

RESOLUTION NO. R-2016- 1232

RESOLUTION APPROVING ZONING APPLICATION DOA/R-2015-01918  
(CONTROL NO. 2008-00243)  
a Development Order Amendment  
APPLICATION OF Hypoluxo & I 95 Holdings LLC  
BY Atlantic Land Management, AGENT  
(Hypoluxo Shoppes)

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 (Development Review Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application DOA/R-2015-01918 was presented to the Board of County Commissioners at a public hearing conducted on September 22, 2016;

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 (Development Review 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 Process) 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.A.1.K.3.b (Action by BCC) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA/R-2015-01918, the Application of Hypoluxo & I 95 Holdings LLC, by Atlantic Land Management, Agent, for a Development Order Amendment to reconfigure the Site Plan, delete square footage, add a Requested Use, and modify or delete Conditions of Approval (All Conditions), 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 September 22, 2016, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Abrams moved for the approval of the Resolution.

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

Commissioner Mary Lou Berger, Mayor	-	Aye
Commissioner Hal R. Valeche, Vice Mayor	-	Aye
Commissioner Paulette Burdick	-	Absent
Commissioner Shelley Vana	-	Aye
Commissioner Steven L. Abrams	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Priscilla A. Taylor	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on September 22, 2016.

Filed with the Clerk of the Board of County Commissioners on October 4th, 2016

This resolution shall not become effective unless or until the effective date of Small Scale Land Use Amendment No. SCA-2016-002.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY


PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK






EXHIBIT A

LEGAL DESCRIPTION

**PCN:**

00-43-45-04-00-000-7380;  
00-43-45-04-00-000-7440

**LEGAL DESCRIPTION:**

SOUTH ½ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF THE SOUTHWEST ¼ OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAYS FOR STATE ROAD 9 (US I-95), HYPOLUXO ROAD AND HIGH RIDGE ROAD.

**ALSO KNOWN AS:**

A PARCEL OF LAND BEING A PORTION OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE SOUTHWEST QUARTER (S.W. ¼) OF THE SOUTHWEST QUARTER (S.W. ¼) OF SECTION 4, TOWNSHIP 45 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 4, RUN NORTH 02 DEGREES 18 MINUTES 16 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 4, A DISTANCE OF 348.39 FEET; THENCE SOUTH 89 DEGREES 50 MINUTES 23 SECONDS EAST A DISTANCE OF 40.03 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF HIGH RIDGE ROAD (80.00 FEET WIDE RIGHT-OF-WAY); SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; CONTINUE THENCE SOUTH 89 DEGREES 50 MINUTES 23 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 641.64 FEET; THENCE SOUTH 02 DEGREES 17 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 242.87 FEET; THENCE SOUTH 57 DEGREES 39 MINUTES 18 SECONDS WEST A DISTANCE OF 53.35 FEET; THENCE SOUTH 85 DEGREES 48 MINUTES 21 SECONDS WEST A DISTANCE OF 287.09 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HYPOLUXO ROAD (108 FEET WIDE RIGHT-OF-WAY); THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 284.07 FEET; THENCE NORTH 46 DEGREES 09 MINUTES 08 SECONDS WEST A DISTANCE OF 34.64 FEET; THENCE NORTH 02 DEGREES 18 MINUTES 16 SECONDS WEST A DISTANCE OF 270.21 FEET TO THE POINT OF BEGINNING.

CONTAINING 183,089 SQUARE FEET/4.203 ACRES MORE OR LESS.

SUBJECT TO RESTRICTIONS, RESERVATIONS AND EASEMENTS OF RECORD.

EXHIBIT B  
VICINITY SKETCH

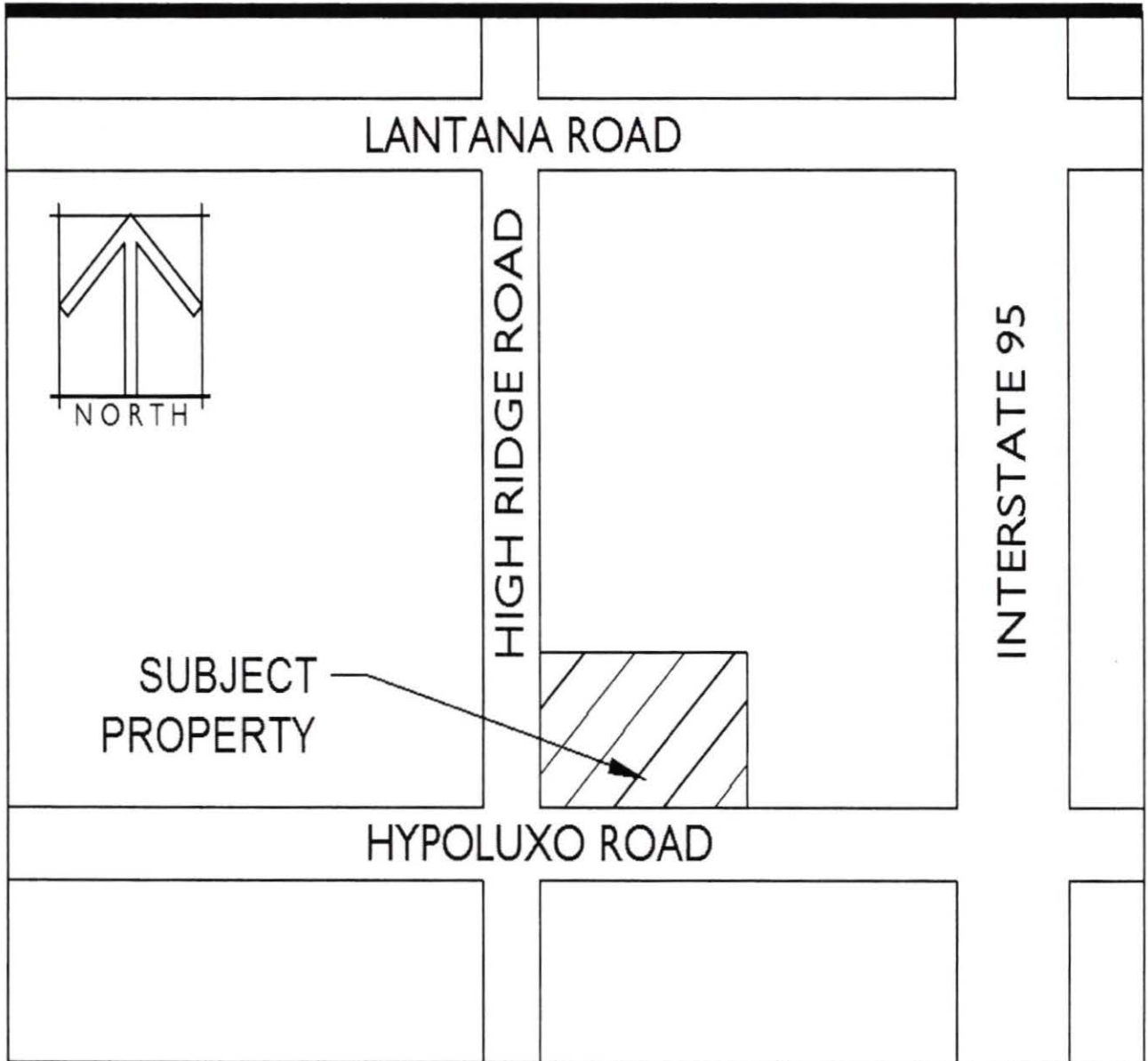




EXHIBIT C

CONDITIONS OF APPROVAL

**Development Order Amendment**

**ALL PETITIONS**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2006-0152 (Control 85-113), Resolution R-2006-2056 (Control 85-113), Resolution R-94-12 (Control 85-113) are hereby revoked.

**Is hereby amended to read:**

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2008-1959 (Control 2008-00243), 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. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Development of the site is limited to the site design approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated July 14, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

**Is hereby amended to read:**

The approved Preliminary Site Plan is dated June 9, 2016. 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. (ONGOING: ZONING - Zoning)

**ARCHITECTURAL REVIEW**

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for all buildings shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements.

**Is hereby amended to read:**

At time of submittal for final Development Review Officer (DRO) approval, the architectural elevations for Building C, Retail Building, shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all applicable conditions of approval, and all ULDC requirements. (DRO: ARCHITECTURAL REVIEW - Zoning)



## ENGINEERING

1. Previous ENGINEERING Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

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

a) 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-Eng)

### Is hereby amended to read:

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

a. No Building Permits for the site may be issued after December 31, 2020. 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)

b. No Building Permits for "Building B" (the Convenience Store and Type I Restaurant, inclusive of the fueling stations), as depicted on the site plan in the Zoning Application DOA/R-2015-1918, shall be issued until the Property Owner makes a payment of \$545,529.47 of the total proportionate share Payment. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition 8. Any road impact fees paid by the developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The total proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPM: MONITORING - Engineering)

c. No Building Permits for "Building C" (the standalone Retail Building), as depicted on the site plan in the Zoning Application DOA/R-2015-1918, shall be issued until the Property Owner makes a payment of \$119,750.37 of the total proportionate share Payment. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition 8. Any road impact fees paid by the developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The total proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPM: MONITORING - Engineering)

2. Previous ENGINEERING Condition 2 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

### CORRIDOR CONVEYANCE OF ROAD RIGHT OF WAY

The property owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for:

- Hypoluxo Road 55 feet from centerline
- High Ridge Road 40 feet from centerline

All right of way deed(s) and associated documents shall be provided and approved prior to June 1, 2009 or prior to the issuance of a Building Permit whichever shall first occur.

Right of way conveyance shall be along the entire frontage and shall be free of all encroachments and encumbrances. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further



warrants 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 Grantor, the Grantor agrees to hold the Grantee 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 "Corner Clips." The Property Owner shall not record these required deeds or related documents. After final acceptance, Palm Beach County shall record all appropriate deeds and documents.

**Is hereby amended to read:**

The Property Owner shall provide to the Palm Beach County Right of Way Acquisition Section of Roadway Production Division a road right of way deed and all associated documents as required by the County Engineer for:

- Hypoluxo Road 55 feet from centerline
- High Ridge Road 40 feet from centerline on an alignment approved by the County Engineer.

All right of way deed(s) and associated documents 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 Acquisition 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. Palm Beach County will prepare 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: MONITORING - Engineering)

3. Previous ENGINEERING Condition 3 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Prior to issuance of the first building permit, the Property Owner shall provide a temporary roadway construction easement along Hypoluxo Road to Palm Beach County. This roadway construction easement shall contain an isosceles trapezoid connecting the required corner clips across this property owners entrance road right of way. Construction within this easement shall conform to Palm Beach County Standards. 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.

**Is hereby amended to read:**

Within ninety (90) days notice by the County Engineer, the Property Owner shall provide a roadway construction easement to Palm Beach County along Hypoluxo Road and High



Ridge Road, a minimum of five (5) feet in width, or as otherwise approved by the County Engineer. This roadway construction easement shall also contain an isosceles trapezoid connecting the Corner Clips across this Property Owner's entrance. 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. (ONGOING: ENGINEERING - Engineering)

4. Previous ENGINEERING Condition 4 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

The Property Owner shall construct:

- a right turn lane east approach on Hypoluxo Road at the project's entrance. The length of this turn lane shall be a minimum of 280 plus a taper length of 50 feet or as approved by the County Engineer.
- a left turn lane north approach on High Ridge Road at the projects full access driveway by restriping the existing left turn lane and extending it.

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. (BLDG PERMIT: Monitoring-Eng)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy.

**Is hereby amended to read:**

The Property Owner shall construct:

- a. a right turn lane, east approach on Hypoluxo Road at the project's access.
- b. a right turn lane, east approach on Hypoluxo Road at High Ridge Road.
- c. a right turn lane, south approach on High Ridge Road at the project's access.
- d. a modification to the median separator on Hypoluxo Road to increase the vehicle storage length for east approach left turns at High Ridge Road and/or the west approach left turns at the full median opening, east of this intersection, as approved by the County Engineer.
- e. an extension of the left turn lane north approach on High Ridge Road at the intersection of Hypoluxo Road by re-striping and extending the existing left turn lane.

All turn lanes shall be a minimum of 280 feet in length with a 50 feet minimum taper, or as approved by the County Engineer.

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.

- i. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)
- ii. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

5. Previous ENGINEERING Condition 5 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Landscape Within the Median of Hypoluxo Road

- a. The Property Owner shall design, install and perpetually maintain the median landscaping 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 Commissioners approval. Median landscaping installed by 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 D below. (ONGOING)

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit.

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy.

d. 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 by the Property Owner.

e. Alternately, at the option of the Property Owner, and prior to the issuance of a Building Permit, the Property Owner 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 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.

**Is hereby amended to read:**

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 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. (BLDG/PMT/ONGOING: ENGINEERING - Engineering)
- b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDG/PMT/CO: MONITORING - Engineering)
- c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)
- d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included



in the County's current OTIS Master Plan and shall be based on the project's front footage along 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. (ONGOING: ENGINEERING - Engineering)  
e. deleted (ONGOING: ENGINEERING - Engineering)

6. Previous ENGINEERING Condition 6 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Prior to the issuance of a building permit, the Property Owner shall provide to Palm Beach County Land Development 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 and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. 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.

**Is hereby amended to read:**

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 Acquisition 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, and on Hypoluxo Road at High Ridge 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 Acquisition 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: MONITORING - Engineering)

7. 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 along the property frontage; and a maximum of an additional 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 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. (BLDGPMT: MONITORING - Engineering)

8. In recognition that construction prices may change over the life of the project, the proportionate share payments included in Condition 1 above shall be subject to the following escalator calculation:

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

Where,

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

Cost Adjustment Factor =

$$\frac{\text{Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment)}}{\text{Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution)}}$$

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

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

9. Property Owner shall construct a minimum of a 5 foot wide concrete sidewalk along the north side of Hypoluxo Road from High Ridge Road to the project's east property line as well as along the east side of High Ridge Road from Hypoluxo Road to the project's north property line. A wider sidewalk will be required where adjacent to the back of curb. 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. These improvements shall be completed concurrently with the onsite paving and grading and shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

10. 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 Acquisition Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on High Ridge Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a width required by the County Engineer 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 Acquisition 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. (BLDG/PMT/ONGOING: MONITORING - Engineering)

11. The Property Owner shall align the project driveway on High Ridge Road with a lot line on the west side of High Ridge Road, as approved by the County Engineer. (ONGOING: ENGINEERING - Engineering)

12. Signage onsite to discourage traffic northbound on High Ridge Road shall be installed at the driveway connection to High Ridge Road. (ONGOING: ENGINEERING - Engineering)

#### **LANDSCAPE - STANDARD**

1. Previous LANDSCAPE - STANDARD Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Prior to the issuance of a building permit, the property owner shall submit a Landscape Plan and/or an Alternative 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. (BLDG PERMIT: LANDSCAPE - Zoning) (BLDG/PMT: ZONING - Zoning)

**Is hereby deleted.** [REASON: Code requirements.]

2. Field adjustment of plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (BLDG/PMT: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 2 of Resolution R-2008-1959, Control No.2008-00243)

3. Special planting treatment shall be provided at the intersection of High Ridge Road and Hypoluxo Road. Planting shall consist of the following:

- a. a minimum of three (3) specimen palms (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section);
- b. a minimum of five (5) flowering trees; and
- c. appropriate shrub or hedge materials and ground cover. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - STANDARD Condition 4 of Resolution R-2008-1959, Control No.2008-00243)

4. Previous LANDSCAPE - STANDARD Condition 3 of Resolution R-2008-1959, Control No.2008-00243 which currently states:

All landscape focal points shall be subject to review and approval by the Landscape Section and reflected on the Regulating Plan prior to final approval by the Development Review Officer. (DRO: ZONING - Zoning)

**Is hereby deleted.** [REASON: New Site Design]

#### **LANDSCAPE – PERIMETER - ALONG THE NORTH PROPERTY LINE**

5. The landscape buffer along the north property line abutting residential and along the northwest (north of the entrance fronting on High Ridge Road) shall be upgraded to



include:

- a. width of the buffer shall be increased to a minimum of thirty (30) feet;
- b. a minimum of three (3) foot high continuous berm;
- c. an eight (8) foot high concrete panel or block wall to be located on the plateau of the berm;
- d. height of Canopy Trees shall be increased to a minimum height of fourteen (14) feet at installation; and
- e. a minimum of eight (8) groups of five (5) palms with staggered height at eight (8) to twelve (12) feet in grey wood or clear trunk. (ONGOING: ZONING - Zoning)

#### **LANDSCAPE - PERIMETER ALONG THE SOUTH PROPERTY LINE (ABUTTING HYPOLUXO ROAD)**

6. In addition to Code requirements, landscaping along the south property line shall be upgraded to include:

- a. one (1) palm or pine for each for each thirty (30) linear feet of the property line (ONGOING: ZONING - Zoning)

#### **LANDSCAPE - PERIMETER ALONG THE EAST PROPERTY LINE (ABUTTING COMMERCIAL)**

7. In addition to Code requirements, landscaping along the east property line shall be upgraded to include:

- a. a minimum of ten (10) foot wide landscape buffer; and,
- b. one (1) palm or pine for each for each thirty (30) linear feet of the property line. (ONGOING: ZONING - Zoning)

#### **LANDSCAPE - PERIMETER ALONG THE WEST PROPERTY LINE (ABUTTING HIGH RIDGE ROAD)**

8. In addition to Code requirements, landscaping along the west property line shall be upgraded to include:

- a. width of the buffer shall be increased to a minimum of thirty (30) feet;
- b. a continuous berm with a minimum height of two (2) feet;
- c. height of Canopy trees shall be increased to a minimum height of fourteen (14) feet at installation; and,
- d. a minimum of three (3) groups of three (3) palms with staggered height at eight (8) to twelve (12) feet in grey wood or clear trunk. (ONGOING: ZONING - Zoning)

9. Foundation Planting shall be provided along the building facades as required by the Unified Land Development Code. (ONGOING: ZONING - Zoning)

#### **PARKING**

1. Previous PARKING Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

The parking area along the north property line shall be used for employee parking and deliveries only. Appropriate signs shall be posted restricting this area to employee parking and deliveries only. (ONGOING: ZONING - Zoning)

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

#### **PLANNING**

1. Prior to final approval by the Development Review Officer (DRO), a complete Certificate to Dig shall be submitted to the County Archaeologist. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2008-1959, Control No.2008-00243)

#### **SIGNS**

1. Previous SIGNS Condition 1 of Resolution R-2008-1959, Control No.2008-00243, which currently states:

Freestanding signs fronting on High Ridge Road and Hypoluxo Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - six (6) feet;
- b. maximum sign face area per side - ninety (90) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only; and,
- e. location - a minimum of one hundred (100) feet from the north property line for the sign located on High Ridge Road.

**Is hereby amended to read:**

Directional sign fronting on High Ridge Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - five (5) feet;
- b. maximum sign face area per side - eight (8) square feet;
- c. maximum number of signs - one (1); and
- d. location – at the ingress/egress on High Ridge Road. (ONGOING: BUILDING DIVISION - Zoning)

2. Freestanding ground mounted sign fronting on Hypoluxo Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - eight (8) feet;
- b. maximum sign face area per side - two hundred (200) square feet;
- c. maximum number of signs - two (2); and,
- d. style - monument style only. (ONGOING: BUILDING DIVISION - Zoning)

3. Wall signage shall not be located on the:

- a. north facade of any buildings, or on the west facade of Building B, Convenience Store; and
- b. west facade of the Canopy. (ONGOING: BUILDING DIVISION - Zoning)

**SITE DESIGN**

1. Prior to the final approval by the Development Review Officer (DRO) the Preliminary Site Plan dated June 9, 2016 shall be revised to remove the 1,800 square foot Retail, Building A, and this area shall remain as green space, planted with nine (9) additional canopy trees and eighteen (18) pines. (DRO/ONGOING: ZONING - Zoning)

**USE LIMITATIONS**

1. Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility or on the property. (ONGOING: ZONING - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2008-1959, Control No.2008-00243)

2. Hours of operation for delivery vehicles shall be limited from 6:00 a.m. to 7:00 a.m. daily and shall be limited to deliveries on the south, or front side of the store, away from the existing residential uses. (ONGOING: ZONING - Zoning)

3. Hours of business operation shall be limited to the requirements of the Unified Land Development Code which is from 6:00 a.m. to 11:00 p.m. daily. (ONGOING: ZONING - Zoning)

4. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: ZONING - Zoning)

5. Hours of construction activity during all stages of site development shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday. Construction shall be prohibited on Saturday, Sunday, and statutory holidays. (ONGOING: ZONING - Zoning)



6. Prior to final approval by the Development Review Officer (DRO), the Applicant shall apply for a Type I Waiver to relocate, reduce, or eliminate the loading for Building B. (DRO: ZONING - Zoning)

7. No delivery or fuel trucks shall enter or exit onto High Ridge Road. (ONGOING: ZONING - Zoning)

#### **COMPLIANCE**

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

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

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

#### **DISCLOSURE**

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