

RESOLUTION NO. R-2020-0339

RESOLUTION APPROVING ZONING APPLICATION EAC-2019-02324
(CONTROL NO. 2007-00096)
a Development Order Amendment Expedited Application Consideration
APPLICATION OF Mattamy Palm Beach, LLC
BY Urban Design Kilday Studios, AGENT
(Polo Legacy 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 26, have been satisfied;

WHEREAS, Zoning Application EAC-2019-02324 was presented to the Board of County Commissioners at a public hearing conducted on March 26, 2020;

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 Expedited Application Consideration;

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 EAC-2019-02324, the Application of Mattamy Palm Beach, LLC, by Urban Design Kilday Studios, Agent, for a Development Order Amendment Expedited Application Consideration (Mixed Use Planned Development) to amend Conditions of Approval, 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 March 26, 2020, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Weiss moved for the approval of the Resolution.

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

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

The Mayor thereupon declared that the resolution was duly passed and adopted on March 26, 2020.

Filed with the Clerk of the Board of County Commissioners on March 31, 2020.

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: /s/ Scott Stone
COUNTY ATTORNEY

BY: 
DEPUTY CLERK-FLORIDA



EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

TRACT 5, LESS THE NORTH 52.14 FEET AND THE EAST 40 FEET THEREOF; TRACT 6, LESS THE NORTH 52.14 FEET THEREOF; TRACT 11 AND TRACT 12, BLOCK 28, OF THE "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT:

A PORTION OF TRACTS 5 AND 12, BLOCK 28, OF THE "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 12; THENCE SOUTH 89°03'30" WEST ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 36.24 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 8,551.00 FEET (A RADIAL LINE FROM SAID POINT BEARS SOUTH 86°07'12" WEST); THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 00°15'53", A DISTANCE OF 39.52 FEET; THENCE NORTH 04°40'47" WEST, A DISTANCE OF 182.92 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 3,540.00 FEET AND A CENTRAL ANGLE OF 03°56'05"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 243.10 FEET; THENCE NORTH 00°44'43" WEST, A DISTANCE OF 188.22 FEET; THENCE NORTH 02°17'54" EAST, A DISTANCE OF 303.46 FEET; THENCE SOUTH 00°56'30" EAST ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 296.11 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID TRACT 12; THENCE NORTH 89°03'30" EAST ALONG SAID NORTH LINE, A DISTANCE OF 40.00 FEET TO THE NORTHEAST CORNER OF SAID TRACT 12; THENCE SOUTH 00°56'30" EAST ALONG THE EAST LINE OF SAID TRACT 12, A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING. LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA;

AND LESS AND EXCEPT:

A PORTION OF TRACT 5, BLOCK 28, OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE SOUTH 00°56'30" EAST ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 52.14 FEET; THENCE SOUTH 89°02'30" WEST ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°56'30" EAST, A DISTANCE OF 1.22 FEET; THENCE NORTH 44°26'30" WEST, A DISTANCE OF 1.68 FEET TO A POINT OF INTERSECTION WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID LAKE WORTH DRAINAGE DISTRICT L-12 CANAL; THENCE NORTH 89°03'30" EAST ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1.16 FEET TO THE POINT OF BEGINNING. LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

PARCEL 2:

A PORTION OF TRACT 5, BLOCK 28, OF THE PALM BEACH FARMS CO. PLAT NO. 3,

ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5; THENCE SOUTH 00°56'30" EAST, ALONG THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 85.36 FEET; THENCE SOUTH 89°02'30" WEST ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957, OF SAID PUBLIC RECORDS, A DISTANCE OF 37.85 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°02'30" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 2.15 FEET; THENCE SOUTH 00°56'30" EAST, ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 278.52 FEET; THENCE NORTH 02°17'54" EAST, A DISTANCE OF 28.12 FEET; THENCE NORTH 00°33'30" EAST, A DISTANCE OF 54.52 FEET; THENCE NORTH 02°11'32" WEST A DISTANCE OF 125.03 FEET; THENCE NORTH 00°33'30" EAST, A DISTANCE OF 70.97 FEET TO THE POINT OF BEGINNING. LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

A PORTION OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL RIGHT-OF-WAY LYING WITHIN TRACTS 5 AND 6, BLOCK 28, "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

BEGINNING AT THE NORTHEAST CORNER OF THE CEDAR CREEK RANCH P.U.D. PLAT AS RECORDED IN PLAT BOOK 97 AT PAGE 167-169 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.89°02'30"E., ALONG THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH ROAD AS RECORDED IN OFFICIAL RECORD BOOK 6377, PAGE 854, OF SAID PUBLIC RECORDS, A DISTANCE OF 1279.74 FEET; THENCE S.00°56'30"E., A DISTANCE OF 37.99 FEET; THENCE S.89°03'30"W., ALONG THE SOUTH RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT L-12 CANAL AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761, OF SAID PUBLIC RECORDS, A DISTANCE OF 1278.58 FEET TO THE WEST LINE OF SAID TRACT 6; THENCE N.00°56'30"W. ALONG SAID WEST LINE OF TRACT 6, A DISTANCE OF 36.40 FEET TO THE POINT OF BEGINNING. LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

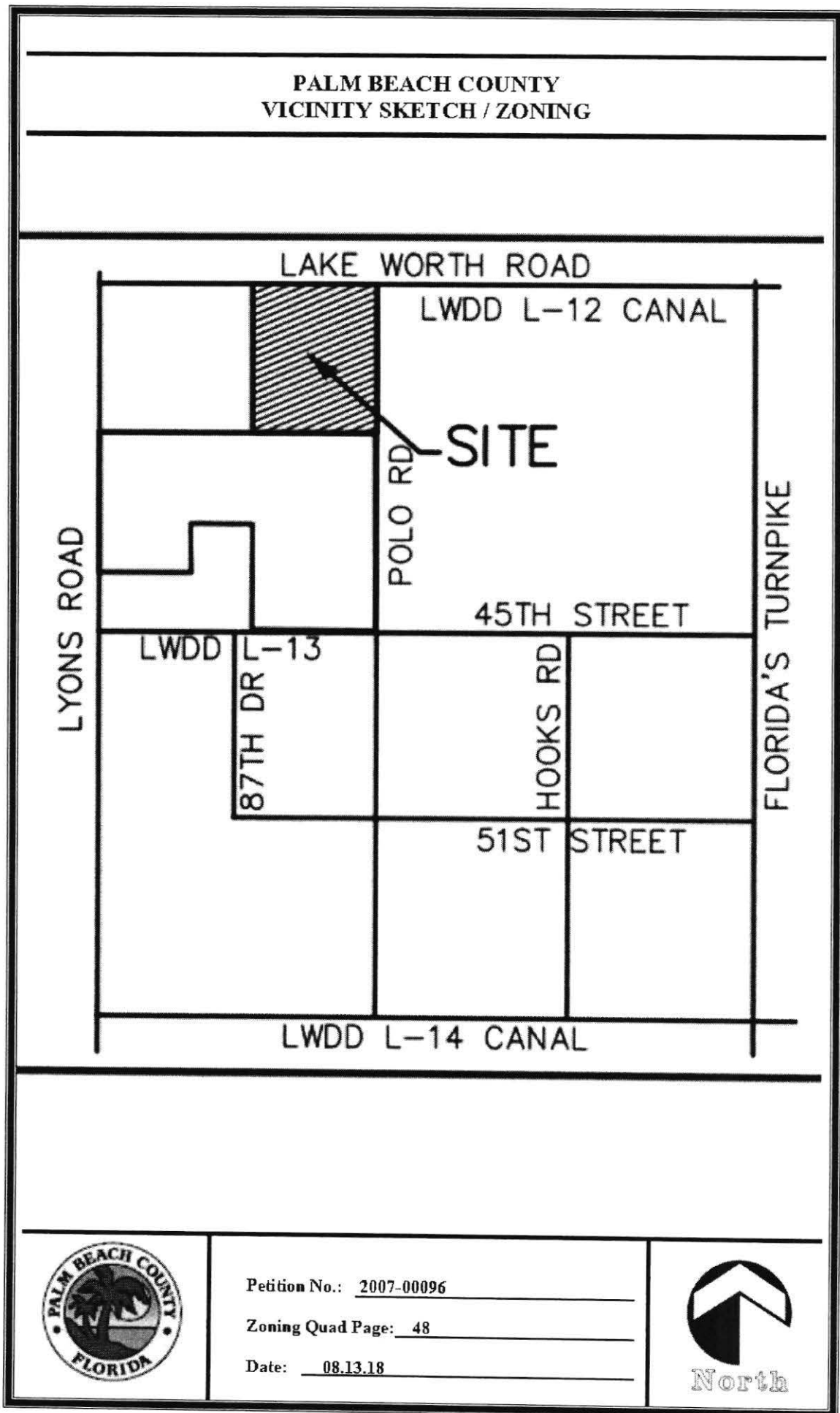
THE NORTH 15.00 FEET OF A 30.00 FOOT RIGHT-OF-WAY LYING SOUTH OF AND BETWEEN TRACTS 11 AND 12, BLOCK 28, "PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

BEGINNING AT THE SOUTHWEST CORNER OF TRACT 11; THENCE, ALONG THE SOUTH LINE OF SAID TRACTS 11 AND 12, NORTH 89°03'30" EAST, A DISTANCE OF 1283.50 FEET TO A POINT ON A CURVE OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 8551.00 FEET, WHERE A RADIAL LINE BEARS SOUTH 86°07'12" WEST; THENCE SOUTHERLY, ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°06'02", A DISTANCE OF 15.02 FEET TO THE CENTER OF A 30' RIGHT-OF-WAY AS RECORDED IN PLAT BOOK 2, PAGES 45-54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 89°03'30" WEST, ALONG SAID CENTER OF SAID RIGHT-OF-WAY A DISTANCE OF 1284.26 FEET TO THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHERN PROJECTION OF SAID WEST LINE OF TRACT 11; THENCE NORTH 00°56'30" WEST ALONG SAID PROJECT OF SAID WEST LINE OF TRACT 11, A DISTANCE OF 15.00 FEET TO THE

POINT OF BEGINNING.

CONTAINING 1,678,737 SQUARE FEET OR 38.538 ACRES, MORE OR LESS.
LANDS SITUATE IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM
BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH



Petition No.: 2007-00096
Zoning Quad Page: 48
Date: 08.13.18



EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment - Expedited Application Consideration (Mixed Use Planned Development District)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 11, 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) (Previous ALL PETITIONS Condition 1 of Resolution R-2019-558, Control No.2007-00096)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2019-0558 (Control 2007-00096), 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, 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, 2025. 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-2019-558, Control No.2007-00096)

2. The Property Owner shall construct

- i. Right turn lane west approach on Lake Worth Rd at western driveway entrance.
- ii. Right turn lane west approach on Lake Worth Rd at eastern driveway entrance.
- iii. Right turn lane west approach on Lake Worth Rd at Polo Rd.
- iv. An extension of the east approach left turn lane on Lake Worth Rd at the western driveway entrance to a minimum of 400 ft with 50 ft taper or as approved by the Florida Department of Transportation.
- v. Channelize the existing full median opening on Lake Worth at the western driveway entrance to prohibit left turns out from this driveway, as approved by the Florida Department of Transportation.

All the above turn lane lengths shall be as approved by the Florida Department of Transportation. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Florida Department of Transportation for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 2 of Resolution R-2019-558, Control No.2007-00096)

3. The Property Owner shall construct

- i. Left turn lane south approach on Polo Rd at the northern driveway(main entrance).
- ii. Right turn lane north approach on Polo Rd at the northern driveway(main entrance).

- 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) (Previous ENGINEERING Condition 3 of Resolution R-2019-558, Control No.2007-00096)

4. The Property Owner shall reconstruct the south approach of the intersection of Lake Worth Rd and Polo Rd to have 2 lefts, shared through/right, and 1 right turn lane. The design shall be as approved by the County Engineer, who may require to modify other approaches of the intersection to accommodate the above lanes.

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 and any modifications to the signal, if a signal is already in operation before the modification of the south approach.

- 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) (Previous ENGINEERING Condition 4 of Resolution R-2019-558, Control No.2007-00096)

5. 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. No Building Permits for more than development generating more than 168 PM peak hour inbound trips shall be issued until the Property Owner makes a proportionate share payment in the amount of \$434,116. A potential development scenario generating the above trip could be a combination of 34 Apartment DU, 152 Townhome DU, 2500 sf Fast Food Restaurant w/out Drive-Through, 16 Fueling Position Gas Station, 3000 sf Convenience Store, and 3300 sf fast Food Restaurant w/out Drive-Through Window. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 5 of Resolution R-2019-558, Control No.2007-00096)

6. 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) (Previous ENGINEERING Condition 6 of Resolution R-2019-558, Control No.2007-00096)

7. Every effort should be made to align the southernmost entrance on Polo Rd with the future anticipated east-west connector road between Polo Rd and Hooks Rd. If an alignment of this east-west connector road has been finalized before the final site plan approval of the subject site, the southernmost entrance must be aligned with the connector road. (DRO/ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2019-558, Control No.2007-00096)

8. 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. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 8 of Resolution R-2019-558, Control No.2007-00096)

9. Prior to final approval of the Site Plan by the Development Review Officer, the Property Owner shall modify the site plan to show the access easement from Lake Worth Road to the residential portion of this project. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2019-558, Control No.2007-00096)

10. 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, 15 feet in width 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. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 10 of Resolution R-2019-558, Control No.2007-00096)

11. 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 Polo 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) (Previous ENGINEERING Condition 11 of Resolution R-2019-558, Control No.2007-00096)

12. MAJOR THOROUGHFARE ROAD DISCLOSURE

a. Prior to the recordation of the first plat, the Property Owner shall include in the homeowners documents and all sales contracts, as well as all sales brochures, Master Plans and related Site Plans or Subdivision Plans, a disclosure statement identifying Polo Road as a planned thoroughfare roadway adjacent to or through this property. This shall also include the ultimate number of lanes for the road(s). Information which appears in written form shall appear in bold print. (PLAT: ENGINEERING - Engineering) (Previous ENGINEERING Condition 12 of Resolution R-2019-558, Control No.2007-00096)

LANDSCAPE - PERIMETER

1. PERIMETER LANDSCAPING ALONG THE WEST PROPERTY LINE (COMMERCIAL ABUTTING EXISTING RESIDENTIAL) In addition to Code requirements, landscaping along the west property line shall be upgraded to include:

- a. a six (6) foot high opaque concrete panel wall;
- b. a continuous hedge installed and maintained at a minimum height of four (4) feet on the interior and exterior sides of the wall; and,
- c. Prior to Approval by the Development Review Officer, the Final Site Plan shall be revised to indicate the wall and hedges in accordance with this Condition of Approval. (BLDGPMT/DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2019-558, Control No.2007-00096)

2. PERIMETER LANDSCAPING ALONG THE WEST PROPERTY LINE (ABUTTING RESIDENTIAL) In addition to Code requirements, landscaping along the entire west property line shall be upgraded to include:

- a. all canopy trees shall be installed at minimum height of sixteen (16) feet;
- b. one palm or pine for each twenty-five (25) linear feet of the property line, with a maximum spacing of fifty-five (55) linear feet between clusters;
- c. credit may be given for existing or relocated trees provided they meet the Unified Land Development Code requirements.
- d. Prior to Approval by the Development Review Officer, the Final Site Plan shall be revised to indicate compliance with this Condition of Approval. (BLDGPMT/DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2019-558, Control No.2007-00096)

PARKS

1. No more than 37 Certificates of Occupancy for the residential units shall be issued until the recreational improvements have been completed in their entirety and are open for use and accessible to the residents, unless a phasing plan for completion of the required recreation area is agreed to and approved by the Parks and Recreation Department. (CO: MONITORING - Parks and Recreation) (Previous PARKS Condition 1 of Resolution R-

PLANNED DEVELOPMENT

1. The Development Review Officer may approve an Administrative Modification to the Final Site Plan that exceeds the maximum 5 percent increase in square footage, as follows: to relocate up to 3,640 square feet (sq. ft.) from Buildings B and C to Building D, provided that the gross floor area of the proposed non-residential buildings is not less than 51,000 sq. ft. total. All modifications shall be in accordance with the all other limitations and criteria established in Table 2.C.5.B, Administrative Modifications to Prior Development Orders. (DRO: ZONING – Zoning)

PLANNING

1. Per LGA 2017-13, Ordinance 2017-38 condition 1: The subject site is limited to maximum of 396,000 square feet of non-residential uses or equivalent traffic generating uses. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 1 of Resolution R-2019-558, Control No.2007-00096)

2. Per LGA 2017-13, Ordinance 2017-38 condition 2: The development of the subject site shall adhere to the following design criteria and provide for a mixture of uses (commercial and residential) in accordance with the requirements established in the Unified Land Development Code (ULDC).

- a. The project shall have a mix of residential and commercial uses, with institutional and other accessory/ancillary/incidental uses permitted. Flexibility with the site's allocation and location of identified uses may be considered as permitted by the ULDC.
- b. The project shall provide public usable open space and/or institutional uses that may promote social and cultural activities. At least 5% of the project shall be prominently located and designated as public usable open space to create squares, greens and/or plazas.
- c. The project shall have pedestrian oriented design that includes internal street networks. Vehicular and/or pedestrian connections shall be provided to all existing and future contiguous development where feasible. Additionally, the design shall incorporate human-scale elements along streets and in common areas that includes but is not limited to: seating, landscaping, lighting and water or art features.
- d. Parking in front of non-residential buildings shall be strictly limited and dispersed to strengthen the pedestrian system.
- e. The project shall demonstrate a horizontal integration of uses.
- f. No single tenant shall exceed 65,000 square feet and shall not be a big box. Single large tenants must have architectural facade treatments or liner tenants to reduce large single use frontage facades along streets. All non-residential buildings shall provide four-sided architecture.
- g. The interconnected vehicular and pedestrian circulation system shall provide on-street parking and access to transit stops and off-site pedestrian and bicycle systems where feasible. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 2 of Resolution R-2019-558, Control No.2007-00096)

3. Per LGA 2017-13, Ordinance 2017-38 condition 3: Residential density shall be limited to a maximum of five (5) dwelling units per acre, with no density increases permitted above five (5) dwelling per acre on site. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 3 of Resolution R-2019-558, Control No.2007-00096)

4. Per LGA 2017-13, Ordinance 2017-38 condition 4: The Zoning development order shall require at least 25% of the residential units above 2 units per acre as workforce housing units subject to the following requirements:

- a. The property owner shall provide these units on site, and between 60-140% of the Median Household Income ranges for the County, in all four WHP ranges (60-80%, >80-100%, >100 -120%, and >120-140%); and,
- b. The workforce housing units shall be provided in all unit types. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 4 of Resolution R-2019-558, Control No.2007-00096)

5. Prior to the issuance of the first Building Permit, the applicant shall submit architecture plans, to be four sided for the non-residential buildings, per FLUA amendment LGA 2017-13, Ordinance 2017-38 condition 2.f. (BLDGPM: MONITORING - Planning) (Previous PLANNING Condition 5 of Resolution R-2019-558, Control No.2007-00096)

6. Prior to final approval by the Development Review Officer (DRO), the applicant shall submit a detail on the regulating plans demonstrating, the area along the Compatibility buffer adjacent to the Rec Pod, that provides visual permeability and maintains the minimum code requirement with decorative fence. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 6 of Resolution R-2019-558, Control No.2007-00096)

7. A Pedestrian connection shall be required to the adjacent residential project shown, as a stub-out on the southwestern portion of the project, that may include, but is not limited to, a bridge or gate for functionality, if written approval has been obtained by the adjacent residents Homeowners Association. (ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 7 of Resolution R-2019-558, Control No.2007-00096)

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

Guarantees the attainability of all required workforce units required per ULDC Article 5.G. and LGA 2017-13, Ordinance 2017-38 condition 4. 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) (Previous PLANNING Condition 8 of Resolution R-2019-558, Control No.2007-00096)

9. On an annual basis, beginning April 1, 2022, 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 acceptable to the County, an annual report containing information and documentation to demonstrate continued compliance with the Workforce Housing Program (WHP) and a copy of any monitoring information provided to and received from the appropriate funding agency/source should there be one. (DATE/ONGOING: MONITORING - Planning) (Previous PLANNING Condition 9 of Resolution R-2019-558, Control No.2007-00096)

SCHOOL BOARD

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board) (Previous SCHOOL BOARD Condition 1 of Resolution R-2019-558, Control No.2007-00096)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board) (Previous SCHOOL BOARD Condition 2 of Resolution R-2019-558, Control No.2007-

00096)

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.