

RESOLUTION NO. R-2022- 0770

RESOLUTION APPROVING ZONING APPLICATION ABN/ZV/W/DOA/CA-2021-02151
(CONTROL NO. 1994-00013)
a Development Order Amendment
APPLICATION OF Chimu Inc, PreLux, LLC
BY Urban Design Studio, AGENT
(Chimu 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 ABN/ZV/W/DOA/CA-2021-02151 was presented to the Board of County Commissioners at a public hearing conducted on July 28, 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 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 ABN/ZV/W/DOA/CA-2021-02151, the Application of Chimu Inc, PreLux, LLC, by Urban Design Studio, Agent, for a Development Order Amendment to modify the Site Plan and Conditions of Approval; to add uses and buildings; and, to delete 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 July 28, 2022, 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 McKinlay 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 July 28, 2022.

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

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

JOSEPH ABRUZZO,
CLERK & COMPTROLLER

BY: 
COUNTY ATTORNEY

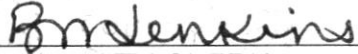
BY: 
DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THEREFROM THE LAND CONVEYED BY RIGHT-OF-WAY DEED IN FAVOR OF THE COUNTY OF PALM BEACH, IN THE STATE OF FLORIDA, RECORDED OCTOBER 12, 1959 IN OFFICIAL RECORDS BOOK 415, PAGE 181, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND LESS AND EXCEPT THEREFROM THE LAND DESCRIBED AS PARCEL NO. 1 OF EXHIBIT A TO STIPULATED FINAL JUDGMENT, RECORDED DECEMBER 5, 1990 IN OFFICIAL RECORDS BOOK 6661, PAGE 1785, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

ALSO DESCRIBED AS

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 137, CONCEPT HOMES OF LANTANA PHASE 9-B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, PAGES 81-82 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S89°09'20"E ALONG THE SOUTH LINE OF LOTS 129 THROUGH 137 AS SHOWN ON SAID PLAT, A DISTANCE OF 663.54 FEET TO THE SOUTHEAST CORNER OF SAID LOT 129; THENCE S00°13'52"E ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SAID SOUTHWEST 1/4 OF SECTION 1, A DISTANCE OF 572.13 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 6661, PAGE 1785 OF SAID PUBLIC RECORDS; THENCE N89°45'29"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 72.98 FEET; THENCE N88°50'23"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 565.85 FEET; THENCE N44°35'02"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.93 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF ADONIS DRIVE, AS RECORDED IN PLAT BOOK 44, PAGES 165 AND 166 OF SAID PUBLIC RECORDS; THENCE N00°16'07"W ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 545.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 378,651 SQUARE FEET/8.6926 ACRES MORE OR LESS.

LANDS SITUATE IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

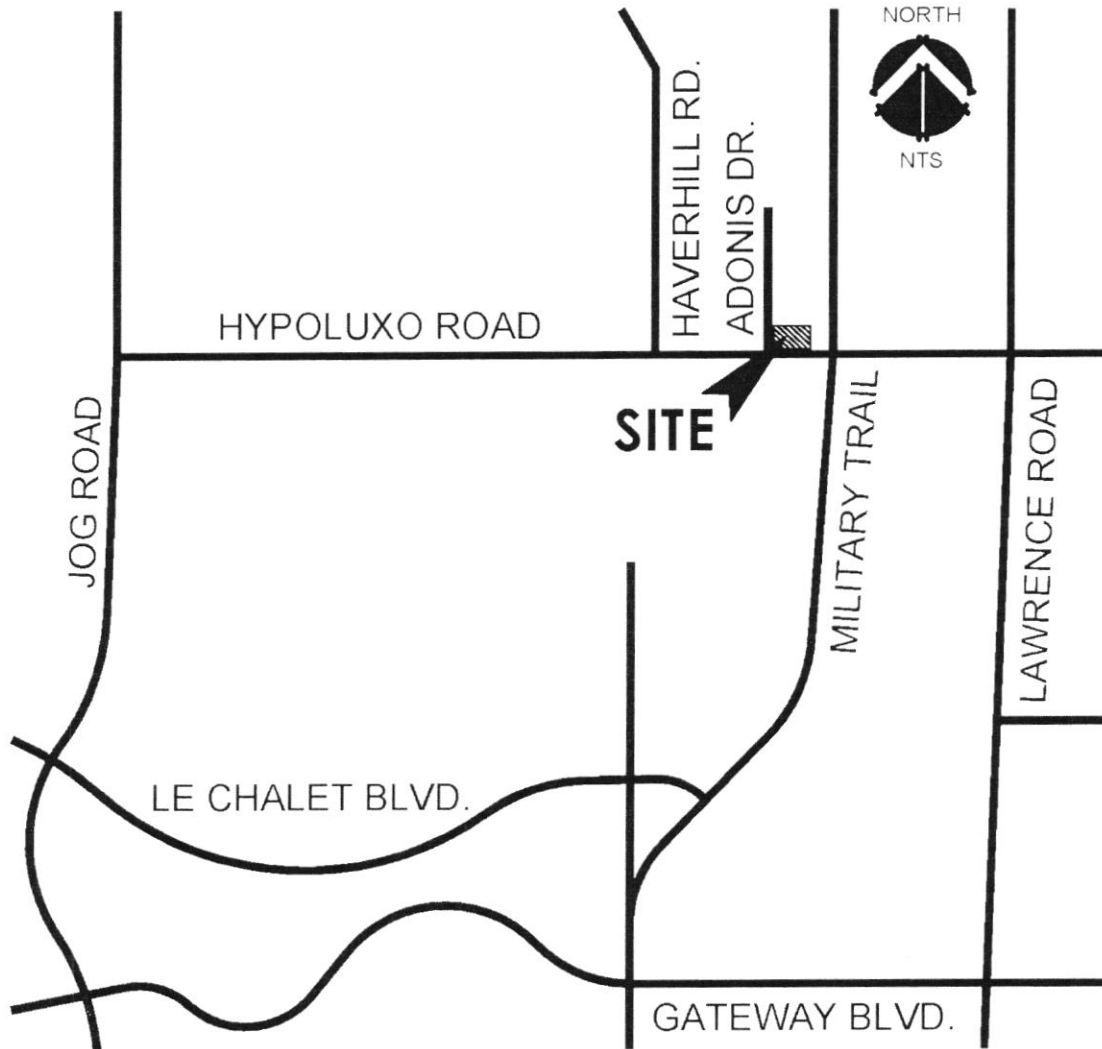


EXHIBIT C

CONDITIONS OF APPROVAL

Development Order Amendment

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Development of the property is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated January 31, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

The approved Preliminary Site Plan is dated May 31, 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. (DRO: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2005-1122 (Control 1994-0013), Resolution R-2008-1704 (Control 1994-0013), and Resolution R-2015-0960 (Control 1994-0013) 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)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate an architectural focal point at the following locations:

- a. both sides of each entrance located on Hypoluxo Road;
- b. the south side of the entrance located on Adonis Avenue;
- c. the area located on the east property line at the southeast corner of the T-intersection at the point of cross access to the site to the east; and,
- d. the southwest corner of the anchor retail building.
- e. The focal points shall be in the form of a plaza, fountain, columns, arcade or any other site element or similar pedestrian oriented public areas; and,
- f. details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval.

Is hereby amended to read:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate the location of focal points/pedestrian amenities, such as a gazebo or trellis, two (2) within the open space area south of Building E along the 5' meandering walkway and one (1) within the area south of Building C. Details of these focal points/pedestrian amenities will be updated on the Regulating Plan. (DRO: ZONING - Zoning)

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

At time of submittal for final Development Review Officer (DRO) approval, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for the commercial structures. Elevations shall be designed to be consistent with Article 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Elevations will be provided for Building E.]

3. Previous ARCHITECTURAL REVIEW Condition 3 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

Prior to final approval of the site plan by the Development Review Officer (DRO), the site plan shall be revised to indicate a plaza at the front facade of the 47,600 square foot retail building. The plaza shall be subject to the following:

- a. Location as shown on the site plan dated January 31, 2005;
- b. a minimum of two thousand (2,000) square feet in area;
- c. an architectural feature with a design consistent with the principal structure;
- d. details of the plaza shall be submitted to the Architectural Review Section for review and approval. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: The site plan has been revised]

BUILDING AND SITE DESIGN

1. Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue indicated on the site plan dated January 31, 2005. The minimum dimension for each area shall be as follows:

- a. access points located on Hypoluxo Road 1,200 square feet;
- b. the access point located on Adonis Avenue 1,000 square feet;
- c. all T-intersections minimum of 750 square feet;
- d. all pedestrian cross-walks minimum of seven (7) feet wide. Alternating colors shall be provided where pedestrian cross-walks intersect with decorative paver areas for vehicular traffic.

Is hereby amended to read:

Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue, as well as at the T-intersection of the internal driveways, as indicated on the Preliminary Site Plan dated May 31, 2022. (DRO: ZONING - Zoning)

2. Previous BUILDING AND SITE DESIGN Condition 2 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

The minimum setback for all structures adjacent to the north property line shall be 65 feet.

Is hereby deleted. [REASON: The site plan has been revised]

3. Previous BUILDING AND SITE DESIGN Condition 4 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

The maximum building height for the northern most building (47,600 SF retail building) shall be 25 feet excluding decorative architectural features and elements, which shall be limited to a maximum height of 35 feet.

Is hereby amended to read:

The maximum building height for the northern most building shall be 35 feet excluding mechanical equipment and architectural features, as allowed by Art. 3.D.1.E.4.V (Height Exemptions). (ONGOING: BLDG PERMIT – Zoning).

4. Previous BUILDING AND SITE DESIGN Condition 8 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

No truck shall be allowed on Adonis Drive. The petitioner shall install a directional sign prohibiting trucks on Adonis Drive.

Is hereby deleted. [REASON: No loading for areas provided adjacent to residential units. Therefore no longer applicable.]

5. Previous BUILDING AND SITE DESIGN Condition 9 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

An opaque wing wall a minimum of 12 feet in height, along the north edge and running the entire length of the loading area shall be installed prior to Certificate of Occupancy for the principal structure.

Is hereby deleted. [REASON: Modification to the site design and no loading is at the rear of the building.]

ENGINEERING

1. Prior to site plan approval by the Development Review Committee, the property owner shall record a cross access easement to the property owner to the east, subject to the approval by the County Attorney and County Engineer. (DRO: COUNTY ATTORNEY - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 25-foot safe sight comer at the intersection of Adonis Drive and Hypoluxo Road prior to the issuance of the first Building Permit. Right-of-way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer 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. Right-of-way conveyances shall also include "Safe Sight Comers" where appropriate as determined by the County Engineer. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

3. Condition deleted in Resolution R-2005-1122 (Previous ENGINEERING Condition 3 of Resolution R-2005-1122, Control No.1994-00013)

4. LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD

The property owner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of Hypoluxo 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 Board of County Commissioners approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of completion or certificate of occupancy. (CC/CO: MONITORING - Engineering)

c. At property owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping,

payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (CO/ONGOING: ENGINEERING - Engineering)

d. Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hypoluxo 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. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2005-1122, Control No.1994-00013)

5. Previous ENGINEERING Condition 5 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

The Property owner shall construct: a) right turn lane east approach on Hypoluxo Road at the Project's Entrance Road. b) left turn lane north approach on Adonis Drive at Hypoluxo Road. All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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. 1. Permits required by Palm Beach County for this construction in a and b shall be obtained prior to the issuance of the first Building Permit. (BLDGPM: MONITORING - Engineering)

Is hereby deleted. [REASON: Replaced with new condition]

6. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

a. No Building Permits for the site maybe issued after December 31, 2010. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. b) Building Permits for more than:

- 31,500 square feet of general retail;
- 16,000 square feet general office;
- 4,500 square foot fast food restaurant;

shall not be issued until construction has begun for the 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted 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. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2005-1122, Control No.1994-00013)

7. Prior to issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. 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. (BLDGPM: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2005-1122, Control No.1994-00013)

8. Previous ENGINEERING Condition 8 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Construction for these improvements in 6.a and 6.b shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer needed]

9. Previous ENGINEERING Condition 9 of Resolution R-2015-0960, Control No.1994-00013, which currently states:

The Property Owner shall provide proportionate share funds in the amount of 54% towards the cost of signal installation at Hypoluxo Road and Adonis Drive. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation and right of way or easement acquisition.

a. Building permits shall not be issued until the Property Owner provides 54% of the cost of signal installation, as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING-Eng)

Is hereby deleted. [REASON: No longer needed]

10. The Property Owner shall construct right turn lane east approach on Hypoluxo Rd at project entrance as per the County standards or as approved by 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.

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)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

11. 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)

12. The Property Owner shall fund the construction plans and construction of Adonis Drive from Hypoluxo Road to the project entrance to be consistent with Palm Beach County standards for a non-plan collector roadway, as approved by 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.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

13. 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 12/31/2024. 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)

ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, the Vegetation Disposition Chart shall be revised to correctly measure the native vegetation and correctly identify the appropriate jurisdiction of each tree. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE - GENERAL

1. Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;
- c. Canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length; and
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE Zoning)
(CO: ZONING - Zoning)

Is hereby deleted. [REASON: Will comply with current code provisions.]

2. Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning)
(CO: ZONING - Zoning)

Is hereby deleted. [REASON: Will comply to current code provisions.]

3. Previous LANDSCAPING - STANDARDS Condition 3 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

A group of 3 or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein.

Is hereby deleted. [REASON: Will comply to current code provisions.]

4. Prior to final Development Review Officer Approval, the Landsape Plan shall be modified to provide additional perimeter buffering material along Hypoluxo Road and Adonis Drive. The plan shall indicate additional landscaping for screening of vehicular use areas by combination of trees and hedges not exceeding the height limitations of Article 7. (DRO: ZONING – Zoning)

LANDSCAPING – INTERIOR

1. Previous ZONING - LANDSCAPING Condition 1 of Resolution R-2005-1122, Control

No.1994-00013, which currently states:

Shade structures (trellis and/or gazebo) shall be provided in the following locations:

- a. a minimum of two (2) shade structures to be placed along the entrance road into the project;
- b. a minimum of two (2) shade structures are to be located at the corner of the main intersection approximately in the center of the site; and,
- c. the shade structure shall have a minimum dimension of 100 square feet.
- d. Details of the shade structures shall be submitted to the Architectural Review Section for review and approval. (DRO/BLDG PERMIT: DRO/ZONING Zoning)

Is hereby deleted. [REASON: Will comply to current code provisions.]

LANDSCAPING –PERIMETER - ALONG SOUTH PROPERTY LINE

1. Previous LANDSCAPING ALONG SOUTH PROPERTY LINE Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

In addition to ULDC requirements, landscaping and buffering along the south property line shall be upgraded to include 1 palm for each 30-linear feet of the property line with a maximum spacing of 60-feet between clusters. (BLDG PERMIT: ZONING Landscape)

Is hereby deleted. [REASON: Will comply to current code provisions.]

LANDSCAPING –PERIMETER - ALONG WEST PROPERTY LINE

2. Previous LANDSCAPING ALONG WEST PROPERTY LINE Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the westproperty line shall be upgraded to include:

- a. A minimum of 20-foot-wide landscape buffer strip. No width reduction or easement shall be permitted;
- b. A minimum 2- to 3-foot-high undulating berm with an average height of 2.5-feet; and
- c. 1 palm or pine for each of the 30-linear feet of the property line with a maximum spacing of 60-feet between clusters.

Is hereby deleted. [REASON: Will comply to current code provisions.]

LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG – Zoning) (Previous LIGHTING Condition 1 of Resolution R-2005-1122, Control No.1994-00013).

2. All outdoor lighting fixtures within 100-feet of the north and west property lines shall not exceed 15-feet in height, measured from the finished grade to the highest point. (BLDG – Zoning) (Previous LIGHTING Condition 2 of Resolution R-2005-1122, Control No.1994-00013).

3. All outdoor lighting shall be extinguished no later than 11:00pm Security lighting only is excluded from this requirement. (ONGOING: CODE ENF – Zoning) (Previous LIGHTING Condition 3 of Resolution R-2005-1122, Control No.1994-00013).

PALM TRAN

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Preliminary Development Plan and/or final plan prior to final approval of the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM-TRAN - Palm-Tran) (Previous MASS TRANSIT Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. Prior to issuance of the first Building Permit or recordation of the plat, whichever shall

first occur, the property owner shall convey and or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDGPMT: MONITORING - Engineering) (Previous MASS TRANSIT Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

PLANNING

1. Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall include all sidewalks, decorative pavement pedestrian crosswalks, and cross access points, consistent with the certified site plan dated January 31, 2005. The site plan shall be revised to include a label for the vehicular and pedestrian cross access point to the eastern property line that shall read proposed vehicular and pedestrian cross access". (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. Prior to final site plan approval by the DRO, the property owner shall record a cross access easement from the subject property to the site to the east (Petition 1980-173B) in a form acceptable to the County Attorney. (DRO: COUNTY ATTORNEY - Planning) [Note: COMPLETED] (Previous PLANNING Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

3. Previous PLANNING Condition 3 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Prior to the issuance of a certificate of occupancy for any buildings on site, the property owner shall pave the cross access point to the edge of the eastern property line at the location shown on the site plan labeled proposed vehicular and pedestrian cross access".

Is hereby amended to read:

Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the Site Plan. (CO: MONITORING - Planning)

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

No freestanding point of purchase sign shall be permitted on Adonis Drive.

Is hereby amended to read:

Freestanding (monument) signs shall be limited to one (1) at the project entrance from Hypoluxo Road, one (1) at the corner of Hypoluxo Road and Adonis Drive and one (1) on the north side of the project entrance from Adonis Drive. (BLDGPMT/ONGOING: ZONING - Zoning)

UTILITIES

1. If any relocations/modifications to the County's existing water and wastewater facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (ONGOING: PBC WATER UTILITIES - PBC Water Utilities) (Previous UTILITIES Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

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.