

RESOLUTION NO. R-2019- 0263

RESOLUTION APPROVING ZONING APPLICATION PDD/W-2018-01542  
(CONTROL NO. 1998-00077)  
an Official Zoning Map Amendment  
APPLICATION OF Lyons Petroleum, Inc., Cleveland Clinic Florida Health System  
BY Urban Design Kilday Studios, AGENT  
(Project Institute)

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 (ULDC), Ordinance 2003-067, Supplement 24, have been satisfied;

WHEREAS, Zoning Application PDD/W-2018-01542 was presented to the Board of County Commissioners at a public hearing conducted on February 28, 2019;

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 PDD/W-2018-01542, the Application of Lyons Petroleum, Inc., Cleveland Clinic Florida Health System, by Urban Design Kilday Studios, Agent, for an Official Zoning Map Amendment to allow a rezoning from the General Commercial (CG) and Planned Unit Development (PUD) Zoning Districts to the Multiple Use Planned Development (MUPD) 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 February 28, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weinroth 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 Mack Bernard, Mayor	-	Aye
Commissioner Dave Kerner, Vice Mayor	-	Nay
Commissioner Hal R. Valeche	-	Aye
Commissioner Gregg K. Weiss	-	Aye
Commissioner Robert S. Weinroth	-	Aye
Commissioner Mary Lou Berger	-	Nay
Commissioner Melissa McKinlay	-	Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on February 28, 2019.

Filed with the Clerk of the Board of County Commissioners on March 25th, 2019.

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

#### PROJECT INSTITUTE

##### Legal Description:

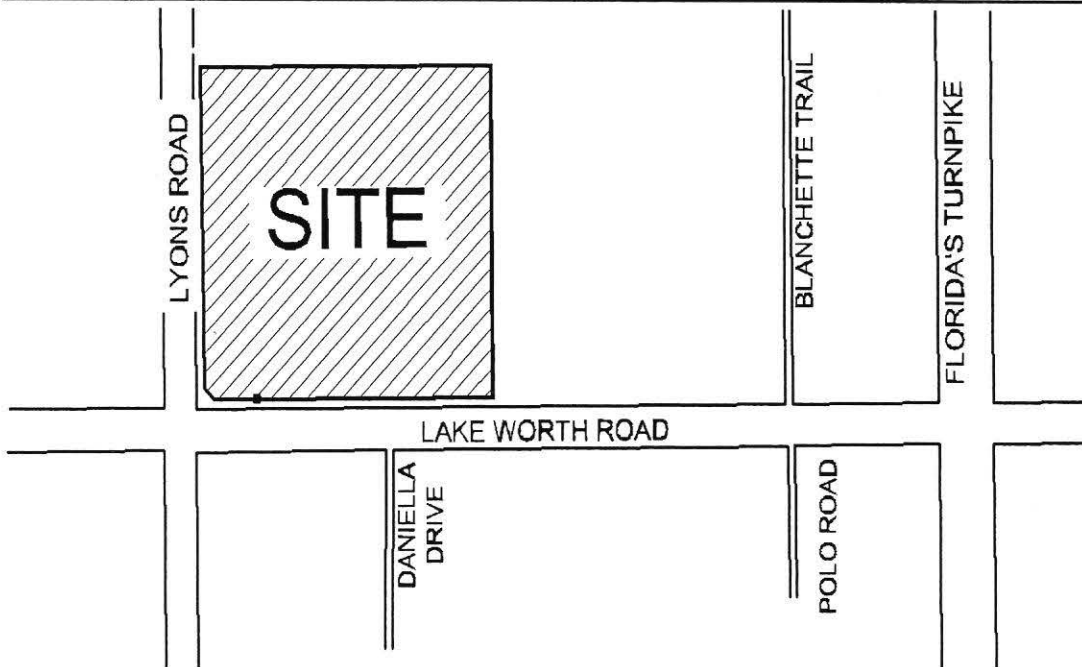
A portion of Parcel A and all of Water Management Tract No. 1, village corner MUPD, as recorded in Plat Book 87, page 20, of the Public Records of Palm Beach County, Florida, together with Tracts 55 and 58, Block 24, of Palm Beach Farms Company Plat No. 3, according to the plat thereof, recorded in Plat Book 2, page 45 through 54, inclusive, of the public records of Palm Beach County, Florida, excepting that part of tract 58 as conveyed to the County of Palm Beach for road purposes by deeds recorded in Deed Book 898, page 687; and Official Record Book 6223, page 363, Public Records of Palm Beach County, Florida.

Beginning at the Southwest corner of said Parcel A. The following 5 (five) courses being along the West line of Parcel A; Thence North 01°00'38" West for 345.00 feet; Thence North 01°55'38" West for 38.82 feet; Thence North 00°58'08" West for 206.19 feet; Thence North 01°53'10" West for 230.91 feet; Thence North 01°00'38" West for 387.90 feet to the North line of Parcel A; Thence North 89°04'31" East along the North line of Parcel A and Tract 55, Block 24 for 1285.07 feet to the East line of Tract 55, Block 24; Thence South 00°58'46" East along the East line of Tracts 55 and 58, Block 24, for 1263.05 feet to the South line of Tract 58, Block 24. The following 3 (three) courses being the South and West lines of said Tract 58; Thence South 89°02'33" West for 619.00 feet; Thence North 89°55'31" West for 41.01 feet; Thence North 00°58'46" West along the West line of Tract 58 for 11.26 feet. The following 4 (four) courses being along the South and Southwesterly lines of Parcel A; Thence South 89°02'33" West for 287.89 feet; Thence North 77°28'02" West for 12.86 feet; Thence South 89°02'33" West for 280.00 feet; Thence North 45°59'02" West for 56.59' to the Point of Beginning. Said lands lying and situate in Palm Beach County, Florida. Said lands contain 36.98 acres, more or less.

EXHIBIT B  
VICINITY SKETCH

**LOCATION MAP**

NTS



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Non Residential Planned Development District

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 10, 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)

##### 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, 2023. 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: ENGINEERING - 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. Prior to the issuance of the first building permit, 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 project's entrance 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 FDOT. 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. (BLDGPMT: MONITORING - Engineering)

4. 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 Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Lyons Road at the project's entrance 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 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)

5. The Property Owner shall construct a right turn lane east approach on Lake Worth Road at the project's east 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. 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 right turn lane south approach on Lyons Road at the project's north 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)

7. Prior to the issuance of the first building permit, the Property Owner shall abandon or release, and relocate if necessary, the Drainage, Construction and Access easement shown in conflict with the proposed structures. (BLDGPMT: MONITORING - Engineering)

8. Within ninety (90) days notice by the County Engineer, the Property Owner shall provide a roadway construction easement to Palm Beach County along Lyons, a minimum of 10 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: MONITORING - Engineering)

9. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Lake Worth Road for the expanded intersection of Lake Worth Road and Lyons Road. The dedication is approximately 64 feet and tapering to 60ft, measured from centerline of the proposed right of way on an alignment approved by the FDOT and as 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. Right of way conveyance shall be along the project's entire frontage 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: MONITORING - Engineering)

10. The Property Owner shall

- i. Extend the existing left turn lane west approach on Lake Worth Road at Lyons Road to its maximum length, as approved by the FDOT and/or the County, provided the contract is not let before the following threshold for intersection improvements at Lake Worth Rd and Lyons Rd as part of Lyons Rd widening by the County; and
- ii. Restripe the existing U-turn lane west approach on Lake Worth Road at the proposed project driveway to a left turn only.

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 the FDOT for this construction shall be obtained prior to the issuance of the first building permit; and (BLDGPM: MONITORING - Engineering)
- b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

11. The Property Owner shall make the following Proportionate Share payments, based on the following schedule. 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 a later condition. 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.

- a. Building Permits for more than 182,000 SF gross leasable floor shall not be issued until the Property Owner makes a proportionate share payment in the amount of \$505,036.00, or until the contract has been let for the intersection improvements at Lake Worth Road and Lyons Road that includes, among others, constructing a second northbound right turn lane. (BLDGPM: MONITORING - Engineering)
- b. Building Permits for more than 315,000 SF gross leasable floor area shall not be issued until the Property Owner makes a proportionate share payment in the amount of \$984,881.00 to widen Lake Worth Road from Lyons Road to the Florida Turnpike. (BLDGPM: MONITORING - Engineering)

12. 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)

13. Prior to the issuance of building permits for Phase 2 (more than 69,000 sf of the planned 350,000 sf of medical office), the Property Owner shall submit an updated traffic report evaluating the operation of the main entrance on Lake Worth Rd at the restricted median opening, entrance on Lyons Rd, and obtain a new conceptual driveway approval letter from the FDOT for Phase 2 of the project. Modifications with the Conditions of Approval, or changes to the 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. (BLDG/PMT/ONGOING: MONITORING - Engineering)

#### **ENVIRONMENTAL**

1. The 1.25 acre upland preserve shall be included in Phase 1 of the project. A Preserve Management Plan shall be submitted to ERM prior to the approval of the site plan by the DRO. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. To comply with Ordinance No. 2016-002, the Property Owner shall designate the 80 foot wide area which runs along the east 338 feet of the north property line and the north 660 feet of the east property line as a Tree Preservation area where no more than 2 inches of fill will be added. The area is to be maintained free from prohibited and exotic invasive plant species. Mitigation credits are encouraged to be applied to this area. The submittal shall be subject to approval by the Department of Environmental Resources Management (ERM). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

#### **LANDSCAPE - PHASING**

1. At time of submittal for Final Approval by the Development Review Officer (DRO) a revised Phasing Plan shall be submitted indicating the following: Right of Way (R.O.W) Landscape Buffers along Lake Worth Road and Lyons Road, 100 foot Buffer located on the north and north-east corner of the subject site and the proposed 1.25 acre Upland Preserve and Wetland Area. (DRO: ZONING - Zoning)

#### **LANDSCAPE - PRESERVATION OF VEGETATION**

1. Prior to the issuance of any Building Permit the Property Owner shall submit a Tree



Survey with Tree Disposition Chart for review and approval. All Vegetation that are subject to be preserved, relocated, replaced or mitigated shall be clearly identified on the Plan and the Tree Disposition Chart, per Technical Manual, Title 4). The Plan(s) shall show:

- a) the temporary and permanent locations for the relocated Vegetation and identify what type of tree barricades will be utilized;
- b) the location of all preserved Vegetation and identify what type of the permanent tree barricades / protection devices will be utilized;
- c) the above requirements (a and b) shall be updated in the Tree Disposition Chart; and,
- d) a Justification Statement describing the maintenance of the relocated Vegetation prior to the installation of the Vegetation to the new location, and the length of time associated with the temporary storage of the relocated Vegetation. (DRO: ZONING - Zoning) (BLDGPM/DR/ONGOING: ZONING - Zoning)

### **PLANNING**

1. The site is subject to the 7 conditions of approval in Large Scale Amendment LGA 2015-013; Ordinance 2016-002, limiting uses, density, intensity and land area containing no density or intensity. (ONGOING: 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: 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.