

RESOLUTION NO. R-2023- 0235

RESOLUTION APPROVING ZONING APPLICATION Z/CA-2022-00844
(CONTROL NO. 2013-00360)
a Class A Conditional Use
APPLICATION OF DiVosta Homes L.P., Charles Hendrix, Charlotte Hendrix
BY Urban Design Studio, AGENT
(Hunter's Crossing)

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 Z/CA-2022-00844, submitted on behalf of DiVosta Homes L.P., Charles Hendrix, and Charlotte Hendrix, by Urban Design Studio, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Single Family Residential (RS) Zoning District; a Class A Conditional Use to allow Zero Lot Line (ZLL); and a Class A Conditional Use to allow Townhouse dwelling units, was presented to the Board of County Commissioners at a public hearing conducted on February 23, 2023;

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 Class A Conditional Use;

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 Z/CA-2022-00844, the Application of DiVosta Homes L.P., Charles Hendrix, and Charlotte Hendrix, by Urban Design Studio, Agent, for a Class A Conditional Use to allow Townhouse dwelling units on 36.90 acres, on a parcel of land generally described as

shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on February 23, 2023, subject to the Conditions of Approval described in EXHIBIT C-3, attached hereto and made a part hereof.

Commissioner Braxter moved for the approval of the Resolution.

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

Commissioner Gregg K. Weiss, Mayor	- Aye
Commissioner Maria Sachs, Vice Mayor	- Absent
Commissioner Maria G. Marino	- Aye
Commissioner Michael A. Barnett	- Aye
Commissioner Marci Woodward	- Aye
Commissioner Sara Baxter	- Aye
Commissioner Mack Bernard	- Absent

The Mayor thereupon declared that the resolution was duly passed and adopted on February 23, 2023.

Filed with the Clerk of the Board of County Commissioners on February 27th, 2023

This resolution shall not become effective unless or until the effective date of the Large Scale Land Use Amendment No. LGA-2023-008.

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

PARCEL 1:

TRACTS 5 AND 6, BLOCK 27, THE PALM BEACH FARMS CO. PLAT NO. 3. ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS PORTIONS TAKEN IN STIPULATED FINAL JUDGMENTS RECORDED IN OFFICIAL RECORD BOOK 6672, PAGE 610 AND OFFICIAL RECORD BOOK 6680, PAGE 1310, AND DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEASTERLY CORNER OF SAID TRACT 5, BLOCK 27; THENCE RUN SOUTH 00°56'59" EAST, ALONG THE EAST LINE OF SAID TRACT 5, BLOCK 27, A DISTANCE OF 5.63 FEET; THENCE RUN SOUTH 89°31'54" WEST, A DISTANCE OF 660.02 FEET TO THE POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 5, BLOCK 27; THENCE RUN NORTH 00°56'59" WEST ALONG THE WEST LINE OF SAID TRACT 5, BLOCK 27, A DISTANCE OF 0.08 FEET, TO THE NORTHWEST CORNER OF SAID TRACT 5, BLOCK 27; THENCE RUN NORTH 89°03'01" EAST ALONG THE NORTH LINE OF SAID TRACT 5, BLOCK 27, A DISTANCE OF 660.00 FEET TO THE POINT OF BEGINNING; AND

BEGIN AT THE NORTHEASTERLY CORNER OF SAID TRACT 6, BLOCK 27; THENCE RUN SOUTH 00°56'59" EAST, ALONG THE EAST LINE OF SAID TRACT 6, BLOCK 27. A DISTANCE OF 0.08 FEET; THENCE SOUTH 89°31'54" WEST, A DISTANCE OF 9.83 FEET TO A POINT ON THE NORTH LINE OF SAID TRACT 6; THENCE NORTH 89°03'01" EAST, ALONG SAID NORTH LINE, A DISTANCE OF 9.83 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

TRACT 4 (LESS THE EAST 60 FEET) AND TRACT 11 (LESS THE EAST 60 FEET) AND (LESS THE WEST 270 FEET OF THE EAST 330 FEET OF THE SOUTH 372.16 FEET) AND THE NORTH 287.82 FEET OF THE EAST 426.70 FEET OF TRACT 10, ALL BEING IN BLOCK 27 OF THE PALM BEACH FARMS COMPANY PLAT NO. 3, RECORDED IN PLAT BOOK 2, PAGE 45, PALM BEACH COUNTY RECORDS.

TOGETHER WITH:

THAT PORTION OF THE 30 FOOT RIGHT-OF-WAY LYING BETWEEN TRACTS 4 AND 5 AND THE NORTH 287.82 FEET OF TRACTS 10 AND 11, LESS LAKE WORTH ROAD RIGHT-OF-WAY;

THE EAST HALF OF THE 30 FOOT RIGHT-OF-WAY LYING BETWEEN TRACTS 10 AND 11, LESS THE NORTH 287.82 FEET THEREOF;

THE NORTH HALF OF THE 30 FOOT RIGHT-OF-WAY LYING, BETWEEN TRACTS 11 AND 18, LESS THE EAST 330 FEET THEREOF;

ALL IN BLOCK 27, PALM BEACH FARMS CO. PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID PARCEL BEING 1607446.656± SQUARE FEET OR 36.902± ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

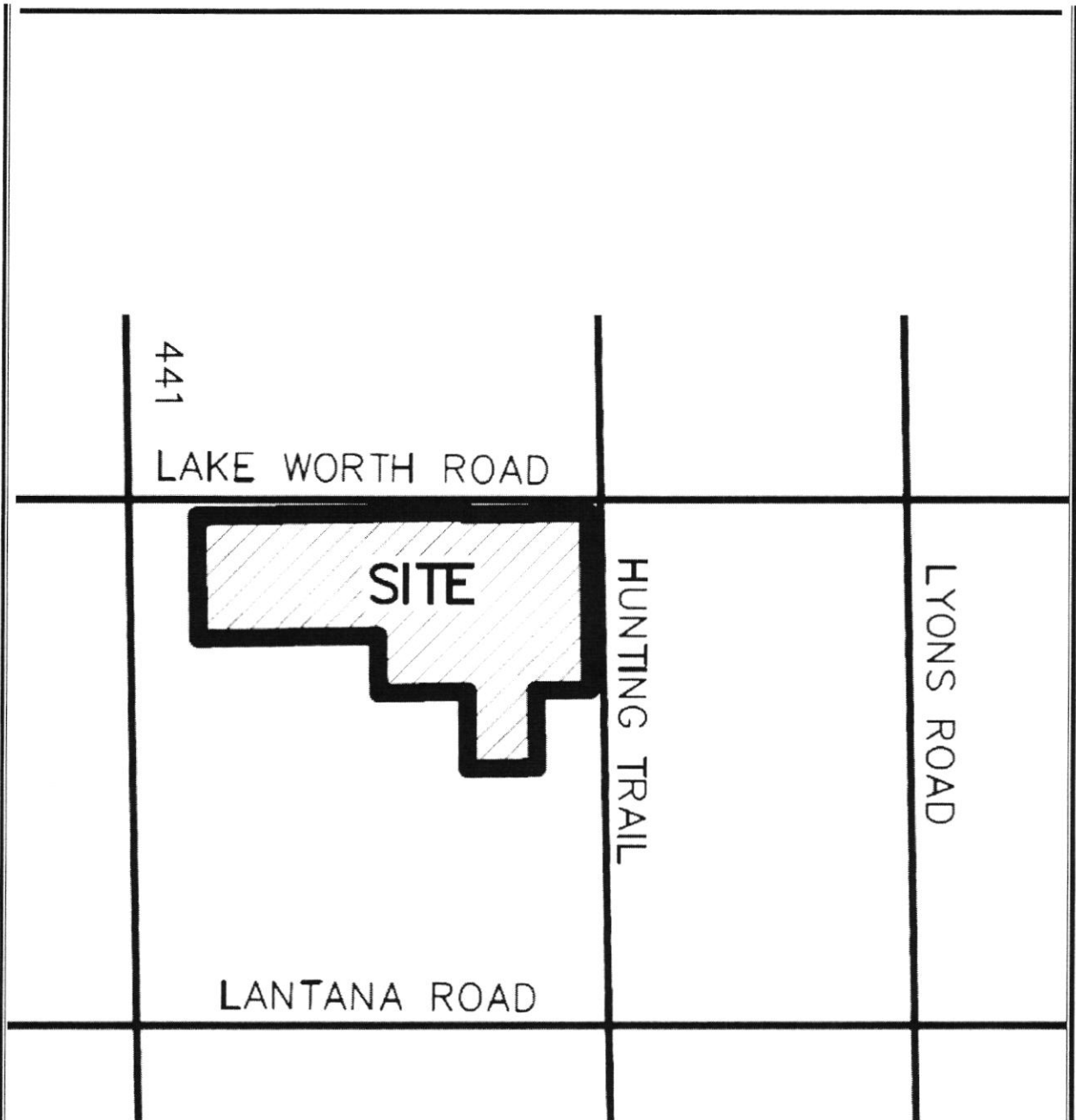


EXHIBIT C-3

CONDITIONS OF APPROVAL

Class A Conditional Use – Townhouse acreage – 36.9 acres

ALL PETITIONS

1. The approved Preliminary Subdivision Plan is dated December 15, 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 Zoning Commission or the Board of County Commissioners. (ONGOING: ZONING - Zoning)

ENGINEERING

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

a. No Building Permits for the site may be issued after December 31, 2027, 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 fund the cost of the required signal modification to create access for the development (south leg) at Lake Worth Rd and Woods Walk Blvd. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition and modification of any other legs of the intersection to accommodate the project entrance.

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: MONITORING - Engineering)

b. Construction of the signal modification shall be completed and accepted by the County/FDOT before issuance of any Certificate of Occupancy (BLDGPM/CO: MONITORING - Engineering)

c. In order to request release of the surety for the traffic signal modification at the above intersection, the Property Owner shall provide written notice to the Traffic Division stating that the final inspection of the signal has been completed and the modifications have been accepted by the County/FDOT. The County shall return the surety to the Property Owner within 30 days of receiving the notice and verification of the acceptance. (ONGOING: ENGINEERING - Engineering)

3. The Property Owner shall satisfy the conditions of the FDOT Pre-application driveway approval issued in a letter dated October 5, 2022. (ONGOING: ENGINEERING - Engineering)

4. Prior to issuance of the first building permit, the Property Owner shall plat the subject property in accordance with provisions of Article 11 of the Unified Land Development Code, or as otherwise approved by the County Engineer. The platting of this property may be phased in accordance with a phasing plan acceptable to the Office of the County Engineer and approved by the Development Review Officer. A phase should not be larger than what would reasonably be expected to be completed within the time frame of the posted surety. (BLDGPM: MONITORING - Engineering)

5. Prior to the recordation of the first plat, the Property Owner shall abandon the right-of-way in conflict with the proposed structures. (PLAT: ENGINEERING - Engineering)

6. The Property Owner shall lengthen the existing left turn lane east approach on Lake Worth Road at the Project entrance road. This turn lane shall be lengthened to a minimum

280 feet in length plus 50 foot paved taper or as approved by the County Engineer and FDOT. 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 the Florida Department of Transportation 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)

7. 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 to 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 plat or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, a Tree Preservation Area Management Plan shall be provided to ERM for review and approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to the final approval by the Development Review Officer, the plans shall be revised to identify the general relocation area of any specimen tree that is to be relocated, as shown on the Vegetation Disposition Chart. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

PARKS

1. No more than 47 residential building permits 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. (BLDGPM: MONITORING - Parks and Recreation)

2. No more than 2 certificates of occupancy 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. (BLDGPM: MONITORING - Parks and Recreation)

PLANNING

1. The subject request for 117 units with a 14-unit Workforce Housing Program (WHP) obligation was calculated based on LGA 2023-008 condition 2 requiring 12% of the total units to be deed restricted for WHP. The WHP units will be provided as for sale units and will be distributed as 9 onsite and 5 off-site as follows: 3 WHP at Carver Square, Delray Beach; and 2 WHP at We are Home Program, Delray Beach. A 30% WHP density bonus or 22 units and 21 TDR units were utilized. Should any change, to increase the calculation occur, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning)

2. 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, 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 the Planning Division. (BLDGPM: MONITORING - Planning)

3. Prior to the release of the 59th Building Permit, Fifty percent of WHP units (eight (8) units total: five (5) on-site and three (3) off-site) shall receive certificates of occupancy. (BLDGPM: MONITORING - Planning)

4. Prior to the release of the 99th Building Permit, All WHP units (fourteen (14) unit obligation total: nine (9) on-site and five (5) off-site) shall receive Certificates of Occupancy. (BLDGPM: MONITORING - Planning)

5. Prior to the release of the first Certificate of Occupancy (CO), the Property Owner shall provide documentation demonstrating compliance with the required design standards, such as but not limited to: compatible exteriors, size and number of bedrooms per WHP unit installation of required appliances, provision of a dry model, etc. (BLDGPM: MONITORING - Planning)

6. The Property Owner shall provide notice of commencement of sales to the Planning Division, DHES, and a list of interested parties provided by DHES. (ONGOING: PLANNING - Planning)

7. Prior to Final site plan approval, the Property Owner shall update and submit all applicable documents and plans to match the BCC approval. (DRO: PLANNING - 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. (CO: MONITORING - School Board)

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: ZONING - Zoning)

DISCLOSURE

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