

RESOLUTION NO. R-2022- 0537

RESOLUTION APPROVING ZONING APPLICATION  
SV/ZV/ABN/PDD/CA-2021-00533  
(CONTROL NO. 1979-00268)  
an Official Zoning Map Amendment  
APPLICATION OF Town of Palm Beach and  
CRE Fund at Okeechobee Boulevard, LLC - Carlos Gonzales  
BY Schmidt Nichols, AGENT  
(Fount MUPD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, is authorized and empowered to consider applications relating to zoning;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), have been satisfied;

WHEREAS, Zoning Application SV/ZV/ABN/PDD/CA-2021-00533 was presented to the Board of County Commissioners at a public hearing conducted on May 26, 2022;

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 SV/ZV/ABN/PDD/CA-2021-00533, the Application of Town of Palm Beach and CRE Fund at Okeechobee Boulevard, LLC - Carlos Gonzales, by Schmidt Nichols, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Multifamily Residential High Density (RH) Zoning District 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 May 26, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Bernard 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 Robert S. Weinroth, Mayor	-	Aye
Commissioner Gregg K. Weiss, Vice Mayor	-	Aye
Commissioner Maria G. Marino	-	Aye
Commissioner Dave Kerner	-	Aye
Commissioner Maria Sachs	-	Aye
Commissioner Melissa McKinlay	-	Aye
Commissioner Mack Bernard	-	Aye

The Mayor thereupon declared that the resolution was duly passed and adopted on May 26, 2022.

Filed with the Clerk of the Board of County Commissioners on June 2, 2022.

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2020-011.

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

JOSEPH ABRUZZO,  
CLERK & COMPTROLLER

BY:   
COUNTY ATTORNEY

BY:   
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

THE WEST (W 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) AND THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 26, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

LESS THE LANDS CONVEYED PURSUANT TO THE COUNTY DEED TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION DISTRICT OFFICE RECORDED APRIL 12, 1989 IN OFFICIAL RECORDS BOOK 6029, PAGE 1155 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

BEING MORE PARTICULARITY DESCRIBED AS FOLLOWS:

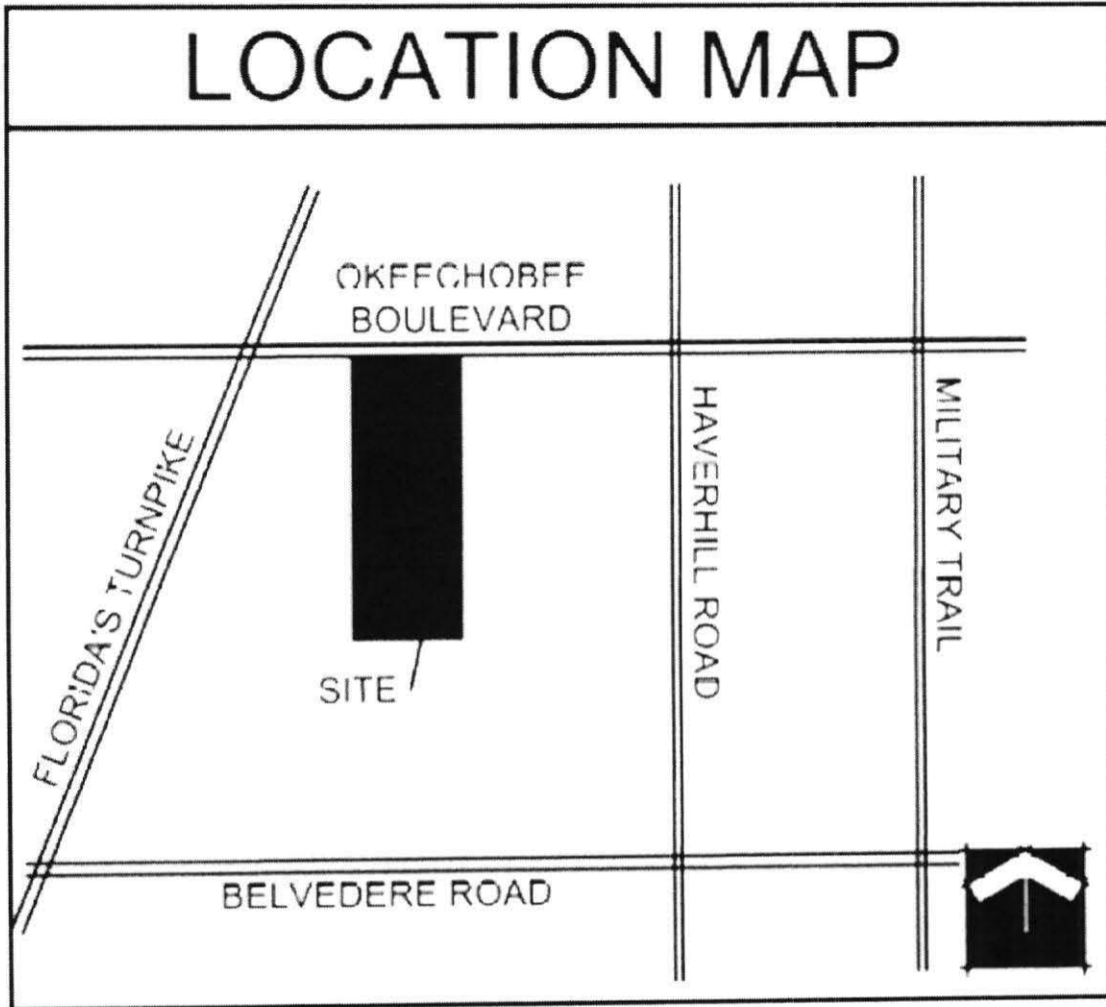
A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA: BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

- 1) COMMENCING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 26
- 2) THENCE SOUTH 1° 24' 53" WEST, ALONG THE WEST LINE OF THE SAID NORTHEAST QUARTER A DISTANCE OF 64.02 FEET;
- 3) THENCE SOUTH 88° 26' 20" EAST, A DISTANCE OF 52.47 FEET TO THE POINT OF BEGINNING;
- 4) THENCE CONTINUE SOUTH 88° 26' 20" EAST, ALONG A LINE 64.02' SOUTH OF AND PARALLEL TO THE NORTH LINE OF SAID SECTION 26, SAID LINE ALSO BEING THE THE SOUTH LINE OF THE CHANCERY CASE 407 AS RECORDED IN OFFICIAL RECORD BOOK 6495 PAGE 761 PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA, A DISTANCE OF 616.83 FEET;
- 5) THENCE SOUTH 1° 21' 54" WEST, ALONG THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26 A DISTANCE OF 1949.12 FEET;
- 6) THENCE NORTH 88° 57' 19" WEST, ALONG THE SOUTH LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER A DISTANCE OF 617.53 FEET;
- 7) THENCE NORTH 1° 24' 53" EAST, ALONG THE EAST LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-3 CANAL PER OFFICIAL RECORD BOOK 6495 PAGE 761 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 672.90 FEET;
- 8) THENCE NORTH 88° 47' 00" WEST, AND CONTINUE ALONG THE SAID E-3 CANAL A DISTANCE OF 0.99 FEET;
- 9) THENCE NORTH 1° 24' 53" EAST, AND CONTINUE ALONG THE SAID E-3 CANAL A DISTANCE OF 1281.78 FEET TO THE POINT OF BEGINNING,

SAID PARCEL BEING 1204958.69SQFT OR 27.662 ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH



## EXHIBIT C

### CONDITIONS OF APPROVAL

#### Non Residential Planned Development District

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated February 22, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission (ONGOING: ZONING - Zoning)

##### ARCHITECTURAL REVIEW

1. The maximum height of the residential structures that are located south of a line extending west from Elmhurst Road shall be limited to maximum of three stories in height. (BLDGPMT/DRO: ZONING - Planning)

2. The approved Architectural Elevations are dated January 24, 2022 and February 22, 2022. The Elevations shall be finalized, prior to final approval by the DRO. Modifications to the elevations shall be consistent with those presented to the Board of County Commissioners, or as allowed administratively pursuant to Article 2.C., changes to the 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. (DRO: ZONING - Zoning)

##### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2026, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall i) extend left turn lane east approach on Okeechobee Blvd at project entrance, as approved by the FDOT/County Engineer ii) close eastbound left turn lane at the restricted median opening, 350 ft east of project entrance iii) construct right turn lane west approach on Okeechobee Blvd, as approved by FDOT/County Engineer and allowed by LWDD, iv) provide a large curb radius for inbound traffic at the entrance on Okeechobee Blvd, v) make necessary modifications to the existing signal at Elmhurst Rd/Haverhill Rd intersection to allow protected-permissive northbound left turn signal indication, which can also be coupled with left turn lane/center turn lane modifications on Haverhill Rd, all at Property Owner's expense, and as approved by the County Engineer.

If approved by the County Engineer, the Property Owner shall design the necessary full signal modifications, including accommodation of the southbound protected-permissive phase, and submit a payment for construction for the northbound phase modification, in lieu of construction, in an amount approved by the County Engineer for Engineering Condition 2.v and this condition shall be considered satisfied.

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 or FDOT, as appropriate, for the above 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. (BLDGPM/CO: MONITORING - Engineering)

3. The Property Owner shall fund the cost of signal installation and construct the signal at the project entrance on Okeechobee Blvd. Signalization shall be a mast arm structure installation. The existing signal at this location serves as an emergency signal for the Fire Station #23 that is situated just north of the proposed project. The upgraded mast arm signal must also include the emergency operation pre-emption for the Fire Station, as approved by County Engineer/Fire Rescue Department/FDOT. In addition to accommodating the cost of Fire pre-emption, the cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition. The signal design must also include plans for uninterrupted pre-emption operation (no down time allowed) of the emergency signal, while the upgraded full signal is being constructed. Traffic signal design and pre-emption details shall be coordinated with and approved by Palm Beach County/FDO/Fire Rescue departments and FDOT, as appropriate. Mode of operation of the signal (flashing or stop and go) and its timing will be as determined by the County Engineer.

Traffic to/from the Development, including construction related vehicles, shall not be allowed to use this entrance on Okeechobee Blvd until upgraded signal construction is complete, accepted by Palm Beach County/FDOT, and the signal is fully operational. Until then, all project related traffic, including construction vehicles, shall use only the entrance through Elmhurst Rd.

The Property Owner shall upgrade lighting at the signalized intersection as needed to comply with the most recent FDOT lamination requirements, as well as coordinate the maintenance of updated street light with respective street light maintenance authority. The cost for this upgrade will be the responsibility of the Property Owner.

a. No Building Permits shall be issued until the Property Owner provides acceptable surety to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPM/CO: MONITORING - Engineering)

b. No Certificate of Occupancy shall be issued until Conversion of the existing signal into mast arm is completed, accepted by Palm Beach County/FDOT, and is fully operational. (BLDGPM/CO: MONITORING - Engineering)

c. In order to request release of the surety for the upgrade of the traffic signal and related work at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the signal has been constructed, accepted by PBC, and fully operational. Palm Beach County will release the surety within 30 days of receiving this notice. In the event that the property is sold, the surety may be returned once the Traffic Division receives written documentation of the sale and a replacement surety has been provided to the Traffic Division by the new Property Owner. (ONGOING: ENGINEERING - Engineering)

4. 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/CO: MONITORING - Engineering)

5. 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 Okeechobee Boulevard, up to 70 feet, measured from centerline of the proposed right of way on an alignment approved by the FDOT and 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)

6. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPMT/PLAT: ENGINEERING - Engineering)

7. Prior to final approval of the Site Plan by the Development Review Officer, the Property Owner shall show the detention areas on the Site Plan. (DRO: ENGINEERING - Engineering)

#### **ENVIRONMENTAL**

1. All mitigation credits to be planted on site according to the Preliminary Regulating Plan Dated February 22, 2022 or as approved by ERM (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

#### **LANDSCAPE - PERIMETER**

1. In addition to the requirements of a Type 1 Incompatibility buffer the south property line shall be upgraded to include the following:

a. Minimum width of 20 feet in the areas indicated on the Preliminary Site Plan dated February 22, 2022, inclusive of the six foot opaque barrier (fence or wall);

b. Additional hedges, shrubs and ground cover consistent with the requirements for a Type 3 Incompatibility buffer. (BLDGPMT/ONGOING: ZONING - Zoning)

#### **LAKE WORTH DRAINAGE DISTRICT**

1. Prior to Platting, LWDD will require the Property Owner to convey a 15-ft exclusive easement along the north-south leg of the L-1 Canal, being the east 15-feet of the south 270-feet of the north 370-feet of the west half of the NW quarter of the NE quarter of Section 26-43-42. (PLAT: ENGINEERING - Lake Worth Drainage District)

2. Prior to Platting, the Property Owner shall convey a 12-foot exclusive easement along west line of the subject property for additional right-of-way on the E-3 Canal. (PLAT: ENGINEERING - Lake Worth Drainage District)

3. Prior to Platting, the Property Owner shall extinguish the 15-foot Temporary Access Agreement recorded in ORB 25412 Page 1196. (Temporary Access lying within the E-3 Canal right-of-way).

(PLAT: ENGINEERING - Lake Worth Drainage District)

#### **PARKS**

1. No more than 20 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 upon and approved by the Parks and Recreation Department. (CO: MONITORING - Parks and Recreation)

## **PLANNING**

1. Per LGA 2020-011, condition 1: Residential dwelling units shall be limited to a maximum of 708 units with no further density increases through density bonus programs. (ONGOING: PLANNING - Planning)
2. Per LGA 2020-011, condition 2: Structures located on the portion of the site south of a line extending west from Elmhurst Road, are limited to a maximum of 3 stories in height. (ONGOING: PLANNING - Planning)
3. Per LGA 2020-011, condition 3: A total of 111 Transfer of Development Rights (TDR) units shall be purchased and constructed. The 34% of TDR's required to be provided as WHP per the Unified Land Development Code shall apply to the minimum number of workforce housing units required by this ordinance. (ONGOING: PLANNING - Planning)
4. Per LGA 2020-011, condition 4: The zoning development order shall require a minimum of 25% of the total dwelling units to be built as onsite workforce housing units. (ONGOING: PLANNING - Planning)
5. The subject request for 708 units with a required 177-unit Workforce Housing Program (WHP) obligation was calculated based on the 27.66-acre site with the HR-12 Future Land Use Designation and conditions contained within LGA-2020-011. The WHP obligation for 177 units (25%) was required per LGA -2020-11 condition 4 and will be provided onsite as rental Multifamily units. Should any change occur to the calculation, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning)
6. The Developer shall provide notice of commencement of rentals, proof of compliance with provision of a model and a list of interested parties to the Planning Division and the Department of Housing and Economic Development (DHED). (ONGOING: PLANNING - Planning)
7. Prior to final site plan approval by the Development Review Officer (DRO), submit a regulating plan that depicts the amenities, landscaping and uses proposed for the required Usable Open Spaces. (DRO: PLANNING - Planning)
8. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)
9. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to add the Official records book and page number for the recorded cross access easement. (DRO: PLANNING - Planning)
10. Prior to final approval by the Development Review Officer (DRO), all applicable plans, documents shall be updated to be consistent with what was adopted by the Board of County Commissioners (BCC). (DRO: PLANNING - Planning)
11. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants for Workforce Housing, in a form acceptable to the Palm Beach County Attorney. 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. (BLDGPMT: MONITORING - Planning)
12. Prior to the issuance of the 3rd residential Building Permit (354 units), Fifty percent of WHP units (89) shall receive Certificates of Occupancy (CO). (BLDGPMT: MONITORING - Planning)



13. Prior to the issuance of the 5th residential Building Permit (602 units), All WHP units (177) shall receive Certificates of Occupancy (CO). (BLDGPMT: MONITORING - Planning)

14. Prior to the issuance of the first Building Permit (BP), the Property Owner/Developer shall provide documentation demonstrating compliance with the required proof of notification to interested parties and the design standards, such as but not limited to: compatible exteriors and the provision of a dry model (consistent with ULDC Article 5.G.1.A.3). (BLDGPMT: MONITORING - Planning)

15. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall pave all vehicular and pedestrian access points to the property line with a break in any landscape buffer, specifically the vehicular and pedestrian connection to the east and the pedestrian connection to the south, in the locations shown on the Final Site Plan as approved by the Development Review Officer (DRO). (CO: MONITORING - Planning)

### **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)

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.

### **COMPLIANCE**

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

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

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

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

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

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

**DISCLOSURE**

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