

RESOLUTION NO. R-2024- 0413

RESOLUTION APPROVING ZONING APPLICATION ABN/DOA/CA-2023-01491
(CONTROL NO. 2013-00296)
a Class A Conditional Use

APPLICATION OF Elan Polo Gardens Owner LLC, Konover South LLC - David Coppa
BY JMorton Planning & Landscape Architecture, AGENT
(Polo Gardens 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/DOA/CA-2023-01491, the Application of Konover South LLC – David Coppa & Elan Polo Gardens Owner LLC, by JMorton Planning & Landscape Architecture, Agent, for a Development Order Abandonment to abandon resolution R-2023-0551 which approved a Class A Conditional Use for a Hospital, a Development Order Amendment to modify the overall MUPD to modify the Site Plan to add and delete uses, and to modify Conditions of Approval, and a Class A Conditional Use to allow a Type 1 Restaurant with a drive-through on 25.79 acres was presented to the Board of County Commissioners at a public hearing conducted on April 25, 2024;

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,

1. The foregoing recitals are true and correct and are incorporated herein.

2. Zoning Application ABN/DOA/CA-2023-01491, the Application of Elan Polo Gardens Owner LLC, Konover South LLC - David Coppa, by JMorton Planning & Landscape Architecture, Agent, for a Class A Conditional Use to allow a Type 1 Restaurant with a drive-through on 25.79 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 April 25, 2024, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Baxter 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 Maria Sachs, Mayor	-	Aye
Commissioner Maria G. Marino, Vice Mayor	-	Aye
Commissioner Gregg K. Weiss	-	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 April 25, 2024.

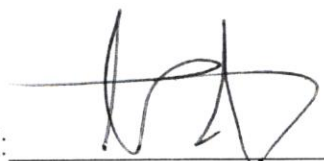
Filed with the Clerk of the Board of County Commissioners on April 25, 2024.

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

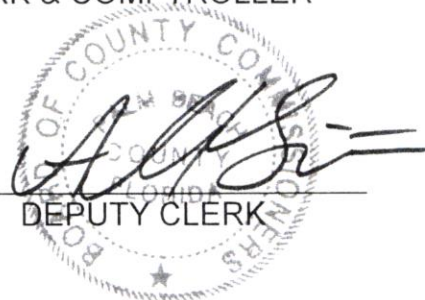
PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

BY:



COUNTY ATTORNEY

BY:



DEPUTY CLERK

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF TRACTS 13 AND 14, BLOCK 28. OF THE PALMS BEACH FARMS CO. PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PAM BEACH COUNTY, FLORIDA.

PARCEL A

TRACT 4 AND THE EAST 40 FEET OF TRACT 5, BLOCK 28, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; LESS AND EXCEPT THEREFROM THAT PORTION OF SUBJECT PROPERTY TAKEN BY PALM BEACH COUNTY AS DESCRIBED IN THAT STIPULATED ORDER OF TAKING RECORDED MARCH 7, 1990 IN OFFICIAL RECORDS BOOK 6377, PAGE 854, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT:

PARCEL I

A PORTION OF TRACTS 4 AND 5, BLOCK 28, PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TRACT 4; THENCE N.00°56'30"W. ALONG THE WEST LINE OF SAID TRACT 4, A DISTANCE OF 4.79 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 569.86 FEET; THENCE N.89°02'30"E. ALONG THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957 OF SAID PUBLIC RECORDS, A DISTANCE OF 43.18 FEET; THENCE S.00°33'30"W., A DISTANCE OF 254.91 FEET; THENCE S.02°17'54"W., A DISTANCE OF 72.90 FEET; THENCE S.14°42'20"W., A DISTANCE OF 73.49 FEET; THENCE S.03°15'02"W., A DISTANCE OF 171.96 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEGINNING AT THE SOUTHEAST CORNER OF SAID TRACT 5; THENCE S.89°03'30"W. ALONG THE SOUTH LINE THEREOF, A DISTANCE OF 40.00 FEET; THENCE N.00°56'30"W. ALONG A LINE 40.00 FEET WEST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID TRACT 5, A DISTANCE OF 296.11 FEET; THENCE N.02°17'54"E., A DISTANCE OF 28.12 FEET; THENCE N.00°33'30"E., A DISTANCE OF 54.52 FEET; THENCE N.02°11'32"W., A DISTANCE OF 125.03 FEET; THENCE N.00°33'30"E., A DISTANCE OF 70.97 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THAT CERTAIN LAKE WORTH DRAINAGE DISTRICT EASEMENT RECORDED IN OFFICIAL RECORD BOOK 6459, PAGE 1957 OF SAID PUBLIC RECORDS; THENCE N.89°02'30"E. ALONG SAID SOUTH LINE, A DISTANCE OF 37.85 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 5; THENCE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 574.64 FEET TO THE POINT OF BEGINNING.

PARCEL II

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

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

PARCEL B

A PORTION OF TRACT A, OF FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 183, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO BEING A PORTION OF TRACT 13 AND 14, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO.3, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 13; THENCE N.89°03'30"E. ALONG THE NORTH LINE THEREOF, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N.89°03'30"E. ALONG THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 1,219.64 FEET TO THE NORTHEAST CORNER OF SAID TRACT 14; THENCE S.00°56'30"E ALONG THE EAST LINE OF SAID TRACT 14, A DISTANCE OF 110.00 FEET; THENCE S.89°03'30"W ALONG A LINE 110.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 1,319.64 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 13; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 60.00 FEET; THENCE N.89°03'30"E ALONG A LINE 50.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACT 13, A DISTANCE OF 100.00 FEET; THENCE N.00°56'30"W. ALONG A LINE 100.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE WEST LINE OF SAID TRACT 13, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

PARCEL C

A PORTION OF TRACT A, OF FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 183, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO BEING A PORTION OF TRACT 13 AND 14, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO.3, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY FLORIDA; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID TRACT 13; THENCE S.00°56'30"E. ALONG THE WEST LINE THEREOF, A DISTANCE OF 110.00 FEET TO THE POINT OF BEGINNING; THENCE N.89°03'30"E. ALONG A LINE 110.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 13 AND 14, A DISTANCE OF 797.03 FEET; THENCE S.00°31'39"E., A DISTANCE OF 514.76 FEET; THENCE S.89°03'30"W., A DISTANCE OF 749.20 FEET; THENCE S.42°11'26"W., A DISTANCE OF 43.78 FEET; THENCE N.04°40'47"W., A DISTANCE OF 217.35 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 13; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 329.82 FEET THE POINT OF BEGINNING.

ALSO DESCRIBED AS:

A PORTION OF PARCEL A, FIELDS AT GULFSTREAM POLO PUD - PLAT ONE, AS RECORDED IN PLAT BOOK 123, PAGES 80 THROUGH 95, TOGETHER WITH A PORTION OF TRACTS 4 AND 5, BLOCK 28, PALM BEACH FARMS CO. PLAT NO. 3, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID PARCEL A; THENCE S.00°56'30"E. ALONG THE EAST LINE THEREOF, A DISTANCE OF 546.74 FEET; THENCE DEPARTING SAID EAST LINE, S.89°03'30"W., A DISTANCE OF 1,275.60 FEET; THENCE N.47°56'30"W., A DISTANCE OF 52.25 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID PARCEL A; THENCE ALONG THE WEST LINE OF SAID PARCEL A, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; N.04°40'47"W., A DISTANCE OF 89.49 FEET; THENCE N.00°56'30"W., A DISTANCE OF 389.82 FEET; THENCE N.89°03'30"E., A DISTANCE OF 100.00 FEET; THENCE N.00°56'30"W., A DISTANCE OF 50.00 FEET TO THE NORTHWEST CORNER OF SAID PARCEL A; THENCE S.89°03'30"W., A DISTANCE OF 100.00 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 4, BLOCK 28; THENCE N.00°56'30"W. ALONG THE WEST LINE THEREOF, A DISTANCE OF 4.79 FEET; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF POLO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 28941, PAGE 7 OF SAID PUBLIC RECORDS, THE FOLLOWING FIVE (5) COURSES AND DISTANCES; N.03°15'02"E., A DISTANCE OF 171.96 FEET; THENCE N.14°42'20"E., A DISTANCE OF 73.49 FEET; THENCE N.02°17'54"E., A DISTANCE OF 72.90 FEET; THENCE N.00°33'30"E., A DISTANCE OF 254.91 FEET; THENCE S.89°02'30"W., A DISTANCE OF 43.19 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF SAID TRACT 4, BLOCK 28; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 29.25 FEET; THENCE N.89°03'30"E. ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 659.82 FEET TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID TRACT 4, BLOCK 26; THENCE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 603.90 FEET TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID PARCEL A; THENCE N.89°03'30"E. ALONG SAID NORTH LINE, A DISTANCE OF 659.82 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF TRACT 5, BLOCK 28, PALM BEACH FARMS PLAT NO. 3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PAM BEACH COUNTY, FLORIDA.

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT 5, BLOCK 28; THENCE S.00°56'30"E. ALONG THE EAST LINE THEREOF, A DISTANCE OF 52.14 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.00°56'30"E. ALONG SAID EAST LINE, A DISTANCE OF 33.22 FEET; THENCE S.89°02'30"W., A DISTANCE OF 40.00 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF THE EAST 40.00 FEET OF SAID TRACT 5, BLOCK 28; THENCE N.00°56'30"W. ALONG SAID WEST LINE, A DISTANCE OF 33.23 FEET; THENCE N.89°03'30"E. ALONG THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-12 CANAL, AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761 OF SAID PUBLIC RECORDS, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING

SAID LANDS LYING IN SECTION 29, TOWNSHIP 44 SOUTH, RANGE 42 EAST.

PALM BEACH COUNTY, FLORIDA.

CONTAINING 1,123,577 SQUARE FEET/25.7938 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

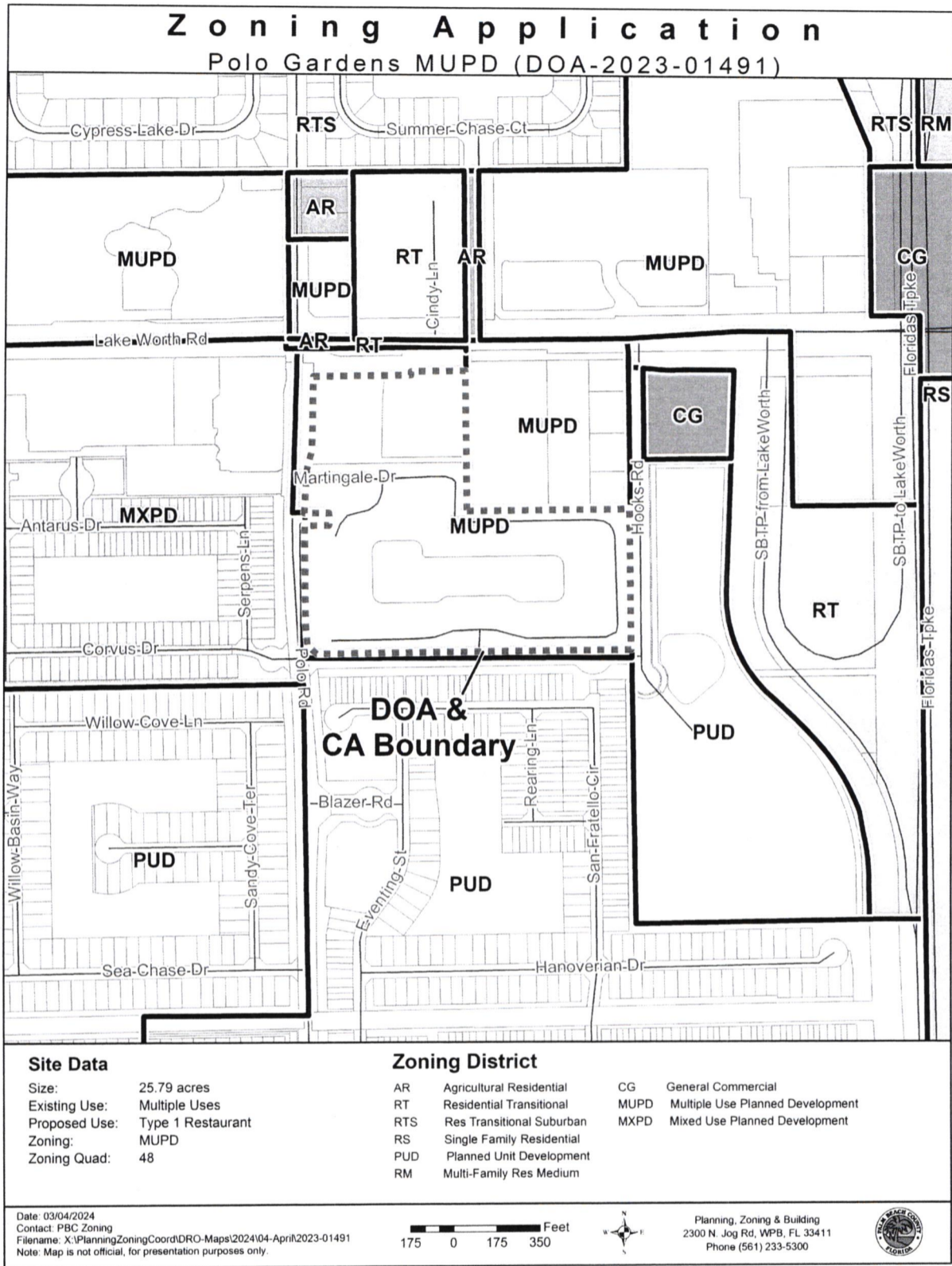


EXHIBIT C

CONDITIONS OF APPROVAL

EXHIBIT C-2

Class A Conditional Use Type 1 Restaurant with Drive-through on 25.79 acres

ALL PETITIONS

1. The approved Site Plan is dated January, 22 2024. 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. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1 At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Building A shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and be consistent with the overall unified architectural character and image of the MUPD. In addition the north, east and west facades must:

- a. The north and south facades shall provide the same Primary Roof Design Element and a Secondary Roof Treatment.
- b. The north, south, east and west facades shall shall comply with the Required Design Elements and the provision of Recesses/Projections and Walls in compliance with the ULDC.
- c. The north and south facades shall provide the Required Design Elements of Storefronts a minimum of 20% of the facade length. The windows on the north façade may be faux, but must incorporate the same details as the storefront on the south façade.
- d. The north, south, east and west facades shall provide a minimum of one Exterior Treatment and a minimum of one Fenestration Detail. The north and south facades shall have the surfaces of the north and south facade storefronts shall complement each other.
- e. The primary entrances of the public are located along the south façade. The doors along the north façade shall also be easily identifiable and integrated into the building architecture by incorporating a Primary Entry Feature Design Element and a Secondary Decorative Treatment similar to the south façade. (DRO: ZONING - Zoning)

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.