



PALM BEACH COUNTY ZONING APPLICATION STAFF REPORT

ZONING COMMISSION, AUGUST 1, 2024

A. Application Summary

I. General

Application Name: Project Charlie, SV/CA-2024-00590
Control Name: Project Charlie (2024-00043)
Applicant: O'Connor Property Management, LLC - William Q O'Connor
The Salvation Army - James Seller
Owner: The Salvation Army
Agent: WGINC - Yoan Machado
Project Manager: Matthew Boyd Site Planner II

Title: a Subdivision Variance **Request:** to allow access from a local residential street without sidewalks.
Title: a Class A Conditional Use **Request:** to allow a Heavy Repair and Maintenance

Application Summary: The proposed application is for the Project Charlie development. The site was rezoned on November 2, 1967 pursuant to Resolution 3-Y-67 from the R-1 Single Family District to the C-1 Neighborhood Commercial District in accordance with the 1957 Palm Beach County Land Development Regulations. This Zoning District was subsequently changed to Commercial General (CG). The site has a Development Permit through the building permit process for General Retail Sales.

The application is proposed in order to allow the redevelopment of the site to replace the existing shopping center with a Heavy Repair and Maintenance use for vehicles. The application includes a subdivision variance to allow access from a Local Residential Street (60-foot Right of Way (ROW) rather than a local Commercial Street (80-foot ROW). The Preliminary Site Plan indicates one building with a total of 36,926 square feet (sq. ft.), with associated site elements for water management, landscape buffering, and parking. Access to the site is from Military Trail, Orleans Court, and Gold Street.

II. Site Data

Acres: 3.42 acres
Location: West side of N. Military Trail approx. 1700 feet south of Belvedere Road
Parcel Control: 00-42-43-36-20-000-0050
Future Land Use: Commercial High, with an underlying IND (CH/IND)
Zoning District: General Commercial District (CG)
Proposed Zoning: General Commercial District (CG)
Tier: Urban/Suburban
Utility Service: PBC Water Utilities
Overlay/Study: Palm Beach International Airport Overlay
Neighborhood Plan: Haverhill Neighborhood Plan
CCRT Area: N/A
Comm. District: 2, Commissioner Gregg Weiss

III. Staff Assessment & Recommendation

ASSESSMENT: Staff has evaluated the standards listed under Article 2.B, and determined that the requests meet the standards of the ULDC subject to Conditions of Approval as indicated in Exhibit C-1 and C-2.

STAFF RECOMMENDATION: Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibits C-1 and C-2.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received no contact from the public regarding this application.

IV. Hearing History

ZONING COMMISSION: *Scheduled for August 1, 2024*

BCC HEARING: *Scheduled August 22, 2024*

B. Data & Analysis

The supporting data and analysis is provided within the following Exhibits.

I. Exhibits	Page
A. Future Land Use Map & Zoning Map	3
B. Standards Analysis & Findings	5
C. Conditions of Approval	13
D. Project History	16
E. Preliminary Site Plan (June 18, 2024)	17
F. Preliminary Regulating Plan (June 18, 2024)	18
G. Disclosure of Ownership	19
H. Drainage Statement	27
I. Utility Letter	29
J. FDOT Letter	30
K. Justification Statement	31

Exhibit A - Future Land Use Map

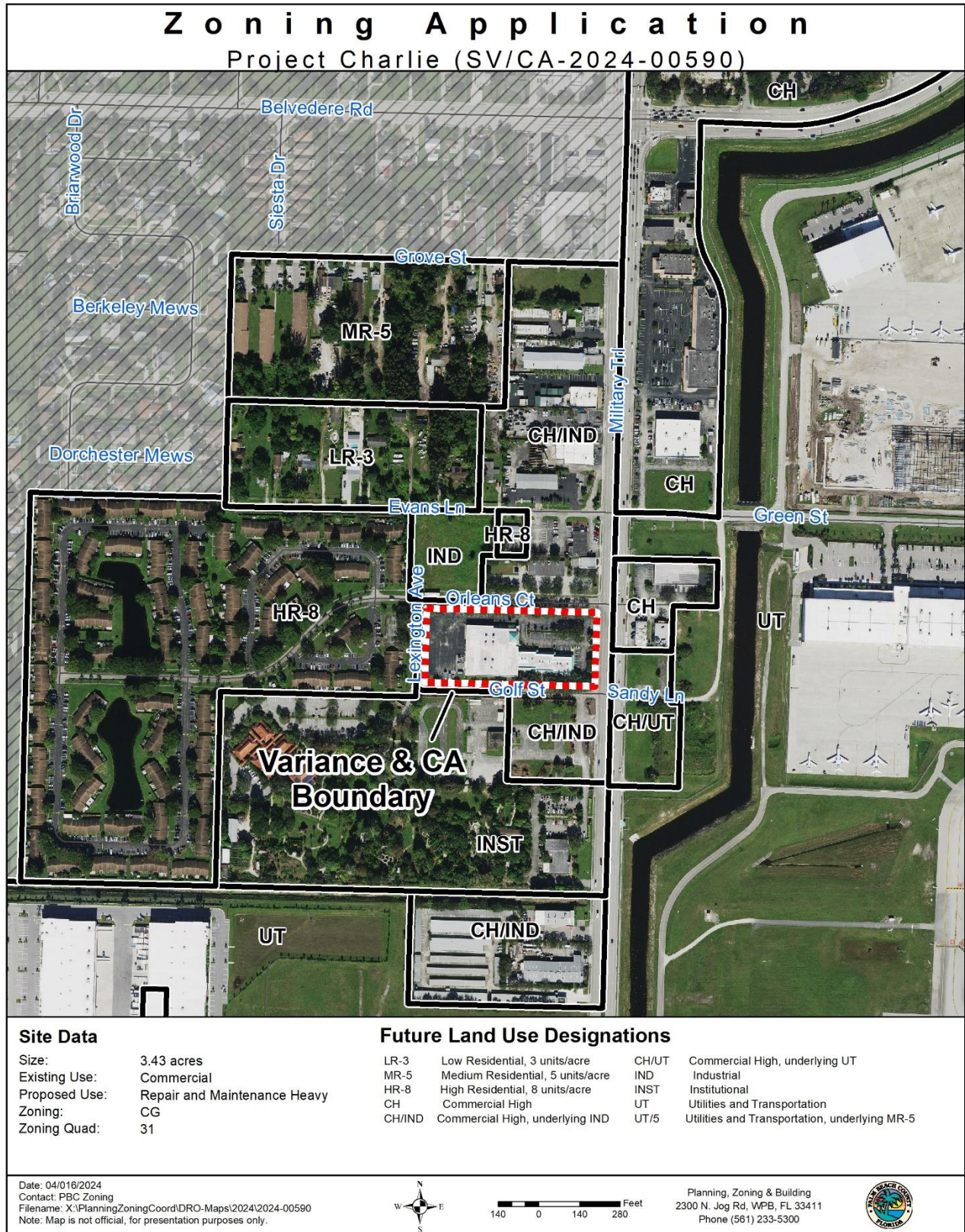


Exhibit A - Zoning Map

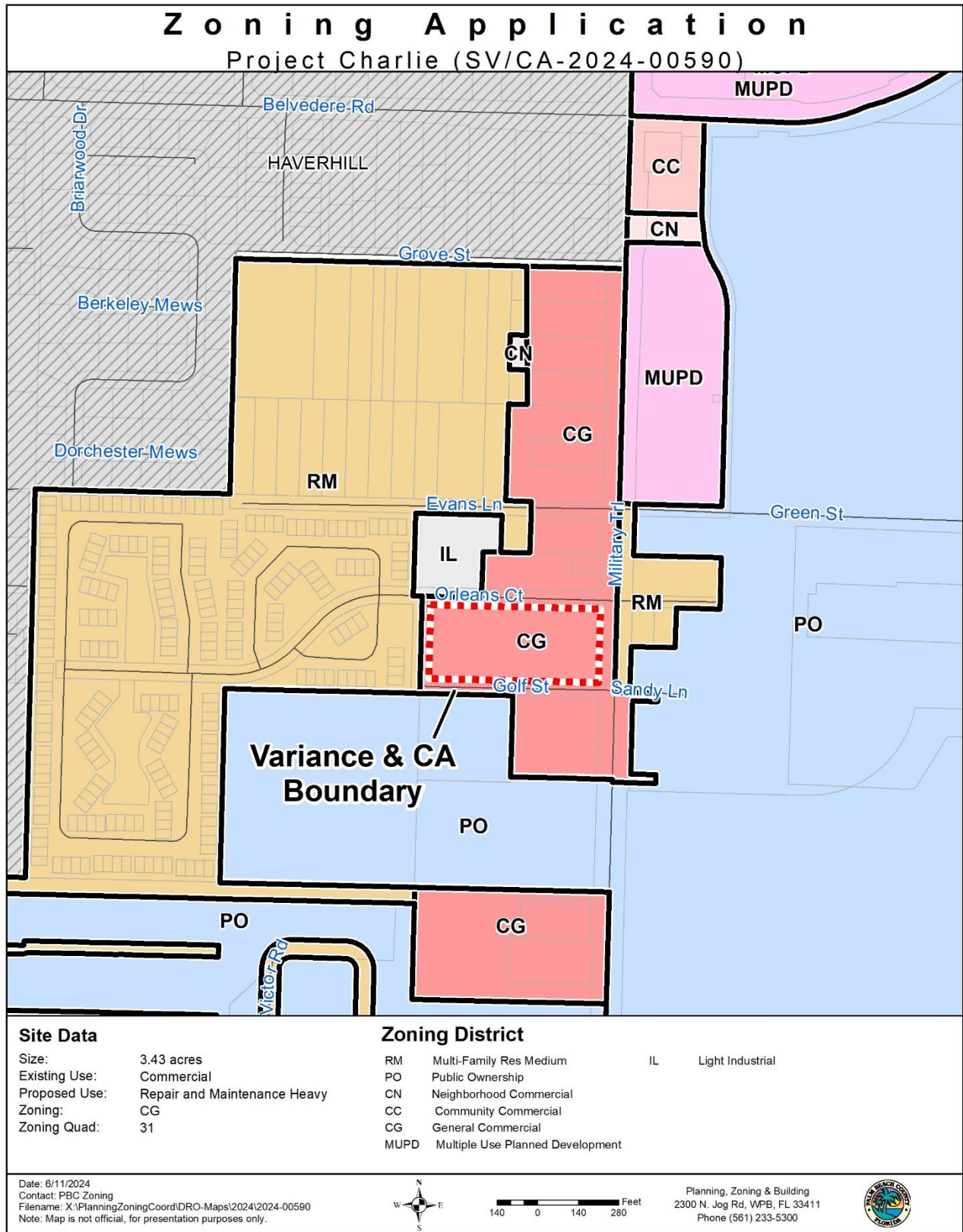


Exhibit B - Standards Analysis & Findings (Subdivision Variance)

The Agent for this site is seeking multiple approvals to redevelop a parcel on the southwest corner of Military Trail and Orleans Court. These approvals include a Class A Conditional Use to allow Repair and Maintenance, Heavy, within the CG zoning district., a Subdivision Variance to waive Article 11.E.2.B.1 requirement to provide sidewalks along Lexington Avenue and to reduce the required amount of pavement by 5.5 feet and to waive the requirement to provide sidewalks on Golf Street, as found in Article 11.E.2.A.4.B. Engineering staff is recommending **APPROVAL** of the subdivision variance.

- a) **Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district;**

Applicant's Response:

Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district;

SV 1-2 Response: Special conditions and circumstances exist that are peculiar to the parcel of land that are not applicable to other parcels of land within the same district. The Property was platted in 1937, bisected by a north to south service lane running parallel to Military Trail. At this time of platting, the property was 2.77 acres on the western portion and 0.58 acres on the eastern side, with the 15' service lane in between. See Image below.

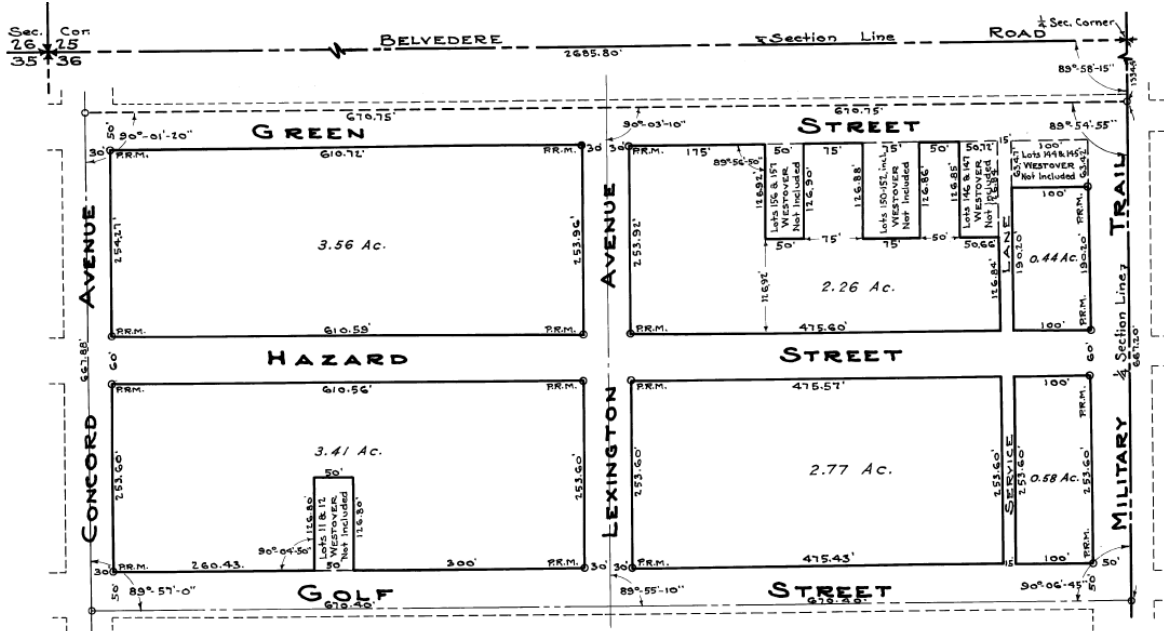


Figure 10. Westover Replat Snippet

Prior to the abandonment of the service lane in 1968, the plat is responsible for the size and width of the property as it is seen today. While the adjacent properties were eventually replatted and reconfigured, the Property remained as it was after the 1968 abandonment into current time. As such, the Property represents a parcel of land that has remained (for the most part) as configured from its inception in 1937.

The code requirement to add sidewalks and width to Golf Road and sidewalks Lexington Avenue are not appropriate for the location as it is configured. The bullets below highlight the main driving factors that further characterize these requirements as inappropriate for each roadway.

Lexington Avenue

- Adding sidewalks to Lexington Avenue is unnecessary and inappropriate as pedestrian traffic will be entering Mounts Botanical Gardens from Military Trail and there are no significant pedestrian vectors beyond Mounts that would further drive this requirement.
- There are no major pedestrian vectors north or south along Lexington Avenue (Mounts entrance is on Military Trail).

Golf Street

- Adding sidewalks and road width to Golf Street will have a detrimental effect on the aesthetic appearance and existing vegetation of Golf Street. By requiring the applicant to increase pavement width and to add sidewalks, the applicant will have to remove all the existing vegetation that conflicts with the increased dimensions. Please note, the aforementioned existing vegetation exists on both sides of the roadway.

- Further, adding width and sidewalks along Golf is unnecessary given the existing road's use and the minimal impact that the proposed plan will have on Golf in particular (61 ADT coming out of the exit only)

Staff Response: CORRECT. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures of buildings in the same district. This property was platted in 1937 as multiple lots that were bisected by an alley. The alley right-of-way was abandoned in 1968 resulting in the lot that exists today. Golf Road is a County maintained road, while Lexington Avenue is privately maintained and both were constructed by the developer of the Forest Glen neighborhood in 1981 as they currently exist.

b) Special circumstances and conditions do not result from the actions of the Applicant;

Applicant's Response: Special circumstances and conditions do not result from the actions of the Applicant. The Applicant is seeking relief from code requirements due to the Property's historical configuration. This historical configuration is by no means a result of the actions of the Applicant. The roadways were platted as they currently exist in 1937 (PB 4, pg. 72) and the former service lane was abandoned in 1968 (OR 1643, pg. 1586). This leaves the property as it currently exists today.

Staff Response: CORRECT. The special circumstance and conditions do not result from the actions of the applicant. The original plat established the adjacent rights-of-way. Golf Road and Lexington Avenue were constructed by the Forest Glen developer back in 1981 under a Land Development Permit and the County accepted maintenance of Golf Road. These are existing conditions that do not result from the actions of the applicant.

c) Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;

Applicant's Response: Granting the variances will not confer any special privilege denied by the Plan and this Code to other parcels in the same district. The Applicant is seeking relief from code required access standards due to the Property's historical configuration. The roadways were platted as they currently exist in 1937 (PB 4, pg. 72) and the former service lane was abandoned in 1968 (OR 1643, pg. 1586). This leaves the property as it currently exists today. As shown by the proposed plans and by the responses to the Class A Conditional Use standards within this report, the Applicant intends to meet or exceed all the required property development regulations.

Staff Response: CORRECT. Granting the variance would not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings or structures in the same district. The Code promotes access to the side streets and the egress only connection to Golf Road is adding minimal (5 peak hour) trips to the roadway.

d) Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;

Applicant's Response: The uses of similar properties in the area are shifting to more intensive commercial uses. For example, in 1990, the 3.77 acre parcel on 401 N Military Trail (~750 feet south of the Property), was approved by special exception to allow a Planned Commercial District for warehousing (R- 1990-1290). Furthermore, another adjacent parcel (5.95 acres), located at 800 N Military Trail (about 400 feet northeast of the Property), was approved to rezone from Commercial (resolution only names previous district as "Commercial") to MUPD to allow two fast food restaurants and general repair and maintenance (R-2001-1664). These entitlements, both less than 1,000 feet from the Property, signify specific examples of adjacent property owners modifying the rights allowable to their properties to increase commercial intensity as a result of changing conditions. The Applicant intends to emulate these amendments enjoyed by the adjacent parcels through approval of this variances.

To reiterate in whole, the proposed use to allow advanced collision repair with ancillary rental car services would not be plausible without these variances associated with the existing property dimensions. Furthermore, and as previously stated, the Applicant's proposed plan meets all other requirements of the ULDC and associated Plan.

Staff Response: CORRECT. Literal interpretation of the Code would deprive the Applicant of right commonly enjoyed by other parcels of land in the same Zoning district. The roads and pedestrian circulation have existed in the current configuration since 1981 and the proposed use, though requires a Class A conditional use approval, does not generate a significant impact to the surrounding roadway network and reconstructing Golf Road and adding sidewalks to Lexington Avenue and Golf Road would be unnecessary and create an undue hardship.

- e) **Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;**

Applicant’s Response: As previously stated, the Applicant intends to meet or exceed all the other required property development regulations for the proposed development. Granting the variances is the minimum that would make possible the reasonable use of the Property.

Staff Response: CORRECT. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.

- f) **Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code;**

Applicant’s Response: Granting the variances will be consistent with the purposes, goals, objectives, and policies of the Plan and this code. The proposed variances will allow the envisioned use and development program to work most effectively. The proposed use of the Property for advanced collision repair with ancillary car rentals is directly supported by the Plan and the Code, as made evident by the summary table below.

<i>How Variance Supports Plan</i>	<i>How Variance Supports Code</i>
<i>Consistency with table 2.2-f.1 of the Plan, CG is aligned with the future land uses of CH and IND.</i>	<i>Consistency with the intent and purpose of the CG district, alignment with overall performance measures and planning objectives of CG.</i>
<i>Consistency and alignment with Future Land Use Element sub-objective 1.2.2, the Urban Redevelopment Area. This project represents the potential urban redevelopment of a older property.</i>	<i>Consistency and alignment with the intent and purpose of the PBIAO overlay. The Property is proposed to be commercial, which is required for all commercial rezonings in the PBIAO.</i>
<i>Consistency and alignment with the Haverhill Neighborhood Plan. The HNP identifies the Property’s location as part of a larger commercial area along Military Trail.</i>	<i>Consistency and alignment with the URAO. The proposed rezoning exemplifies urban redevelopment, proposing 37,000 square foot of new building construction on a dated lot.</i>

Figure 11. Variance Code and Plan Table

Staff Response: Correct. Granting of this variance will be consistent with the purposes, goals, objectives and policies of the Plan and Code.

- g) **Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

Applicant’s Response: Granting the variances will not be injurious to the area involved or otherwise detrimental to the public welfare. As stated within the responses to the conditional use request, the proposed use is compatible and generally consistent with the surrounding developments. The Property’s is located adjacent to commercial uses on its northern, southern, and eastern bounds (across Military Trail). The co-location of commercial uses surrounding the Property’s northern, southern, and eastern bounds signifies visible compatibility with the area. The compatibility is further established by the fact that the Property will serve as a transitional use that will further insulate the Forest Glen residential development to the west. In broad principle, the practice of transitional zoning centers on allocating land uses and zoning districts so that the uses are tiered to provide a transition of intensities.

Staff Response: CORRECT. Granting this variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Exhibit B - Standards Analysis & Findings (Conditional Use)

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order Amendment that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan - *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

○ *Consistency with the Comprehensive Plan:* The proposed use is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ *Intensity:* The application is requesting a Class A Conditional Use to allow a Heavy Repair and Maintenance use within a 36,926 sq. ft. freestanding building. The maximum Floor Area Ratio (FAR) for non-residential development utilizing the Commercial High (CH) Future Land Use designation within the Urban Suburban Tier is 0.85 FAR (3.43 acres or 149,488 surveyed sq. ft. x 0.85 = 127,064.8 maximum sq. ft. This application proposes a FAR of approximately 0.25 (36,926 sq. ft. / 3.43 acres or 149,488 surveyed sq. ft. = 0.247 or 0.25), and is therefore below the maximum FAR allowed on the site.

○ *Special Overlay District/Neighborhood Plan/Planning Study Area:* The request is located within and is consistent with the Comprehensive Plan's PBA Approach Path Overlay, the URA Study Area, the Revitalization, Redevelopment and Infill Overlay, and the 1992 Haverhill Area Neighborhood Plan. The analysis for each planning area is provided below:

- *PBA Approach Path Overlay (PBAO):* FLUE Policy 1.2.4-d indicates that all FLU designations within the Overlay shall be eligible to convert to Industrial uses with exceptions. The subject parcel already has an underlying Industrial FLU designation and is therefore consistent with the PBA Overlay.
- *Revitalization, Redevelopment and Infill Overlay (RRIO):* The objective of the County's RRI Overlay is to encourage redevelopment and revitalization within the Overlay through various incentives, resources and strategies. Redevelopment of a CH/IND parcel within the RRIO is consistent with the Overlay's objective.
- *Urban Redevelopment Study Area (URA):* The site is located within the Urban Redevelopment Area (URA) but not within a Priority Redevelopment Area (PRA) as identified in the Comprehensive Plan. The request is consistent with the objective to redevelop and revitalize underutilized sites and provide interconnectivity to adjacent compatible land uses. The site is located on the west side of Military Trail, and is surrounded by local roadways on the remaining three sides.
- *Haverhill Area Neighborhood Plan (HANP):* The HANP envisioned the area fronting Military Trail, including the subject site, would retain their Commercial and/or Industrial FLU designation, or have the ability to obtain an Industrial FLU. As the site already has a CH/IND FLU designation, there are no inconsistencies with the Neighborhood Plan. The Town of Haverhill has been provided notification by the Business Development Board of Palm Beach County (BDB) on behalf of the Applicant, with no comments received by Planning Staff to date.

b. Consistency with the Code - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

The proposed Amendment is consistent with the stated purpose and intent of the County Unified Land Development Code (ULDC). The proposed use also is in compliance with Art. 4.B.2.C.28, Repair and Maintenance, Heavy, the proposed use as it exceed the minimum setback requirement of 100 from any parcel with a RM FLU designation. The Preliminary Site Plan (PSP), indicates a 36,926 sq.ft. building.

○ *Property Development Regulations:* The request proposes a commercial use that is consistent with the PBAO PDR table, Table 3.B.9.F – PBAO Setbacks, 50ft front, 15ft side interior, 25ft side street, and 50ft rear setback. The setbacks the Applicant are proposing will be a 102ft front, 25 ft side street (Golf St), 86ft side street (Orleans Ct), and 226ft rear setback.

○ *Overlays:* The subject Site is located in the Palm Beach International Airport Overlay (PBAO) and the Revitalization, Redevelopment and Infill Overlay and is consistent with all Overlay standards

- *Architectural Review:* The proposed use must comply with the requirements of Article 5.C. Building elevations and the Visual Impact Analysis will be provided and reviewed by Zoning Staff at time of building permit
- *Parking:* Article 6.A.1.A, The purpose and intent of this Article is to ensure the design and function, provisions of parking, loading, queuing, vehicular and pedestrian circulation, driveways, and access are in proportion to the demand created by each use and are efficient and safe. The proposed use requires a total of 148 parking spaces and one Loading area. The preliminary Site Plan indicates a total of 130 spaces one loading area and one temporary vehicle storage area. In addition Electric Vehicle (EV) parking is provided along the north façade of the building and to the southwest of the site. The Applicant wishes to request pursuant to Article 6.B.1.B a Type 1 Waiver to reduce the total required parking (148) by 19 spaces (129). The on-site parking is shown to be separated in two parts by a gate. The first area located on the east portion of the lot provides a total of 67 spaces, with the west side comprised of the remaining 63 parking spaces. The area west of the gate according to a note on the PSP indicates that this area will serve as a limited to Vehicle Storage area with no public access. As 63 spaces of the minimum required parking are located here, Staff is recommending Conditions of Approval (C-2) to remove the note referencing vehicle storage at final DRO and ensure public access to all required parking. In addition Electric Vehicle (EV) parking is provided along the north façade of the building and to the southwest of the site.
- *Landscaping/Buffering:* The proposed landscaping is consistent with Article 7 – Landscaping for Perimeter buffers and foundation planting. The proposed development provides a 15 ft ROW Buffer along the north, south, and west property lines, with a 20ft ROW Buffer along the east. Staff is recommending Conditions of Approval (C-2) to ensure adequate landscaping and screening along the west property line abutting Residential uses. Internal site landscaping meets the minimum requirement with minimum 8 ft landscape islands. The Applicant will be seeking pursuant to Table 7.B.4.A – Type 1 Waivers to relocate 40 percent of the foundation planting from the north side to the east side of the building.
- *Signs:* There are two proposed Freestanding Signs at the Orleans Ct. (north) and Military Trail (east) access points that are consistent with the Article 8.G.2.A – Freestanding Sign standards as indicated on the Preliminary Regulating Plan (Exhibit-F). Staff is recommending a Condition of Approval (C-2) to allow only the two ground mounted signs.
- Subdivision Variance (SV) is requested at this site, as indicated in the standards above (Exhibit B SV) the requested variance is to allow access from a local residential street and to remove sidewalks requirements pursuant to Article 11.E.2..
- *Use specific criteria:* The proposed use is in compliance with Article 4.B.2.C.Repair and Maintenance, Heavy use as it complies with the: Typical uses, Setbacks, Nuisances and Outdoor Parking and Storage.
- Article 4.B.2.C.28 Repair and Maintenance, Heavy – Conditional Use indicates all repair and maintenance activities shall be conducted within an enclosed structure, except in the IL and IG districts with an IND FLU designation, and PDDs with an IND FLU designation, where in compliance with Art. 5.B.1.A.3, Outdoor Storage and Activities. [Ord. 2023-011], testing of vehicles or equipment shall be prohibited on Residential Streets. The outdoor storage of disassembled vehicles, equipment, or parts shall be prohibited, except in the IL and IG districts with an IND FLU designation, and PDDs with an IND FLU designation. All vehicles or equipment shall be parked in designated storage areas, except for the following:
 - Automobiles dropped off by customers may be temporarily parked in designated parking spaces, not to exceed a maximum of one 24-hour period; and
 - Automobiles placed for customer pick-up may be temporarily parked in designated parking spaces, not to exceed a maximum of one 24-hour period as it complies with the: Typical uses, Setbacks, Nuisances and Outdoor Parking and Storage.

- c. **Compatibility with Surrounding Uses** - *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The proposed Use of Heavy Repair and Maintenance is generally compatible and consistent with surrounding uses abutting Military Trail. Directly north and south of the site are Commercial, Industrial and Public Ownership uses. With the Palm Beach International Airport (PBIA) directly east, to the west abuts Multifamily Residential use that's buffered by landscaping on both sides of Lexington Ave and a proposed Vinyl coated fence.

- d. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

Increase in traffic is shown to be minimal due to the proposed use and accessibility to the site. Ingress and egress to the site are from Orleans Ct however traffic is also divided by two additional egress points on Gold St and Military Trl. Coupled with the proposed screening and landscaping along Orleans Court the overall design minimizes adverse impacts to adjacent lands. Additionally the proposed site aims to connect the sidewalk along the south side of Orleans Ct, improving pedestrian connectivity to Military Trail. Staff is recommending Conditions of Approval (C-2) to ensure adequate landscaping and screening along the west property line abutting Residential uses.

- e. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

○ **ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:**

○ *"Vegetation Protection: There are native vegetation species that exist on the site. Native vegetation that cannot be preserved in place are being either relocated or mitigated. The application for the Protection of Native Vegetation Approval will be required to be submitted prior to the final approval by the DRO, as indicated in Article 14.C.7.C. SITE*

○ *Wellfield Protection Zone: This property is not located within Wellfield Protection Zone.*

○ *Irrigation Conservation Concerns and Surface Water: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Palm Beach County Mandatory Year-Round Landscape Irrigation Conservation Measures Ordinance, Ordinance No. 2022-007. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.*

○ *Environmental Impacts: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.*

- f. **Development Patterns** – *The proposed amendment will result in a logical, orderly, and timely development pattern.*

The proposed request will remain consistent with the development pattern in the area. The established patterns of development that surround the site are composed of a mix of established residential, Public Ownership, Industrial and commercially zoned properties. The subject site is surrounded by the Orleans Court Commercial to the north and south is Mounts Botanical Garden.

The Applicant proposes to position the Heavy Repair and Maintenance closer to Military Trail in order to a line with the commercial corridor. Staff finds that the Applicant's request to allow such modifications will remain a logical and orderly development pattern.

- g. **Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

OFFICE OF RESILIENCY

Staff has reviewed this application and have no comment.

ENGINEERING COMMENTS:

The conditions of approval have been agreed to by the Applicant to mitigate the impacts of the proposed development.

The proposed modification of the site from a Retail Plaza to a Vehicle Maintenance Facility is expected to generate 524 additional net daily trips, 57 additional net AM peak trips, and 29 additional net PM peak hour. Overall, the site is expected to generate 1120 net daily trips, 83 net AM peak hour trips, and 101 net PM peak hour trips. The build out of the project is assumed to be by 2026.

The impacts of the project's additional trips will have an insignificant impact, as per the definition in the PBC Traffic Performance Standards, on the area roadways.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Traffic volumes are in vehicles per hour

Segment: Military Trail from Belvedere Rd to Southern Blvd

Existing count: Northbound=1801, Southbound=2098

Background growth: Northbound=113, Southbound=143

Project Trips: Northbound=14, Southbound=10

Total Traffic: Northbound=1928, Southbound=2251

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS "D" capacity: 2940

Projected level of service: LOS D or better in both directions.

The Property Owner shall dedicate the right-of-way associated with the 25-foot by 25-foot corner clips at the intersection of Golf Rd and Orleans Court at Lexington Avenue and Military Trail.

Prior to final site plan approval the Property Owner shall modify the site plan to show a right-out only movement on Military Trail.

DRAINAGE:

The site is located within the boundaries of the South Florida Water Management District (SFWMD) C-51 Drainage Basin and Lake Worth Drainage District. The Applicant's Engineer states (Exhibit J): "...*Water quality and attenuation criteria will be met in the detention and underground storage areas within the project prior discharging to N Military Trail, the point of legal positive outfall. The surface water management system will be designed to pretreat the first one-half inch of runoff in the dry detention and underground storage and provide adequate attenuation. The stage elevations of the existing system will not be adversely impacted, based on Palm Beach County and SFWMD design standards and limitations. The site will be required to meet all C-51 basin requirements. ...*".

The entire statement is found in Exhibit H. Prior to issuance of any building permits, the development will have to obtain applicable approvals and permits from the District.

WATER AND WASTEWATER:

In a letter provided in Exhibit I, WUD states that PBCWUD has the capacity to provide the level of service required subject to a Capacity Reservation Agreement. . Prior to issuance of a building permit, the Applicant must connect to water and wastewater service, and is subject to the permitting approval process of PBCWUD and their required Agreement.

PALM BEACH COUNTY HEALTH DEPARTMENT:

This project has met the requirements of the Florida Department of Health.

FIRE PROTECTION:

Staff has reviewed this application and have no comment. The subject site is located within the service boundaries of PBC Fire Rescue Station 33



SCHOOL IMPACTS:

The School Board has no issue with the non-residential application.

PARKS AND RECREATION:

Parks and Recreation has no issue with the non-residential application.

- h. Changed Conditions or Circumstances –** *There are demonstrated changed site conditions or circumstances provided by the Applicant’s Justification Statement that necessitate the amendment.*

The Applicant’s Justification Statement indicates the following justification for their changed conditions of circumstances: *“As a result of the overall shift in surrounding development patterns from the 1960’s to date, the Applicant wishes to expand the business capability of the Property to further align with these patterns and uses. As shown in the aerial photograph below comparing 1999 to 2023, the commercial and light industrial development in the immediate area has continued to expand and increase. Additionally, the shift from residential to commercial and light industrial can also be observed in these aerials.”*

Exhibit C-1 - Conditions of Approval

Subdivision Variance

ALL PETITIONS

1. This Subdivision Variance is approved based on the layout as shown on the Preliminary Site Plan dated June 13, 2024. Only minor modifications by the Development Review Officer or Zoning Commission shall be permitted provided the changes are consistent with this Preliminary Site Plan. (ONGOING: ZONING - Zoning)
2. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM: BUILDING DIVISION - Zoning)
3. The Development Order for this Concurrent Subdivision Variance shall be tied to the Time Limitations of the Development Order for SV/CA-2024-00590. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Zoning)

ENGINEERING

1. The subdivision variance approval shall remain in effect as long as the Final Site Plan remains valid in accordance with the applicable time limitations of Article 2.E., of the ULDC. (ONGOING: ENGINEERING - Engineering)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission 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 Zoning Commission 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.

Exhibit C-2 Conditions of Approval

Class A Conditional Use

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 13, 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)

1. Prior to final approval by the DRO, the Site Plan shall be revised to indicate with a note that the gates "shall remain open during business hours". (DRO: ZONING- Zoning)

ENGINEERING

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

2. Prior to the approval of the Final Site Plan by the Development Review Officer, the Property Owner shall revise the Right-in/Right-out driveway on Military Trail to be shown as Right-out only, as per the driveway approval by the FDOT, as well as submission of a revised traffic impact study report reflecting the above changes to the driveway. (DRO: MONITORING - Engineering)

3. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT) by deed, a 25-foot corner clip (chord of a 25 foot radius) at the intersections of Orleans Court and Military Trail and Golf Road and Military Trail. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the cleanup. County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPM: MONITORING - Engineering)

4. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Section of the Roadway Production Division by warranty deed additional right-of-way for a 25-foot corner clip (chord of a 25 foot radius) at the intersections of Orleans Court and Lexington Avenue and Golf Street and Lexington Avenue. This additional right of way shall be free of all encumbrances and encroachments, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the cleanup. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents (BLDGPM: MONITORING - Engineering)

LANDSCAPING:

1. Landscape buffer shall adhere to the ROW buffer requirements per Art.7, in addition:

- One (1) Canopy tree shall be placed per 20 linear feet along the west property line.
- The landscape plan shall incorporate the preservation of existing trees unless necessary to be removed for access to the site. (BLDGPM/DRO: ZONING - Zoning)

SIGNS:

1. The Site shall have no more than two (2) Ground Mounted Signs on site. (BLDGPMT/DRO: ZONING - Zoning)

SITE DESIGN:

1. Prior to final approval by the DRO, the Site Plan shall be revised to designate the three (3) parking spaces to the northwest façade as a Customer drop-off location. (DRO: ZONING- Zoning)
2. Prior to final approval by the DRO, the Applicant will need to provide a revised Site Plan and that describes and depicts consistent numbers for the proposed parking. (DRO: ZONING- Zoning)
3. The gates to the north and south shall remain open during business hours (ONGOING: CODE ENF - Zoning)
4. Prior to final approval by the DRO, the Site Plan shall be revised to remove the "Access to Owner Owned Vehicle Storage". (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

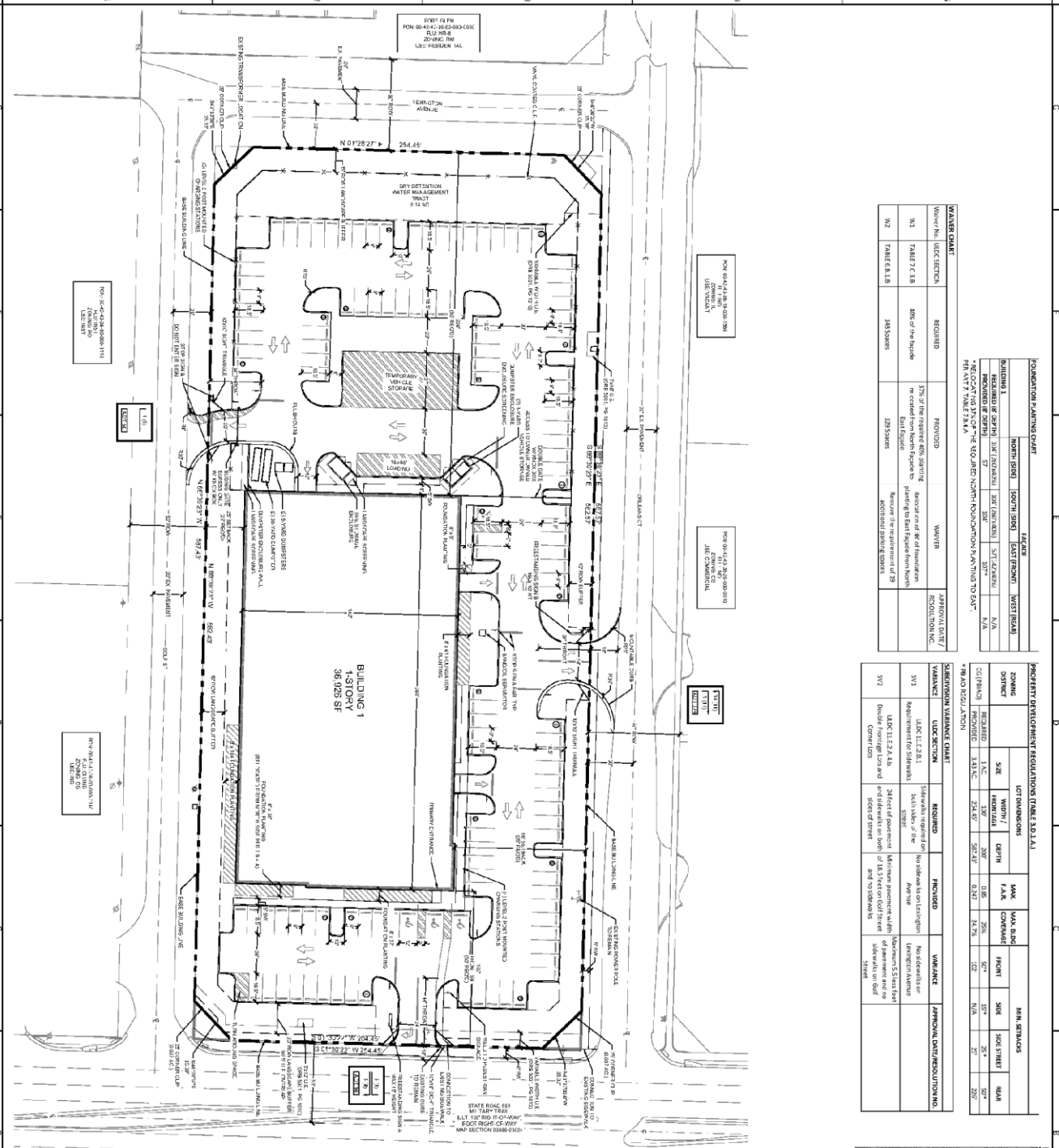
1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Exhibit D - Project History

The site was rezoned on November 2, 1967 pursuant to Resolution 3-Y-67 from the R-1 Single Family District to the C-1 Neighborhood Commercial District in accordance with the 1957 Palm Beach County Land Development Regulations. The site has a Development Permit through the building permit process for General Retail Sales.

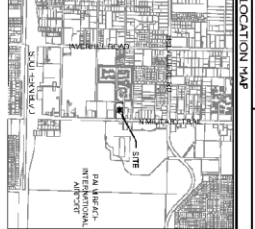
Exhibit E - Preliminary Site Plan

DATE: 05/20/24
 DRAWN BY: J. W. GRIFFIN
 CHECKED BY: J. W. GRIFFIN
 PROJECT: 10356.000



UNIFORM CODE	UNIFORM CODE SECTION	REQUIRED	PROVIDED	VARIES	APPROVAL DATE / RESOLUTION NO.
W1	TABLE 7.2.8	1% of the required area within the lot boundary	1% of the required area within the lot boundary	None	N/A
W2	TABLE 8.1.8	125 SQUARE FEET	125 SQUARE FEET	None	N/A

SECTION	UNIFORM CODE SECTION	REQUIRED	PROVIDED	VARIES	APPROVAL DATE / RESOLUTION NO.
SP1	UDC 12.2.3.1	100% of the required area within the lot boundary	100% of the required area within the lot boundary	None	N/A
SP2	UDC 12.2.3.1.1	100% of the required area within the lot boundary	100% of the required area within the lot boundary	None	N/A



SITE DATA

PROJECT NAME: PROJECT CHARLIE
 APPLICATION NUMBER: 2024-00590
 DATE: 05/20/24
 EXISTING ZONING: CU-10
 PROPOSED ZONING: COMMERCIAL
 PROPOSED USE: COMMERCIAL
 PROPOSED HEIGHT: 15 FT
 PROPOSED AREA: 36,929 SF
 PROPOSED PERCENT COVER: 15.2%
 PROPOSED PARKING: 15 SPACES
 PROPOSED SIGNAGE: 1 SIGN
 PROPOSED LANDSCAPING: 15% COVER
 PROPOSED UTILITIES: 15 FT
 PROPOSED TRAFFIC CONTROL: 15 FT
 PROPOSED TYPICAL ANALYSIS: 15 FT

AMENDMENTS

ZONING STAMP

PROJECT CHARLIE
 655 N. MILITARY TRAIL
 PALM BEACH COUNTY, FLORIDA

PRELIMINARY SITE PLAN

WGI
 WGIinc.com

PRELIMINARY
 NOT FOR CONSTRUCTION
 WITHOUT CONTRACTOR'S
 REVIEW

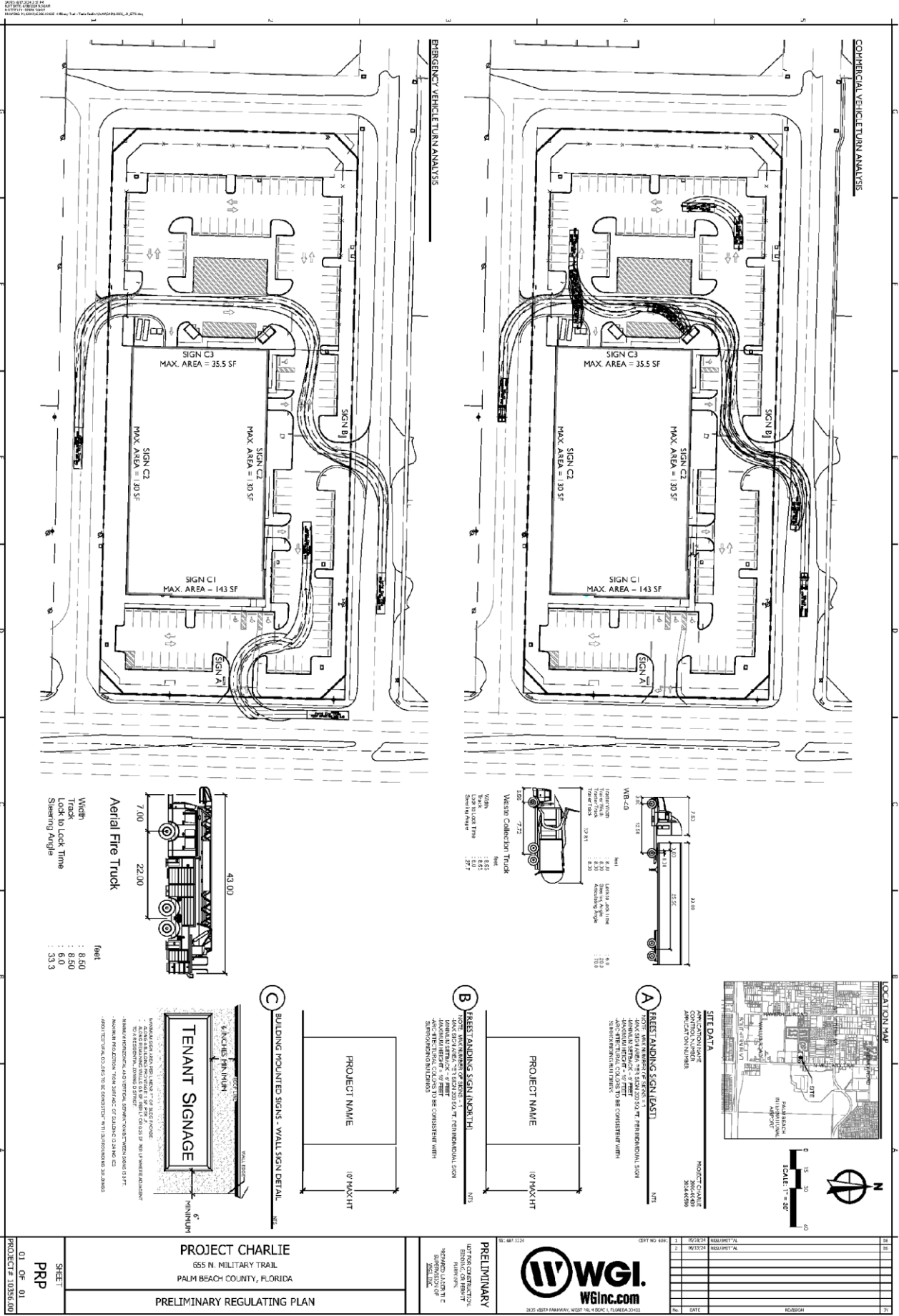
SHEET
PSP
 01 OF 01
 PROJECT # 10356.000

PROJECT CHARLIE
 655 N. MILITARY TRAIL
 PALM BEACH COUNTY, FLORIDA

PRELIMINARY SITE PLAN

DATE: 05/20/24
 DRAWN BY: J. W. GRIFFIN
 CHECKED BY: J. W. GRIFFIN

Exhibit F - Preliminary Regulating Plan



SHEET
PRP
01 OF 01
PROJECT # 3024-0099

PROJECT CHARLIE
655 N. MILITARY TRAIL
PALM BEACH COUNTY, FLORIDA

PRELIMINARY REGULATING PLAN

PRELIMINARY
NOT FOR CONSTRUCTION
REVISIONS
APPROVED FOR SUBMITTAL
DATE: 10/11/2024



NO.	DATE	DESCRIPTION
1		
2		
3		

Exhibit G – Disclosure (Applicant)

PALM BEACH COUNTY - ZONING DIVISION

FORM # 8

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF ~~FLORIDA~~ NEW YORK
COUNTY OF ~~PALM BEACH~~ NEW YORK

BEFORE ME, the undersigned authority, this day personally appeared William Q. O'Connor (O'Connor Management, LLC), hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [] individual or [x] CEO O'Connor Management, LLC [position—e.g., president, partner, trustee] of O'Connor Management, LLC [name and type of entity—e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 535 Madison Ave, 6th Fl
New York, NY 10022
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



William Q. O'Connor (O'Connor Management, LLC), Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF ~~FLORIDA~~ NEW YORK
COUNTY OF ~~PALM-BEACH~~ NEW YORK

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 20th day of MARCH, 2024 by William Q. O'Connor (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Brona Mary Crehan
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: 08/19/2027

NOTARY'S SEAL OR STAMP

BRONA MARY CREHAN
Notary Public, State of New York
No. 01CR6396347
Qualified in Westchester County
Commission Exp. 08-19-2027

EXHIBIT "A"**PROPERTY**

LEGAL DESCRIPTION: A PARCEL OF LAND IN THE REPLAT OF WESTOVER, RECORDED IN PLAT BOOK 18, PAGE 23, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING BOUNDED AS FOLLOWS: ON THE NORTH BY THE SOUTHERLY LINE OF HAZARD STREET, ON THE SOUTH BY THE NORTHERLY LINE OF GOLF STREET, ON THE WEST BY THE EASTERLY LINE OF LEXINGTON AVENUE AND ON THE EAST BY A LINE PARALLEL WITH AND 53 FEET WEST OF (MEASURED AT RIGHT ANGLES TO) THE NORTH/SOUTH 1/4 SECTION LINE OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, ALL ARE SHOWN ON SAID REPLAT OF WESTOVER, WHICH PROPERTY IS ALSO DESCRIBED AS PROPERTY FRONTING ON THE EAST BY MILITARY TRAIL; ON THE NORTH BY HAZARD STREET; ON THE WEST BY LEXINGTON AVENUE AND ON THE SOUTH BY GOLF STREET. MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTH QUARTER CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 01°30'22" WEST ALONG THE NORTH-SOUTH QUARTER SECTIONLINE OF SAID SECTION 36, A DISTANCE OF 1698.21 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE SOUTH RIGHT-OF-WAY OF ORLEANS COURT, FORMERLY KNOWN AS HAZARD STREET, AS SHOWN ON THE PLAT OF WESTOVER, AS RECORDED IN PLAT BOOK 4, PAGE 72, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY; THENCE NORTH 88°36'23" WEST ALONG SAID EASTERLY EXTENSION, A DISTANCE OF 53.00 FEET TO THE POINT ON OF INTERSECTION OF SAID SOUTH RIGHT-OF-WAY OF ORLEANS COURT AND THE WEST RIGHT-OF-WAY OF STATE ROAD 809 (MILITARY TRAIL), AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP SECTION 93600-2602, SAID POINT BEING THE POINT OF BEGINNING; POINT OF BEGINNING; ; THENCE SOUTH 01°30'22" WEST ALONG SAID WEST RIGHT-OF-WAY OF STATE ROAD 809, BEING 53.00 FEET WEST OF AND PARALLEL TO THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, A DISTANCE OF 254.45 FEET TO THE POINT OF INTERSECTION OF SAID WEST RIGHT-OF-WAY OF STATE ROAD 809 AND THE NORTH RIGHT-OF-WAY OF GOLF STREET, AS SHOWN ON THE AFOREMENTIONED PLAT OF WESTOVER; THENCE NORTH 88°36'23" WEST ALONG SAID NORTH RIGHT-OF-WAY, A DISTANCE OF 587.43 FEET TO THE POINT OF INTERSECTION OF SAID SOUTH RIGHT-OF-WAY OF GOLF STREET AND THE EAST RIGHT OF WAY OF LEXINGTON AVENUE, AS SHOWN ON THE AFOREMENTIONED PLAT OF WESTOVER; THENCE NORTH 01°28'27" EAST ALONG SAID EAST RIGHT-OF-WAY OF LEXINGTON AVENUE, A DISTANCE OF 254.45 FEET TO THE POINT OF INTERSECTION OF SAID EAST RIGHT-OF-WAY OF LEXINGTON AVENUE AND THE PREVIOUSLY DESCRIBED SOUTH RIGHT-OF-WAY OF ORLEANS COURT; THENCE SOUTH 88°36'23" EAST ALONG SAID SOUTH RIGHT-OF-WAY OF ORLEANS COURT, A DISTANCE OF 587.57 FEET TO THE POINT OF BEGINNING. POINT OF BEGINNING. . SAID LANDS CONTAIN 149,488 SQUARE FEET OR 3.432 ACRES, MORE OR LESS.

Exhibit G – Disclosure (Property)

PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

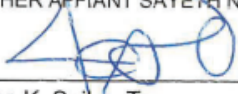
STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared James K Seller, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the individual or Treasurer _____ [position - e.g., president, partner, trustee] of The Salvation Army, a Georgia Corporation [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 1424 N.E. Expressway
Brookhaven, GA 30329
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.



James K. Seiler, Treasurer, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF ~~FLORIDA~~ Georgia
COUNTY OF ~~PALM BEACH~~ Fulton

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this 4th day of April, 2024 by JAMES K. SEILER, TREASURER (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did not take an oath (circle correct response).

WILLIENE J. SEARCY
(Name - type, stamp or print clearly)



(Signature)

My Commission Expires on: 02/22/2027

NOTARY'S SEAL: Willene J Searcy
NOTARY PUBLIC
Fulton County, GEORGIA
My Commission Expires 02/22/2027

EXHIBIT "A"**PROPERTY**

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EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

Affiant must identify all entities and individuals owning five percent or more ownership interest in the Property. Affiant must identify individual owners. For example, if Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name

Address

The Salvation Army, a Georgia corporation

1424 N.E. Expressway

Brookhaven, GA 30329

Exhibit H - Drainage Statement



ENGINEER'S DRAINAGE STATEMENT

655 N Military Trail

WGI No. 10356.00

June 10, 2024

The subject project, *655 N Military Trail*, includes a parcel of land located in Section 36, Township 43 South, and Range 42 East. The subject property is one parcel (00-42-43-36-20-000-0050) with a total of 3.42-acres. Currently, the site is occupied by a retail store and associated parking that covers the site with 86% impervious area. The site is bordered by Lexington Avenue to the west, Golf Street to the south, N. Military Trail to the east, and Orleans Court to the north. This project lies within sub-basin 23 of the South Florida Water Management District (SFWMD) C-51 drainage basin and the Lake Worth Drainage District (LWDD). In accordance with the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map Number 12099C0586F, the project area is located within "Zone X" which is deemed as an area of minimal flood hazard.

The permittee, O'Connor Management, LLC, proposes improvements associated with the project including the demolition of the existing building and the construction of an advanced collision and repair facility. The proposed facility and land improvements will increase the pervious area on site from 0.48 acres to 0.90 acres. The impervious area onsite will decrease from 86% in the pre-development condition to 74% post-development.

Water quality and attenuation criteria will be met in the detention and underground storage areas within the project prior discharging to N Military Trail, the point of legal positive outfall. The surface water management system will be designed to pretreat the first one-half inch of runoff in the dry detention and underground storage and provide adequate attenuation. The stage elevations of the existing system will not be adversely impacted, based on Palm Beach County and SFWMD design standards and limitations. The site will be required to meet all C-51 basin requirements. The design stages will be as follows:

- 5 year - 1 day Stage: Minimum Pavement Elevation
- 5 year - 1 day Stage: Minimum Crown of Road Elevation
- 10 year - 1 day Stage: Minimum Weir Elevation
- 25 year - 3 day Stage: Minimum Perimeter Berm Elevation
- 100 year - 3 day Stage: Minimum Finished Floor Elevation

Attenuation storage will be provided within the dry detention and underground storage areas.

2035 Vista Parkway, West Palm Beach, FL 33411 t: 561.687.2220 f: 561.687.1110 www.WGIinc.com

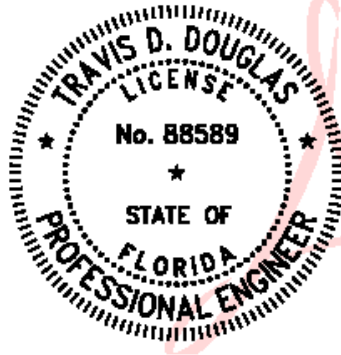


The minimum size of drainage pipes will be based on the 3 year – 1 day storm event modeling with a time of concentration of 10 minutes, and the hydraulic gradient elevation shall not exceed the grate or cover elevation at any inlet in accordance with ULDC Article 11 E.5.a; E.5.b.

The proposed drainage improvements will be permitted through South Florida Water Management District, Palm Beach County Building Division, and the Florida Department of Transportation.

WGI, Inc.
Respectfully submitted,

Travis D. Douglas, P.E.
Florida License # 88589
WGI, Inc. Cert. No. 6091



Digitally signed
by Travis D
Douglas
Date:
2024.06.10
17:02:41 -04'00'

TRAVIS D. DOUGLAS, P.E., STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 88589 THIS ITEM HAS BEEN ELECTRONICALLY SIGNED AND SEALED BY TRAVIS D. DOUGLAS, P.E. ON JUNE 10, 2024, USING A SHA-1 AUTHENTICATION CODE. PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SHA-1 AUTHENTICATION CODE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

Exhibit I - Utility Letter



**Water Utilities Department
Engineering**

8100 Forest Hill Blvd.
West Palm Beach, FL 33413
(561) 493-6000
Fax: (561) 493-6085
www.pbcwater.com



**Palm Beach County
Board of County
Commissioners**

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

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

printed on sustainable
and recycled paper

February 20, 2024

WGI
2035 Vista Parkway
West Palm Beach, Fl. 33411

RE: 655 North Military Trail
PCN 0042433620000050
Service Availability Letter

Dear Ms. Linehan,

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. PBCWUD has the capacity to provide the level of service required for the proposed Repair and Maintenance Facility. A sand oil separator will be required.

The parcel is currently served with potable water and sanitary sewer.

If you have any questions, please give me a call at (561)493-6116.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jackie Michels".

Jackie Michels, P.E,
Project Manager

Exhibit J – FDOT Letter



Florida Department of Transportation

RON DESANTIS
GOVERNOR

3400 West Commercial Boulevard
Fort Lauderdale, FL 33309

JARED W. PERDUE, P.E.
SECRETARY

June 12, 2024

THIS PRE-APPLICATION LETTER IS VALID UNTIL – June 12, 2025
THIS LETTER IS NOT A PERMIT APPROVAL

Yoaq Machado
WGI
2035 Vista Pkwy, West Palm Beach, FL 33411

Dear Yoaq Machado:

RE: Pre-application Review for Category C Driveway, Pre-application Meeting Date: May 30, 2024
Palm Beach County - Haverhill Neighborhood (Palm Beach County); SR 809; Sec. # 93150000; MP: 0.70;
Access Class - 05; Posted Speed - 40; SIS - Influence Area; FDOT Ref. Project: N/A

Request:

- Modify the existing right-in/right-out access on the west side of SR 809 (approximately 95 feet south of the north property line) to a right-out only driveway connection.

SITE SPECIFIC INFORMATION

Project Name & Address: Project Charlie – 655 N Military Trl, West Palm Beach, FL, 33415
Property Owner: The Salvation Army (James Seller, Treasurer); Parcel Size: 3.43 Acres
Development Size: 37,000 SF Automobile Care Center (Vehicle Maintenance Facility)

REQUEST APPROVED

This decision is based on your presentation of the facts, site plan and survey - please see the conditions and comments below. You may choose to review this concept further with the District Access Management Review Committee (AMRC).

Conditions:

- The proposed right-out only driveway connection shall be channelized and have a maximum width of 14 feet.

Comments:

- All driveways not approved in this letter must be fully removed and the area restored.
- A Drainage Permit is required for any stormwater impacts within FDOT right-of-way (i.e. increased runoff or reduction of existing storage).
- The applicant shall donate property to the Department if right-of-way dedication is required to implement the improvements.
- Dimensions between driveways are measured from the near edge of pavement to near edge of pavement and for median openings are measured from centerline to centerline unless otherwise indicated.

The purpose of this Pre-Application letter is to document the conceptual review of the approximate location of driveway(s) to the State Highway System and to note required improvements, if any. This letter shall be submitted with any further reviews and for permitting. The Department's personnel shall review permit plans for compliance with this letter as well as current Department standards and/or specifications. Final design must consider the existing roadway profile and any impacts to the existing drainage system. **Note, this letter does not guarantee permit approval.** The permit may be denied based on the review of the submitted engineering plans. Be aware that any approved median openings may be modified (or closed) in the future, at the sole discretion of the Department. For right-of-way dedication requirements go to: <https://osp.fdot.gov>; click on Statewide Permit News; Scroll down to District 4; Scroll down to Additional Information and Examples and choose Right-of-way Donations/Dedications.

Please contact the Access Management Manager - Tel. # 954-777-4363 or e-mail: D4AccessManagement@dot.state.fl.us with any questions regarding the Pre-Approval Letter.

Sincerely,

Digitally signed
by: Carina Harvey
Date: 2024.06.12
14:50:28 -04'00'

Carina Harvey
District Access Management Manager

cc: Patricia Moore; Vikram Srivastava, PE, PMP, CPM;

File: S:\Transportation Operations\Traffic Operations\Access Management\1. Pre-Apps and Variances\Pre-application Letter Template.docx

www.fdot.gov | www.d4fdot.com

Page 1 of 1

Exhibit K – Justification Statement



JUSTIFICATION STATEMENT
Class A Conditional Use, Subdivision Variance (2), Type 1 Waiver (2)
Project Charlie

Application No: 2024-00590

Initial Intake: 4/17/2024, First Resubmittal: 5/28/2024, Minor Resubmittal: 6/13/2024 & 6/18/2024

REQUEST

WGI, Inc. represents O'Connor Property Management LLC, a Delaware limited liability company (referred to hereinafter as the "Applicant"). The Applicant is the contract purchaser of 3.43± contiguous acres of land identified by Palm Beach County Parcel Control Number (PCN) 00424336200000050 and is referred to hereinafter as the "Property". The Applicant is seeking approval of the proposed use of the Property for advanced collision repair and maintenance of electric vehicles.

On behalf of O'Connor Property Management LLC (Applicant), WGI, Inc. (Agent) is requesting:

- **Class A Conditional Use** to allow Repair and Maintenance, Heavy, within the CG zoning district.
- **Subdivision Variance (1)** to waive Article 11.E.2.B.1 requirement to provide sidewalks along Lexington Avenue.
- **Subdivision Variance (2)** to reduce the required amount of pavement by 5.5 feet and to waive the requirement to provide sidewalks on Golf Street, as found in Article 11.E.2.A.4.B.
- **Type 1 Waiver** to reduce the required amount of off-street parking spaces for Repair and Maintenance, Heavy by 13% (148 parking spaces required, 129 parking spaces provided).
- **Type 1 Waiver** to allow relocation of 50% of the required foundation planting from the North façade to the east.

SITE CHARACTERISTICS AND SURROUNDING USES

ADJACENT PROPERTY	CURRENT FLU	CURRENT ZONING	CURRENT USE	RESOLUTION #
Property	CH/IND	CG	COMMERCIAL	<u>3-7-67-A</u>
North	IND	IL	COMMERCIAL	<u>R-1994-0949,</u> <u>R-2004-2273</u>
	CH/IND	CG		
South	INST	PO	COMMERCIAL	<u>R-3-DD-59,</u> <u>R-1979-0353,</u> <u>R-1981-0754,</u> <u>R-2009-1048</u>
	CH/IND	CG		
East	CH/IND	RM	COMMERCIAL	<u>R-2015-0825</u>
	CH/UT	PO	VACANT	
West	HR-8	RM	RESIDENTIAL	N/A, see Forest Glen Plat (PB 18, Pg. 23)

Figure 1. Surrounding Uses

The Property is located on the west side of North Military Trail, approximately 1,700 feet southwest of the intersection between North Military Trail and Belvedere Road. The Property currently retains a future land use designation of Commercial High with underlying Industrial (CH/IND) and a zoning designation of General Commercial (CG). The property is within the Urban Redevelopment Area (URA), the PBIA Approach Path Conversion Area Overlay (PBIAO), and the Revitalization and Redevelopment Overlay (RRIO). Additionally, this property is located within the bounds of the Haverhill Neighborhood Plan. Please note, while the property is located within the URA, the property is not in a designated Priority Redevelopment Area (PRA).

- **North** of the property, across Orleans Ct, are sites currently zoned as Light Industrial (IL) and General Commercial (CG) with future land use designations of Industrial and Commercial High with underlying Industrial. Beyond these immediately adjacent properties to the north are more properties zoned as General Commercial (CG), along North Military Trail to Grove Street.
- **South** of the property, across Golf Street, is the Mounts Botanical Garden, zoned as Public Ownership (PO) with a future land use of Institutional (INST). Please note, a portion of the Mounts Botanical Garden site is also zoned as

General Commercial (CG) with a future land use designation of Commercial High with underlying Industrial (CH/IND).

- **East** of the property, across North Military Trail, is a commercial property with multiple tenets, zoned as Residential Medium (RM) with a future land use designation of Commercial High with underlying industrial. Immediately south of this adjacent commercial property is vacant land currently zoned as Public Ownership (PO) with a future land use designation of Commercial High with underlying Utilities and Transportation (CH/UT).
- **West** of the property, across Lexington Ave, are multi-family residential villas that are part of the Forest Glen community. The Forest Glen development is zoned as Residential Medium (RM) with a future land use of High Residential, 8 units per acre (HR-8).



Figure 2. Location Map

DEVELOPMENT HISTORY AND PRIOR APPROVALS

The Property is tied to Palm Beach County Zoning Resolution #3-Y-67 (submitted as supplemental information), which was a formal modification of the District Boundaries to rezone the western 2.77 acres of the property from R-1 Single Family Dwelling District to C-1 Neighborhood Commercial in 1967. One year after the western 2.77 acres of the property were rezoned, the former property owners successfully petitioned to vacate a 15' service road that was bisecting (north to south) the western 2.77 acres of the property from the 0.58 acres fronting Military Trail (OR 1643, pg. 1586). This petition was approved by the Palm Beach County Board of County Commissioners on January 2nd, 1968. This approval resulted in the configuration of the Property as we see it today, totaling 3.43 acres (MOL). Since the administrative rezoning in 1967, there have been three major code rewrites (1973, 1992, and 2003) and three code consolidations (1984-85, 1988, and 1990). The former C-1 Neighborhood Commercial zoning designation no longer exists as it was configured, and the site is currently zoned as General Commercial (CG) in the current code.

The Property has functioned as the site of a multi-tenant commercial building for almost 40 years to date, with the building permit (B - 85021446) being issued in 1985. Between 1979 and 1987, the area in the immediate vicinity of the Property experienced significant growth and change, as shown by the aerials below, taken in each year.



Figure 3. 1979 Aerial



Figure 4. 1987 Aerial

The most notable changes between 1979 and 1987 were the continued commercial growth along Military Trail as well as the addition of the Forest Glen residential development (platted in 1980, ~232 villas) to the west of the property.

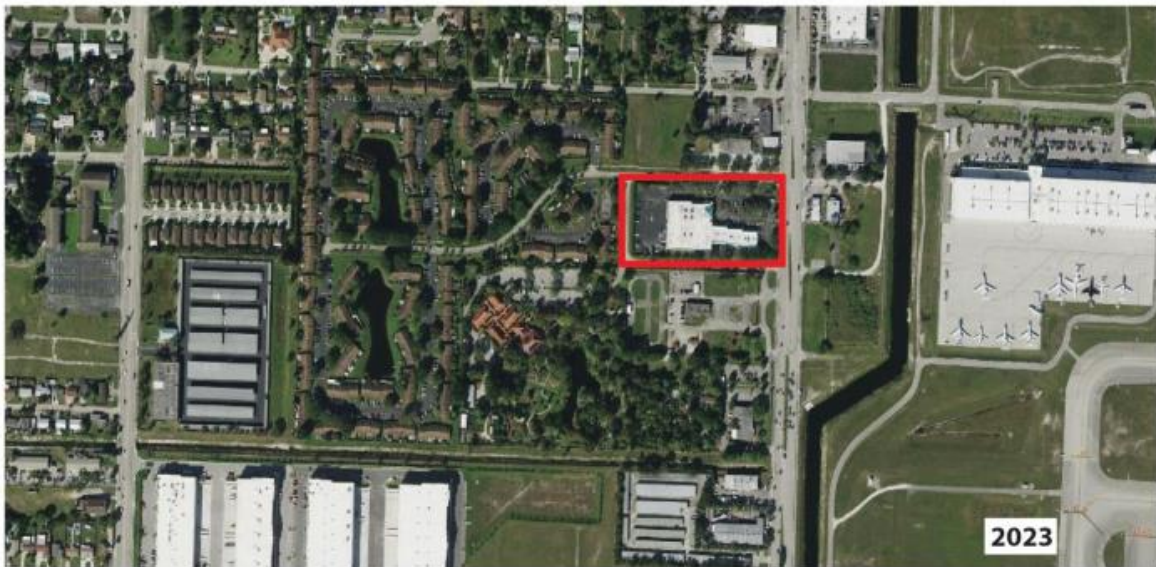


Figure 5. 2023 Aerial

Between 1999 and 2023, the area surrounding the Property has continued to grow, redevelop, and infill develop. Notably, the Palm Beach International Airport has continued to expand along the east side of Military Trail, directly across from the

Property. In addition to the airport and general commercial growth along Military Trail in between Belvedere Road and Southern Road, adjacent commercial and light industrial developments have also been introduced to the area, in particular the Airport Logistics Park and PODS self-storage along Wallis Road.

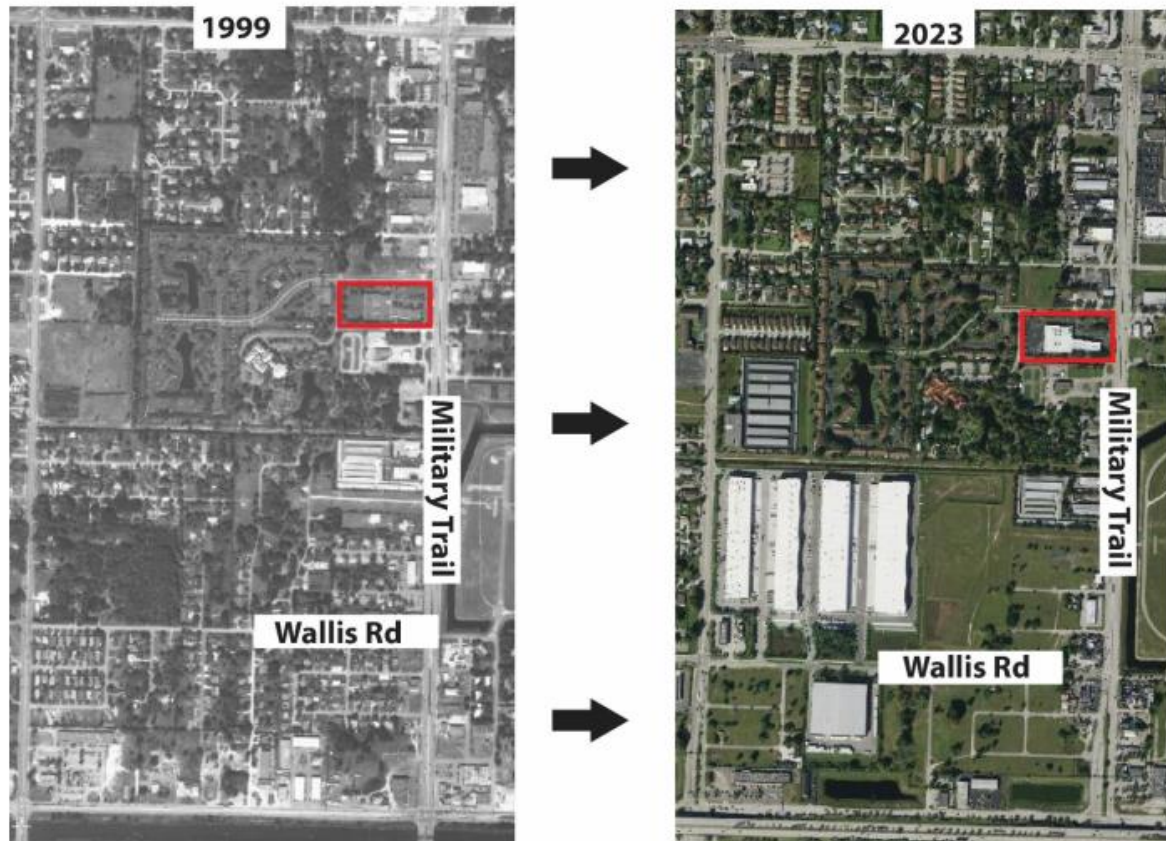


Figure 6. Comparison Aerial

As shown by the aeriels above and as documented by the history of the site, this area of Palm Beach County has continued to grow, expand, and redevelop to more intense uses. As such, the Applicant is proposing a development program that is envisioned to be wholly compatible and aligned with the documented growth patterns of the area.

PROPOSED DEVELOPMENT PROGRAM

The Applicant proposed to redevelop the existing overall lot to allow for the placement of a new 37,000 square foot (MOL) building for advanced collision repair and maintenance of electric vehicles. Advanced Collision Repair and Maintenance is most aligned with Repair and Maintenance, Heavy. The property's location abutting Military Trail, roughly halfway between Belvedere Road and Southern Boulevard, is within an existing and growing commercial corridor made up of the parcels along Military Trail that are adjacent to Palm Beach International Airport. This stretch of Military Trail in particular experiences approximately 45,000 Average Annual Daily Traffic Trips, representing the property's significance as a prime location for medium to high-intensity commercial uses. Ancillary to the property's main use as a repair center, there will be a rental/loaner car operation planned for customers who will be leaving or dropping their vehicles off at the property.

Unlike typical, gasoline powered, motor vehicles, Electric Vehicles (EVs) necessitate more qualified and technically advanced technicians. As a result, the proposed use represents a significant contribution to the local and regional labor market, as this repair service will not be akin to regular automotive repair and is much more advanced technologically. EVs are known for their distinctive features compared to traditional gas-powered vehicles. These distinctions include the absence of an exhaust system, fuel tanks, liquid fuel usage, and the non-utilization of new or used motor oil. Furthermore, EVs operate without generating engine noise or emitting harmful substances such as hydrocarbons and carbon monoxide, which are typically produced by internal combustion engines.

Key Site Operation Takeaways

- Collision Center operational hours: Mon-Fri, 8am-5pm.
- Approx. 50 employees per shift.
- Repair 60-80 vehicles/week.
- Repairs to occur within the facility.
- Average repair time: 11-16 days.
- Specializes in collision repair, painting, and bolt-on panel replacement.
- Painting adheres to EPA regulations.
- Vehicles stored safely, customer-owned. All vehicles stored on-site will be customer-owned.
- Offers bolt-on part replacement, battery, and tire replacement as needed.
- Prepares vehicles with wash/detailing, EV charging. Customer lounge with amenities provided.
- Ancillary office space for rental services.
- Trucks entering the site will consist of WB-40 sized trucks on the larger end, day to day use will include flatbed tow trucks or similar sized wreckers for passenger vehicles.

In conclusion, the property is poised to positively impact the local economy and job market, as well as serve as a valuable improvement to the area. Furthermore, and to clarify, the rental services are purely ancillary and incidental to the overall function of the proposed development as advanced collision and vehicle repair. The rental services are purely meant to serve customers who will also be using the proposed development for vehicle repair and will not be open to service for general rental.

STANDARDS FOR CONDITIONAL USE REQUEST

When considering a DO application for a Rezoning to a PDD or a TDD, or a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), the BCC or ZC shall utilize the Standards a through h indicated below. An application which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan

The proposed use or amendment is consistent with the purposes, Goals, Objectives, and Policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.

Response: The proposed Class A Conditional Use request to allow heavy repair and maintenance within the CG district is consistent with the Plan's vision for this area as medium to high-intensity commercial. Additionally, through this proposed request, the Property will remain consistent with Table 2.2-f.1 of the Plan's Future Land Use Element.

Furthermore, and in particular, the proposed Class A Conditional Use is directly aligned with and supports the purpose of the Plan's Future Land Use Element sub-objective 1.2.2, The Urban Redevelopment Area (URA). According to sub-objective 1.2.2, the purpose of the URA is "to focus the County's redevelopment and infill efforts by promoting economic growth, improving the present conditions of infrastructure, investment, and reinvestment in the area, and discouraging urban sprawl by directing development where resources exist." The proposed Class A Conditional Use and proposed development program represent the potential for significant reinvestment, economic growth, and infill development for the County and Plan. While the Property is not identified by the Plan as a Priority Redevelopment Area (PRA), the Property's inclusion within the overall URA signifies the Plan's vision for this area of the County as in need of redevelopment and infill.

Haverhill Neighborhood Plan

In addition to the Palm Beach County Comprehensive Plan, the Property also falls within the planning boundaries of the Haverhill Neighborhood Plan (HNP). The HNP identifies neighborhood plan sub-areas (see exhibit 7a of HNP) that are used to guide long range growth within the HNP study area. The proposed Class A Conditional Use is aligned with the HNP's identified use for the area that the Property is located in, as the HNP designates this portion of parcels fronting on Military Trail as envisioned for Commercial uses. Additionally, as part of the Palm Beach County planning process, the Applicant notified the Town of Haverhill prior to the intake of our application and again after we received initial comments. All correspondence with the Town of Haverhill has been included with this application's materials and all future correspondence will be included as well.

Revitalization, Redevelopment, and Infill Overlay

The Property is within the RRIO but is not identified as a CCRT. Although the Property is not within a CCRT, the proposed development project is in support and furtherance of Future Land Use Sub-Objective 1.2.1 Revitalization, Redevelopment, and Infill Overlay. Through a partnership with the Business Development Board of Palm Beach County, this proposed project is being put forward as a new, private redevelopment project within the RRIO and URA.

Palm Beach International Airport Approach Path Conversion Area Overlay (PBIAC)

In the Plan, the purpose of the PBIAC overlay is to ensure future land uses are compatible with the existing neighborhoods and future operations of the PBI. The Property's future land use is not proposed to change through this proposed project. Therefore, the Property's land use will remain consistent and compatible with the existing neighborhoods and future operations of the PBI.

Future Land Use FAR Consistency

The Plan provides Table 2.2-e.1, which provides the maximum allowable FAR within each Plan specified land use designation. For the Property, with a future land use designation of Commercial High (with underlying Industrial), the maximum allowed FAR is 0.85, which would equate to a building size of roughly 126,628 square feet. The proposed FAR for the Property is currently 0.247, with a building size of 36,926 square feet. As such, the proposed FAR is consistent with the maximum allowed FAR within the Commercial High land use category.

b. Consistency with the Code

The proposed use or amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

Response: The proposed Class A Conditional Use is not in conflict with any portion of the Code and is consistent with the stated purpose and intent of the Code.

Palm Beach International Airport Approach Path Conversion Area Overlay (PBIAC)

The Property is located within the PBIAC zoning overlay. In summary, the purpose and intent of this zoning overlay is to guide and safeguard development within the airport area so that both the community and airport can exist compatibly. The overlay requires that any use of land allowed as Conditional uses within the PBIAC must be allowed as Conditional use within the underlying zoning district. The underlying zoning district for the Property is CG and the CG zoning district allows the proposed use of heavy repair and maintenance as a Conditional use, therefore, this requirement is met. Additionally, the proposed Conditional use will meet all of the additional property development regulations of the PBIAC.

Urban Redevelopment Area Overlay (URAO)

As previously discussed within the consistency to the Plan response, the proposed rezoning supports the purpose and intent of the URAO. Additionally, the Property is not designated as a PRA by the URAO. The proposed rezoning furthers consistency with the Code by exemplifying the process of urban redevelopment. To revisit the proposed development program, the Applicant intends to build a brand new, 37,000 square foot (MOL) building to house an advanced collision and repair center with ancillary rental car services. This proposal involves the full redevelopment of the entire lot, bringing it up to current code and standards.

c. Compatibility with Surrounding Uses

The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. [Ord. 2007-001]

Response: The proposed Class A Conditional Use is compatible and consistent with the surrounding developments. As shown by the zoning map below (figure 7), the Property's is located adjacent to commercial uses on its northern, southern, and eastern bounds (across Military Trail). Please note the RM zoned property directly across Military Trail on the eastern side of the Property functions as a commercial use (restaurant & animal clinic).

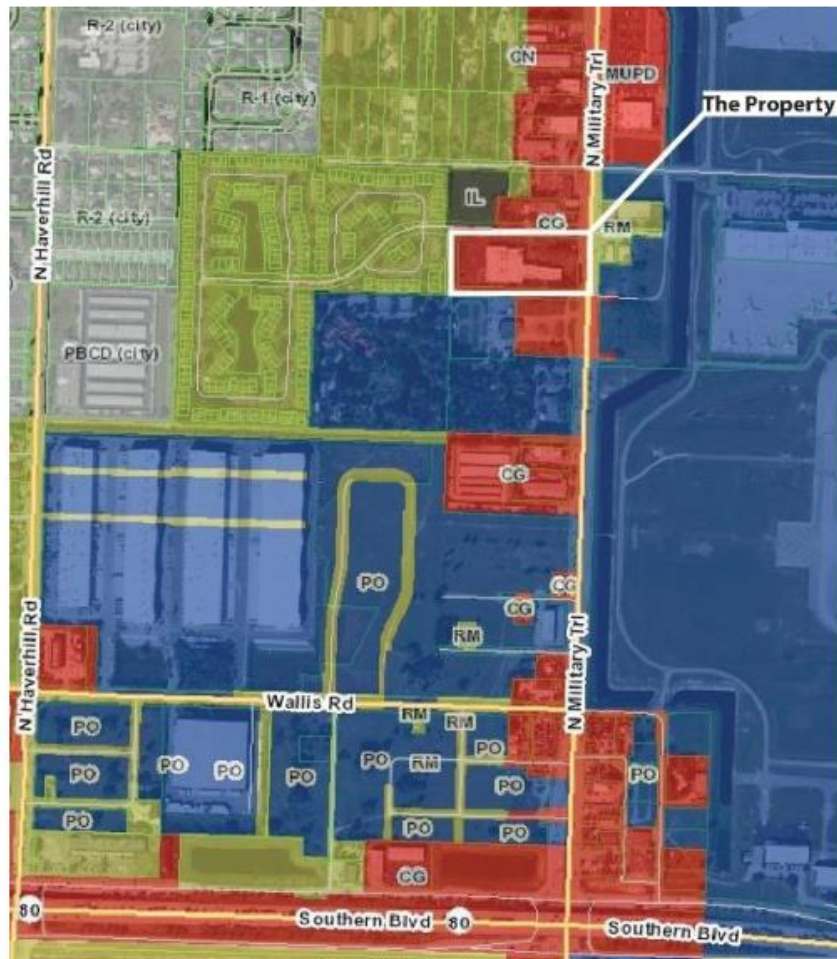


Figure 7. Zoning Map

The co-location of commercial uses surrounding the Property's northern, southern, and eastern bounds signifies visible compatibility with the area. The compatibility is further established by the fact that the Property will serve as a transitional use that will further insulate the Forest Glen residential development to the west. In broad principle, the practice of transitional zoning centers on allocating land uses and zoning districts so that the uses are tiered to provide a transition of intensities. The proposed Conditional Use, paired with the existing CG zoning designation, furthers this planning practice by providing a transition of intensities from high (CG) to medium (RM).

d. Design Minimizes Adverse Impact

The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

Response: The proposed Class A Conditional Use includes a proposed design that minimizes adverse effects on adjacent lands. Through an intuitive and thoughtful site plan design, more than adequate spacing and buffering has been provided to ensure that the design minimizes adverse impact to the greatest extent possible. To reduce the impact to and increase the overall compatibility with the adjacent medium density residential (Forest Glen), the proposed development has been designed so that the Conditional Use is located 229 feet from the eastern property line. When added to the width of Concorde Ave, this creates approximately 279 feet of separation between the main building and the residential properties.

e. Design Minimizes Environmental Impact

The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. [Ord. 2007-001]

Response: The proposed project has been designed to minimize adverse impacts to the environment as a result of the proposed development. To this end, the Applicant's team has met with County ERM staff on site on 4/3/2024.

f. Development Patterns

The proposed use or amendment will result in a logical, orderly, and timely development pattern. [Ord. 2007-001]

Response: The proposed Class A Conditional Use within the CG district will continue the logical, orderly, and timely development pattern of both the Property and of the surrounding area. With the proposed request, the Applicant is not proposing to amend or change the Future Land Use designation of the Property. As such, the long term use of the site will remain consistent, building upon the continued alignment with the surrounding area in terms of development pattern. Furthermore, the Conditional Use request to allow heavy repair and maintenance is aligned with the long-term development patterns of the immediate area along Military Trail. As made evident in the earlier sections of this report, the Property is located in an area that has slowly been intensifying and growing in commercial development along Military Trail.

g. Adequate Public Facilities

The extent to which the proposed use complies with Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2007-001]

Response: The proposed requests for Class A Conditional Uses are compliant with Article 2.F Concurrency, and this Property is within the U/S tier.

h. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification. [Ord. 2007-001] [Ord. 2018-002]

Response: As a result of the overall shift in surrounding development patterns from the 1960's to date, the Applicant wishes to expand the business capability of the Property to further align with these patterns and uses. As shown in the aerial photograph below comparing 1999 to 2023, the commercial and light industrial development in the immediate area has continued to expand and increase. Additionally, the shift from residential to commercial and light industrial can also be observed in these aerials.

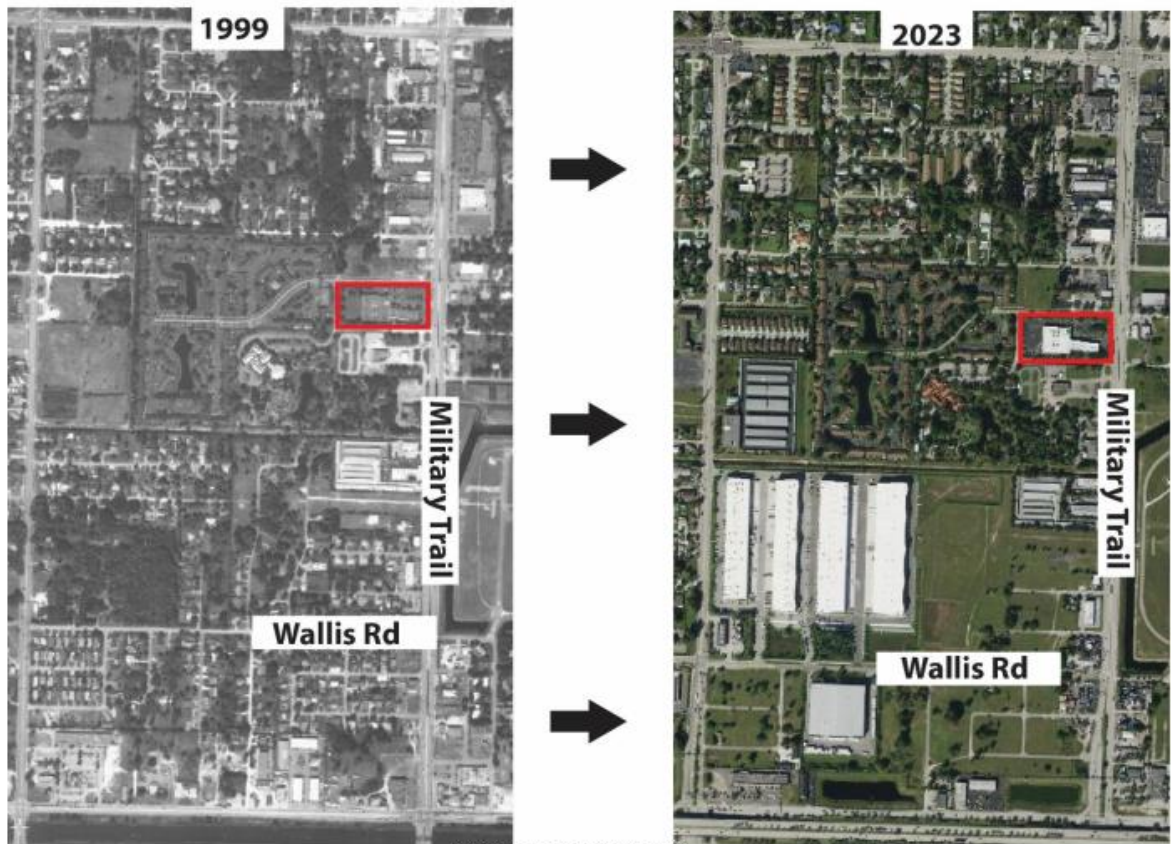


Figure 8. Comparison Aerial

From 1985 (date of current building permit), the Property has functioned as multi-tenant commercial. In reference to shifting development patterns of the area, the Applicant wishes to meet the changing business climate of the area by redeveloping the site for advanced vehicle repair under the heavy maintenance and repair use.

SUBDIVISION VARIANCE REQUEST

Pursuant to Article 2.A.7.E.6, *The ZC shall consider and find that all seven criteria listed below have been satisfied by the Applicant prior to making a motion for approval of a zoning or subdivision variance: [Ord. 2006-036].*

Note: Combined responses to both SV1 and SV2 have been provided.

VARIANCE	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
SV1	11.E.2.B.1 Requirement for Sidewalks	Sidewalks required on both sides of the street	No sidewalks required along Lexington Ave.	No sidewalks required along Lexington Ave.
SV2	ULDC 11.E.2.A.4.b. Double Frontage Lots and Corner Lots	24 feet of pavement and sidewalks on both sides of street	Minimum Pavement width of 18.5 feet on Golf Street and no sidewalks.	5.5 less feet of pavement and no sidewalks on Golf Street

Figure 9. SV Table

1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district;

SV 1-2 Response: Special conditions and circumstances exist that are peculiar to the parcel of land that are not applicable to other parcels of land within the same district. The Property was platted in 1937, bisected by a north to south service lane running parallel to Military Trail. At this time of platting, the property was 2.77 acres on the western portion and 0.58 acres on the eastern side, with the 15' service lane in between. See Image below.

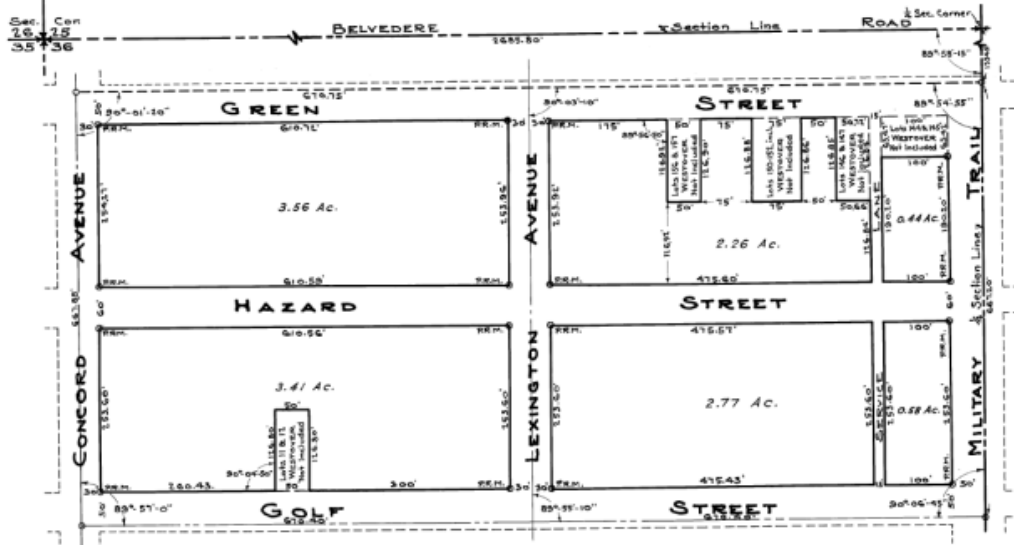


Figure 10. Westover Replat Snippet

Prior to the abandonment of the service lane in 1968, the plat is responsible for the size and width of the property as it is seen today. While the adjacent properties were eventually replatted and reconfigured, the Property remained as it was after the 1968 abandonment into current time. As such, the Property represents a parcel of land that has remained (for the most part) as configured from its inception in 1937.

The code requirement to add sidewalks and width to Golf Road and sidewalks Lexington Avenue are not appropriate for the location as it is configured. The bullets below highlight the main driving factors that further characterize these requirements as inappropriate for each roadway.

Lexington Avenue

- Adding sidewalks to Lexington Avenue is unnecessary and inappropriate as pedestrian traffic will be entering Mounts Botanical Gardens from Military Trail and there are no significant pedestrian vectors beyond Mounts that would further drive this requirement.
- There are no major pedestrian vectors north or south along Lexington Avenue (Mounts entrance is on Military Trail).

Golf Street

- Adding sidewalks and road width to Golf Street will have a detrimental effect on the aesthetic appearance and existing vegetation of Golf Street. By requiring the applicant to increase pavement width and to add sidewalks, the applicant will have to remove all the existing vegetation that conflicts with the increased dimensions. Please note, the aforementioned existing vegetation exists on both sides of the roadway.
- Further, adding width and sidewalks along Golf is unnecessary given the existing road's use and the minimal impact that the proposed plan will have on Golf in particular (61 ADT coming out of the exit only)

2. Special circumstances and conditions do not result from the actions of the Applicant;

SV 1-2 Response: Special circumstances and conditions do not result from the actions of the Applicant. The Applicant is seeking relief from code requirements due to the Property's historical configuration. This historical configuration is by no means a result of the actions of the Applicant. The roadways were platted as they currently exist in 1937 (PB 4, pg. 72) and the former service lane was abandoned in 1968 (OR 1643, pg. 1586). This leaves the property as it currently exists today.

3. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;

SV 1-2 Response: Granting the variances will not confer any special privilege denied by the Plan and this Code to other parcels in the same district. The Applicant is seeking relief from code required access standards due to the Property's historical configuration. The roadways were platted as they currently exist in 1937 (PB 4, pg. 72) and the former service lane was abandoned in 1968 (OR 1643, pg. 1586). This leaves the property as it currently exists today. As shown by the proposed plans and by the responses to the Class A Conditional Use standards within this report, the Applicant intends to meet or exceed all the required property development regulations.

4. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;

SV 1-2 Response: Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship.

The uses of similar properties in the area are shifting to more intensive commercial uses. For example, in 1990, the 3.77 acre parcel on 401 N Military Trail (~750 feet south of the Property), was approved by special exception to allow a Planned Commercial District for warehousing (R- 1990-1290). Furthermore, another adjacent parcel (5.95 acres), located at 800 N Military Trail (about 400 feet northeast of the Property), was approved to rezone from Commercial (resolution only names previous district as "Commercial") to MUPD to allow two fast food restaurants and general repair and maintenance (R-2001-1664). These entitlements, both less than 1,000 feet from the Property, signify specific examples of adjacent property owners modifying the rights allowable to their properties to increase commercial intensity as a result of changing conditions. The Applicant intends to emulate these amendments enjoyed by the adjacent parcels through approval of this variances.

To reiterate in whole, the proposed use to allow advanced collision repair with ancillary rental car services would not be plausible without these variances associated with the existing property dimensions. Furthermore, and as previously stated, the Applicant's proposed plan meets all other requirements of the ULDC and associated Plan.

5. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;

SV 1-2 Response: As previously stated, the Applicant intends to meet or exceed all the other required property development regulations for the proposed development. Granting the variances is the minimum that would make possible the reasonable use of the Property.

6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code;

SV 1-2 Response: Granting the variances will be consistent with the purposes, goals, objectives, and policies of the Plan and this code. The proposed variances will allow the envisioned use and development program to work most effectively. The proposed use of the Property for advanced collision repair with ancillary car rentals is directly supported by the Plan and the Code, as made evident by the summary table below.

How Variance Supports Plan	How Variance Supports Code
Consistency with table 2.2.f.1 of the Plan , CG is aligned with the future land uses of CH and IND.	Consistency with the intent and purpose of the CG district, alignment with overall performance measures and planning objectives of CG.
Consistency and alignment with Future Land Use Element sub-objective 1.2.2, the Urban Redevelopment Area . This project represents the potential urban redevelopment of a older property.	Consistency and alignment with the intent and purpose of the PBIAO overlay. The Property is proposed to be commercial, which is required for all commercial rezonings in the PBIAO.
Consistency and alignment with the Haverhill Neighborhood Plan . The HNP identifies the Property's location as part of a larger commercial area along Military Trail.	Consistency and alignment with the URAO. The proposed rezoning exemplifies urban redevelopment, proposing 37,000 square foot of new building construction on a dated lot.

Figure 11. Variance Code and Plan Table

7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

SV 1-2 Response: Granting the variances will not be injurious to the area involved or otherwise detrimental to the public welfare. As stated within the responses to the conditional use request, the proposed use is compatible and generally consistent with the surrounding developments. The Property's is located adjacent to commercial uses on its northern, southern, and eastern bounds (across Military Trail). The co-location of commercial uses surrounding the Property's northern, southern, and eastern bounds signifies visible compatibility with the area. The compatibility is further established by the fact that the Property will serve as a transitional use that will further insulate the Forest Glen residential development to the west. In broad principle, the practice of transitional zoning centers on allocating land uses and zoning districts so that the uses are tiered to provide a transition of intensities.

WAIVER REQUESTS

Zoning Type 1 Waiver – Required amount of Off-street Parking.

The Applicant is seeking relief from Table 6.B.1.B Minimum Parking and Loading Requirements of the ULDC to allow a 13% reduction in the total amount of required parking. Please see the Applicant's responses the Type 1 Waiver standards from Article 2.C.5.G.3 below, a-c.

- a) **The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay; [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**

Response: Provision of this waiver does not create conflicts with other requirements of the ULDC and is consistent with the current zoning of the Property and all previously discussed overlays. The parking demanded by code, 148 spaces, is not representative of the actual day-to-day site operations. As shown by the 85% percentile parking demand rate calculated within the Parking Demand Statement, the actual day to day operations will likely only require 130.626 parking spaces. With the parking demand calculated to be closer to 131, we feel confident that 129 spaces will adequately serve the proposed use.

- b) **The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]**

Response: Provision of this waiver will positively further the overall design of the site and is in harmony with the general site layout. Please see the associated Parking Demand Statement submitted with application materials for further analysis of how the reduction of parking spaces will not result in an adverse site design due to the actual level of parking demand.

- c) **The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]**

Response: The approval of this alternative design will not adversely impact adjacent properties, as the reduction of parking spaces is internal to the site and will not impact adjacent private properties.

Zoning Type 1 Waiver – Foundation Planting Standards.

The Applicant is seeking relief from table 7.c.3.b of the ULDC to allow a 50% relocation of required foundation planting. Please see the Applicant's responses the Type 1 Waiver standards from Article 2.C.5.G.3 below, a-c.

- a) **The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay; [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]**

Response: Provision of this waiver does create conflicts with other requirements of the ULDC and is consistent with the current zoning of the Property and all previously discussed overlays.

- b) **The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]**

Response: Provision of this waiver will positively further the overall design of the site and is in harmony with the general site layout. The required foundation planting could not be located along the northeast façade of the building due to the programming and parking involved with that portion of the property. As a result, the Applicant has relocated the foundation planting to another side of the building, meeting Table 7.b.4.a of Article 7.

- c) **The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]**

Response: The approval of this alternative design will not adversely impact adjacent properties, as the relocation of the foundation planting is entirely internal to the site and will not impact adjacent properties.

CONCLUSION

In conclusion, the Applicant respectfully requests the approval of the Class A Conditional Use, Subdivision Variance, and Type 1 Waiver requests to allow for the redevelopment of the site to accommodate advanced vehicle repair.