

RESOLUTION NO. R-2024- 0836

RESOLUTION APPROVING ZONING APPLICATION DOA-2023-00520
(CONTROL NO. 2003-00079)
a Development Order Amendment
APPLICATION OF Hatzlacha-WP Holdings, LLC
BY WGINC, AJP Consulting Services, LLC, AGENT
(Windsor Place MXP)

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 DOA-2023-00520, the Application of Hatzlacha-WP Holdings, LLC, by WGINC, AJP Consulting Services, LLC, Agent, for a Development Order Amendment to modify the overall Master Plan and Site Plan for the Commercial Pod to add a building, reduce square footage, reconfigure the site layout, and modify uses and Conditions of Approval; and a Development Order Amendment to modify the Class A Conditional Use Type I Restaurant with drive-through to reduce square footage, relocate to a single building, and modify Conditions of Approval on 40.0 acres was presented to the Board of County Commissioners at a public hearing conducted on July 17, 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 DOA-2023-00520, the Application of Hatzlacha-WP Holdings, LLC, by WGINC, AJP Consulting Services, LLC, Agent, for a Development Order Amendment to modify the overall Master Plan and Site Plan for the Commercial Pod to add a building, reduce square footage, reconfigure the site layout, and modify uses and Conditions of Approval on 40.0 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 July 17, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Marino 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	- Absent
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 July 17, 2024.

Filed with the Clerk of the Board of County Commissioners on July 24, 2024.

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

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY:



COUNTY ATTORNEY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY:



DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION: WINDSOR PLACE MXPD

A PARCEL OF LAND LYING IN BLOCK 43, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LEXINGTON 1 OF SHERBROOKE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 32, PAGES 195 THROUGH 198, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA; THENCE, NORTH 89° 26' 07" EAST, ALONG THE SOUTH LINE OF SAID PLAT OF LEXINGTON 1 OF SHERBROOKE, A DISTANCE OF 2610.00 FEET; THENCE, SOUTH 00° 33' 53" EAST, DEPARTING SAID SOUTH LINE, A DISTANCE OF 725.61 FEET, FOR A POINT OF BEGINNING; THENCE, CONTINUE SOUTH 00° 33' 53" EAST, A DISTANCE OF 530.50 FEET; THENCE, SOUTH 03° 12' 41" WEST, A DISTANCE OF 250.54 FEET; THENCE, SOUTH 00° 33' 53" EAST, A DISTANCE OF 300.00 FEET; THENCE, SOUTH 44° 26' 07" WEST, A DISTANCE OF 56.57 FEET; THENCE, SOUTH 89° 26' 07" WEST, A DISTANCE OF 289.00 FEET; THENCE SOUTH 88° 10' 30" WEST, A DISTANCE OF 250.06 FEET; THENCE, SOUTH 89° 26' 07" WEST, A DISTANCE OF 1144.50 FEET; THENCE, NORTH 00° 33' 53" WEST, A DISTANCE OF 570.00 FEET; THENCE, NORTH 52° 30' 57" EAST, A DISTANCE OF 925.60 FEET; THENCE, NORTH 89° 26' 07" EAST, A DISTANCE OF 1000.00 FEET TO THE POINT OF BEGINNING.

ALSO KNOWN AS

A PARCEL OF LAND LYING IN BLOCK 43, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA;

SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT PRM 12, TOWNE PARK TRACT F, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 98, PAGES 95 THROUGH 101 OF SAID PUBLIC RECORDS; THENCE ON A GRID BEARING SOUTH 00° 58' 10" EAST, A DISTANCE OF 530.50 FEET; THENCE SOUTH 02° 48' 24" WEST, A DISTANCE OF 250.54 FEET; THENCE SOUTH 00° 58' 10" EAST, A DISTANCE OF 300.00 FEET, THE PREVIOUS THREE COURSES AND DISTANCES ARE ALONG THE WEST RIGHT-OF-WAY OF LYONS ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 9745, PAGE 1416 OF SAID PUBLIC RECORDS; THENCE SOUTH 44° 01' 50" WEST, A DISTANCE OF 56.57 FEET; THENCE SOUTH 89° 01' 50" WEST, A DISTANCE OF 289.00 FEET; THENCE SOUTH 87° 46' 13" WEST, A DISTANCE OF 250.06 FEET; THENCE SOUTH 89° 01' 50" WEST, A DISTANCE OF 1144.50 FEET, THE PREVIOUS FOUR COURSES AND DISTANCES ARE ALONG THE NORTH RIGHT-OF-WAY OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 10031, PAGE 692 OF SAID PUBLIC RECORDS TO PRM 15 OF SAID TOWNE PARK TRACT F; THENCE NORTH 00° 58' 10" WEST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 570.00 FEET TO PRM 14 OF SAID TOWNE PARK TRACT F; THENCE NORTH 52° 06' 40" EAST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 925.60 FEET TO PRM 13 OF SAID TOWNE PARK TRACT F; THENCE NORTH 89° 01' 50" EAST ALONG A BOUNDARY LINE OF SAID TOWNE PARK TRACT F, A DISTANCE OF 1000.00 FEET TO PRM 12 OF TOWNE PARK TRACT F TO THE POINT OF BEGINNING.

CONTAINING 1,742,477 SQUARE FEET/40.0018 ACRES, MORE OR LESS.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2023-54, Control No.2003-00079, which currently states:

The approved Preliminary Master Plan and Preliminary Site Plan are dated January 27, 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.

Is hereby amended to read:

The approved Preliminary Master Plan and Preliminary Site Plan are dated May 15, 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)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2023-54, Control No.2003-00079, 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 the date of approval of resolution R-2020-0344.

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 four (4) year review date from the date of approval of resolution R-2023-0054. (DATE/ONGOING: MONITORING - Zoning)

3. All previous Conditions of Approval applicable to the subject property, as contained in TDR Resolution R-2005-1799, (Control 2003-00079); and TDR Resolution R-2015-821, (Control No. 2003-00079), remain in full force and effect. 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) (Previous ALL PETITIONS Condition 3 of Resolution R-2023-54, Control No.2003-00079)

4. Previous ALL PETITIONS Condition 4 of Resolution R-2023-54, Control No.2003-00079, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2020-344 (Control 2003-00079), 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.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2023-0054 (Control 2003-00079), 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: MONITORING - Zoning)

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2023-54, Control No.2003-00079, 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. Building permits for more than 132 multi-family dwelling units and 5,500 s.f. of General Retail, non-residential (or the equivalent of 115 pm peak hour trips) shall not be issued until the contract has been let for dual left turn lanes south approach and an additional through lane west approach at the intersection of Hagen Ranch Road and Lantana Road. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

b. Building permits for more than 132 multi-family dwelling units and 49,500 s.f. of General Retail, non-residential (or the equivalent of 284 pm peak hour trips) shall not be issued until construction has commenced for the widening of Lyons Road as a 4 lane section from Lantana Road to Hypoluxo Road plus the appropriate paved tapers. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

c. Building permits for more than 132 multi-family dwelling units and 84,200 s.f. of General Retail, non-residential (or the equivalent of 381 pm peak hour trips) shall not be issued until construction has commenced for dual left turn lanes north and south approaches and an additional through lane north approach at the intersection of Lyons Road and Lantana Road. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

d. No Building Permits for the site may be issued after December 31, 2023, 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)

e. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: ENGINEERING - Engineering)

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. Building permits for more than 132 multi-family dwelling units and 5,500 s.f. of General Retail, non-residential (or the equivalent of 115 pm peak hour trips) shall not be issued until the contract has been let for dual left turn lanes south approach and an additional through lane west approach at the intersection of Hagen Ranch Road and Lantana Road. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

b. Building permits for more than 132 multi-family dwelling units and 49,500 s.f. of General Retail, non-residential (or the equivalent of 284 pm peak hour trips) shall not be issued until construction has commenced for the widening of Lyons Road as a 4 lane section from Lantana Road to Hypoluxo Road plus the appropriate paved tapers. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

c. Building permits for more than 132 multi-family dwelling units and 84,200 s.f. of General Retail, non-residential (or the equivalent of 381 pm peak hour trips) shall not be issued until construction has commenced for dual left turn lanes north and south approaches and an additional through lane north approach at the intersection of Lyons Road and Lantana Road. (BLDGPMPT: MONITORING - Engineering) [Note: COMPLETED]

d. No Building Permits for the site may be issued after December 31, 2028, 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)

e. Construction commences is defined as awarding the contract for the construction of the required improvements, the acquisition of all right of way and construction easements and the acquisition of all required permits. (ONGOING: ENGINEERING - Engineering)

2. On or before January 1, 2006, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of the improvements identified in Condition No. E1a, E1c, and E1d above as referenced above, subject to the approval of the County Engineer. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the Land Development Division. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2023-54, Control No.2003-00079)

3. The property owner shall fund the construction plans and the construction of improvements identified in Condition No. E1a, E1c and E1d above. Palm Beach County shall then be responsible for the construction of the required improvements. Funding of the construction plans

and construction shall be completed on or before April 1, 2006. All canal crossings within the project limits shall be constructed to their ultimate configuration. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2023-54, Control No.2003-00079)

4. 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: ENGINEERING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: ENGINEERING - 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: ENGINEERING - 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) (Previous ENGINEERING Condition 4 of Resolution R-2023-54, Control No.2003-00079)

5. Prior to May 1, 2006, the property owner shall fund a proportionate share of the cost of signal installation if warranted as determined by the County Engineer at Hypoluxo Road and Lyons Road Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. Should signalization not be warranted after 24 months of the final Certificate of Occupancy this property owner shall be relieved from this condition. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2023-54, Control No.2003-00079)

6. Prior to issuance of a building permit for each corresponding area, the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Lyons Road at the project's north access connection for the Area B (Multifamily) and for the construction of a right turn lane on Hypoluxo Road at the project's east access connection for Area C (Commercial). This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2023-54, Control No.2003-00079)

7. The property owner shall construct:

- i. a left turn lane south approach and a restrictive median opening on Lyons Road at the Project's north access connection for Area B;
- ii. a right turn lane north approach on Lyons Road at the Project's north access connection for Area B;
- iii. a left turn lane west approach on Hypoluxo Road at the Project's west access connection for Area A, and

iv. A right turn lane on Hypoluxo Road at the project's east access connection for Area C.

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

a. Permits required by Palm Beach County for the construction above shall be obtained prior to the issuance of the first Building Permit of each corresponding area. (BLDGPMPT: MONITORING - Engineering)

b. Construction for the improvements above shall be completed prior to the issuance of the first Certificate of Occupancy of each corresponding Area. (BLDGPMPT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2023-54, Control No.2003-00079)

8. Deleted by Resolution R-2020-0344 (Previous ENGINEERING Condition 8 of Resolution R-2023-54, Control No.2003-00079)

9. Deleted by Resolution R-2020-0344 (Previous ENGINEERING Condition 9 of Resolution R-2023-54, Control No.2003-00079)

10. 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 the expanded intersection of Lyons Road, 73 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 of the Area B (Multifamily) 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. (BLDGPMPT/ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 10 of Resolution R-2023-54, Control No.2003-00079)

11. 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 the expanded intersection of Hypoluxo Road, 63 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 of the Area C (Commercial) 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) (Previous ENGINEERING Condition 11 of Resolution R-2023-54, Control No.2003-00079)

12. 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/ONGOING: MONITORING - Engineering) (Previous ENGINEERING Condition 12 of Resolution R-2023-54, Control No.2003-00079)

13. The Property Owner shall close the existing full median opening on Hypoluxo Road, about 465 feet west of the proposed entrance for Area A, remove both eastbound and westbound U-turn lanes, and reconstruct the median, all as approved by the County Engineer.

This construction shall be concurrent with the paving and drainage improvements for Area A. 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 for Area A. (BLDGPM/ONGOING: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for Area A. (BLDGPM/CO: MONITORING - Engineering)

HEALTH

1. The property owners and operators of facilities generating industrial, hazardous, or toxic waste shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection, the Palm Beach County Health Department, and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF - Health Department) (Previous HEALTH Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. The property owner shall utilize Best Management Practices to minimize breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce potential impacts of mosquito control activities on the surrounding natural areas. (ONGOING: CODE ENF - Health Department) (Previous HEALTH Condition 2 of Resolution R-2023-54, Control No.2003-00079)

LANDSCAPE - GENERAL

1. A minimum of fifty (50) percent of all (new and replacement) trees to be planted in the landscape buffers shall be upgraded to sixteen (16) feet in height: for the north, west, and northwest property lines. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. 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. (BLDGPM/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2023-54, Control No.2003-00079)

3. Details including design layout, elevations (where applicable) and dimensions of all the Landscape Conditions shall be submitted to Landscape Section for approval at final approval by the Development Review Officer (DRO). (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2023-54, Control No.2003-00079)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE EAST 730 FEET OF THE NORTHEAST PROPERTY LINE (ABUTTING RESIDENTIAL)

4. In addition to ULDC requirements, the landscape buffer along the east 730 feet of the northeast

property line shall be upgraded to include:

- a. a minimum thirty (30) foot wide Type 1 Incompatibility landscape buffer; and,
- b. the Landscape Section may adjust plant materials and clustering of plant materials to provide additional tree clustering across from the adjacent residential lots. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 4 of Resolution R-2023-54, Control No.2003-00079)

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) (Previous PALM TRAN Condition 1 of Resolution R-2023-54, Control No.2003-00079)

PARKS

1. No more than 80 Certificates of Occupancy for the residential units shall be issued until the recreational improvements have been completed in their entirety and are open for use and accessible to the residents, unless a phasing plan for completion of the required recreation area is agreed upon and approved by the Parks and Recreation Department. (CO: MONITORING - Parks and Recreation) (Previous PARKS Condition 1 of Resolution R-2023-54, Control No.2003-00079)

PLANNED DEVELOPMENT

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

- a. All recreation parcels shall be deed restricted to recreation for the use of the residents of the Townhouse subdivision portion of the MXP. At the time of turnover of the POA/HOA, the recreation parcel shall be turned over to the association at no cost to the residents. (PLAT: ENGINEERING - County Attorney) (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. Prior to Final Approval by the Development Review Officer, the Regulating Plans shall be revised to indicate details in regard to the minimum four (4) Focal Points indicated on the Subdivision Plan. Two Focal Points are located in the Commercial Tract; one Fountain is located in the 4.71-acre Lake Tract of the Townhouse Subdivision; and, one Focal Point is located in the Recreation Tract of the Multifamily Tract. These additional amenities shall be subject to review and approval by the Zoning Division. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 2 of Resolution R-2023-54, Control No.2003-00079)

PLANNING

1. Prior to the release of the first 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, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per article 5.G. in the ULDC. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in Article 5.G. in the ULDC. The site plan shall also be modified to include the OR Book and Page of the recorded document and a copy of the revised site plan is to be submitted to Planning as well. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. Per LGA 2018-021, condition B.2: At a minimum, 10% of the property must be committed to useable open space. Open space must functionally integrate the project's land uses and may be applied to the recreation and/or parks requirements during the development review process, excluding right of way dedication. Water retention, lakes, drainage, and canals shall not be considered useable open space. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 2 of Resolution R-2023-54, Control No.2003-00079)

3. Per LGA 2018-021 condition B.3: A maximum of 400 residential dwelling units are allowed on the site, consisting of 200 units from the MR-5 future land use designation plus up to 200 total units from the Transfer of Development Rights (TDR) and Workforce Housing Program (WHP) density bonus programs. The WHP limited incentive option is not available. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 3 of Resolution R-2023-54, Control No.2003-00079)

4. Per LGA 2018-021 condition B.4: The development shall include the purchase and construction of the 80 previously approved Transfer of Development Rights (TDR) units. Up to an additional 30 TDR units may be purchased. Thirty-four percent (34%) of the additional TDR units shall be purchased at the workforce housing rate and shall apply to the minimum number of workforce housing units in Number 5. The remaining sixty-six percent (66%) of the additional TDRs shall be purchased at the market rate. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 4 of Resolution R-2023-54, Control No.2003-00079)

5. Per LGA-2018-21 condition A: The site shall be consistent with the Land Use Matrix. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 5 of Resolution R-2023-54, Control No.2003-00079)

6. Per LGA-2018-21 condition B.1: Development of the site shall comply with the Conceptual Master Plan (LGA 2018-021). (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 6 of Resolution R-2023-54, Control No.2003-00079)

7. 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 7 of Resolution R-2023-54, Control No.2003-00079)

8. The pricing within the TDR contracts and forms shall be updated to be consistent with ULDC Article 5 G.3.G.4.c under the Application, Sale and Value of Development Rights, which states, "For proposals including a mix of Single Family and Multifamily units the TDR units shall proportionately reflect the unit mix of the non-TDR units." (DRO: ZONING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 8 of Resolution R-2023-54, Control No.2003-00079)

9. Per LGA-2018-21 condition B. 5: Number of WHP. The zoning development order shall require a minimum number of units to be built as workforce housing units between 60-140% of the Area Median Income ranges for the County, in four ranges (60-80%, >80 -100%, >100 -120%, and >120 - 140%). The minimum number of workforce housing units shall be 75, including the 10 workforce housing units required from the previously approved TDRs. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 9 of Resolution R-2023-54, Control No.2003-00079)

10. Per LGA-2018-21 condition B. 6: Onsite/Offsite. The workforce housing units required by the TDR Program shall be built onsite. The eight (8) workforce housing units previously approved and built offsite prior to the adoption of this ordinance shall apply towards the minimum number of workforce housing units in Number 5. The remaining workforce housing units required by Number 5 shall be built offsite as rental units at Haverhill Commons (Control Number 1988-00135). (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 10 of Resolution R-2023-54, Control No.2003-00079)

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 - School Board) (Previous SCHOOL BOARD Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelters shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelters shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelters. Maintenance of the bus shelters shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board) (Previous SCHOOL BOARD Condition 2 of Resolution R-2023-54, Control No.2003-00079)

SIGNS

1. Project Identification signs for the Townhouse portion only shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. maximum sign face area per side fifty (50) square square feet;
 - c. maximum number of signs - two (2) at the west access point of Hypoluxo Road; and,
 - d. style - monument style only. (BLDGPM: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. Project Identification signs for the Multi-Family portion only shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
 - b. maximum sign face area per side fifty (50) square feet;
 - c. maximum number of signs - two (2) at the Lyons Road entrance; and,
 - d. style - monument style only. (BLDGPM: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 2 of Resolution R-2023-54, Control No.2003-00079)

3. Freestanding Ground Mounted Signs adjacent to Lyons Road (non-residential portion only) shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point eight (8) feet;
 - b. maximum sign face area per side one hundred (100) square feet;
 - c. maximum number of signs one (1); and,
 - d. the sign shall be located within fifty (50) feet of the access point measuring from the centerline of the access drive. (BLDGPM: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 3 of Resolution R-2023-54, Control No.2003-00079)

4. Previous SIGNS Condition 4 of Resolution R-2023-54, Control No.2003-00079, which currently states:

. Freestanding Ground Mounted Signs adjacent to Hypoluxo Road, (non-residential portion only) shall be limited as follows:
 - a. maximum sign height, measured from finished grade to highest point eight (8) feet;
 - b. maximum sign face area per side one hundred (100) square feet;
 - c. maximum number of signs two (2); and,
 - d. one sign shall be located within fifty (50) feet; and one sign shall be within four hundred (400) feet; of the access point, measuring from the centerline of the access drive.

Is hereby amended to read:

Freestanding Ground Mounted Signs adjacent to Hypoluxo Road, (non-residential portion only) shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point eight (8) feet;
- b. maximum sign face area per side one hundred (100) square feet;
- c. maximum number of signs of three (3); and,
- d. one sign shall be located within fifty (50) feet; and one sign shall be within four hundred (400) feet; of the access point, measuring from the centerline of the access drive. (BLDGPM: BUILDING DIVISION - Zoning)

5. Wall signs shall be limited to any two (2) facades of each building and individual lettering size shall be limited to twenty-four (24) inches high, subject to compliance with all applicable ULDC requirements. (BLDGPM: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 5 of Resolution R-2023-54, Control No.2003-00079)

6. Outparcel signs for the Commercial Pod shall not be allowed. (BLDGPM: BUILDING DIVISION - Zoning)

SITE DESIGN

1. The Pod A HOA recreation area shall include but is not limited to:
 - a. a tot lot, fitness station, rest station, sport court, or similar recreation amenity;
 - b. all amenities shall include a direct connection to the paved pathway; and,
 - c. details for all amenities shall be subject to review and approval at time of Building Permit. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2023-54, Control No.2003-00079)

2. One (1) set of berceaux shall be provided along the meandering pathway within open space or recreational areas with one set adjacent to the east portion (Lyons Road) of the site and one set along the south portion (Hypoluxo Road) of the site. Each berceaux shall be designed and consist of the following:
 - a. a minimum dimension of twelve (12) feet in width and twenty (20) feet in length;

- b. a berceaux (an arched trelliswork forming a covered walkway); and
 - c. a climbing vine to be planted at each vertical support of the berceaux.
- (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 2 of Resolution R-2023-54, Control No.2003-00079)

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.