

RESOLUTION NO. R-2019- 1695

RESOLUTION APPROVING ZONING APPLICATION DOA/W-2019-01125
(CONTROL NO. 2004-00459)
a Development Order Amendment
APPLICATION OF Glades 95th Owner, LLC
BY Dunay, Miskel and Backman, LLP, AGENT
(Johns Glades West MXPDP)

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 25, have been satisfied;

WHEREAS, Zoning Application DOA/W-2019-01125 was presented to the Board of County Commissioners at a public hearing conducted on October 24, 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 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/W-2019-01125, the Application of Glades 95th Owner, LLC, by Dunay, Miskel and Backman, LLP, Agent, for a Development Order Amendment to reconfigure the Master Plan and Site Plan; and, to add square footage, 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 24, 2019, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Kerner moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on October 24, 2019.

Filed with the Clerk of the Board of County Commissioners on October 30th, 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

DESCRIPTION:(OVERALL PROPERTY SURVEYED)

PARCEL A

TRACTS 105, 106, 107, 108, 117 AND 120, AND THE EAST 51 FEET OF TRACTS 109 AND 116, BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE LAND CONVEYED TO THE COUNTY OF PALM BEACH BY THE RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 57, PAGE 330 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE LAND CONVEYED TO THE STATE OF FLORIDA, FOR THE USE AND BENEFIT OF THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, BY THE DEEDS RECORDED IN OFFICIAL RECORDS BOOK 6782, PAGE 1185 AND OFFICIAL RECORDS BOOK 6782, PAGE 1187, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT ANY PORTION OF SAID LAND CONVEYED TO EZON INVESTMENT COMPANY BY THE WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 6912, PAGE 863 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE LAND VESTED IN PALM BEACH COUNTY BY THE ORDER OF TAKING ON PLAINTIFF'S PETITION RECORDED IN OFFICIAL RECORDS BOOK 9830, PAGE 702 AND THE AMENDED ORDER OF TAKING ON PLAINTIFF'S PETITION RECORDED IN OFFICIAL RECORDS BOOK 9840, PAGE 984, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL B

TRACTS 118 AND 119, BLOCK 77 OF PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL C

A NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF A PORTION OF PARCEL A DESCRIBED ABOVE, CREATED BY AND MORE PARTICULARLY DESCRIBED IN THE ACCESS EASEMENT BETWEEN EZON INVESTMENT COMPANY AND YOLAND ELIZABETH SPRATT RINGGER, ET AL., RECORDED IN OFFICIAL RECORDS BOOK 6919, PAGE 326 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCELS A AND B ALSO KNOWN AS

A PORTION OF TRACTS 105, 106, 107, 108, 109, 116, 117, 118, 119 AND 120, BLOCK 77, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTIONS 18 AND 19, TOWNSHIP 47 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF TRACT A-1, FESTIVAL SHOPPES OF BOCA RATON REPLAT ONE, AS RECORDED IN PLAT BOOK 120, PAGES 9

THROUGH 12 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.00°50'59"W. ALONG THE EAST LINE OF SAID FESTIVAL SHOPPES OF BOCA RATON REPLAT ONE, AND THE EAST LINE OF FESTIVAL SHOPPES OF BOCA RATON, AS RECORDED IN PLAT BOOK 69, PAGES 172 THROUGH 174 OF SAID PUBLIC RECORDS, A DISTANCE OF 1275.30 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD 808 (GLADES ROAD), AS RECORDED IN OFFICIAL RECORD BOOK 6782, PAGE 1185 OF SAID PUBLIC RECORDS; THENCE N.89°37'59"E. ALONG SAID SOUTH RIGHT-OF-WAY LINE, AS RECORDED IN OFFICIAL RECORD BOOK 6782, PAGE 1185, AND OFFICIAL RECORD BOOK 6782, PAGE 1187 OF SAID PUBLIC RECORDS, A DISTANCE OF 1303.02 FEET TO A POINT OF INTERSECTION WITH THE WEST RIGHT-OF-WAY LINE OF 95TH AVENUE SOUTH, AS RECORDED IN OFFICIAL RECORD BOOK 12092, PAGE 211 OF SAID PUBLIC RECORDS; THENCE S.00°22'01"E. ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 1275.25 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID TRACT 120; THENCE S.89°37'59"W. ALONG THE SOUTH LINE OF SAID TRACTS 116 THROUGH 120, A DISTANCE OF 1292.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,654,834 SQUARE FEET/37.9898 ACRES MORE OR LESS

EXHIBIT B
VICINITY SKETCH

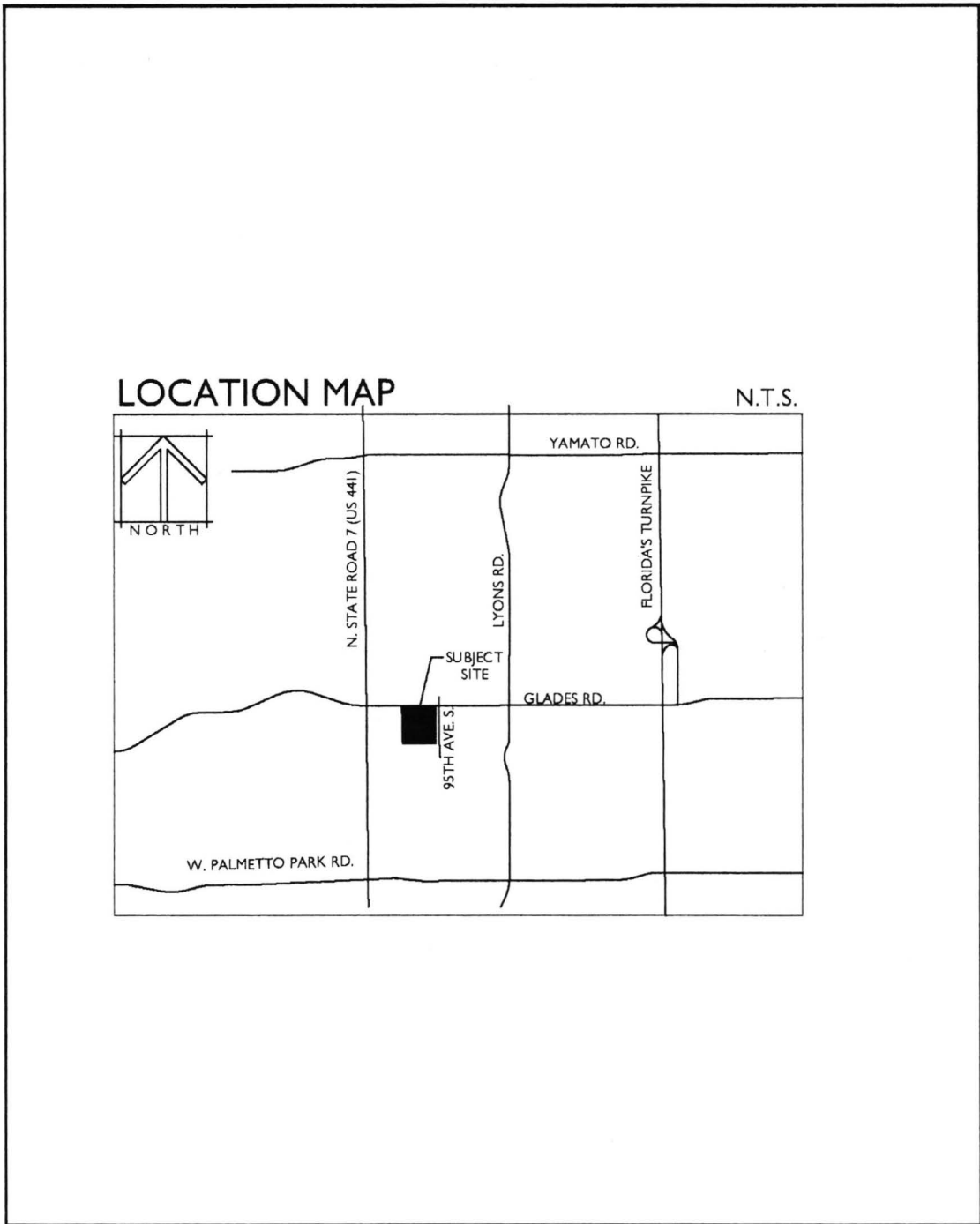


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment (Planned Development District)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2019-255, Control No.2004-00459, which currently states:

The approved Preliminary Master Plan, Site Plan, Regulating Plan are 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.

Is hereby amended to read:

The approved Preliminary Master Plan is dated July 22, 2019, and the approved Preliminary Site Plan is dated June 10, 2019. 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)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2019-255, Control No.2004-00459, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2017-692 (Control 2004-00459), 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.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2019-255 (Control 2004-00459), 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: MONITORING - 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, 2021. 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) (Previous ENGINEERING Condition 1 of Resolution R-2019-255, Control No.2004-00459)

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) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2019-255, Control No.2004-00459)

3. Prior to the issuance of the first building, the Property Owner shall provide to Palm Beach County Right of Way Acquisition Section of Roadway Production Division by

warranty deed additional right of way for the construction of a right turn lane on 95th Avenue South at both of the project's entrance roads. 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 Acquisition 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) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2019-255, Control No.2004-00459)

4. 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 80ft feet, measured from centerline of the proposed right of way of Glades Road, on an alignment approved by the FDOT or 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. (BLDGPMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2019-255, Control No.2004-00459)

5. The Property Owner shall construct and receive final inspection from FDOT for:
i. a right turn lane west approach on Glades Road at the west Project's entrance.
ii. a right turn lane west approach on Glades Road at the east Project's 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) (Previous ENGINEERING Condition 5 of Resolution R-2019-255, Control

No.2004-00459)

6. The Property Owner shall construct:

- a right turn lane north approach on 95th Avenue South at the project's north entrance.
- a right turn lane north approach on 95th Avenue South 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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2019-255, Control No.2004-00459)

7. The Property Owner shall fund the construction plans and the construction to lengthen the existing right turn lane west approach on Glades Road at the intersection of 95th Avenue South. This turn lane shall be lengthened to a minimum 280 feet in length plus 50 foot paved taper or as approved by the FDOT and the County Engineer. 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. (BLDGPM/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2019-255, Control No.2004-00459)

8. The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Glades Road. 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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

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

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 Glades Road. 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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2019-255, Control No.2004-00459)

9. 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 Glades Road at both the project's entrance roads. 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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2019-255, Control No.2004-00459)

10. 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 Condition 11. 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. No Building Permits for more than 274 dwelling units shall be issued until the Property Owner makes a proportionate share payment in the amount of \$1,116,485.42. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. No Building Permits for more than 24,050 sf of commercial use shall be issued until the Property Owner makes a proportionate share payment in the amount of \$1,519,249.97. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

c. No Building Permits for more than 70,444 sf of commercial use shall be issued until the Property Owner makes a proportionate share payment in the amount of \$1,530,254.97. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2019-255, Control No.2004-00459)

11. In recognition that construction prices may change over the life of the project, the proportionate share payments 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) (Previous ENGINEERING Condition 11 of Resolution R-2019-255, Control No.2004-00459)

LANDSCAPE - INTERIOR

1. Special planting treatment shall be provided, within the divider medians to all means of ingress and egress to the site. The following planting shall be installed on both sides of the access point and consist of the following:

- a. A minimum of one (1) specimen palm per planter; (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section)
- b. A minimum of two (2) flowering trees; and,
- c. Appropriate shrub or hedge materials and ground cover.

(BLDGPMT/DRO: ZONING - Zoning) (Previous LANDSCAPE - INTERIOR Condition 1 of Resolution R-2019-255, Control No.2004-00459)

LANDSCAPE - PERIMETER

2. In addition to the ULDC requirements, the landscaping and buffering along the north property line Right-of-Way Buffer shall include:

- a. One (1) palm for each for each twenty-five (25) linear feet of the property line.
- b. Clusters of 3-5 with staggered heights twelve (12) to sixteen (16)-feet.
- c. Minimum clear trunk or gray wood height of twelve (12)-feet.
- d. Maximum spacing of seventy (70) feet on center between clusters. A group of three (3) palms shall not be substituted for a perimeter canopy tree. (BLDGPMT/DRO: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2019-255, Control No.2004-00459)

3. Special planting treatment shall be provided at the intersection of Glades Road and 95th Avenue South. Planting shall consist of the following:

- a. A minimum of three (3) specimen palm; (Bismarck, Canary, Royal, Phoenix, or other species that is acceptable to the Landscape Section)
- b. A minimum of five (5) flowering trees; and,
- c. Appropriate shrub or hedge materials and ground cover.

(BLDGPMT/DRO: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 3 of Resolution R-2019-255, Control No.2004-00459)

PLANNING

1. Per LGA 2017-003 Condition C.1: Development of the site is limited residential dwelling units and non-residential square footage that is equal to or less than, a maximum net daily trips of 11,164 and a maximum net peak hour trips of 567 am and 900 pm. Dwelling units on the site over the initial 304 units that are obtained through the Transfer of Development Rights, Workforce Housing, and/or Affordable Housing Programs are not subject to this limitation. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2019-255, Control No.2004-00459)

2. Per LGA 2017-003 Condition C.2: A minimum 10% of the property must be committed to Usable Open Space. Usable Open Space is defined as pervious, vegetated areas, parks and squares as well as impervious hardscaped areas which are openly accessible to the public, such as plazas, squares, and courtyards. This open space can be used for passive or active recreation as well as formal and informal gatherings; however, credit shall not be given for; any indoor or climate-controlled spaces, road rights-of-way, building setback areas, impervious surface courts (tennis, basketball, handball, etc.), swimming pools, parking lots, and any pervious green area not intended for passive or active recreation or gathering of a formal or informal nature. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 2 of Resolution R-2019-255, Control No.2004-00459)

3. Per LGA 2017-003 Condition C.3: A minimum of 25% of the residential units are to be deed restricted for the Workforce Housing Program(WHP), and are subject to the following requirements:

- a. The Property owner shall provide these units on site, and between 60-140% of the Area

Median Income ranges for the County, in four ranges (60-80%, >80-100%, >100-120%, >120%-140%); and

b. The workforce house units shall be provided in all unit types. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 3 of Resolution R-2019-255, Control No.2004-00459)

4. Per LGA 2017-003 Condition C.5. States, Four (4) of the residential units shall be constructed with the following components:

a. Minimum 44 inch wide hallways within the units for easier wheelchair accessibility;

b. All bathrooms shall be Type B bathrooms;

c. Accessible kitchen islands;

d. A minimum 36 inch wide section of the kitchen countertop at ADA height;

e. Grab bars shall be installed at time of construction; and

f. Movable ramps within the units for wheelchair access to unit balconies shall be installed at the request of a tenant and at no expense to the tenant.

(ONGOING: PLANNING - Building Division) (Previous PLANNING Condition 4 of Resolution R-2019-255, Control No.2004-00459)

5. Per LGA 2017-003 Condition C.4: Certificates of occupancy shall not be issued for more than 50% of the commercial square footage until it is demonstrated that at least 50% of the residential units are under construction as defined in the Zoning development order. Therefore, Prior to the release of the Certificate of Occupancy for 75,804 square feet of the non-residential uses, 3 (3 buildings =~228 units) Building permits, with slab inspection, shall be approved for the residential portion of the project. (CO: MONITORING - Planning) (Previous PLANNING Condition 5 of Resolution R-2019-255, Control No.2004-00459)

6. Prior to Final approval by the Development Review Officer, provide a recorded Unity of Control over the non-residential portion of the project as required by FLUE Policy 4.2.2.b.6. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 6 of Resolution R-2019-255, Control No.2004-00459)

7. 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 consistent with all of the requirements of LGA 2017-003 Condition C.3, 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 provide a copy of the revised site plan to Planning. (BLDGPM: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 7 of Resolution R-2019-255, Control No.2004-00459)

8. On an annual basis, beginning April 1, 2020, 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. The annual report shall include documentation regarding the occupancy of those units constructed beyond ADA requirements. (DATE/ONGOING: MONITORING - Planning) (Previous PLANNING Condition 8 of Resolution R-2019-255, Control No.2004-00459)

9. Prior to Final approval by the Development Review Officer (DRO), the property owner shall record a cross access easement agreement at the northwest corner of the site for future pedestrian and vehicular access, as depicted on the Conceptual Land Use Plan and the Preliminary Site Plan, with approval by the County Attorney. (DRO/ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 9 of Resolution R-2019-255, Control No.2004-00459)

10. Prior to the issuance of the Certificate of Occupancy or Completion for Phase 1

(Commercial portion) of the MXP, whichever occurs first, the cross-access at the northwest corner, which shall include a minimum five (5) foot wide pedestrian sidewalk and vehicular driveway shall be installed to the property line. Until the connection has been built on the adjacent property, this side of the cross access may be utilized for other purposes, such as, but not limited to parking. (CO: MONITORING - Planning) (Previous PLANNING Condition 10 of Resolution R-2019-255, Control No.2004-00459)

11. Prior to final DRO approval, detailed OS plans shall be required to ensure consistence with FLUE policy 2.2.4-b (pg 97) which outlines the requirements for a MLU, the Conceptual master Plan and design requirements, including the Usable Open Space and pedestrian systems. The Usable Open Space shall be consistent with the Definitions in the Introduction and Administration Element of the Comprehensive Plan(pg 29). (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 11 of Resolution R-2019-255, Control No.2004-00459)

SITE DESIGN

1. Prior to Final Approval by the Development Review Officer (DRO), the Final Site Plan shall be revised to:

- a) Include clear delineation of the Outparcel buildings.
- b) A minimum of two pedestrian amenities, such as but not limited to benches, trash receptacles and trellis along the path in the open space south of the Parking Garage (G1).
- c) A focal point such as but not limited to, a Fountain, Monument, Statue, or similar in each round about entrance of the residential development.
- d) Revise the five foot pedestrian path around the lake on the southeast portion of the site to be of an ADA compliant surface. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2019-255, Control No.2004-00459)

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.