

RESOLUTION NO. R-2018- 1693

RESOLUTION APPROVING ZONING APPLICATION DOA-2018-00609  
(CONTROL NO. 2002-00019)  
a Development Order Amendment  
APPLICATION OF Indian Trails Improvement District, Palm Beach County  
BY Cotleur & Hearing, Inc., AGENT  
(Acreage Community Park South Expansion)

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 DOA-2018-00609 was presented to the Board of County Commissioners at a public hearing conducted on October 25, 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 a Development Order Amendment;

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA-2018-00609, the Application of Indian Trails Improvement District, and Palm Beach County, by Cotleur & Hearing, Inc., Agent, for a Development Order Amendment to reconfigure the Site Plan and modify Conditions of Approval (Engineering), 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 October 25, 2018, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Burdick moved for the approval of the Resolution.

The motion was seconded by Commissioner Bernard 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	-	Aye
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 October 25, 2018.

Filed with the Clerk of the Board of County Commissioners on November 5th, 2018.

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

A PARCEL OF LAND LYING WITHIN THE EAST ONE-HALF (1/2) OF SECTION 32, TOWNSHIP 42 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 42 SOUTH, RANGE 41 EAST; THENCE S02°13'40"W, ALONG THE EAST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 32, AS A BASIS OF BEARINGS, A DISTANCE OF 2,220.84 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE S02°13'40"W ALONG SAID LINE, A DISTANCE OF 404.28 FEET TO THE EAST ONE-QUARTER (1/4) CORNER OF SAID SECTION 32; THENCE S02°11'43"W, ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER (1/4) OF SAID SECTION 32, A DISTANCE OF 1,875.78 FEET; THENCE DEPARTING SAID EAST LINE N87°48'11"W, A DISTANCE OF 275.00 FEET; THENCE N02°11'49"E, A DISTANCE OF 72.00 FEET; THENCE N81°00'00"W, A DISTANCE OF 31.00 FEET; THENCE N57°00'00"W, A DISTANCE OF 33.00 FEET; THENCE N51°00'00"W, A DISTANCE OF 56.00 FEET; THENCE N29°27'04"W, A DISTANCE OF 112.42 FEET; THENCE N55°00'00"W, A DISTANCE OF 62.00 FEET; THENCE N51°46'17"W, A DISTANCE OF 148.30 FEET; THENCE N59°17'56"W, A DISTANCE OF 97.98 FEET; THENCE N49°07'59"W, A DISTANCE OF 55.66 FEET; THENCE N03°48'08"W, A DISTANCE OF 47.35 FEET; THENCE N48°26'49"E, A DISTANCE OF 51.88 FEET; THENCE N21°16'31"E, A DISTANCE OF 45.57 FEET; THENCE N34°48'47"E, A DISTANCE OF 70.17 FEET; THENCE N15°40'46"E, A DISTANCE OF 39.78 FEET; THENCE N13°36'05"W, A DISTANCE OF 62.38 FEET; THENCE N07°12'12"E, A DISTANCE OF 44.28 FEET; THENCE N67°38'44"W, A DISTANCE OF 124.54 FEET; THENCE N02°11'49"E, A DISTANCE OF 650.85 FEET; THENCE S85°44'34"E, A DISTANCE OF 85.41 FEET; THENCE S45°07'27"E, A DISTANCE OF 40.76 FEET; THENCE N51°50'11"E, A DISTANCE OF 43.84 FEET; THENCE N31°26'33"E, A DISTANCE OF 53.27 FEET; THENCE N16°09'40"E, A DISTANCE OF 66.69 FEET; THENCE N65°25'28"E, A DISTANCE OF 45.84 FEET; THENCE N26°23'27"E, A DISTANCE OF 52.06 FEET; THENCE N45°30'18"W, A DISTANCE OF 35.68 FEET; THENCE N06°06'50"E, A DISTANCE OF 77.71 FEET; THENCE N44°48'57"E, A DISTANCE OF 73.35 FEET; THENCE N02°24'35"E, A DISTANCE OF 62.29 FEET; THENCE N11°42'05"E, A DISTANCE OF 48.75 FEET; THENCE N66°24'20"E, A DISTANCE OF 63.74 FEET; THENCE N87°48'39"E, A DISTANCE OF 62.94 FEET; THENCE N47°00'40"E, A DISTANCE OF 31.59 FEET; THENCE S48°55'25"E, A DISTANCE OF 57.58 FEET; THENCE S59°28'54"E, A DISTANCE OF 50.49 FEET; THENCE N78°53'45"E, A DISTANCE OF 47.44 FEET; THENCE S89°02'10"E, A DISTANCE OF 61.61 FEET; THENCE S79°51'19"E, A DISTANCE OF 47.95 FEET; THENCE N43°31'14"E, A DISTANCE OF 27.45 FEET; THENCE N02°13'40"E, ALONG A LINE BEING 80.00 FEET WEST OF AND PARALLEL TO THE AFOREMENTIONED EAST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF SAID SECTION 32, A DISTANCE OF 365.69 FEET TO A POINT ON THE SOUTH LINE OF "PINES WEST PARK" AS DESCRIBED IN OFFICIAL RECORD BOOK 9299, PAGE 1501 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE N89°00'00"E, ALONG SAID LINE, A DISTANCE OF 80.13 FEET TO THE EAST LINE OF THE NORTHEAST ONE-QUARTER (1/4) OF SECTION 32 AND THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING PARCEL OF LAND FOR ROAD RIGHT-OF-WAY PURPOSES:

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 42 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF THE ACREAGE COMMUNITY PARK EXPANSION PROPERTY RECORDED IN OFFICIAL RECORD BOOK 12274, PAGES 1974-1984, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

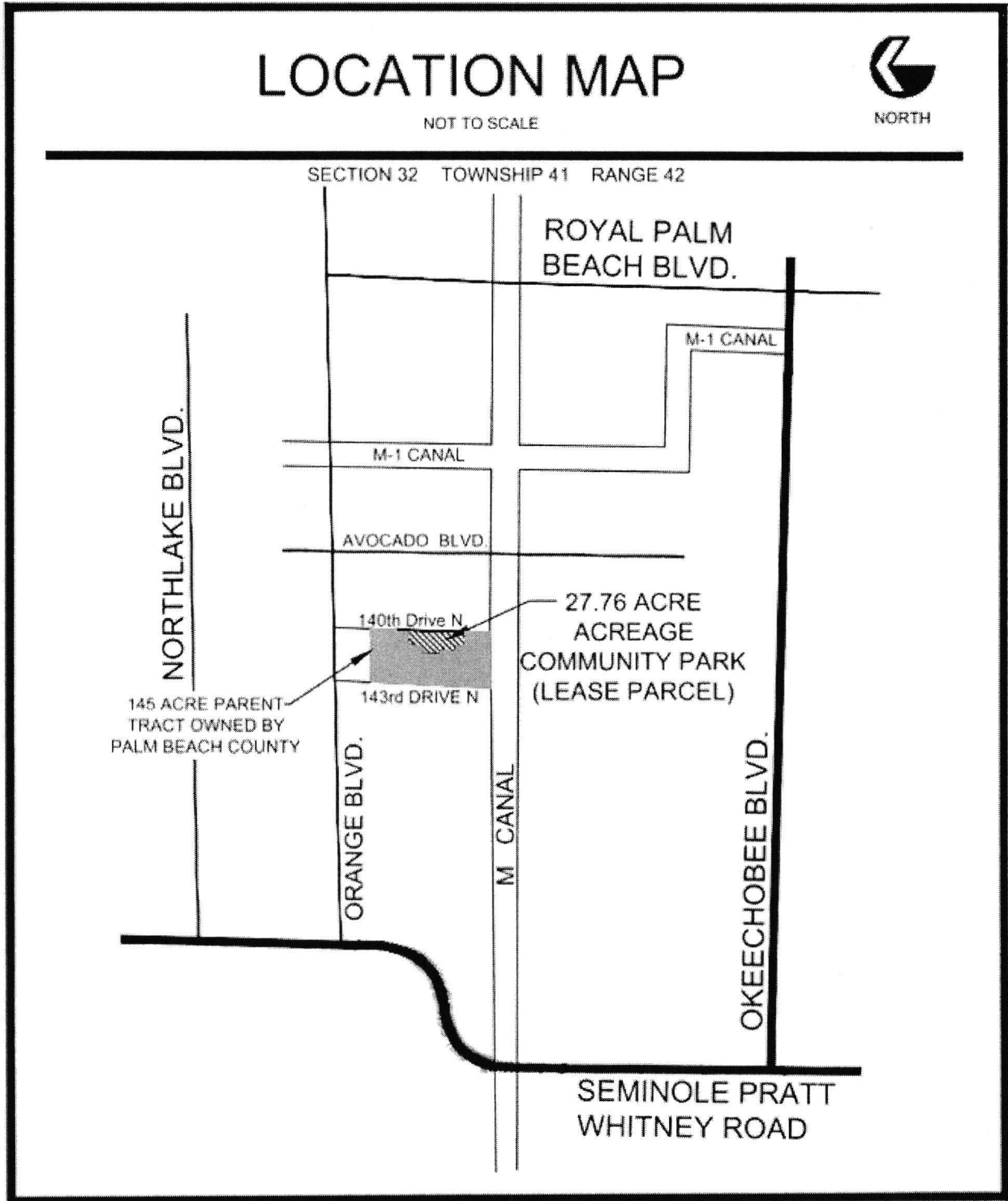
COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 32; THENCE SOUTH 02°13'42" WEST ALONG THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 2,220.84

FEET TO THE NORTHEAST CORNER OF SAID ACREAGE COMMUNITY PARK EXPANSION PROPERTY AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 02°13'42" WEST ALONG SAID EAST LINE, A DISTANCE OF 404.22 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 32; THENCE SOUTH 02°11'51" WEST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32, A DISTANCE OF 1875.78 FEET TO THE SOUTHEAST CORNER OF SAID ACREAGE COMMUNITY PARK EXTENSION PROPERTY; THENCE NORTH 87°48'09" WEST A DISTANCE OF 10.00 FEET; THENCE NORTH 02°11'51" EAST ALONG A LINE 10.00 FEET WEST OF AN PARALLEL WITH AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 1875.78 FEET; THENCE NORTH 02° 13'42" EAST ALONG A LINE 10.00 FEET WEST OF AND PARALLEL WITH AS MEASURED AT RIGHT ANGLES TO THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 403.83 FEET; THENCE NORTH 89°59'54" EAST ALONG THE NORTH LINE OF SAID ACREAGE COMMUNITY PARK EXPANSION PROPERTY A DISTANCE OF 10.01 FEET TO THE POINT OF BEGINNING. PARCEL CONTAINS 22,798 SQUARE FEET OR 0.5234 ACRES MORE OR LESS

CONTAINING: 27.76 ACRES, MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Development Order Amendment

##### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2002-1252 (Control 2002-019), 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

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

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2011-1239(Control 2002-019), 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 (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

The approved 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. (ONGOING: ZONING - Zoning)

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

The approved Preliminary Site Plan is dated June 8, 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 (DRO) as established in the ULDC, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

##### ENGINEERING

1. Prior to issuance of a building permit the property owner shall convey a temporary roadway construction easement along 140th Avenue North to Palm Beach County. Construction by the applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2011-1239, Control No.2002-00019)

2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for 140th Avenue North an additional 10' along the project's east property line (a total of 40 feet from centerline) for 140th Avenue North on or before June 1, 2003 or prior to the issuance of the first Building Permit whichever shall first occur. Right of way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer 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. 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 provisions for Expanded Intersection Details and "Corner Clips." (BLDGPM/DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2011-1239, Control No.2002-00019)

3. Deleted per Resolution R-2011-1239 (Previous ENGINEERING Condition 3 of Resolution R-2011-1239, Control No.2002-00019)

4. Previous ENGINEERING Condition 4 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

The Property Owner shall improve 140th Drive N, from Orange Boulevard south to 61st Street N, to include 24 feet of pavement with stabilized shoulders, swales and a minimum 5-foot sidewalk along the west side. 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. Construction shall be completed prior to the issuance of the first Certificate of Occupancy or August 25, 2012, whichever shall occur first. (CO/DATE: MONITORING-Eng)

**Is hereby amended to read:**

The Property Owner shall improve 140th Avenue N, from Orange Blvd South to 61st Street N. to be built to Indian Trails Improvement District Road Standards as well as a 5 foot sidewalk on the West side of the road within the right-of-way. Any and all costs associated with the construction shall be paid by ITID. These costs shall include, but are not limited to, utility relocations and acquisitions of any additional required right-of-way. All access points South of Tangerine Blvd. will be gated and locked for emergency access only until 140th Avenue N is improved to ITID standards, and as approved by the county engineer, from Orange Blvd to the entrance. No Certificates of Occupancy will be given for any additional building square footage until the road is improved and the additional access points can be utilized. (CO/ONGOING: MONITORING - Engineering)

**LANDSCAPE - GENERAL-STANDARD**

1. All trees and palms shall be planted in a meandering and naturalistic pattern. This condition applies to the east buffer only. (BLDGPM/DATE: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2011-1239, Control No.2002-00019)

2. Prior to Final DRC Certification, the petitioner shall meet with Landscape Section Staff to ensure that the maximum amount of existing native vegetation is incorporated into the final site design. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 5 of Resolution R-2011-1239, Control No.2002-00019)

3. Prior to issuance of any permits for any phase by the Land Development Section, Building Department and/or Environmental Resource Management (ERM) a pre-clearing inspection for tree protection/barricading for that phase shall be requested from the Landscape Section or ERM. (BLDGPM/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning) (Previous LANDSCAPE - GENERAL Condition 6 of Resolution R-2011-1239, Control No.2002-00019)

4. At time of submittal for Final DRO a Tabular Tree list and a Construction Tree Protection Management Plan shall be submitted. The Tree Tabular list shall identify the disposition of all trees on site and the Construction Tree Protection Management Plan will include the protection barriers to be used. All barriers will remain in place until the Final Certificate of Occupancy (CO) or Certificate of Completion (CC) is issued. (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - GENERAL Condition 7 of Resolution R-2011-1239, Control No.2002-00019)

5. All barriers for the Slash Pines shall be extended past the drip line. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Zoning) (Previous LANDSCAPE - GENERAL Condition 8 of Resolution R-2011-1239, Control No.2002-00019)

6. A minimum of seventy-five (75%) percent of the vegetation to be used on site will be native vegetation. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 9 of Resolution R-2011-1239, Control No.2002-00019)

#### **LIGHTING**

1. Previous LIGHTING Condition 1 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition G-1 of Resolution R-2002-1252, Control 2002-019)

**Is hereby deleted.** [REASON: Required by the Code.]

2. Previous LIGHTING Condition 3 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

All outdoor lighting shall be extinguished no later than 11:00 p.m. excluding security lighting only. (ONGOING: CODE ENF-Zoning) (Previous Condition G-3 of Resolution R-2002-1252, Control 2002-019)

**Is hereby deleted.** [REASON: Required by the Code.]

3. Previous LIGHTING Condition 4 of Resolution R-2011-1239, Control No.2002-00019, which currently states:

The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF-Zoning) (Previous Condition G-4 of Resolution R-2002-1252, Control 2002-019)

**Is hereby deleted.** [REASON: The Code was amended to allow this exception.]

#### **COMPLIANCE**

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

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

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, Owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, Owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the



ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

**DISCLOSURE**

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