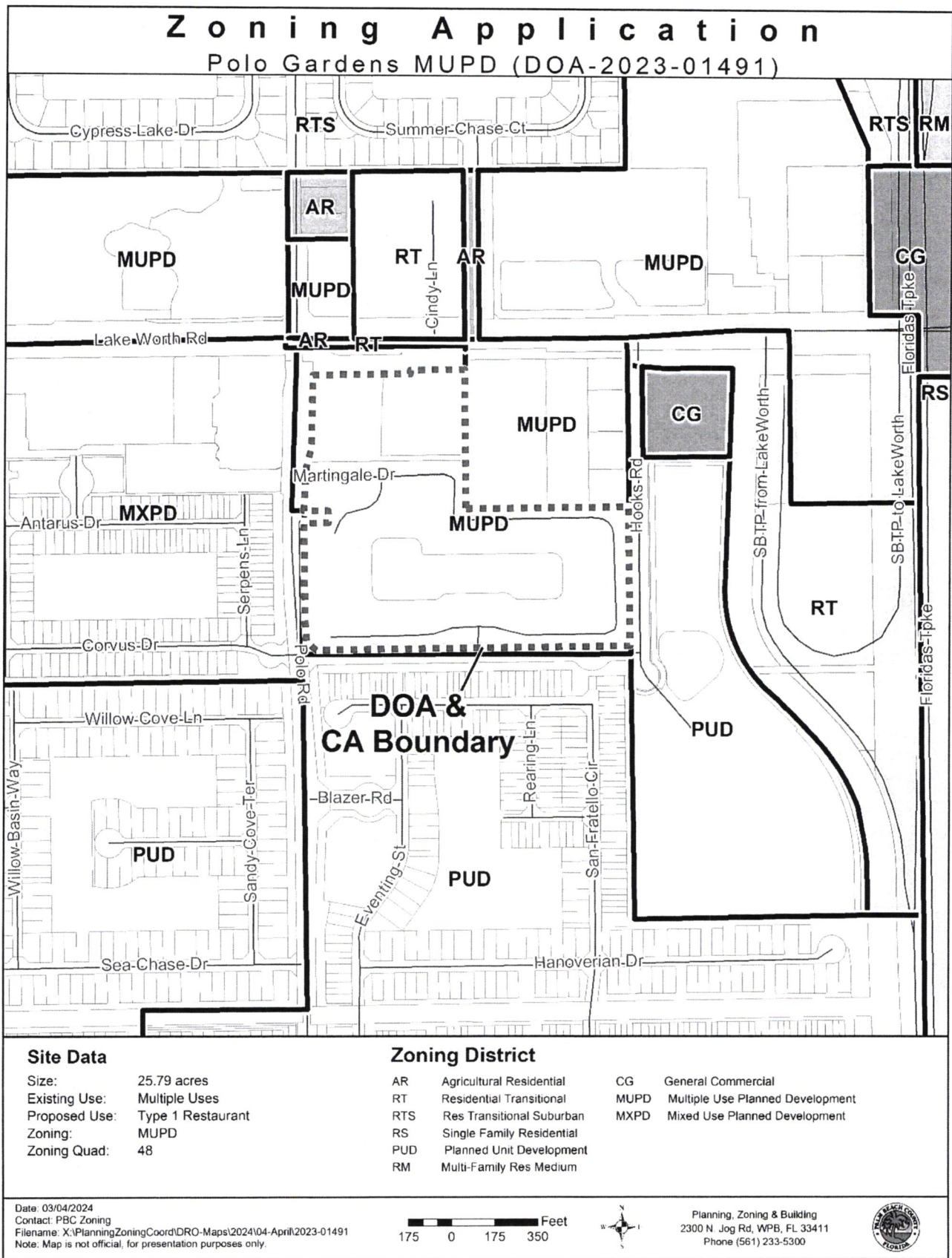


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment on 25.79 acres

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2023-550, Control No.2013-00296, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2021-554, 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, unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2023-550, 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, unless expressly modified. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2023-550, Control No.2013-00296, which currently states:

The approved Preliminary Site Plan is dated January 25, 2021. 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.

Is hereby amended to read:

The approved Preliminary Site Plan is dated January 22, 2024. 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)

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, 2025, 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) (Previous ENGINEERING Condition 1 of Resolution R-2023-550, Control No.2013-00296)

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) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2023-550, Control No.2013-00296)

3. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the

construction of a right turn lane on Lake Worth Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of fifteen feet in width and a taper length of 50 feet or as approved by FDOT. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance 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) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2023-550, Control No.2013-00296)

4. 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: MONITORING - Engineering) [Note: COMPLETED]

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. (BLDGPMT/PLAT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2023-550, Control No.2013-00296)

5. The Property Owner shall construct a right turn lane west approach on Lake Worth Road at the project entrance.

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. Construction shall be completed prior to issuance of the first Certificate of Occupancy within the commercial portion of the site. (BLDGPMT/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2023-550, Control No.2013-00296)

6. The Property Owner shall construct a left turn lane north approach on Polo Road at the project entrance road.

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 Palm Beach County for this construction shall be obtained 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 entire condition shall be considered satisfied. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2023-550, Control No.2013-00296)

7. Prior to the approval of the Final Site Plan by the Development Review Officer, the Property Owner shall modify the site plan to relocate the Polo Road south approach taper for dual right turn lanes out of the driveway and modify the radius return of the driveway to connect with the tangent of the northbound through lane. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2023-550, Control No.2013-00296)

8. The Property Owner shall do the following on Lake Worth Rd:

i) Lengthen the existing left turn lane east approach on Lake Worth Road at the Polo Road intersection. This turn lane shall be lengthened to a minimum 560 ft in length plus 50 ft paved taper, or as approved by the Florida Department of Transportation and the County Engineer.

ii) Eliminate the existing eastbound left turn lane on Lake Worth Rd at Cypress Isles Way

iii) Modify the existing median opening on Lake Worth Rd at Cypress Isles way to allow only southbound left turns out from the north approach. Modification work will also involve eliminating the existing westbound u-turn lane.

iv) Extend the eastbound left turn lane on Lake Worth Rd at Hooks Rd intersection to at least 280 ft plus 50 ft taper or as approved by the FDOT and County Engineer.

v) Any associated pavement markings, signage, etc. modifications required as part of the above improvements.

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. Above improvements may be impact fee creditable at the discretion of the County Engineer.

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. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED]

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

c. Once part "a" of this condition is deemed complete, Conditions and 9 and 10 will be deemed complete and will be closed. (ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2023-550, Control No.2013-00296)

9. The Property Owner shall construct dual left turn lanes east approach on Lake Worth Road at the Polo Road intersection. 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. If the above is constructed by the Property Owner, the cost of construction may be impact fee creditable at the discretion of the County Engineer.

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. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED]

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

c. Once part "a" of this condition is deemed complete, Condition 8 will be deemed complete and will be closed. (ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2023-550, Control No.2013-00296)

10. The Property Owner shall construct dual southbound receiving lanes for the dual left turn lanes required in Engineering Condition 9. 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. If the above is constructed by the Property Owner, the cost of construction may be impact fee creditable at the discretion of the County Engineer.

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

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2023-550, Control No.2013-00296)

11. Any modification to the lane configuration at the intersection of Lake Worth Road and Blanchette Trail/Polo Road resulting in an offset between Polo Rd and Blanchette Trail shall have that offset approved by the County Engineer prior to construction. (ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 11 of Resolution R-2023-550, Control No.2013-00296)

12. The Property Owner shall make the following Proportionate Share payments, based on the following schedule. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in a later condition. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area.

a. No Building Permits for more than 185 multi-family units or development combination that generates 50 directional peak hour trips shall be issued until the Property Owner makes a proportionate share payment of \$483,933.00. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-2023-550, Control No.2013-00296)

13. In recognition that construction prices may change over the life of the project, the proportionate share payments included in the above conditions shall be subject to the following escalator calculation:

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect.

(ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 13 of Resolution R-2023-550, Control No.2013-00296)

LANDSCAPE - INTERIOR-LINEAR PARK

1. Prior to final approval by the Development Review Officer (DRO), the Applicant shall provide a Landscape Plan for the Linear Park Transition Area between the Residential and Commercial Uses. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 1 of Resolution R-2023-550, Control No.2013-00296)

PLANNING

1. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 1: The land area within Ordinance No. 2009-028 is limited to a maximum of 300,000 square feet of non-residential uses or equivalent traffic generating uses. The CH future land use designation and associated uses are limited to the 8.83 acres of CH identified in Ord. 2018-029. This land area is limited to a maximum of 145,790 square feet commercial retail or equivalent traffic generating uses, with the remaining 154,210 square feet assigned to the remainder of land area within Ord. 2009-028. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2023-550, Control No.2013-00296)

2. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 2: At a minimum, 5% of the property must be committed to useable open space (as defined by the Introduction and Administration Element). Open space must functionally integrate the project's land uses and may not be applied to the recreation and/or parks requirements or other required civic dedication of land during the development review/re-zoning process, excluding right of way dedication. Water retention, lakes, drainage, and canals shall not be considered usable open space. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 2 of Resolution R-2023-550, Control No.2013-00296)

3. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 3: Vehicular and pedestrian cross access shall be provided to the parcel to the east within Ord. 2009-028. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 3 of Resolution R-2023-550, Control No.2013-00296)

4. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 4: No single retail tenant shall exceed 65,000 SF. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 4 of Resolution R-2023-550, Control No.2013-00296)

5. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 5: Residential dwelling units shall be limited to a maximum of 284 units with no further density increases through density bonus programs. There is no maximum land area for residential uses. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 5 of Resolution R-2023-550, Control No.2013-00296)

6. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 6: The zoning development order shall require a minimum of 25% of the total dwelling units (including density bonus) that are generated by the 8.83-acre portion, as workforce housing units, pursuant to the Workforce Housing Program in the ULDC. These workforce housing units shall be built onsite anywhere within the overall project. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 6 of Resolution R-2023-550, Control No.2013-00296)

7. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 7: A minimum of 38 TDR units shall be purchased and constructed. No more than 34% of the TDR units shall be purchased at the Workforce Housing Program (WHP) rate and shall apply to the minimum number of workforce housing units required by this ordinance. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 7 of Resolution R-2023-550, Control No.2013-00296)

8. Per LGA 2021-005 (Parcel A, Exhibit 1-A) condition 8: All structures shall be limited to a maximum of 3 stories in height. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 8 of Resolution R-2023-550, Control No.2013-00296)

9. Prior to final approval by the Development Review Officer (DRO), all applicable plans, documents and the TDR pricing and contracts shall be updated to be consistent with what was adopted by the Board of County Commissioners (BCC). (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 9 of Resolution R-2023-550, Control No.2013-00296)

10. The subject request for 284 units with a 65-unit Workforce Housing Program (WHP) obligation was calculated for two portions of the site as follows: Per LGA 2001-005, Condition 6, the WHP on the 8.83 acres of the site shall be calculated at 25% of the total units requested, or 24 required WHP ($97.13 \times 0.25 = 24.28$ or 24 rounded down). The WHP obligation for the 16.97-acre portion is 41 WHP unit and is based on Full Incentive Development Option with the WHP units to be rental and will be provided onsite. The following density bonuses were utilized: a 80% WHP density bonus, or 68 units, and a TDR bonus of 34 units, with all 12 TDRs to be purchased and deed restricted as WHP. Therefore, the overall WHP obligation is $24 + 41 = 65$ WHP units with 36 of those required to be provided on site (based on 24.28 from the condition of approval, and 11.54 from the TDR code on-site requirement, for those TDR WHP units not already counted within the 25% condition). A total of 38 TDR's (cond. 7) are required to be purchased and built onsite with no more than 34% purchased at the WHP pricing. Should any change occur to the calculation, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 10 of Resolution R-2023-550, Control No.2013-00296)

11. Prior to the issuance of the first residential Building Permit, the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning. (BLDGPM: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 11 of Resolution R-2023-550, Control No.2013-00296)

12. Prior to the release of the 4th Building Permit (142 units), Fifty percent of WHP units (33) must receive certificates of occupancy. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 12 of Resolution R-2023-550, Control No.2013-00296)

13. Prior to the release of the 7th Building Permit (241 units), All WHP units (65) must receive certificates of Occupancy. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 13 of Resolution R-2023-550, Control No.2013-00296)

14. Prior to the release of the first building permit, the Developer shall provide documentation demonstrating compliance with the required design standards: compatible exteriors, provision of a dry model. (BLDGPM: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 14 of Resolution R-2023-550, Control No.2013-00296)

15. The developer shall notify Planning and DHES at the commencement of leasing. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 15 of Resolution R-2023-550, Control No.2013-00296)

16. Per LGA 2021-005, Ordinance 2021-12 condition 9. The completion of the 60 foot roadway connecting Polo Road to Hooks Road is required in order to provide connectivity identified within the West Lake Worth Road Neighborhood Plan. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 16 of Resolution R-2023-550, Control No.2013-00296)

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 necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD) (ONGOING: SCHOOL BOARD - School Board) (Previous SCHOOL BOARD Condition 1 of Resolution R-2023-550, Control No.2013-00296)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' 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 shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board) [Note: COMPLETED] (Previous SCHOOL BOARD Condition 2 of Resolution R-2023-550, Control No.2013-00296)

SITE DESIGN

1. All buildings or structures shall be limited to a maximum of 35 feet in height, as defined in Art. 1.C.4.C.1, Building Height. (ONGOING: BUILDING DIVISION - Zoning) (Previous SITE DESIGN Condition 1 of Resolution R-2023-550, Control No.2013-00296)

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.