

RESOLUTION NO. R-2018-1717

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2018-00148
(CONTROL NO. 2017-00194)
a Class A Conditional Use (Type 1 Restaurant with a Drive-thru)
APPLICATION OF Lake Worth Road Villas, LLC
BY Insite Studio, AGENT
(Allie Polo Estates)

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 Z/CA-2018-00148 was presented to the Board of County Commissioners at a public hearing conducted on October 31, 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 Class A Conditional Use ;

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 Z/CA-2018-00148, the Application of Lake Worth Road Villas, LLC, by Insite Studio, Agent, for a Class A Conditional Use to allow a Type 1 Restaurant with a Drive-thru, 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 31, 2018, 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 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	-	Nay
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 31, 2018.

Filed with the Clerk of the Board of County Commissioners on November 14th, 2018

This resolution shall not become effective unless or until the effective date of Large Scale Land Use Amendment No. LGA 2018-015

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 (COMMERCIAL ROYALE - COMMERCIAL PARCEL)

A PARCEL OF LAND BEING A PORTION OF TRACT 2, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE PLAT OF THE FIELDS AT GULFSTREAM POLO PUD - PLAT ONE ACCORDING WITH THE PLAT THEREOF AS RECORDED IN PLAT BOOK 123, PAGE 80, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 89°03'30" EAST, ALONG THE EASTERLY EXTENSION OF SAID PLAT, ALSO BEING COINCIDENT WITH THE NORTH LINE OF TRACT 15, BLOCK 28 OF THE PLAT OF 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, A DISTANCE OF 404.81 FEET TO THE WESTERLY LINE OF THE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY AS RECORDED IN OFFICIAL RECORDS BOOK 24358, PAGE 1059, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°48'42" EAST, ALONG THE SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 178.18 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 01°48'42" EAST ALONG SAID WESTERLY RIGHT-OF-WAY, A DISTANCE OF 377.70 FEET; THENCE NORTH 89°27'29" WEST ALONG THE SOUTHERLY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY, A DISTANCE OF 182.82 FEET; THENCE SOUTH 89°02'31" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 93.25 FEET; THENCE NORTH 85°23'17" WEST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 75.86 FEET; THENCE SOUTH 00°56'30" EAST DEPARTING SAID SOUTHERLY LINE OF LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY, A DISTANCE OF 389.31 FEET; THENCE NORTH 89°03'30" EAST, A DISTANCE OF 333.37 FEET TO THE AFOREMENTIONED POINT OF BEGINNING.

CONTAINING 130,698 SQUARE FEET OR 3.00 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

N.T.S.

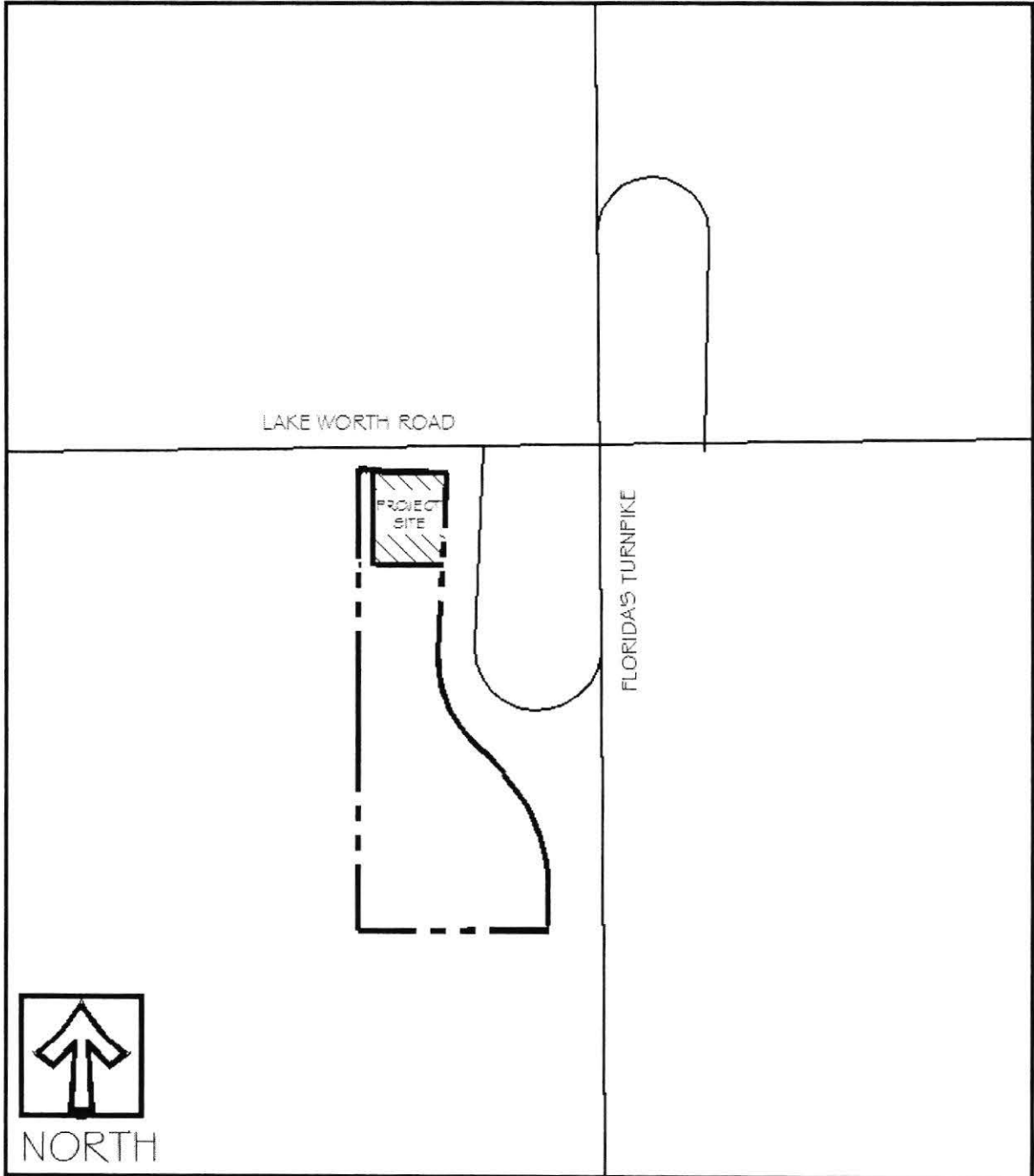


EXHIBIT C

CONDITIONS OF APPROVAL

Conditional Use Class A

ALL PETITIONS

1. The approved Site Plan is dated August 27, 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 Type I Restaurant with Drive-Thru 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 or as otherwise approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

3. The Property Owner shall construct a left turn lane north approach on Hooks Road at the project's south entrance.

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)

4. The Property Owner shall fund the construction plans and construction of Hooks Road from Lake Worth Road to the southern most entrance to be consistent with Palm Beach County standards for an eighty (80) foot right of way non-plan collector street. 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 for Improvements identified above shall be obtained from Palm Beach County 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)

5. The Property Owner shall construct right turn lane west approach on Lake Worth Rd at Hooks Rd. This turn lane shall be a minimum of 280 ft in length and 50 ft in taper or as approved by the FDOT. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

6. No Building Permits for the site shall be issued until contracts are let for widening of Lyons Road from Lantana Road to Lake Worth Road from 2 lanes to 4 lanes divided. (BLDGPM/CO: MONITORING - Engineering)

7. The Property Owner shall not receive any Certificates of Occupancy until an east/west roadway connecting Polo Road to Hooks Road is constructed and available for use by this project's traffic. (BLDGPM/CO: MONITORING - Engineering)

8. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the construction of a right turn lane on Lake Worth Road at the west approach at Hooks Road, unless waived by the County Engineer. 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 FDOT and the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT 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 and FDOT 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 coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM/CO: MONITORING - Engineering)

LANDSCAPE - PRESERVATION OF VEGETATION

1. Prior to Final Plan approval by the Development Review Officer, the Applicant shall submit a Tree Disposition Chart for review and approval. All Vegetation that is subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan(s) and the Tree Disposition Chart, per Technical Manual, Title 4. (DRO: ZONING - Zoning)

PLANNING

1. Per LGA 2018-015 Condition 1: Development of the 3 acres under the Commercial High designation is limited to a total maximum net daily trips of 1,147 and a maximum peak hour trips of 141. (ONGOING: PLANNING - Planning)

2. Prior to final approval by the Development Review Officer (DRO), all plans and documents shall be updated to include all conditions and attributes as adopted by the Board of County Commissioners (BCC). (DRO: PLANNING - Planning)

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.