

RESOLUTION NO. R-2018- 1286

RESOLUTION APPROVING ZONING APPLICATION SV/ZV/ABN/PDD/CA/TDR-2017-01999
(CONTROL NO. 1978-00261)
an Official Zoning Map Amendment
APPLICATION OF Fairway North Beach LLC
BY Urban Design Kilday Studios, AGENT
(Lenox North Beach)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application SV/ZV/ABN/PDD/CA/TDR-2017-01999 was presented to the Board of County Commissioners at a public hearing conducted on August 23, 2018;

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the Applicant and other interested parties, the recommendations of the various County Review Agencies, and the recommendation of the Zoning Commission;

WHEREAS, the Board of County Commissioners pursuant to Article 2 (Application Processes and Procedures) of the ULDC is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the Board of County Commissioners hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for an Official Zoning Map Amendment;

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application SV/ZV/ABN/PDD/CA/TDR-2017-01999, the Application of Fairway North Beach LLC, by Urban Design Kilday Studios, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Commercial General (CG) Zoning District to the Planned Unit Development (PUD) Zoning District, 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 23, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on August 23, 2018.

Filed with the Clerk of the Board of County Commissioners on September 12th, 2018.

This resolution shall not become effective unless or until the effective date of Large Scale Use Amendment No. LGA-2018-002.

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

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33; THENCE N.02°15'43"E., ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33 (THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33 IS ASSUMED TO BEAR N.02°15'43"E. AND ALL OTHER BEARINGS ARE RELATIVE THERETO), A DISTANCE OF 30.02 FEET TO A POINT; THENCE N.90°00'00"E., ALONG A LINE 30 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33, A DISTANCE OF 30.02 FEET TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL; THENCE N.02°15'43"E., ALONG A LINE 30 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33, A DISTANCE OF 959.88 FEET TO A POINT IN THE SOUTH LINE OF THE PLAT OF PLEASANT RIDGE, AS RECORDED IN PLAT BOOK 24, PAGE 167, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.90°00'00"E., ALONG SAID SOUTH LINE OF THE PLAT OF PLEASANT RIDGE, A DISTANCE OF 673.23 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, AS RECORDED IN ROAD PLAT BOOK 2, PAGE 108, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S.15°37'48"W., ALONG THE WEST RIGHT-OF-WAY LINE, A DISTANCE OF 795.96 FEET TO A POINT; THENCE N.90°00'00"W., DEPARTING FROM WEST RIGHT-OF-WAY LINE, A DISTANCE OF 259.59 FEET TO A POINT; THENCE S.15°37'48"W., PARALLEL TO THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1, A DISTANCE OF 200.00 FEET TO A POINT IN A LINE 30 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID SECTION 33, SAID POINT LYING ON THE NORTH RIGHT-OF-WAY OF JUNO ROAD; THENCE N.90°00'00"W., ALONG SAID PARALLEL LINE AND NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 183.19 FEET TO THE POINT OF BEGINNING.

CONTAINING 11.14 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

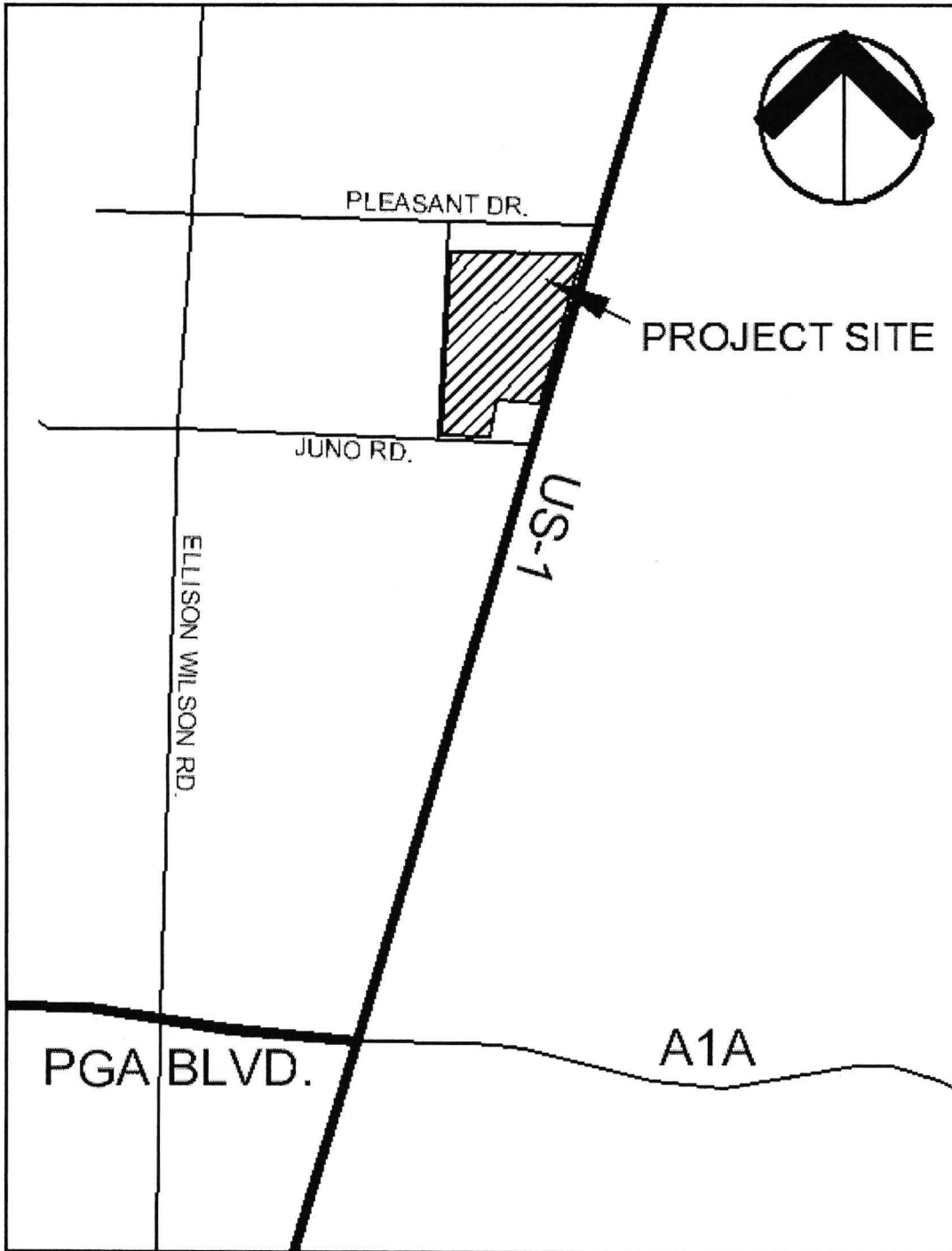


EXHIBIT C

CONDITIONS OF APPROVAL

PDD- Residential Planned Development District

ALL PETITIONS

1. The approved Master Plan is dated June 22, 2018. 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. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Residential Buildings shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC). (DRO: ZONING - Zoning)

ENGINEERING

1. 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)

2. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for a 25 foot corner clip at the northeast corner of the intersection of Juno Road and Osceola Road as approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to December 1, 2019. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (DATE: MONITORING - Engineering)

4. The Property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineer at Juno Rd and US-1 intersection. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

a. No Building Permits shall be issued until the Property Owner provides acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPMT: MONITORING - Engineering)

b. In order to request release of the surety for the traffic signal at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING - Engineering)

5. The Property Owner shall close the existing full median opening in front of the northern driveway of the existing shopping plaza and create a new directional median opening in front of the proposed new driveway on US-1, as required by the FDOT.

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 Florida Department of Transportation 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)

6. The Property Owner shall construct a north approach left turn lane, 280 ft in length and 50 ft taper, or as approved by the FDOT, just north of the new directional median opening on US-1 at the project entrance. This left turn lane will serve traffic entering the shopping center on the east side of US-1, right across this proposed development. Construction of this turn lane will relieve the southbound to northbound U-turn traffic at the Juno Rd intersection.

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.

Construction of this turn lane is subject to FDOT conceptual approval.

a. Permits required from Florida Department of Transportation 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)

7. Property Owner shall construct a minimum five (5) foot wide concrete sidewalk along the east side of Osceola Road along the entire west frontage of the property. 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)

8. The Property Owner shall reconstruct and restripe Juno Road to non-plan collector standards along the south frontage of the property.

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. Property Owner shall construct a minimum five (5) foot wide concrete sidewalk along the north side of Juno Road from Osceola Road to US Highway 1. 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: MONITORING - Engineering)

10. The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of US Highway 1. 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 County Engineer 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 below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

c. 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 Palm Beach 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 US Highway 1. 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)

11. The stormwater system shall be designed such that the residential post-development discharge rates and volumes are less than those in the commercial pre-development conditions. (ONGOING: ENGINEERING - Engineering)

12. The Property Owner shall fund the cost of traffic calming devices, if warranted, as determined by the County Engineer on Osceola Road. The cost shall also include all design and construction costs related to the traffic calming devices.

a. No Building Permits shall be issued until the Property Owner provides acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPMT: MONITORING - Engineering)

b. In order to request release of the surety, the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a speed study be conducted on Osceola Road. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic calming devices or release the monies. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to the approval by the DRO, a Phase II Environmental Audit shall be submitted to the Department of Environmental Resources management. The testing shall focus on the areas of future residential uses for the site. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPING – PERIMETER –(NORTH PROPERTY LINE ABUTTING RESIDENTIAL)

1. In addition to Code requirements for a Type 2 Incompatibility Buffer, the required Landscape Barrier shall include a concrete post and panel wall a minimum of six (6) feet in height. (ONGOING: ZONING – Zoning)

LANDSCAPING – PERIMETER –(WEST PROPERTY LINE – OSCEOLA ROAD)

1. In addition to Code requirements for a Right-of-Way Buffer, the required Landscape Barrier shall include a concrete post and panel wall a minimum of six (6) feet in height. (ONGOING: ZONING – Zoning)

LANDSCAPE - PRESERVATION OF VEGETATION

1. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan according to the Tree Disposition Chart as illustrated on the Final Regulating Plan (FRP) 4 and 5 dated June 11, 2018. All Vegetation that is subject to be preserved shall be clearly identified on the Final Site Plan. (DRO: ZONING - Zoning)

LIGHTING

1. All outdoor luminaires, including parking lot lighting, shall be limited to a maximum height of twelve (12) feet, including those located on the top deck of the parking garage. Height shall be measured from the parking lot surface where installed, or the top deck of the parking garage, as applicable. (ONGOING: ZONING –Zoning)

PLANNING

1. Per LGA 2018-002 a minimum of 25% of the total residential density will be required to be deed restricted as workforce housing units subject to the following requirements:

a. Applicant shall purchase eleven (11) TDR units at the WHP purchase rate to apply toward the required WHP units.

b. The property owner shall provide these units on site and between 60-140% of the Median Household Income ranges for the County, in all four WHP ranges (16% in the 60%-80% Range, 33% in the >80-100% Range, 33% in the >100-120% Range, and 18% in the >120-140% Range, fractional residential units shall be rounded upward if one-half or more of a whole unit, downward if less than one-half of a whole unit, to the nearest whole unit); and

c. The workforce housing units shall be provided in all units types, with the exception of all two-story units on the site, which are permitted to remain at market rate. (ONGOING: PLANNING - Planning)

2. Per LGA 2018-002 residential development on the subject site is limited to a maximum of 250 residential dwelling units. If developed with both residential and commercial uses, the density is limited to the maximum density associated with the HR-8 future land use designation. (ONGOING: PLANNING - Planning)

3. Prior to the issuance of the first Building Permit, the property owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney, which includes but is not limited to the following:

Guarantees the attainability of all required workforce units required per ULDC Article 5.G. These units are to be distributed among the categories (low, moderate 1, moderate 2, and middle) consistent with the requirements in ULDC Article 5.G. The site plan shall also be modified to include the OR Book and Page of the recorded document and a copy of the revised site plan shall be provided to Planning.

(BLDGPM: MONITORING - Planning)

4. On an annual basis, beginning July 1, 2021, or as otherwise stipulated in the Declaration of Restrictive Covenants, the owner of the WHP unit shall submit to the Planning Director,

or designee, on a form provided by the County, an annual report containing information and documentation to demonstrate continued compliance with the WHP and a copy of any monitoring information provided to and received from the appropriate funding agency/source. (DATE/ONGOING: MONITORING - Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not 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)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board)

SIGNS

1. Prior to Final Approval by the Development Review Officer (DRO), the Preliminary Master Sign Plan shall be amended to show signage at the Juno Road entrance, indicating that the entrance is limited to residents only, and that delivery trucks, moving trucks and visitors are prohibited from using this entrance. (DRO/ONGOING: ZONING - Zoning)

SITE DESIGN

1. Parking garage access shall be limited to the eastern façade in a location oriented towards the access point on US 1. Any pedestrian circulation pathways that cross the parking garage access way, including access to Recreation Pod 3, shall be in the form of brick, brick pavers or stamped concrete, with additional vehicular stop signs or pedestrian crossing signs, and to be maintained to ensure the safety of pedestrians from increased vehicular traffic. (ONGOING: ZONING - Zoning)

USE LIMITATION

1. The Neighborhood Park located on the northwest corner of the site shall be limited to passive recreation activities. Hours of operation and lighting, excluding low voltage security lighting less than five feet (5) in height, shall be limited to 8 a.m. to 9 p.m. daily. (ONGOING: CODE ENF - Zoning)

COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the 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 Voluntary Commitments 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.