

RESOLUTION NO. R-2017- 1128

RESOLUTION APPROVING ZONING APPLICATION DOA-2016-01643  
(CONTROL NO. 1975-00060)  
a Development Order Amendment  
APPLICATION OF Ronald Kendall, Ron Kendall  
BY Jon E Schmidt & Associates, AGENT  
(Kendall Industrial)

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-2016-01643 was presented to the Board of County Commissioners at a public hearing conducted on August 24, 2017;

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-2016-01643, the Application of Ronald Kendall, Ron Kendall, by Jon E Schmidt & Associates, Agent, for a Development Order Amendment (overall site) to reconfigure the Phasing and Site Plan; delete square footage; relocate an access point; add an access point; modify Conditions of Approval (Architecture, Engineering) and to modify the Commencement of Development, 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 August 24, 2017, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner McKinlay moved for the approval of the Resolution.

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

- |   |          |
|---|----------|
| Commissioner Paulette Burdick, Mayor      | - Aye    |
| Commissioner Melissa McKinlay, Vice Mayor | - Aye    |
| Commissioner Hal R. Valeche               | - Aye    |
| Commissioner Dave Kerner                  | - Aye    |
| Commissioner Steven L. Abrams             | - Aye    |
| Commissioner Mary Lou Berger              | - Absent |
| Commissioner Mack Bernard                 | - Aye    |

The Mayor thereupon declared that the resolution was duly passed and adopted on August 24, 2017.

Filed with the Clerk of the Board of County Commissioners on September 5th, 2017.

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

SHARON R. BOCK,  
CLERK & COMPTROLLER

BY:

  
COUNTY ATTORNEY

BY:

  
DEPUTY CLERK  




EXHIBIT A

LEGAL DESCRIPTION

**LEGAL DESCRIPTION  
KENDALL INDUSTRIAL  
CONTROL NO. 1975-060**

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ORB 5350 PAGE 1304:

THE SOUTH 400 FEET OF THE EAST ONE-HALF OF TRACT 36, BLOCK 7, PALM BEACH FARMS COMPANY, PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

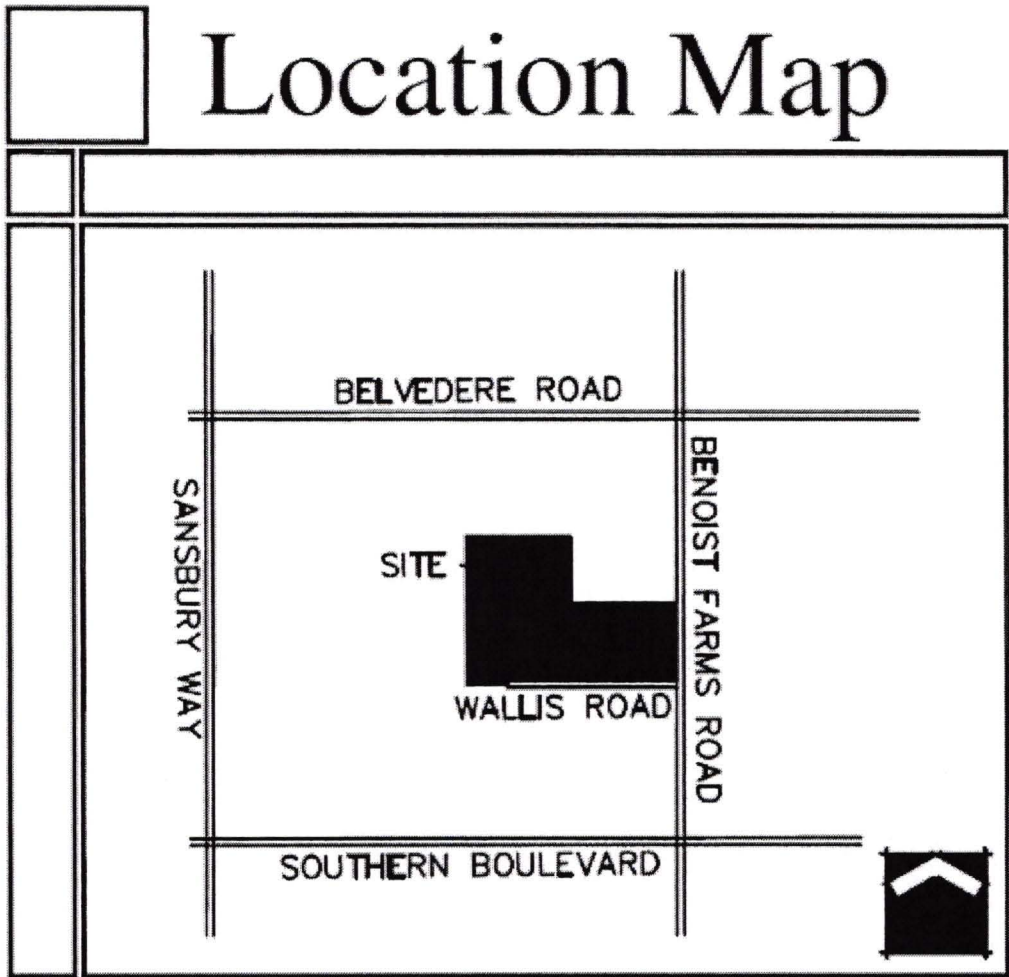
ORB 13185 PAGE 293:

THE WEST 1/2 OF TRACT 36, BLOCK 7, PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, LESS A PARCEL OF LAND 200 FEET RUNNING EAST TO WEST BY 217.8 FEET RUNNING NORTH TO SOUTH IN THE SOUTHWEST CORNER OF ABOVE DESCRIBED PROPERTY, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ORB 24296 PAGE 1086:

THE WEST 200 FEET OF THE SOUTH 217.8 FEET OF THE WEST 1/2 OF TRACT 36, BLOCK 7, OF PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT B  
VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### **Development Order Amendment – Overall MUPD**

##### **ALL PETITIONS**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2011-1237, Control No.1975-00060, which currently states:

The preliminary site plan is dated June 13, 2011. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission.

##### **Is hereby amended to read:**

The preliminary site plan is dated June 28, 2017. Modifications to the development order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the DRO as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2011-1237 (Control 1975-00060), 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)

##### **ARCHITECTURAL REVIEW**

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2011-1237, Control No.1975-00060, 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 Building Permit, the architectural elevations for all buildings shall be submitted for 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. (BLDGPM: ARCHITECTURAL REVIEW - Zoning)

##### **SITE DESIGN-CHAIN LINK FENCE**

1. Prior to August 24, 2019, the existing chain link fence along Benoist Farms and Wallis Road shall be removed or replaced by a vinyl coated chain link fence. (DATE/ONGOING: ZONING - Zoning)

2. The use of Barbed Wire on top of the fence must comply with the provisions of the ULDC. (ONGOING: ZONING - Zoning)

##### **ENGINEERING**

1. Previous ENGINEERING Condition 1 of Resolution R-2011-1236, Control No.1975-00060, 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 December 31, 2014. 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-Eng) (DATE: MONITORING - Engineering)

**Is hereby amended to read:**

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

a. No Building Permits for the site may be issued after December 31, 2019. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Previous ENGINEERING Condition 2 of Resolution R-2011-1237, Control No.1975-00060, which currently states:

The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 80 feet of right of way for Benoist Farms Road prior to August 29, 2012, prior to issuance of the first building permit for additional building square footage or within 90 days notice from the County Engineer, whichever shall occur first. The West right-of-way line must conform to the "Map of Benoist Farms Road - SR. 80 to Belvedere Road, Project No. 90107 - Drawing No. S-3-91-218" on file in the office of the County Engineer. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments, unless otherwise approved 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. 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. (DATE/BLDG PERMIT/ONGOING: MONITORING - Eng)

**Is hereby amended to read:**

The property owner shall provide by warranty deed submitted to Palm Beach County Land Development Division for 80 feet of right of way for Benoist Farms Road prior to December 31, 2017, prior to issuance of the first building permit for additional building square footage or within 90 days notice from the County Engineer, whichever shall occur first. The West right-of-way line must conform to the "Map of Benoist Farms Road - SR. 80 to Belvedere Road, Project No. 90107 - Drawing No. S-3-91-218" on file in the office of the County Engineer. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments, unless otherwise approved 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. 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. (BLDG/PMT/DATE/ONGOING: MONITORING - Engineering)

3. 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 30 feet from the centerline on Wallis Road.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit for additional building square footage. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances, unless otherwise approved 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 Grantor 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 Grantor, the Grantor 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. Right of way conveyances shall include, where appropriate as determined by the County Engineer, additional right of way for 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. (BLDG/PMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2011-1237, Control No.1975-00060)

4. Previous ENGINEERING Condition 4 of Resolution R-2011-1237, Control No.1975-00060, which currently states:

Prior to August 29, 2012, prior to the issuance of the first building permit for additional building square footage or within 90 days notice from the County Engineer, whichever shall occur first, the property owner shall provide a temporary roadway construction easement to Palm Beach County along Benoist Farms Road. This roadway construction easement shall also contain an isosceles trapezoid connecting the corner clips across this property owners entrance on Benoist Farms Road. 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. (DATE/BLDG PERMIT/ONGOING: MONITORING-Eng)

**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 Benoist Farms Road, a minimum of ten 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)

5. The property owner shall construct:

- Wallis Road from the project's western driveway to Benoist Farms Road to include 2- 12 foot paved travel lanes, including the provision for onsite drainage facilities as required, and

- Benoist Farms Road as a continuous 3-lane section from Southern Blvd. to Wallis Road, including paved tapers.

This construction should 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 for this construction shall be obtained prior to the issuance of the first building permit for Phase 2. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy for Phase 2. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2011-1236, Control No.1975-00060)

6. Prior to issuance of the first building permit for additional building square footage, the property owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2011-1237, Control No.1975-00060)

7. The property owner shall relocate the existing utility poles on the west side of the eastern most driveway within Wallis Road right of way to comply with clear zone requirements prior to issuance of the first building permit or prior to dedication of right of way for Wallis Road, whichever shall occur first. (BLDGPMT/ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2011-1237, Control No.1975-00060)

8. The Property Owner shall construct a left turn lane south approach on Benoist Farms Road at Wallis Road.

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

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

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

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

a. Building Permits for more than an additional 16,940 sf of warehouse and 3,960 sf of office development (equivalent to 13 net peak hour directional trips) shall not be issued until the Property Owner makes a proportionate share payment of \$178,522.00 to add a north approach left turn lane (making it dual) and add a west approach left turn lane (making it dual) at the intersection of Southern Blvd and Benoist Farms Rd. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition number 10. 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 proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPMT: MONITORING - Engineering)

10. In recognition that construction prices may change over the life of the project, the proportionate share payments included in the above conditions 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 = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(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)

11. Prior to Final Site Plan approval, the traffic study and the site plan must be reconciled regarding the turning movements at all site driveways and at Wallis Rd and Benoist Farms Rd intersection. (DRO: ENGINEERING - Engineering)

#### **LANDSCAPE - GENERAL**

1. Prior to the issuance of a building permit, 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. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2011-1237, Control No.1975-00060)

2. Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2011-1237, Control No.1975-00060, which currently states:

A minimum of fifty (50) percent of all new and replacement trees to be planted in the landscape buffers shall meet the following minimum standards at installation:

a. Tree height: fourteen (14) feet (DRO: ZONING - Zoning)

**Is hereby deleted.** [REASON: Allow code requirement of twelve (12) feet. Limited availability of fourteen (14) foot canopy trees.]

3. All palms required to be planted on the property by this approval, shall meet the following minimum standards at installation:

a. palm heights: twelve (12) feet clear trunk;

b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,

c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (DRO: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2011-1237, Control No.1975-00060)

4. 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. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2011-1237, Control No.1975-00060)

#### **LANDSCAPE - PERIMETER**

5. Previous LANDSCAPE - PERIMETER Condition 5 of Resolution R-2011-1237, Control No.1975-00060, which currently states:

In addition to the ULDC requirements, landscaping and buffering along Wallis Road and Benoist Farms Road shall be upgraded to include:

a. one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing



of sixty (60) feet between clusters. (DRO: ZONING - Zoning)

**Is hereby deleted.** [REASON: Exceeds code requirement and canopy trees are already established.]

**PALM TRAN**

1. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT:ENG -Palm Tran) (PLAT: ENGINEERING - Palm-Tran) (Previous PALM TRAN Condition 1 of Resolution R-2011-1237, Control No.1975-00060)

**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.