

RESOLUTION NO. R-2023- 0828

RESOLUTION APPROVING ZONING APPLICATION PDD/CA/W-2021-01526
(CONTROL NO. 2008-00296)
an Official Zoning Map Amendment
APPLICATION OF KS Lake Worth, LLC
BY JMorton Planning & Landscape Architecture, AGENT
(Lake Worth Crossing 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 PDD/CA/W-2021-01526 submitted on behalf of KS Lake Worth, LLC by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 9.34-acres; for a Class A Conditional Use to allow a Hotel on 9.34-acres; and a Type 2 Waiver to allow extended hours of operation for business within 250 feet of a parcel of land with a Residential Future Land Use on 9.34-acres was presented to the Board of County Commissioners at a public hearing conducted on June 22, 2023;

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 PDD/CA/W-2021-01526, the Application of KS Lake Worth, LLC, by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned

Development (MUPD) Zoning District on 9.34-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 June 22, 2023, 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 Sachs and, upon being put to a vote, the vote was as follows:

Commissioner Gregg K. Weiss, Mayor	-	Aye
Commissioner Maria Sachs, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	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 June 22, 2023.

Filed with the Clerk of the Board of County Commissioners on June 22nd, 2023.

This resolution shall not become effective until the Small Scale Land Use Amendment No. SCA-2022-011 is effective.

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 TRACT 3, 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 PARCEL A, FIELDS AT GULFSTREAM POLO - PLAT ONE, AS RECORDED IN PLAT BOOK 123, PAGES 80 THROUGH 95 OF SAID PUBLIC RECORDS; THENCE S.89°03'30"W., ALONG THE NORTH LINE OF SAID PARCEL A, A DISTANCE OF 659.82 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 3, BLOCK 28; THENCE N.00°56'30"W. ALONG THE WEST LINE OF SAID TRACT 3, BLOCK 28, A DISTANCE OF 603.90 FEET TO A POINT OF INTERSECTION WITH 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; THENCE N.89°03'30"E., ALONG SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 329.91 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST ONE HALF OF SAID TRACT 3, BLOCK 28; THENCE N.00°56'30"W. ALONG SAID WEST LINE AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 25.10 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF THAT 25.10 FOOT QUIT CLAIM DEED, AS RECORDED IN OFFICIAL RECORD BOOK 21306, PAGES 584 AND 595 OF SAID PUBLIC RECORDS ALSO BEING THE SOUTH RIGHT-OF-WAY LONE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL; THENCE N.89°03'30"E., ALONG SAID NORTH LINE AND SAID SOUTH RIGHT-OF-WAY LINE, A DISTANCE OF 329.93 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 3, BLOCK 28; THENCE S.00°56'30"E., ALONG SAID EAST LINE, A DISTANCE OF 629.01 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

CONTAINING 406,753 SQUARE FEET/9.3378 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

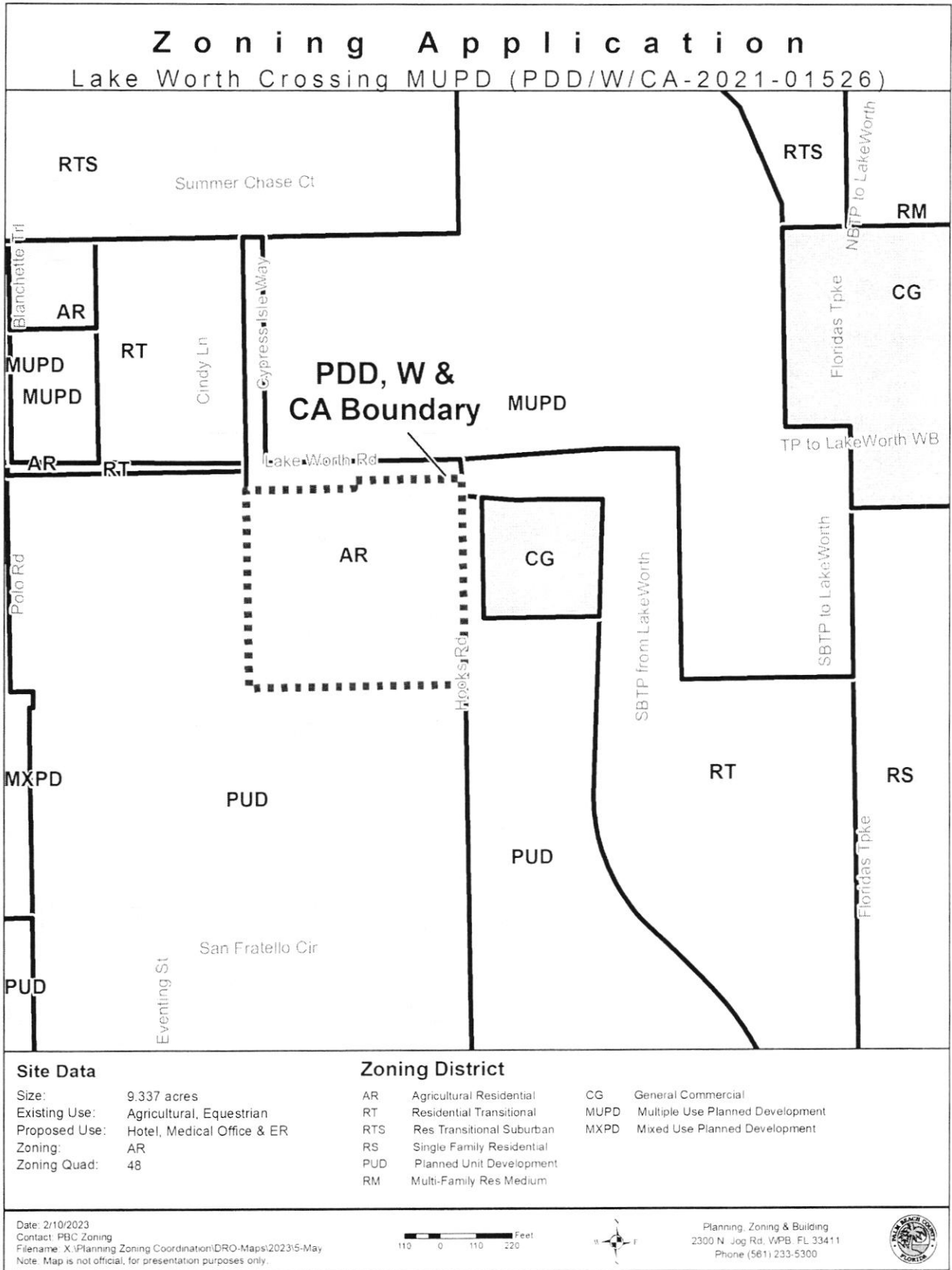


EXHIBIT C

CONDITIONS OF APPROVAL

PDD - Non Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 21, 2023. 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)

ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated March 8, 2023. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO/ONGOING: ZONING - Zoning)

ENGINEERING

1. 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. The Property Owner shall construct right turn lane west approach on Lake Worth Rd at project entrance.

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

a. Permits required from FDOT for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

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

3. 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)

4. Prior to the Final Site Plan approval by the Development Review Officer, the Property Owner shall update the site plan with bearings and distances on the lot lines being created by the subdivision exemption. (DRO: ENGINEERING - Engineering)

5. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, any and all access easements shown in conflict with the existing or proposed structures. (BLDGPM: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, the Plans shall be revised identify the general relocation areas of the native specimen trees to be relocated. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to the issuance of the first Certificate of Occupancy, the native specimen oaks and Ficus aurea (i.e., Tree No. 33 - a 31 inch D.B.H. Live Oak, Tree No. 38 - a 33 inch D.B.H. Live Oak, and Tree No. 35 - an 80 inch Ficus aurea) shall be either (A.) preserved in place or (B) relocated to an appropriate area on site, or as approved by ERM. (CO/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE - PERIMETER-ALONG SOUTH AND SOUTHWEST PROPERTY LINES ABUTTING RESIDENTIAL

1. A Type 3 Incompatibility Buffer shall be provided along the south and southwest property lines abutting residential. No buffer reduction or easement encroachment shall be allowed. (ONGOING: ZONING - Zoning)

PLANNING

1. Per SCA 2022-011, Condition 1: The land area within Ordinance No. 2009-028 is limited to a maximum of 300,000 s.f. of non-residential uses or equivalent traffic generating uses. This land area is limited to a maximum of 154,210 s.f. of commercial retail or equivalent traffic generating uses and is assigned to the land area within the subject ordinance, with the remaining 145,790 s.f. assigned to the land area within Ord 2009-028. (ONGOING: PLANNING - Planning)

2. Per SCA 2022-011, Condition 2: Vehicular and pedestrian connections shall be provided to the parcel to the west within Ord. 2009-028. (ONGOING: PLANNING - Planning)

3. Per SCA 2022-011, Condition 3: No single tenant shall exceed 65,000 square feet. (ONGOING: PLANNING - Planning)

4. Prior to Final Approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement for the location depicted on the Site Plan. (DRO: PLANNING - Planning)

5. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Site Plan to add the Official Records Book and Page number for the recorded cross access easement. (DRO: PLANNING - Planning)

6. Prior to the release of the Certificate of Occupancy (CO), the Property Owner shall construct, and pave to the property line, the cross access as shown on the Final Site (CO: MONITORING - Planning)

SIGNS

1. Ground Mounted Freestanding signs fronting on Lake Worth Road and Hooks Road are prohibited. (ONGOING: ZONING - Zoning)

2. Entrance signs shall be limited as follows:

- a. maximum sign height eight (8) feet, measured from finished grade to highest point;
- b. maximum sign face area per sign - sixty (60) square feet;
- c. maximum number of signs - two (2) Lake Worth Road and three (3) Hooks Road; and,
- d. style - monument style only. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning)

3. Outparcel signs fronting on Lake Worth Road shall be limited as follows:

- a. maximum sign height six (6) feet, measured from finished grade to highest point;
- b. maximum sign face area per side - twenty (20) square feet;
- c. maximum number of signs - three (3); and,
- d. sign type: Outparcel Sign
- e. style - monument style only. (BLDG/PMT: ZONING - Zoning)

4. Wall Signage (W6) and Canopy Signage (C2) along the south facade of Building B shall not exceed a combined total square footage of thirty-eight and one quarter (38.25) square feet. (BLDG/PMT/ONGOING: ZONING - Zoning)

5. Wall Signage (W10) along the south facade of Building C shall not exceed twenty-four (24) square feet. (BLDGPM/ONGOING: ZONING - Zoning)

6. Wall signage (W10) located on the side (south) facade of Building C shall be limited to a maximum height of twenty (20) feet. (BLDGPM/ONGOING: ZONING - Zoning)

COMPLIANCE

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

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

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

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

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

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

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

DISCLOSURE

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