

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: DOA-2023-00658
Application Name: BrandX Pointe
Control No./Name: 2005-00370 (Lake Point)
Applicant: HRC Investment Group LLC
Owners: HRC Investment Group LLC
Agent: WGINC - Matthew Barnes
Telephone No.: (561) 687-2220
Project Manager: Vincent Stark, Site Planner I

Title: a Development Order Amendment **Request:** to delete the Conditions of Approval for a Conditional Overlay Zone (COZ) on 4.08 acres

Title: a Release of Restrictive Covenant **Request:** to release a Restrictive Covenant restricting income on one unit on 4.08 acres

APPLICATION SUMMARY: The proposed request is for the 4.08-acre BrandX Pointe Development. The site was last approved by the Board of County Commissioner (BCC) on June 22, 2006 for an Official Zoning Map Amendment from General Commercial (CG) Zoning District to the Multifamily Residential (RM) Zoning District with a Conditional Overlay Zone (COZ) by R-2006-1197. The approval included a site plan with 34 dwelling units of which two units were administratively approved as part of the Transfer of Development (TDR) Program. The Development Order included Planning Condition Number 1 which required income restrictions on one of the TDR units by Restrictive Covenant. The Development Order has not been implemented and the site is currently vacant.

The requests propose to amend the approved Development Order to delete the conditions of approval for COZ, including extinguishing the previously approved site plan, and release the Restrictive Covenant.

SITE DATA:

Location:	South East corner of Congress Avenue and Donnelly Drive
Property Control Number(s)	00-43-45-05-21-001-0000; 00-43-45-05-21-002-0000
Future Land Use Designation:	Commercial High, with an underlying 8 units per acre (CH/8)
Zoning District:	Multi-Family Residential (RM)
Total Acreage:	4.08 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Atlantis, Boynton Beach, Lantana
Future Annexation Area	Lantana
Commission District:	District 2, Mayor Greg K. Weiss

RECOMMENDATION: Staff recommends approval of the request subject to the Conditions of Approval as indicated in Exhibits C

ACTION BY THE ZONING COMMISSION (ZC): At the September 7, 2023 ZC Hearing, this item was on the Consent Agenda. Commissioner Kern made a motion to approve the items on Consent, which was seconded by Commissioner Gromann. The motions carried by a vote of 7-0-0.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received no contacts from the public regarding this application.

PROJECT HISTORY:

Application No.	Request	Resolution	Approval Date
Z-SE-1981-00116	To allow a rezoning from RS-Residential Single Family District to CG-General Commercial District	R-1981-1358	9/24/1981
	Special Exception to allow a Planned Commercial Development, Including a Large Scale Community Shopping Center	R-1981-1359	9/24/1981
SE-1981-00116	Special Exception to amend the Site Plan Previously approved under zoning petition No. 81-116 to allow a Hotel.	R-1984-165	10/27/1983
DOA-SE-1981-00116	Special Exception to amend the Site Plan for a Hotel to decrease the land area with a concurrent modification of Commission requirements	R-1990-1893	11/06/1990
SE-1990-00034	Special Exception for a Planned Commercial Development to extinguish portion of the previously approved Zoning Petition No. 81-116(A)	R-1990-1898	11/06/1990
CB-1990-00034	Class B Conditional Use to allow a Congregate Living Facility – Type 3 (48 beds)	ZR-1997-0002	1/06/1997
SR-1990-00034A	To approve a Development Order Amendment, amending the development order previously granted by the approval of the petition of Atria Communities, Inc., Petition No. 90-34(A),	ZR-2002-010	08/01/2002
ABN-2005-01689	To revoke Resolutions ZR-1997-002 and ZR-2002-010, approving Zoning Application CB 1990-034(A) and SR 1990-034(A), the	ZR-2006-0002	6/07/2006
Z-2005-01117	Rezoning from the General Commercial Zoning District to the Multifamily Residential Zoning District	R-2006-1197	6/22/2006

FINDINGS:

Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order Amendment:

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order Amendment that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

- a. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*
 - *Consistency with the Comprehensive Plan:* *The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.*
 - *Prior Land Use Amendments:* The site was the subject of a prior County-initiated land use amendment known as Commercial Categories (Com. Cat. 83a & 83b), which amended the land use from Commercial with an underlying 8 units per acre (C/8) to Commercial High with an underlying 8 units per acre (CH/8) adopted via Ordinance 2001-087 with no conditions.
 - *Density:* The subject site is currently vacant, as the prior Development Order was never implemented. The request seeks to delete Conditions of Approval that were applied as a Conditional Overlay Zone (COZ) through the prior 2006 Rezoning Resolution. No site plan is being proposed at this time. The maximum allowable density on the site for the underlying future land use designation of High Residential, 8 units per acre, not including use of optional density bonus programs, is 33 units (4.08 acres X 8 du/ac = 32.64 or 33 du rounded up).
 - *Intensity:* The maximum Floor Area Ratio (FAR) for Commercial High (CH) within the Urban Suburban Tier is 0.85 FAR (4.08 acres or 177,724.8 sq. ft. x 0.85 maximum FAR = 151,066.08 sq. ft. maximum).

- **Planning Conditions:** The request to delete prior Conditions of Approval is inclusive of two Planning conditions related to the Workforce Housing Program (WHP) and Transfer of Development Rights (TDR) Program to be implemented by Restrictive Covenant (see attached recorded document). These conditions were applied in order to implement provisions of the WHP in effect at the time of the prior application, when the Applicant requested to increase density by purchasing TDRs. As specified by Planning Condition 1, the previous Property Owner recorded a Restrictive Covenant Agreement (RCA) over the property for two WHP units. Since the development order was never implemented, and the current Property Owner intends to develop the site under current regulations, the Applicant is requesting to release the existing RCA, which Planning staff supports.
- **Special Overlay District/Neighborhood Plan/Planning Study Area:** The site is not located within any neighborhood plans, overlays or plan study areas as identified in the Comprehensive Plan.
- **Compatibility:** County Direction #4 establishes that “Land Use Compatibility” is one of the eighteen directions that are the basis for the Goals, Objectives and Policies of the Comprehensive Plan. The directive reads as follows: “*Land Use Compatibility. Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*” Several policies within the Plan’s Future Land Use Element (FLUE) further address compatibility through the ULDC and development review process. FLUE Policy 2.2-c establishes that the ULDC is consistent with the Plan, and that consistency shall “*ensure compatibility with adjacent future land uses.*” Further, FLUE Policy 4.3-i indicates (in part) that “*the Development Review process shall also consider the compatibility of the density or intensity of proposed development with adjacent future land uses.*”

As the subject site is currently vacant and no development is being proposed at this time, there are no compatibility concerns resulting from the abandonment itself. The Planning Division will review future development proposals for compatibility at such time that a zoning application is submitted, or if an application is submitted that does not require a subsequent review that would come before the Planning Division, the existing ULDC provisions for landscape buffering, setbacks, building massing, nuisance abatement, etc., would ensure compatibility with adjacent parcels.

- **Planning Conditions:** The request seeks to delete the previous WHP conditions. WHP conditions shall be applied, when applicable, future residential requests.

b. Consistency with the Code - The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

- **Conditional Overlay Zone:** A Conditional Overlay Zone is to modify or restrict the use and site development regulations authorized in the underlying Standard Zoning District. This regulation is to prevent, minimize or mitigate adverse impacts upon the surrounding land uses. Following the approval of the Zoning Application No. 2005-370 in 2006, through Resolution R-2006-1197, the Conditional Overlay Zone (COZ) was established with specific requirements for the subject site. based on the change in zoning and the proposed use, layout and impacts. These requirements included provisions for attainable workforce housing units (Planning Conditions 1 and 2), addressing potential incompatibilities with adjacent properties (Zoning Conditions 1-3), and ensuring mandatory Traffic Performance Standards (TPS) (Engineering Conditions 1-3).

The Final Site Plan linked to R-2006-1197 was approved through DRO-2006-01292 on March 14th, 2007, allowing for the development of 34 multifamily units with a density of 8.33 dwelling units per acre. Furthermore, the Final Site Plan incorporated two Transfer of Development Rights (TDR) units.

The requests propose to delete the conditions of approval Zone (COZ) related to the previously approved site plan and the associated Conditional Overlay. By doing so, the Applicant will have the opportunity to pursue a different site plan while complying with the current land development regulations and policies of the Plan. At the time of the last application request the Applicant was seeking to rezone the property from General Commercial to Residential Multifamily and proposed housing (34 units) under different policies of the Plan and requirements of the ULDC. The policies for density were different than they are today. In addition, the Applicant is also seeking the release of a recorded Restrictive Covenant for Workforce Housing on the site, as documented in ORB 21454, page 386, through this application, relating to the use requested and the Conditions of Approval relating to compliance with the Plan.

It is the Applicant’s intention to develop the Site under the current code regulations. The Site will retain the actual (RM) Zoning District and any future development will be compliant with the Plan and ULDC at the time of application. Removal of the Conditions and the associated COZ does not provide entitlement to any uses. Because a use is not proposed at this time, approval of a new Development Order and associated Development Permit is still required at a later date before the property can be developed.

- c. **Compatibility with Surrounding Uses** – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The requested DOA has no impact on the property's Future Land Use or Zoning designation, nor does it involve any new development. With the site being RM with an HR-8 future land use, the FLUA density allowed on the property would be the same at 32 units. Multifamily, Townhouse, Zero Lot Line and Single family housing types would be allowable in this zoning district. Any of these uses would be compatible with the surrounding area that includes a mix of housing types including Manufactured/Mobile homes, Single family, Zero Lot line, and Multifamily.

- d. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The proposed DOA to delete the conditions of approval and remove the Conditional Overlay Zone does not have impacts, visually or intensity on the adjacent uses and not use is proposed at this time. When the Applicant submits a request for a Development Order, it will be reviewed for compliance with all regulations and policies of the ULDC and the Plan.

- e. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

ENVIRONMENT RESOURCE MANAGEMENT COMMENTS:

- **Vegetation Protection:** The application request does not impact native vegetation.
 - **Wellfield Protection Zone:** The property is not located within a Wellfield Protection Zone.
 - **Irrigation Conservation Concerns And Surface Water:** All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 2022-007. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93-15.
 - **Environmental Impacts:** There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.
- f. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The proposed (DOA) does not involve any new development on the site, resulting in no impact on development patterns through this application.

- g. **Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

The Applicant is requesting to delete all conditions of approval, extinguish the associated Development permit (Site Plan) and delete the Conditional Overlay Zone. No concurrency will remain on the site until the Applicant seeks approval of a new Development Order.

ENGINEERING COMMENTS:

There are no proposed new Engineering conditions of approval with this application.

DRAINAGE

The subject site is within the Lake Worth Drainage District Service Boundaries. Because no development is proposed at this time, drainage cannot be confirmed to be in compliance with current code. Any future development must comply with the current regulations and seek the appropriate permits in accordance with any approved Development Order from Lake Worth Drainage District and South Florida Water Management District.

WATER AND WASTEWATER

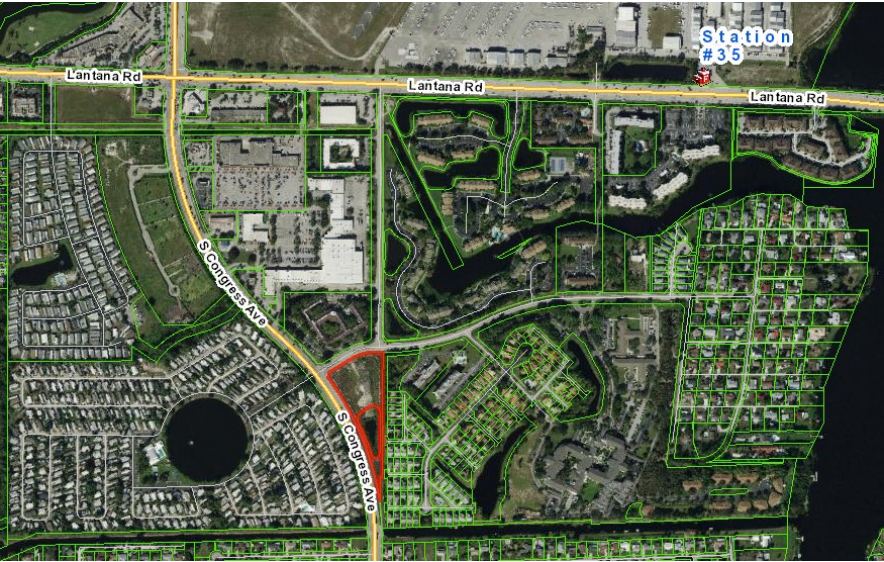
The subject site is within the City of Lake Worth Beach Utilities Department Service Boundaries. They indicated in Exhibit F, that Water and Sewer lines are adjacent to the subject property. Any future development will need to connect to their services and obtain their approval.

PALM BEACH COUNTY HEALTH DEPARTMENT:

This project has met the requirements of the Florida Department of Health.

FIRE PROTECTION:

Staff has reviewed this application and have no comment. The site is located within the boundaries of PBC Fire Station 35.



SCHOOL IMPACTS:

The School Board has no issue with the requested removal of the Conditional Overlay Zone.

PARKS AND RECREATION:

The Parks and Recreation Department has "no comment" on deletion of conditions.

- h. Changed Conditions or Circumstances** – *There are demonstrated changed site conditions or circumstances provided by the Applicant's Justification Statement that necessitate the amendment.*

Staff finds that a change of circumstances or site conditions has occurred which makes it necessary or reasonable to amend, extend, vary, or alter the COZ. Therefore, modifications to the approved Site Plan are needed in order to provide a more appropriate ingress/egress access point that complies with the code. The Applicant's intention is to develop the subject site using a different site plan, rendering the COZ inapplicable to the new proposal.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B.7.C.2 and 2.B.3.E determined that there is a balance between the need for change and the potential impacts generated by Development Order Amendment. Therefore, Staff is recommending approval subject to Conditions of Approval as indicated in Exhibit C

CONDITIONS OF APPROVAL

EXHIBIT C

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved site plan is dated March 28, 2006. All modifications must be approved by the Board of County Commissioners or Zoning Commission unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property owner shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after January 1, 2009. 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 Article 2, Section E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer applicable]

2. Previous ENGINEERING Condition 2 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Landscape Within the Median of Congress Avenue

a. The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Congress Avenue. 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 Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING-Eng) (Previous ENGINEERING Condition 2 of Resolution R-2006-1197, Control No.2005-00370)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING -Eng) (Previous ENGINEERING Condition 2 of Resolution R-2006-1197, Control No.2005-00370)

d. At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner 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 petitioner. The petitioner 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 Petitioner. (ONGOING: ENGINEERING-Eng) (Previous ENGINEERING Condition 2 of Resolution R-2006-1197, Control No.2005-00370)

e. Alternately, at the option of the petitioner, and prior to the issuance of a Building Permit, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Congress Avenue.

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. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer applicable]

3. Previous ENGINEERING Condition 4 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

On or before June 1, 2007 the property owner shall convey to Palm Beach County sufficient 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 the east 60 feet of the right of way of Congress Avenue along the property frontage; and a maximum 800 feet of these adjacent roadway(s). 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 retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as 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. 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. (DATE: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer applicable]

HEALTH

1. Previous HEALTH Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

The project shall be served by sanitary sewer and a community water system. Neither onsite sewage treatment and disposal system (OSTDS) nor potable water wells shall be approved for use on the property. All existing OSTDS must be abandoned in accordance with Chapter 64E-6, FAC and Palm Beach County ECR-I. All existing onsite potable water supply systems shall be abandoned in accordance with Chapter 64E-8, FAC, and Palm Beach County ECR-II. (ONGOING: HEALTH DEPARTMENT - Health Department)

Is hereby deleted. [REASON: Code Requirement]

ZONING - LANDSCAPING-STANDARD

1. Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Prior to the issuance of a building permit (or specify an alternative), the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDGPMT: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

2. Previous ZONING - LANDSCAPING Condition 4 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPMT: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

3. Previous ZONING - LANDSCAPING Condition 5 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation.

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

5. Previous ZONING - LANDSCAPING Condition 6 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Provide a landscape focal point at the dead end between units 23 and 22. Prior to final approval by the Development Review Officer (DRO) the Landscape focal points shall be subject to review and approval by the Landscape Section. (DRO: ZONING - Architectural Review)

Is hereby deleted. [REASON: No longer applicable]

PLANNING

1. Previous PLANNING Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

Prior to final approval by the Development Review Officer (DRO), if additional units are requested through the County's TDR Program, the property owner shall record in the public records of Palm Beach County a restrictive covenant, in a form acceptable to the Palm Beach County Attorney, which includes the following:

- a. Guarantees the attainability of 30% of the requested TDR units (the number of units calculated shall be rounded up to the nearest dwelling unit) for a period of ten years (ownership) twenty years (rental), to moderate income (>80% - 120% median income) households, with the unit sales prices determined by Palm Beach County's Housing and Community Development Department; and
- b. Guarantees that these units shall not be further restricted beyond the requirement that the occupants qualify for the income limits. (DRO: COUNTY ATTORNEY - Planning)

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

2. Previous PLANNING Condition 2 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

The property owner shall include in sales documents as well as written brochures, sales contracts, Master Plans and related Site Plans a disclosure statement identifying and notifying future residents of this development, that the project has a minimum of 30% of the requested TDR units earmarked as attainablehousing units and any residents wishing to reside in a unit that has been earmarked as an attainable housing unit shall qualify for eligibility. Every deed of sale for each of the attainable units shall contain a restriction guaranteeing the property is sold and occupied by a qualified income household only, for a period of ten years (ownership) twenty years (rental). The property owner is responsible for disclosure of the location of these attainable units prior to the sale of any units. On an annual basis, beginning July 1, 2007, the property owner/homeowner association shall submit an annual report to the Planning Division documenting compliance with the Attainable Housing declaration of restrictive covenants, the sales document disclosure, and the deed of sale restriction. (DATE: MONITORING - Planning)

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

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2006-1197, Control No.2005-00370, which currently states:

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 be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. 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)

Is hereby deleted. [REASON: No longer applicable]

COMPLIANCE

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

Is hereby deleted. [REASON: No longer applicable]

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.

Appeals of any departmental administrative actions hereunder may be taken to the Palm Beach County Board of Adjustment or as otherwise provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Fifteenth Judicial Circuit. (ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

DISCLOSURE

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

Figure 1 - Land Use Map



Figure 2 - Zoning Map

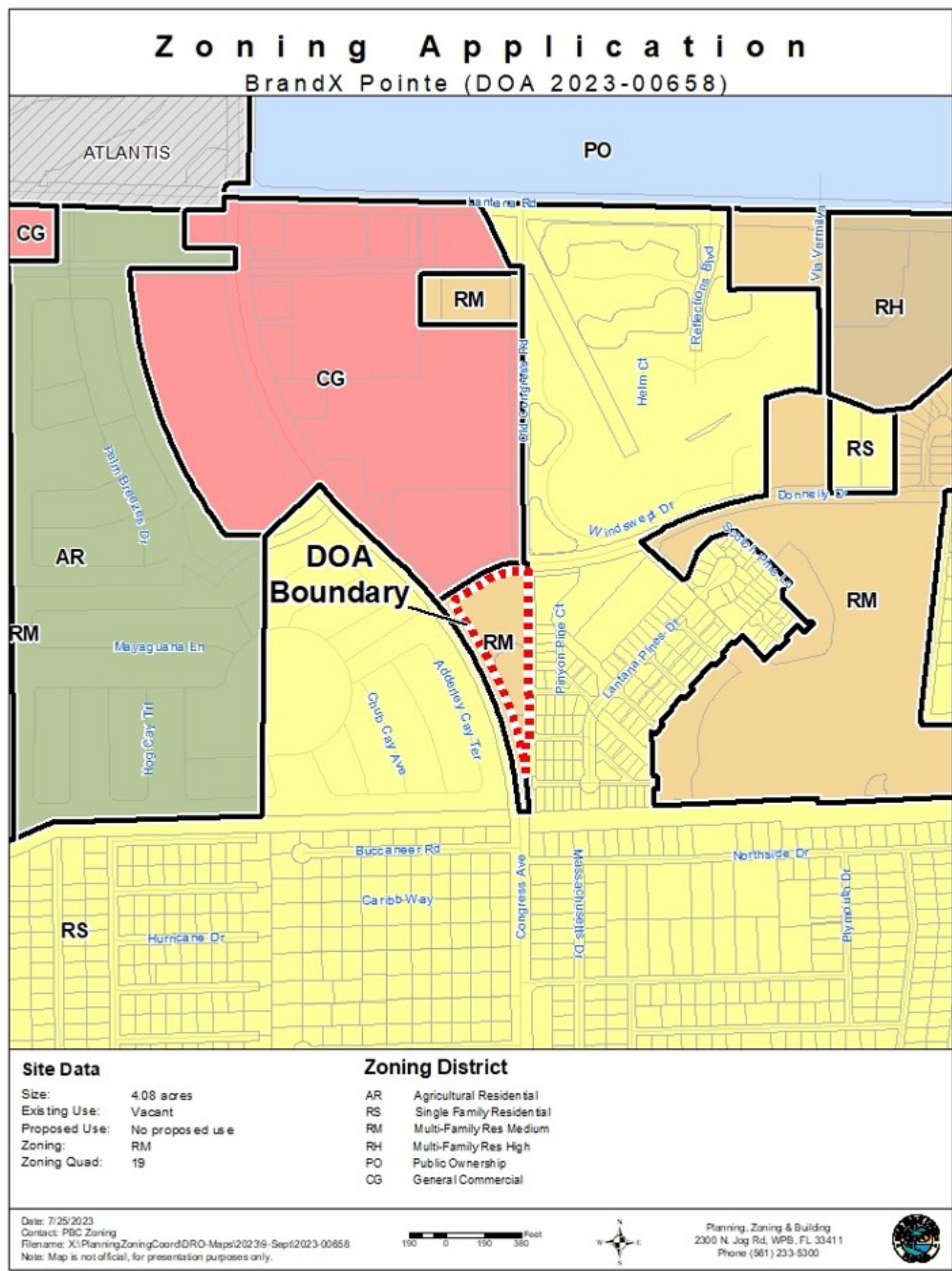
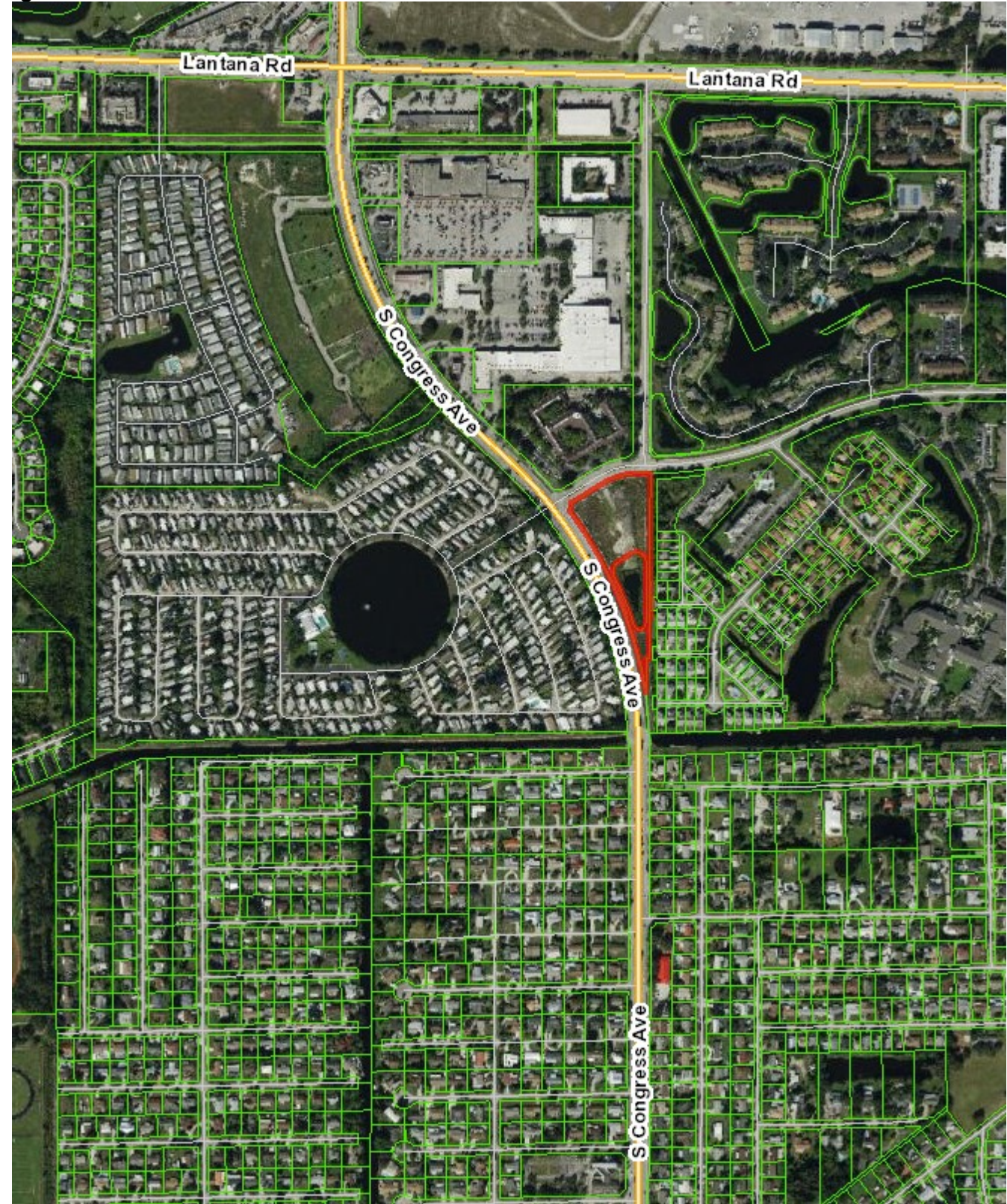


Figure 3 - Aerial



Board of County Commissioners
Application No. DOA-2023-00658



Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Hector Cabrera, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- 1. Affiant is the [] individual or [x] Title MGR [position - e.g., president, partner, trustee] of HRC Investment Group LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
- 2. Affiant's address is: 348 Davis Road, Palm Springs FL 33461
- 3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
- 4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
- 5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
- 6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.



Hector Cabrera, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [x] physical presence or [] online notarization, this 16 day of May, 2023 by Hector Cabrera (name of person acknowledging). He/she is personally known to me or has produced driver's license (type of identification) as identification and did/did not take an oath (circle correct response).

(Name - type, stamp or print clearly)



(Signature)

My Commission Expires on: _____

NOTARY'S SEAL OR STAMP

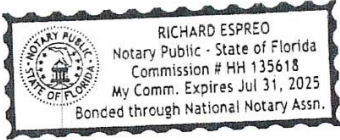


EXHIBIT "A"

PROPERTY

PARCEL A AND TRACT B, ATRIA LANTANA, ACCORDING TO THE PLAT THEREOF AS
RECORDED IN PLAT BOOK 85, PAGE 134, OF THE PUBLIC RECORDS OF PALM BEACH
COUNTY, FLORIDA.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name	Address
Hector Cabrera	348 Davis Road, Palm Springs, FL 33461

Exhibit F – Water and Waste Water approval dated November 20, 2019



WATER UTILITIES DEPARTMENT
301 COLLEGE STREET
LAKE WORTH BEACH, FL 33460

November 20, 2019

Brandon Cabrera
BrandX Company

Subj: Property at Donnelly Dr. and S. Congress Ave
 PCN # 00-43-45-05-21-001-0000

Dear Mr. Cabrera,

The City of Lake Worth Beach Water Department has available potable water and sanitary sewer service to this site. There is a 12 inch water main that runs along S. Congress Ave and Donnelly drive which are along the western and northern property boundary lines. Sanitary gravity sewer is present along the eastern property line near Donnelly Dr.

The City of Lake Worth Beach currently has adequate capacity to serve this property. System capacity such as fire flow pressure and/or lift station capacity shall be evaluated on the site or building plans.

Should you have any questions, please call me at (561) 586-1640.

Sincerely,

A handwritten signature in black ink, appearing to read "Giles Rhoads".

Giles Rhoads, P.E.
Water Utilities Department Engineer
City of Lake Worth Beach

lakeworthbeachfl.gov



CFN 20070097141
OR BK 21454 PG 0386
RECORDED 02/27/2007 15:32:53
Palm Beach County, Florida
Sharon R. Bock, CLERK & COMPTROLLER
Pgs 0386 - 392; (7pgs)

Prepared by and return to:

Ronald L. Platt, Esq.
c/o Independence Title
205 NE 5th Terr.
Delray Beach, FL 33444

DECLARATION OF RESTRICTIVE COVENANTS
FOR WORKFORCE HOUSING IN ACCORDANCE WITH
THE WORKFORCE HOUSING PROGRAM

THIS DECLARATION OF RESTRICTIVE COVENANTS FOR WORKFORCE HOUSING IN ACCORDANCE WITH THE WORKFORCE HOUSING PROGRAM (the "Covenant") is made Lantana Ventures, LLC, a Florida limited liability company as the current owner of the property described on Exhibit "A" attached hereto (the "Property").

1. **Definitions:** In this Covenant, the following words and phrases shall have the meanings indicated, unless the context requires otherwise.
- a. "Adjusted Gross Income" shall have the meaning contained in the Palm Beach County 1989 Comprehensive Plan's Housing Element, as of this date or as such term may be modified in future amendments to the Plan. As presently defined (page 3-HE) Adjusted Gross Income means all wages, assets, regular cash or non-cash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under Section 62 of the Internal Revenue Code.
 - b. "Compliance Period" shall be: ten years from the date of issuance of the certificate of occupancy for a Required Workforce Unit.
 - c. "Declarant" means the entity creating the initial Development. Declarant is the original Developer (Lantana Ventures, LLC, a Florida limited liability company), and its successor or assigns, including any or all successors or assigns holding an interest in a Required Workforce Housing Unit.
 - d. "Development" means a residential development in Palm Beach County, Florida, to be known as "Lake Point".
 - e. "Eligible Household" means one or more persons living together and sharing living expenses whose combined income does not exceed the median adjusted gross income for households within the county of: Very Low (50% or less), Low (80% or less), Moderate (120% or less) as determined on a yearly basis based on information published on an annual basis by the Palm Beach County Department of Housing and Community Development Department or Planning Division For the purposes of this paragraph, an Eligible Household will occupy a Required Workforce Unit on a year-round basis as its primary residence.
 - f. "Monitoring Entity" shall mean the Palm Beach County Planning Zoning and Building Department or another department or entity assigned the responsibility by the Palm Beach County Administrator.

g. "Owner" means the record title holder of a Workforce Housing Workforce Housing Unit, but not including the holder or beneficiary of a mortgage or other form of security instrument affecting title to the Workforce Housing Unit.

h. "Required Workforce Housing Unit" means one (1) unit within the Development for which year deed restrictions shall be recorded in accordance with the provision of paragraph four (4). The "Required Workforce Housing Units and the maximum price of each unit are identified in Exhibit B attached hereto.

i. "Workforce Housing": shall have the meaning of "affordable housing" as defined in the Palm Beach County 1989 Comprehensive Plan's Housing Element, as of this date or as such term may be modified in future amendments to the Plan. As presently defined (page 2-HE), Affordable Housing means that monthly rents including utilities or monthly mortgage payments including property taxes, insurance and utilities do not exceed thirty (30%) percent of that amount which represents the percentage of the median adjusted gross annual income for the households composed of very low-income persons, low-income persons and moderate-income persons. As presently defined (page 2-HE), Affordable Housing means that monthly rents including utilities or monthly mortgage payments including property taxes, insurance and utilities do not exceed thirty (30%) percent of that amount which represents the percentage of the median adjusted gross annual income for the households composed of very low-income persons, low-income persons and moderate-income persons

2. Occupancy: A Required Workforce Housing Unit subject to this Covenant shall be occupied only by an Eligible Household from the initial date of occupancy of the Unit throughout the Compliance Period.

3. Term of Covenant: This Covenant shall commence upon recording. The Covenant shall expire: ten (10) years from the date the certificate of occupancy is issued for the last Required Workforce Housing Unit (the "Term") or the date the last deed restriction expires which references this covenant, whichever is later.

4. Restriction: Declarant shall include in every deed of sale for a Required Workforce Housing Unit, a restriction stating as follows :

"This property is to be sold to and occupied by an Eligible Household Moderate income in accordance with the Declaration of Restrictive Covenants for Workforce Housing recorded in ORB _____ P _____ of the Public Records of Palm Beach County. **Said Covenant requires prior verification and certification by Palm Beach County of the Eligible Household prior to closing.** This restriction shall be in effect for ten (10) years from the date the certificate of occupancy is issued for this Required Workforce Housing Unit.

5. Selection of Eligible Households: The Declarant and the County and their successors and assigns agree that the procedures for selection of an occupant of an ownership/for sale Required Workforce Unit under this paragraph shall not discriminate against any applicant based upon any protected class included in any federal, state or local fair housing law. For so long as the Declarant is the owner of a Required Workforce Unit, selection of an Eligible Household, evaluation of its income and assignments of Workforce Units shall be performed exclusively by the

Declarant according to the expressed terms of this paragraph. The Declarant, as applicable, shall have the unrestricted right to screen all Eligible Household applicants. Such screening shall include, but not be limited to, credit-worthiness, employer references, income and ownership of assets and any other background checks usually made by the Declarant on any prospective purchaser's application. Subject to the foregoing, the Declarant shall retain the exclusive and absolute right to reject Eligible Household applicants. Once approved by Declarant or its assigns, the eligible household must be submitted to Palm Beach County for verification and certification of income eligibility prior to closing on that unit.

6. Occupancy of Workforce Units: One (1) unit have been identified and required by Article 5.G.1 of the Palm Beach County Unified Land Development Code to be sold or rented only as Required Workforce Housing Units. The one (1) unit may only be sold to and occupied by Eligible Households. It is the expressed intent of the Board of County Commissioners to provide a density bonus above the allowable density for the Development in exchange for the provision of workforce housing opportunities. It would not be acceptable, therefore, for the Declarant to refuse to place Eligible Households in Required Workforce Housing Units, leaving them vacant for extended periods. For purpose of this paragraph, an extended period shall be deemed to be longer than the average time needed to sell units not designated as Required Workforce Housing Units.

7. Covenant Compliance:

(a) The Owner of each Required Workforce Housing Unit shall furnish to the County such information about the Required Workforce Housing Units as the County may request at each occasion of transfer of title or change in occupancy, including, the identity of the Eligible Household, the identity of the occupants, and documentation of the household income of the occupants, all for the purposes of assuring compliance with this Covenant.

(b) The Owner of each Workforce Housing Unit shall include in each sales agreement the right of County to verify the sale of the unit to an Eligible Household, and the requirement to provide income and other necessary information to the County. The Owner of each Required Workforce Housing Unit shall include a reference to the ten (10) Year Deed Restriction which guarantees the affordability of the unit, and which requires County verification of initial sales and resales to an Eligible Household before closing, and an explanation of the responsibilities resulting from the Ten (10) Year Deed Restriction upon any subsequent owners, successors and assigns, in any and all sales documents, agreements, etc., and in deeds or other instruments conveying an interest in the Required Workforce Housing Units. It is further agreed that the covenants and restrictions herein are for public purposes.

8. Annual Report: The Owner of each Required Workforce Housing Unit shall provide to the Monitoring Entity an annual report detailing compliance with the terms of this Covenant no later than April 1 of each year following the issuance of the first certificate of occupancy for a Required Workforce Unit, and continuing each year until this covenant expires. The Annual Report shall be on a form provided by the Monitoring Entity and shall contain, at a minimum, sufficient information and documentation to prove the compliance of each Required Workforce Housing Unit with the terms of this Covenant as follows:

- a. The identification of the Workforce Housing Unit and the Owner of Such Unit;
- b. The names of the persons occupying the Required Workforce Housing Unit;

c. Identify any changes in ownership and/or occupancy of the required Workforce Housing Unit from the previous year's report.

d. Documentation that the County verified and certified the income eligibility households occupying the Required Workforce Housing Units prior to initial closing or resale of such units;

9. Covenant to Run with the Land: It is intended and agreed that this Covenant and the restrictions contained in this Covenant shall run with the land constituting the Property and shall be binding upon any owner(s) of the Property, its successors and assigns for the benefit of and shall be enforceable by the County and its successors and assigns, and shall not expire until: ten(10), years from the date of the issuance of the final certificate of occupancy for a Required Workforce Housing Unit or the date the last deed restriction expires which references this covenant, whichever is later.

10. Modifications: This covenant shall not be extinguished, enlarged, modified, or replaced except with written authorization of Palm Beach County Board of County Commissioners.

11. Fair Housing: The Declarant and its successors and assigns, agree that the sale of all units shall be done in conformity with federal, state, and local Fair Housing laws.

12. Enforcement: The County, its successors or assigns, in the event of the occupancy or vacancy of any Required Workforce Housing Unit in violation of the provisions hereof, shall be entitled to seek any relief available including but not limited to specific performance of the provisions hereof, injunctive relief, rescission of any unauthorized sale and tolling of the time of the running time under the term of the covenant. In any action required to enforce the provisions of this paragraph, each party shall be responsible for their own attorneys' fees and other costs of bringing the action.

13. Severability: Should any provision of this Covenant be found invalid or unenforceable by a court of competent jurisdiction, said invalidity, unenforceability or ineffectiveness shall not affect the validity of the remaining provisions which shall remain in full force and effect.

14. Inspection: Palm Beach County, and its agents and assigns have the right to inspect and monitor the use of the Workforce Housing Units insure compliance with this Covenant.

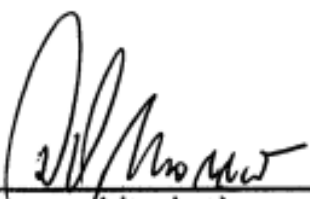
15. Reports: All reports required hereunder shall be sent to the following addresses or a subsequent address as it may from time to time be changed: Monitoring Section of the Palm Beach County Planning, Zoning and Building Department, 2300 N. Jog Road, West Palm Beach, FL 33411-2741 for sales and Director, Housing and Community Development Department, 3323 Belvedere Road, Bldg. 501, West Palm Beach, Florida 33406 for rentals.

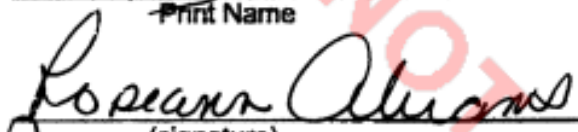
16. Recorded in the Public Records: This Covenant shall be recorded in the Official Public Records of Palm Beach County. A copy of the recorded Covenant shall be provided to the Director of Planning, the Palm Beach County Planning, Zoning, and Building, 2300 N. Jog Road, West Palm Beach, FL 33411-2741.

17. Jurisdiction and Venue The jurisdiction of any action regarding this Covenant shall be in the State of Florida. Venue of any court proceeding to enforce this covenant shall be in Palm Beach County Florida.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 15 day of February 2006.

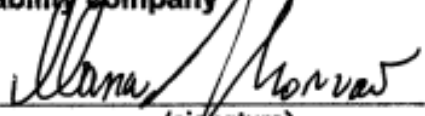
Signed, Sealed and Delivered in the presence of:


(signature)
DAVID MORROW
Print Name


(signature)
ROSEANN ABRAMS
Print Name

Declarant:

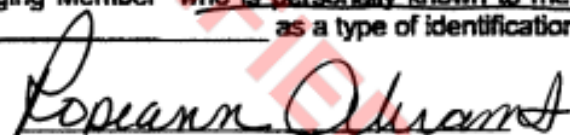
Lantana Ventures, LLC AT
FLORIDA, LLC, a Florida limited
liability company


(signature)
Liana Morrow, Managing Member
Title

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this 15 day of February, 2006, by Liana Morrow, Managing Member who is personally known to me or has produced _____ as a type of identification.


Notary Signature

NOTARY PUBLIC-STATE OF FLORIDA
 Roseann Abrams
Commission # DD477973
Expires: OCT. 03, 2009
Bonded Thru Atlantic Bonding Co., Inc.

Print Name: Roseann ABRAMS
Notary Public, State of: Florida
Serial Number, if any: DD477973
My commission expires: 10/3/09

5

Book21454/Page390

Page 5 of 7

EXHIBIT "A"

Parcel A and Tract B of "ATRIA LANTANA", according to the plat thereof, s recorded in Plat Book 85, Page 134, of the pubic records of Palm Beach County, Florida.

NOT A CERTIFIED COPY

EXHIBIT "B"

The following listed one (1) townhouse lots as depicted on the preliminary site plan shall be designated as the Workforce Housing Units that are set forth in Section 1H herein at a purchase price not to exceed TWO HUNDRED EIGHTY THOUSAND DOLLARS AND NO/100 (\$280,000.00):

Unit 2

NOT A CERTIFIED COPY

7

Exhibit H – Proposed Termination and Release of Restrictive Covenant

This instrument prepared by (and after recording should be returned to:

Matthew Barnes
WGI, Inc.
2035 Vista Parkway
West Palm Beach, FL 33411

(Space Reserved for Clerk of Court)

TERMINATION AND RELEASE OF RESTRICTIVE COVENANT

THIS TERMINATION AND RELEASE OF RESTRICTIVE COVENANT is made as of the ____ day of _____, 20____, by **HRC INVESTMENT GROUP, LLC, a Florida limited liability company**, having an address of 348 Davis Road, Palm Springs, FL 33461 (the "Owner") and **PALM BEACH COUNTY**, a political subdivision of the State of Florida, having an address of 2300 North Jog Road, 2nd Floor, West Palm Beach, Florida 33411 (the "County"), for the express purpose of terminating and forever releasing and discharging the "Restrictive Covenant" (as hereinafter defined).

RECITALS:

WHEREAS, Owner holds title in fee simple in and to the real property legally described on Exhibit "A", attached hereto and made a part hereof (the "Property"); and

WHEREAS, Owner's predecessor in title to the Property ("Prior Owner") recorded a Master Declaration of Restrictive Covenants for Workforce Housing on February 27, 2007 in Official Records Book 21454, Page 386, Public Records of Palm Beach County, Florida (the "Restrictive Covenant"), against the Property in connection with Prior Owner's plans to develop the Property as a multifamily residential development pursuant to the Zoning Map Amendment with a Conditional Overlay Zone ("COZ") approved via Resolution No. R-2006-1197 ("Prior Approval"); and

WHEREAS, the Prior Owner let the Prior Approval lapse and the Prior Approval has no further force and effect; and

WHEREAS, Owner is applying for a Development Order Amendment to delete the conditions associated with the COZ of the Prior Approval so that Owner can develop the Property pursuant to current County zoning regulations; and

WHEREAS, the Restrictive Covenant is no longer required because the Prior Approval is null and void; and

WHEREAS, Owner now desires to terminate the Restrictive Covenant, which by its terms cannot be extinguished or terminated without the written approval of the Palm Beach County Board of County Commissioners; and

WHEREAS, the County has agreed to consent and allow the termination, release and discharge of the Restrictive Covenant.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and County, intending to be legally bound, do hereby agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by this reference as if repeated at length.
2. Effective as of the date hereof, the Restrictive Covenant is hereby terminated, released and discharged in its entirety; shall be of no further force or effect; and no longer a burden or encumbrance on title to the Property. The parties hereby direct the Clerk of Official Records, Palm Beach County, Florida, to cancel same of record.

[Signatures and notary acknowledgements follow on the next pages]

IN WITNESS WHEREOF, this instrument has been executed as of the day and year first above written.

OWNER: [Signature]

Witnesses:

By: HRC Investment Group, LLC, a Florida limited liability company

By: Hector Cabrera
Title: Manager

[Signature]
Printed Name: Ernie Jackson

[Signature]
Printed Name: Richard Espreo

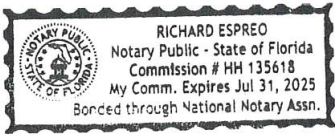
STATE OF Florida)
COUNTY OF Palm Beach)ss:

The foregoing instrument was acknowledged before me this 11 day of July, 2023 by Hector Cabrera, as Manager of HRC Investment Group, LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ as identification.

[NOTARIAL SEAL] _____
Notary Public, State of Florida

My Commission Expires: [Signature]
Typed, Printed or Stamped Name of Notary Public

[EXECUTION BY PALM BEACH COUNTY ON FOLLOWING PAGE]



JOSEPH ABRUZZO,
CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD
OF COUNTY COMMISSIONERS

By: _____
Deputy Clerk

By: _____
Mayor

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY

By: _____
County Attorney

THIS PAGE LEFT BLANK INTENTIONALLY