

RESOLUTION NO. R-2023- 1743

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/CA-2023-00668
(CONTROL NO. 2001-00005)
a Development Order Amendment
APPLICATION OF Elan Palm Reserve Commercial Owner LLC, Elan Palm Reserve
Owner LLC, Fuqua Acquisitions II - Jeff Faqua
BY JMorton Planning & Landscape Architecture, AGENT
(Elan Palm Reserve 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-2023-00668 the Application of Elan Palm Reserve Commercial Owner LLC, Elan Palm Reserve Owner LLC, Fuqua Acquisitions II - Jeff Faqua, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Abandonment to abandon the Retail Gas and Fuel Sales on 31.98 acres; for a Development Order Amendment to reconfigure the Site Plan, to add and delete uses, and modify Conditions of Approval on 31.98-acres; and a Class A Conditional Use to allow a Type 1 Restaurant on 31.98 acres was presented to the Board of County Commissioners at a public hearing conducted on November 29, 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 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-2023-00668, the Application of Elan Palm Reserve Commercial Owner LLC, Elan Palm Reserve Owner LLC, Fuqua Acquisitions II - Jeff Faqua, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Amendment to reconfigure the Site Plan, to add and delete uses, and modify Conditions of Approval on 31.98-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 November 29, 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 Baxter 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 -

The Mayor thereupon declared that the resolution was duly passed and adopted on November 29, 2023.

Filed with the Clerk of the Board of County Commissioners on November 29th, 2023

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

TRACTS A, B, L, Z-1, Z-2 AND Z-3, "ELAN PALM RESERVE M.U.P.D.", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 134 AT PAGES 110 THROUGH 112 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 31.979 ACRES, MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

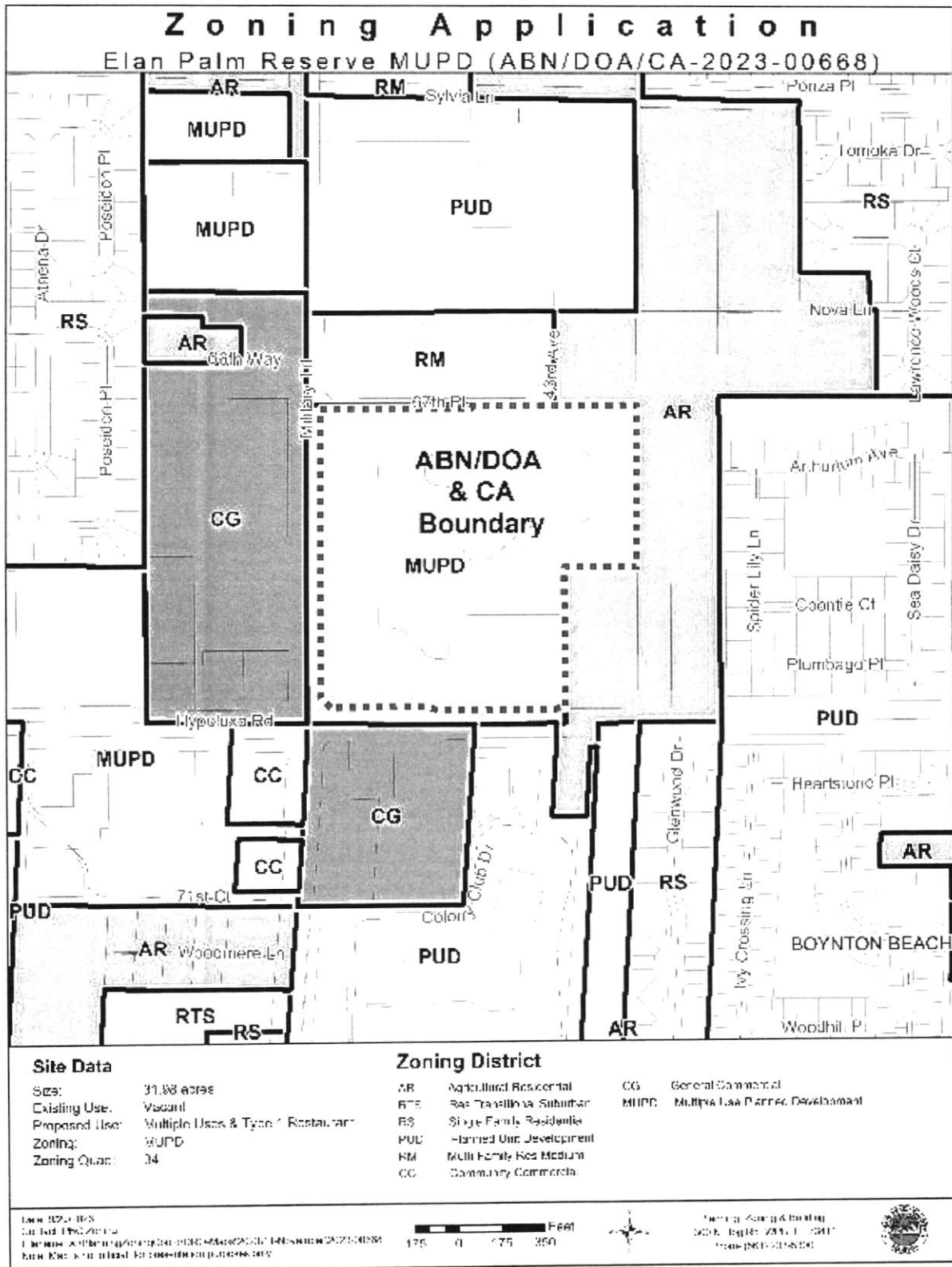


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment – Overall MUPD

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2021-956, Control No.2001-00005, which currently states:

The approved Preliminary Site Plan is dated May 24, 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 or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site Plan is dated September 13, 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)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2021-956, Control No.2001-00005, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2001-2067 (Control No. 2001-00005), 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-2021-0956 (Control No. 2001-00005), 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)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2021-956, Control No.2001-00005, which currently states:

The development shall comply with the requirements of Article 5.C and submit elevations for review and approval no later than at time of Building Permit application.

Is hereby amended to read:

The development shall comply with the requirements of Article 5.C and submit elevations for review and approval no later than at time of Building Permit application, with the exception of Building D which is required at time of Final Development Review Officer Approval, as required per Condition of Approval Architectural Review 1 for the Class A Conditional Use for the Type 1 Restaurant. (BLDGPMT: BUILDING DIVISION - Zoning)

2. All ground and roof mounted air conditioning; mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent

landscape material. (BLDGPMT/ONGOING: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 3 of Resolution R-2021-956, Control No.2001-00005)

ENGINEERING

1. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. 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 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2021-956, Control No.2001-00005)

2. The Property owner shall construct:

- I) Right turn lane south approach on Military Trail at the project's main entrance road;
- II) Extend the existing left turn lane north approach on Military Trail at the projects entrance road to a minimum of 345 feet plus the appropriate paved taper.
 - a) 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.
 - b) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - c) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: Monitoring-Eng) (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2021-956, Control No.2001-00005)

3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

Building Permits for more than 38,650 square foot Medical Office plus the 5,000 square feet Drive in Bank shall not be issued until construction commences on Hypoluxo as a 6 lane section from Congress Avenue Military Trail plus the appropriate paved tapers. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements, and the acquisition of all required permits. (BLDG PERMIT: MONITORING-Eng) (COMPLETE)

The mix of allowable Commercial uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DATE: Monitoring-Eng) (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2021-956, Control No.2001-00005)

4. Landscape Within the Median of Military Trail

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

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

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

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

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 Military Trail. 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) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2021-956, Control No.2001-00005)

5. 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 5 of Resolution R-2021-956, Control No.2001-00005)

6. Previous ENGINEERING Condition 6 of Resolution R-2021-956, Control No.2001-00005, which currently states:

The Property Owner shall construct i) right turn lane east approach on Hypoluxo Road at project's eastern entrance ii) right turn lane south approach on Military Trail at project's southern entrance iii) right turn lane south approach on Military Trail at project's main entrance iv) any required modification to the existing right turn lane east approach on Hypoluxo Road at Military Trail to accommodate project's in-only entrance within this right turn lane v) the lengthening to the maximum length feasible, as approved by the County Engineer, of the left turn lane north approach on Military Trail at the main project entrance by adjusting the taper length.

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 Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

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

Is hereby amended to read:

The Property Owner shall construct i) right turn lane east approach on Hypoluxo Road at project's eastern entrance ii) right turn lane south approach on Military Trail at project's southern entrance iii) right turn lane south approach on Military Trail at project's main entrance iv) the lengthening to the maximum length feasible, as approved by the County Engineer, of the left turn lane north approach on Military Trail at the main project entrance by adjusting the taper length.

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 Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

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

7. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Military Trail at both project entrances. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. 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 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2021-956, Control No.2001-00005)

8. Landscape Within the Median of Hypoluxo Road

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and

assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

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

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

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

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 Hypoluxo 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) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2021-956, Control No.2001-00005)

9. 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 Military Trail, 60 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2021-956, Control No.2001-00005)

10. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Hypoluxo Road and Military Trail along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s), with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDG/PMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2021-956, Control No.2001-00005)

ENVIRONMENTAL

1. The native preserve area(s) shall be surrounded by a permanent barrier (e.g., a fence) with a minimum height of four feet and utilize signage on all sides to indicate the area is under preservation. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 1 of Resolution R-2021-956, Control No.2001-00005)

2. The understory within the native preserve area(s) shall be restored and reestablished with native species typically found in its respective land cover classification and/or as approved ERM, and shall remain in perpetuity. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 2 of Resolution R-2021-956, Control No.2001-00005)

3. Any landscape material that is planted adjacent to the native preserve area(s) shall be native to Florida. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 3 of Resolution R-2021-956, Control No.2001-00005)

4. A Conservation Easement with a minimum cumulative acreage of 1.51 acres shall be submitted, reviewed and recorded prior to final site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 4 of Resolution R-2021-956, Control No.2001-00005)

5. A Preserve Management Plan and fee, shall be submitted and approved prior to final site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 5 of Resolution R-2021-956, Control No.2001-00005)

6. The littoral zone within the water management tract shall be shown on the Final Site Plan prior to Technical Compliance. (TC: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) (Previous ENVIRONMENTAL Condition 6 of Resolution R-2021-956, Control No.2001-00005)

HEALTH

1. Previous HEALTH Condition 1 of Resolution R-2021-956, Control No.2001-00005, which currently states:

Architectural plans must be submitted to the Institutional Child Care Section, Palm Beach County Health Department in accordance with Rule 64E-13 FAC. (BLDGPMPT: HEALTH DEPARTMENT - Health Department)

Is hereby deleted. [REASON: No longer applies.]

2. Previous HEALTH Condition 2 of Resolution R-2021-956, Control No.2001-00005, which currently states:

Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 64E-16FAC (ONGOING: HEALTH DEPARTMENT - Health Department)

Is hereby deleted. [REASON: No longer applies]

3. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous HEALTH Condition 3 of Resolution R-2021-956, Control No.2001-00005)

4. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous HEALTH Condition 4 of Resolution R-2021-956, Control No.2001-00005)

LANDSCAPE - PERIMETER-LANDSCAPE AND BUFFERING ALONG THE SOUTH 375 LINEAR FEET OF EAST PROPERTY LINE

1. Prior to final approval by the Development Review Officer, the Plans shall be revised to indicate a Type 3 Incompatibility Buffer along the south 375 feet of the east property line. The revised Plan shall indicate a removable section of the fence, a minimum of 20 ft. in width, to provide for future cross-access to the property to the east, should the lands to the east be re-developed. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 3 of Resolution R-2021-956, Control No.2001-00005)

LANDSCAPE - PERIMETER-LANDSCAPE AND BUFFERING ALONG THE NORTH PROPERTY LINE

2. The eastern 100 feet of the north landscape buffer shall include 1 Live Oak per 20 linear feet (5 total). Further, in addition to Code requirements, a 6 ft. high Cocoplum Hedge shall also be installed within this 100 foot buffer area. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 4 of Resolution R-2021-956, Control No.2001-00005)

LANDSCAPE - PERIMETER-LANDSCAPE - PERIMETER- LANDSCAPE AND BUFFERING ALONG EAST PROPERTY LINE

3. The northern 100 feet of the east landscape buffer shall include 1 Live Oak per 20 linear feet (5 total). Further, in addition to Code requirements, a 6 ft. high Cocoplum Hedge shall also be installed within this 100 foot buffer area. (BLDGPMPT/ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 5 of Resolution R-2021-956, Control No.2001-00005)

PLANNED DEVELOPMENT

1. Prior to platting, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (PLAT: ZONING - County Attorney) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2021-956, Control No.2001-00005)

2. Prior to platting, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - County Attorney) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 2 of Resolution R-2021-956, Control No.2001-00005)

PLANNING

1. Per LGA 2021-002 condition 1: Development under the Commercial High Future Land Use designation is limited to a maximum of 366,200 square feet of commercial retail development or up to the equivalent number of daily trips. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 9 of Resolution R-2021-956, Control No.2001-00005)

2. The subject request for 384 units with a 88-unit Workforce Housing Program (WHP) obligation was calculated 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 128 units, and a TDR bonus of 96 units. 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-2021-956, Control No.2001-00005)

3. 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-2021-956, Control No.2001-00005)

4. Prior to the release of the 3rd Building Permit (192 units), Fifty percent of WHP units (44) must receive certificates of occupancy. (CO: MONITORING - Planning) (Previous PLANNING Condition 12 of Resolution R-2021-956, Control No.2001-00005)

5. Prior to the release of the 5th Building Permit (326 units), All WHP units (88) must receive Certificates of Occupancy (CO). (CO: MONITORING - Planning) (Previous PLANNING Condition 13 of Resolution R-2021-956, Control No.2001-00005)

6. 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-2021-956, Control No.2001-00005)

7. The Developer shall notify Planning and DHES at the commencement of leasing. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 15 of Resolution R-2021-956, Control No.2001-00005)

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-2021-956, Control No.2001-00005)

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) (Previous SCHOOL BOARD Condition 2 of Resolution R-2021-956, Control No.2001-00005)

SITE DESIGN

1. Residential Buildings 1, 2 and 3, and non-residential building A, shall be limited to a maximum of 35 feet in height, as defined in Art. 1.C.4.C.1, Building Height. (BLDG/PMT/ONGOING: ZONING - Zoning) (Previous SITE DESIGN Condition 2 of Resolution R-2021-956, Control No.2001-00005)

2. Previous SITE DESIGN Condition 4 of Resolution R-2021-956, Control No.2001-00005, which currently states:

The pedestrian access system shall provide for interconnectivity of all uses per the Preliminary Site Plan dated May 25, 2021.

Is hereby amended to read:

The pedestrian access system shall provide for interconnectivity of all uses per the Preliminary Site Plan dated September 13, 2023. (DRO/ONGOING: ZONING - Planning)

3. Prior to final approval by the Development Review Officer, the Site Plan shall be revised to provide for 15 ft. R-O-W Buffer along the west 965 ft. of the north property line. An 8 ft. high concrete panel wall shall be provided for within the overall north buffer (R-O-W and Incompatibility Buffer), a minimum of 7.5 ft. from the Base Building Line or property line, as applicable. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 5 of Resolution R-2021-956, Control No.2001-00005)

4. Prior to final approval by the Development Review Officer, the Applicant shall submit revised Plans identifying a future vehicular cross access to the property to the east to the north of Building G. Cross-access will only be required should the property to the east be rezoned or redeveloped for non-residential development. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 6 of Resolution R-2021-956, Control No.2001-00005)

5. Prior to final approval by the Development Review Officer, the Applicant shall submit revised Plans identifying a 6 ft. high fence along the north 655 ft. of the east property line. The fence shall be located to the west of the Type 1 Incompatibility buffer, between the proposed parking and the required buffer. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 7 of Resolution R-2021-956, Control No.2001-00005)

USE LIMITATIONS

1. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the Self-Service Storage Facility. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2021-956, Control No.2001-00005)

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.