

RESOLUTION NO. R-2023- 0715

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD-2022-01469
(CONTROL NO. 2022-00057)
an Official Zoning Map Amendment
APPLICATION OF Joseph Mulvehill
BY JMorton Planning & Landscape Architecture, AGENT
(State Road 7 Business Plaza)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 125 and Chapter 163, 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 ZV/PDD-2022-01469 submitted on behalf of of Joseph Mulvehill, by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 40.00 acres was presented to the Board of County Commissioners at a public hearing conducted on May 25, 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 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 ZV/PDD-2022-01469, the Application of Joseph Mulvehill, by JMorton Planning & Landscape Architecture, Agent, for an Official Zoning Map Amendment to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 40.00 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 May 25, 2023, 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 Baxter and, upon being put to a vote, the vote was as follows:

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

The Mayor thereupon declared that the resolution was duly passed and adopted on May 25, 2023.

Filed with the Clerk of the Board of County Commissioners on May 25, 2023.

This resolution shall not become effective until the Large Scale Land Use Amendment No. LGA-2023-002 is effective.

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

DESCRIPTION: MUPD

DEVELOPMENT PARCEL

BEING A PORTION OF TRACTS 13, 14, 15, 16, 17, 18, 19 AND 20, BLOCK 18, THE PALM BEACH FARMS CO PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE NORTH LINE OF SAID SECTION 18, N89°07'36"E, A DISTANCE OF 200.62 FEET TO THE NORTHWEST CORNER OF SAID TRACT 16, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACT 16, BLOCK 18, S01°17'43"E, A DISTANCE OF 33.00 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF 33-FOOT WIDE LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY, AS RECORDED IN OFFICIAL RECORDS BOOK 6495, PAGE 761 AND OFFICIAL RECORDS BOOK 32440, PAGE 940 OF SAID PUBLIC RECORDS AND TO THE POINT OF BEGINNING; THENCE ALONG SAID SOUTH LINE, N89°07'36"E, A DISTANCE OF 1,320.76 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 13, BLOCK 18; THENCE ALONG SAID EAST LINE AND THE EAST LINE OF SAID TRACT 20, BLOCK 18, S01°13'27"E, A DISTANCE OF 1,023.15 FEET; THENCE S89°07'14"W, A DISTANCE OF 1,311.99 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF 15-FOOT WIDE ROAD EASEMENT, AS SHOWN ON SAID THE PALM BEACH FARMS CO PLAT NO. 1; THENCE ALONG SAID EAST LINE, S01°17'29"E, A DISTANCE OF 296.81 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID TRACT 17, BLOCK 18; THENCE ALONG SAID SOUTH LINE, S89°07'45"W, A DISTANCE OF 7.48 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 17, BLOCK 18; THENCE ALONG THE WEST LINE OF SAID TRACTS 16 AND 17, BLOCK 18, N01°17'43"W, A DISTANCE OF 1,320.11 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,352,976 SQUARE FEET/31.0601 ACRES, MORE OR LESS.AND:

DESCRIPTION PRESERVE 1:

BEING A PORTION OF TRACTS 17, 18, 19 AND 20, BLOCK 18, THE PALM BEACH FARMS CO PLAT NO. 1, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 18; THENCE ALONG THE WEST LINE OF SAID SECTION 18, S00°45'55"E, A DISTANCE OF 1,352.74 FEET; THENCE N89°14'05"E, A DISTANCE OF 213.14 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 17, BLOCK 18; THENCE ALONG THE SOUTH LINE OF SAID TRACT 17, BLOCK 18, N89°07'45"E, A DISTANCE OF 7.48 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF 15-FOOT WIDE ROAD EASEMENT, AS SHOWN ON SAID THE PALM BEACH FARMS CO PLAT NO. 1 AND TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE SOUTH LINE OF SAID TRACTS 17, 18, 19 AND 20, BLOCK 18, N89°07'45"E, A DISTANCE OF 1,311.64 FEET TO THE SOUTHEAST CORNER OF SAID TRACT 20, BLOCK 18; THENCE ALONG THE EAST LINE OF SAID TRACT 20, BLOCK 18, N01°13'25"W, A DISTANCE OF 297.01 FEET; THENCE S89°07'14"W, A DISTANCE OF 1,311.99 FEET TO A POINT OF INTERSECTION WITH SAID EAST LINE OF 15-FOOT WIDE ROAD EASEMENT; THENCE ALONG SAID EAST LINE, S01°17'29"E, A DISTANCE OF 296.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 389,477 SQUARE FEET/8.9412 ACRES, MORE OR LESS.

SAID PARCEL BEING 1,742,453 ± SQUARE FEET OR 40.001± ACRES MORE OR LESS.

EXHIBIT B

VICINITY SKETCH

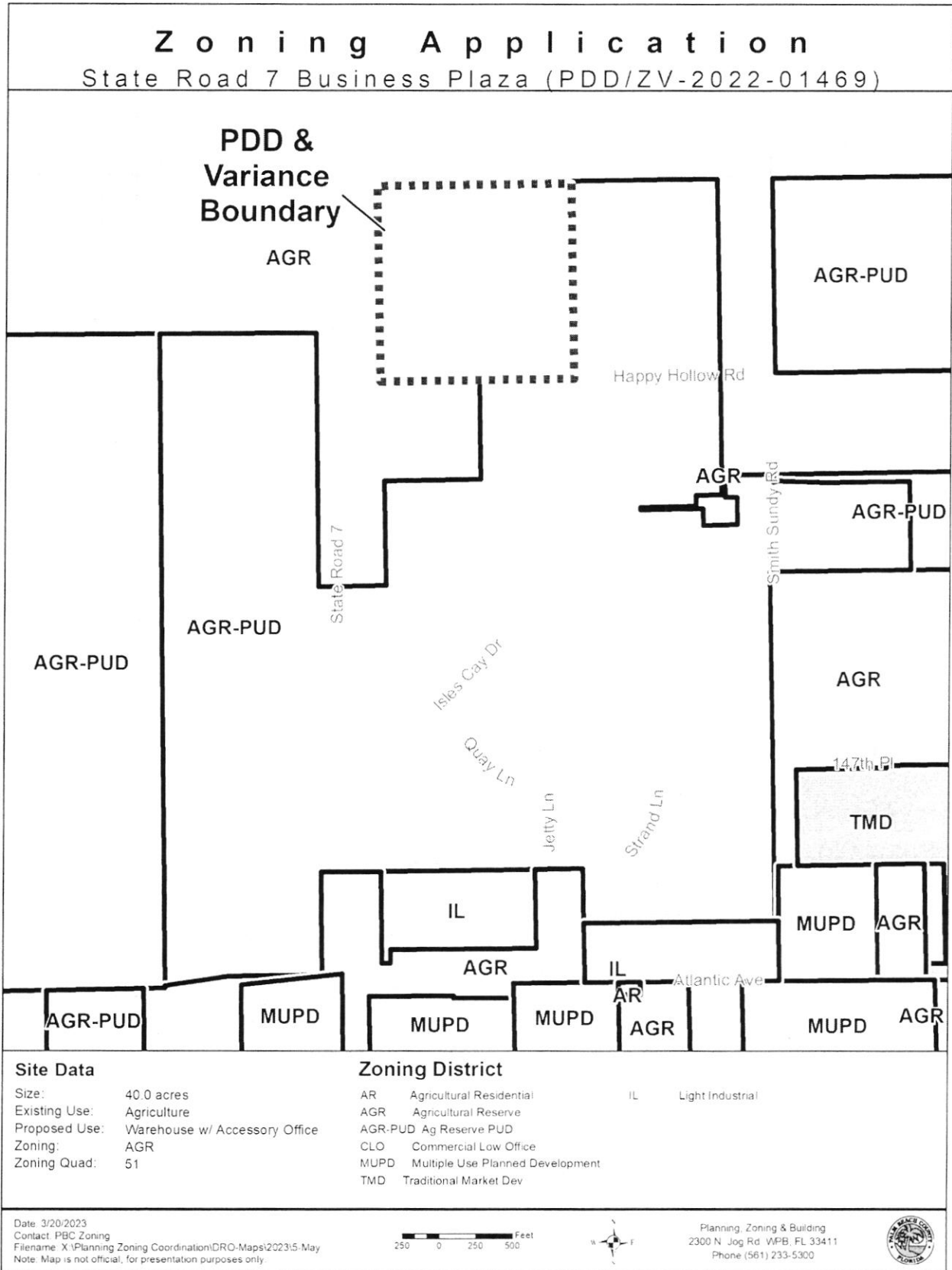


EXHIBIT C

CONDITIONS OF APPROVAL

PDD- Non-Residential Planned Development District

ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 21, 2023. 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.

ENGINEERING

1. 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 construct i) right turn lane south approach on SR-7 at project's southern entrance.
ii) left turn lane north approach on SR-7 at project's southern entrance ii) right turn lane south approach on SR-7 at project's northern entrance.

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

a. Permits required from FDOT 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)

3. 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. (BLDGPMT: MONITORING - Engineering)

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

5. Landscape Within the Median of State Road 7

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of State Road 7. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm

Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit, or as approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy, or as approved by the County Engineer. (BLDGPM/CO: MONITORING - Engineering)

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit, or as approved by the County Engineer. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan or a corridor proposed to be added to the OTIS Master Plan and shall be based on the project's front footage along State Road 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPM: MONITORING - Engineering)

6. Prior to the approval of the Final Site Plan by the Development Review Officer, the Property Owner shall add bearings and distances to the parcels created by the subdivision exemption. (DRO: ENGINEERING - Engineering)

7. The southern bridge alignment and design shall be finalized during the permitting and may differ from the site plan in terms of width and alignment. The location at which it connects to State Road 7 shall be approved by the Florida Department of Transportation and the County Engineer. (ONGOING: ENGINEERING - Engineering)

8. The bridges shall be constructed pursuant to Article 11.E.2.A.10 of the Unified Land Development Code. (ONGOING: ENGINEERING - Engineering)

ENVIRONMENTAL

1. Prior to the final approval by the Development Review Officer, the applicant shall provide appropriate documentation (e.g., a revised Phase II Environmental Site Assessment with new, clean soil/water samples, inter alia) to confirm that the proposed excavation(s) meet the separation criteria outlined in the ULDC, Article 4.B.10.B.7.b. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

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

PARKING

1. Prior to final DRO, the site plan shall be revised to indicate the 90 parking spaces along the east property line, to be constructed with pervious or porous pavement, pavers, grass parking, or other similar design to assist in heat reduction. (DRO: ZONING - Zoning)

PLANNING

1. Per LGA-2023-006, Condition 1: Development of the site under the Commerce future land use designation shall be subject to a maximum of 700,000 square feet of warehouse and 63,000 square feet of general office, or equivalent trips. (ONGOING: PLANNING - Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), the developer shall add a "Preservation Area/Proposed Uses" notes section on the Regulating Plan and ensure the same language is contained within in the Conservation Easement to include the following:

The purpose of the preserve area(s) are to support, preserve and perpetuate bona fide

agricultural and open space uses of the Property, and to preserve any environmentally significant upland or wetland habitats located on the Property.

1. Permitted Uses. Grantor may use the Property for:
 - a. Crop production, pasture, equestrian activities, wholesale nursery operation or fallow land;
 - b. Construction and maintenance of structures essential to the uses listed in subsection 1a., above, such as barns, stables, pumps, and pump houses, but specifically excluding agricultural support structures such as processing facilities, which are prohibited;
 - c. A Water Preserve Area if designated by the South Florida Water Management District ("SFWMD"), or for regional water management purposes as certified by either Lake Worth Drainage District or SFWMD, or for water management purposes not directly related to the Project if approved by the Palm Beach County Department of Environmental Resources Management ("ERM") and managed for environmental resource values;
 - d. Wetland restoration and maintenance, water management areas contiguous to the development area, that provide enhanced environmental features and improved water quality;
 - e. Bona fide agriculture as defined by the Code; and
 - f. Those other activities authorized within a Preservation Area under the use matrices of the Code and consistent with applicable provisions of the Comp Plan.

2. Prohibited Uses. Any use of or on the Property that is not specifically listed or included in Section 1, above, or that is inconsistent with agricultural, environmentally significant uplands or wetlands, or open space preservation is prohibited. (ONGOING: PLANNING - Planning)

3. Prior to Final Approval by the Development Review Officer (DRO), the Conservation Easement for the Preserve Parcel shall be submitted and recorded as approved by the County Attorney's Office and the Planning Division.

a. The Conservation Easement shall contain the following:

1) A legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;

2) A list of permitted uses, prohibited uses, and prohibited activities.

3) Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Planning Division. (DRO: PLANNING - Planning)

4. Title Insurance for the Conservation Easement shall be based on the cost of a Single Family Transfer of Development Right (TDR) in effect at the time PDD-2022-1469 was deemed sufficient (November 2, 2022), which is \$54,100 per acre for the area within the AGR Preserve Conservation Easement. (ONGOING: PLANNING - Planning)

5. Prior to Final Approval by the Development Review Officer (DRO), the Final Site Plan shall be revised to include the Official Records Book and Page of the recorded Conservation Easement for the Preserve Parcel. (DRO: PLANNING - Planning)

6. Prior to Final Approval by the Development Review Officer (DRO), submit a Preserve Management Plan for the Preserve Area. The management plan shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan for exotic removal and maintenance. The management plan shall be reviewed and approved by the Planning Division. (DRO: PLANNING - Planning)

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) (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) (ONGOING: ZONING - Zoning)

DISCLOSURE

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