



# PALM BEACH COUNTY ZONING APPLICATION STAFF REPORT

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ZONING COMMISSION, FEBRUARY 6, 2025

## A. Application Summary

### I. General

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**Application Name:** Constru American 4160, SV/CA-2024-00760  
**Control Name:** Constru American 4160 (2023-00029)  
**Applicant:** Constru American, LLC  
**Owner:** Constru American, LLC  
**Agent:** Dunay, Miskel and Backman, LLP - Hope W Calhoun & Beth Schrantz  
**Project Manager:** Matthew Boyd, Site Planner II

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**Title:** a Class A Conditional Use **Request:** to allow the Transfer of Development Rights in excess of 2 units per acre (5 TDRs) on 0.91 acre **Title:** a Subdivision Variance **Request:** to allow access from the existing 30-foot Right-of-Way on 0.91 acre

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**Summary:** The application is for the Constru American proposed residential development. The site has no previous approvals by the Board of County Commissioners (BCC). The site is currently vacant.

The request consists of a Class A Conditional use and a Subdivision Variance. The Class A request is to allow a Transfer of Development Rights (TDR) with the purchase of five dwelling units (100% density increase) for a total of 10 dwelling units. The Subdivision Variance would allow a reduction in the required right-of-way width of 40 feet to the existing 30 foot wide 42<sup>nd</sup> Avenue South. The Preliminary Site Plan indicates one two-story multifamily structure, a Recreation Area, and 23 parking spaces. Access to the site will be from 42<sup>nd</sup> Avenue South.

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### II. Site Data

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**Acres:** 0.91 acres  
**Location:** East Side of 42<sup>nd</sup> Avenue South, approximately 340 feet north of Selberg Lane  
**Parcel Control:** 00-42-44-25-00-000-1040  
**Future Land Use:** Medium Residential, 5 units per acre (MR-5)  
**Zoning District:** Multi-Family Residential (Medium Density) District (RM)  
**Proposed Zoning:** RM  
**Tier:** Urban/Suburban  
**Utility Service:** Palm Beach County Water Utilities  
**Overlay/Study:** N/A  
**Neighborhood Plan:** N/A  
**CCRT Area:** Lake Worth West  
**Comm. District:** 3, Commissioner Joel Flores

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### III. Staff Assessment & Recommendation

**ASSESSMENT:** Staff has evaluated the standards listed under Article 2.B. and Article 11.F, 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

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**ZONING COMMISSION:** *Scheduled for February 6, 2025*

**BCC HEARING:** *Scheduled February 27, 2025*

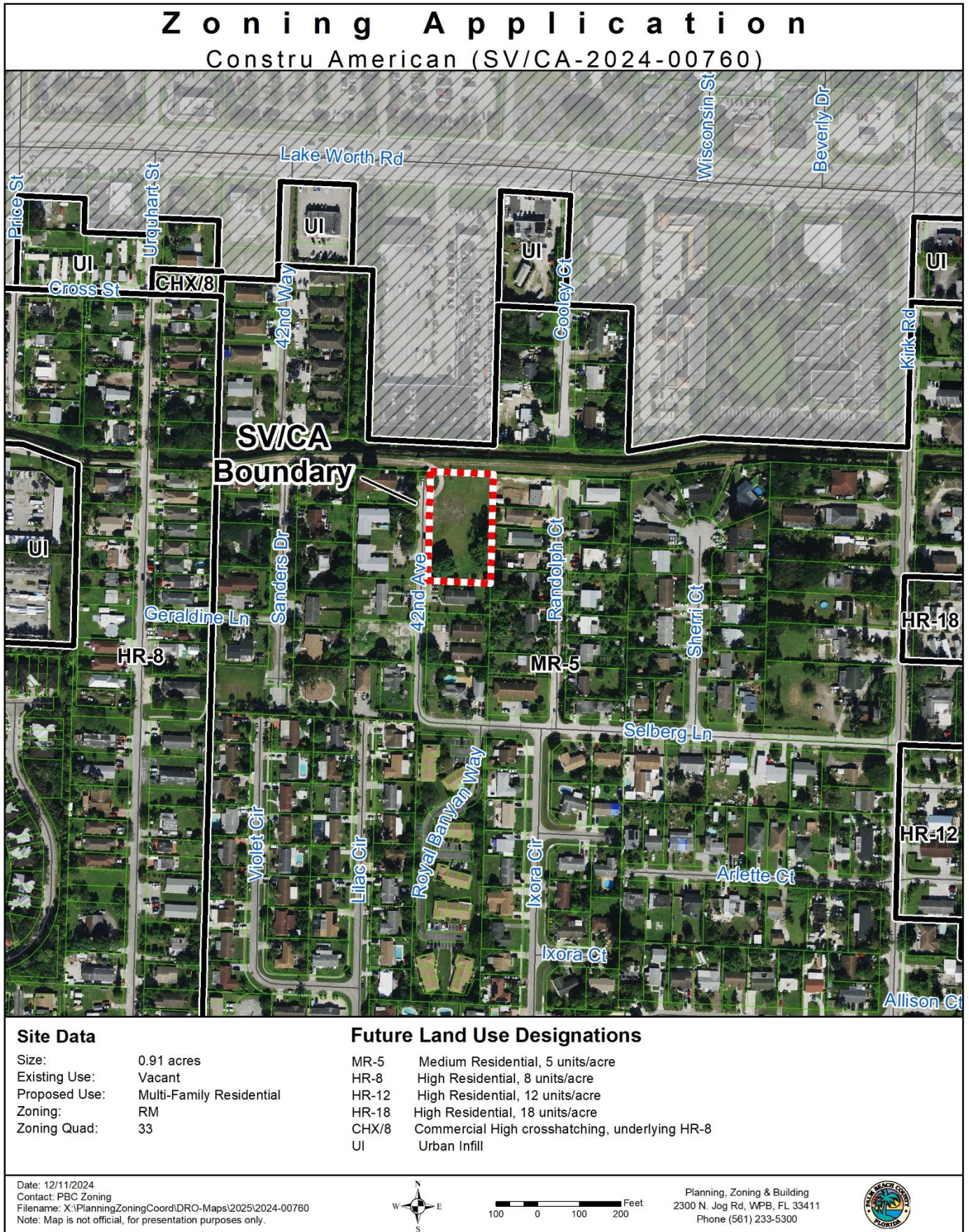
## B. Data & Analysis

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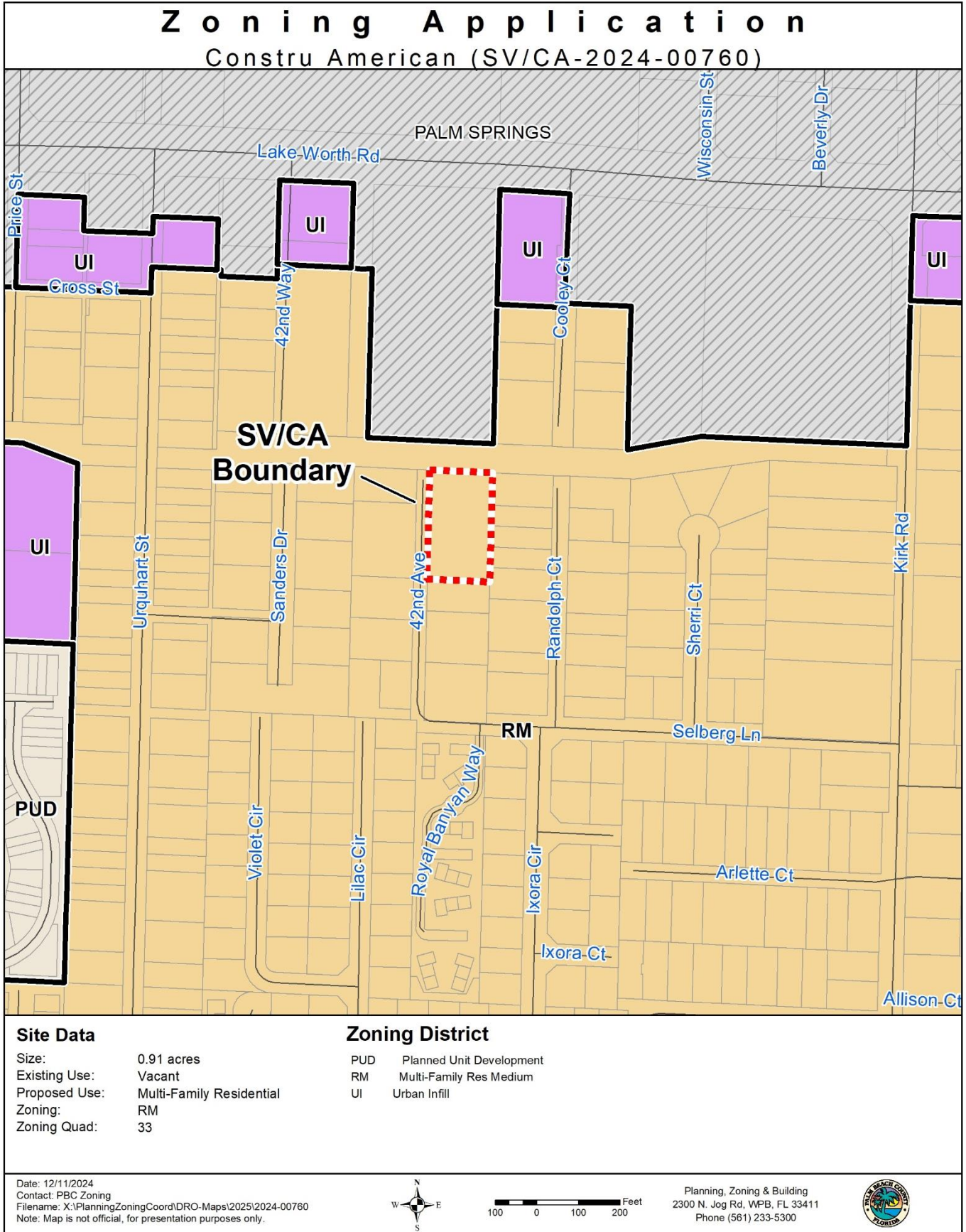
The supporting data and analysis is provided within the following Exhibits.

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# Exhibit A-1 - Future Land Use Map



# Exhibit A-2 - Zoning Map



## 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 amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
  - *Consistency of Future Land Use designation with Zoning District (Residential):* Future Land Use Element (FLUE) Policy 2.2.1-g.1 establishes consistent residential zoning districts with their corresponding Future Land Use designation in Table 2.2.1-j.1, Residential Future Land Use - Zoning Consistency. The existing Medium Residential (RM) Zoning District is consistent with the Medium Residential, 5 units per acres (MR-5) Future Land Use designation.
  - *Relevant Comprehensive Plan Policies:* FLUE policy 2.4-g.4(b) permits up to four TDR's per acre in areas designated as within the Revitalization and Redevelopment Overlay yielding four TDR's for the request. FLUE Policy 2.4-j provides an additional analysis that may provide an additional one TDR/acre if it meets certain criteria including the proximity to community amenities such as parks, community commercial and employment centers. The request for five Transfer of Development Rights (TDR's) meets the requirement by being within one-quarter mile of a public park and commercial.
  - *Density:* The request for ten units includes five units from the MR-5 future land use designation ( $0.91ac \times 5du/ac = 4.55$  or 5 rounded up) and the utilization of five Transfer of Development Rights (TDR) Bonus Density units for a total of ten units. The requested TDR's will be purchased at the Multi-family RRIO price and are subject to a Workforce Housing Program (WHP) obligation of 34%.

Land Use & Bonus Density:	Workforce Housing (WHP):
5 units (MR-5)	None when less than 10 total units from MR-5 Future Land Use
5 TDR units	1.7 WHP units (34%)
10 units total	1.7 or 2 required WHP (rounded up)

- *Workforce Housing (WHP) Program:* The WHP requires that a percentage of units in new residential developments of 10 or more units are to be provided as workforce housing, affordable to income qualified households having 60 to 140% of area Median Family Income (MFI). The program also requires that 34% of TDRs used be provided as WHP units. The program is applicable in the Urban/Suburban Tier of the unincorporated County, and in other Tiers as may be required by conditions of approval.

The subject request was deemed sufficient May 28, 2024, when the 2023 price schedule was in effect. In Palm Beach County, the 2023 area Median Family Income (MFI) is \$98,300 for a family of four (per HUD). The following are the current sales and rental prices per income category for 2023 in Palm Beach County. The income categories are the same for both programs. These homes cannot be sold or rented at a higher rate than the designated price, as adjusted annually. For all WHP Sales and rental pricing information please visit: <https://discover.pbcgov.org/pzb/planning/Projects-Programs/WorkforceHousingProgram.aspx>

While the subject request is a for-rent project, the figures below show price ranges for both For Rent and For Sale projects.

- *WHP Sales Prices:* The sales prices are based on HUD annual median income figure.

WHP Income Category			2023 (WHP) Sales Prices
<b>Low</b>	60 -80% of MFI	\$58,980 - \$78,640	\$206,430
<b>Moderate 1</b>	>80 -100% of MFI	>\$78,640 - \$98,300	\$265,410
<b>Moderate 2</b>	>100 -120% of MFI	>\$98,300 - \$117,960	\$324,390
<b>Middle*</b>	>120 -140% of MFI	>\$117,960 - \$137,620	\$383,370

\*Does not apply to WHP units in projects approved under WHP Code adopted 8/22/2019.

○ *WHP Rental Prices:* The WHP rents are based on the annual Florida Housing Finance Corporation (FHFC) Multi-Family Rental Figures, adjusted for number of bedrooms and any Utility Allowances are applied against gross maximum rent. WHP prices are set annually, based on the provisions of Article 5.G.1.A.3.c.2 of the Unified Land Development Code and the following:

2023 WHP Income Category		Studio	1 BR	2 BR	3BR	4BR	
Low	60-70% of MFI	\$58,980 - \$68,810	\$ 1,023 - \$1,193	\$1,096 - \$1,279	\$1,315 - \$1,534	\$1,519 - \$1,772	\$1,695 - \$1,977
	>70-80% of MFI	>\$68,810 - \$78,640	\$1,193 - \$1,364	\$1,279 - \$1,462	\$1,534 - \$1,754	\$1,772 - \$2,026	\$1,977 - \$2,260
Moderate 1	>80-90% of MFI	>\$78,640 - \$88,470	\$1,364 - \$1,535	\$1,462 - \$1,645	\$1,754 - \$1,974	\$2,026 - \$2,280	\$2,260 - \$2,543
	>90-100% of MFI	>\$88,470 - \$98,300	\$1,535 - \$1,705	\$1,645 - \$1,828	\$1,974 - \$2,193	\$2,280 - \$2,533	\$2,543 - \$2,825
Moderate 2	>100-110% of MFI	>\$98,300 - \$108,130	\$1,705 - \$1,876	\$1,828 - \$2,011	\$2,193 - \$2,412	\$2,533 - \$2,786	\$2,825 - \$3,108
	>110-120% of MFI	>\$108,130 - \$117,960	\$1,876 - \$2,046	\$2,011 - \$2,193	\$2,412 - \$2,631	\$2,786 - \$3,039	\$3,108 - \$3,390
Middle	>120-130% of MFI	>\$117,960 - \$127,790	\$2,046 - \$2,217	\$2,193 - \$2,376	\$2,631 - \$2,850	\$3,039 - \$3,292	\$3,390 - \$3,673
	>130-140% of MFI	>\$127,790 - \$137,620	\$2,217 - \$2,387	\$2,376 - \$2,558	\$2,850 - \$3,069	\$3,292 - \$3,545	\$3,673 - \$3,955

○ *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The subject request is located within the Urban Redevelopment Area (URA), the Revitalization, Redevelopment, and Infill Overlay (RRIO), and the Countywide Community Revitalization Team (CCRT) #68 Lake Worth West area. Staff advised the Applicant to meet with the Office of Revitalization (OCR) to coordinate with the neighborhood. No objections or concerns have been received to date.

○ *Revitalization Redevelopment and Infill Overlay (RRIO) and Urban Redevelopment Area (URA):* The RRIO and URA are areas designated within the Comprehensive Plan that are identified as appropriate for incentives to, and are the focus of the County's efforts to promote infill and redevelopment.

○ *Planning Conditions:* All of the Planning conditions being applied are to carry out the requirements for the Workforce Housing Program.

**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.*

○ *Property Development Regulations:* The proposed development is consistent with the Standard Zoning Districts PDR table, Table 3.D.1.A – Property Development Regulations, as it relates to lot dimensions, maximum building coverage, and minimum setbacks. The Preliminary Site Plan indicates 25 foot front, 16 foot side interior (south side), 134 foot side interior (north side), and 43.48 foot rear setbacks.

○ *Overlays:* The subject request is located within the Urban Redevelopment Area (URA), the Revitalization, Redevelopment, and Infill Overlay (RRIO), and the Countywide Community Revitalization Team (CCRT) 68 Lake Worth West area. There are no specific requirements in the URA that affect this site.

○ *Uses:* The proposed development is for the construction of Multifamily dwelling units. The subject site has an RM zoning with an MR-5 Future Land Use. Multifamily is allowed with this Zoning/Land Use combination with the property was zoned RM prior to the adoption of the 1989 Comprehensive Plan, and when a Multifamily development is not introduced into a subdivision that is exclusively Single Family. The site has been zoned RM since the 1989 Plan, and the area is developed with a mix of single family and multifamily uses.



As stated under the analysis above for Consistency with the Plan, the subject site would be allowed to develop five units, based on the future land use designation and acreage. Pursuant to Art. 4.B.1.C.5, 5 dwelling units would require an administrative approval by the DRO. The request within this application is to increase the density more than 2 units per acre (additional 5 units) through the TDR program which requires the Class A approval by the BCC.

- *Transfer of Development Rights (TDR) Program:* The request is consistent with the requirements of Article 5.G.3, Transfer of Development Rights (TDR) – Special Density Program for the request for up to a total of 5 TDR bonus density units per the CCRT 68 Lake Worth West area. The site complies with the requirement for designation as a receiving area as indicated under Art. 5. G.3.H.1. Conditions of Approval have been included to implement the requirements for the TDR program.
- *Parking:* Pursuant to Article 6.A.1.A, Minimum Parking and Loading requirements requires the following: 1 space per efficiency unit; 1.75 space per unit and one space for every 4 units. The PSP indicates at total of 23 parking spaces three dedicated guest parking spaces and 21 parking spaces for the Multifamily units. The proposed development will not have any efficiency units and thus the parking is based on 1.75 per bedroom and the guest spaces. The proposed parking for the development is consistent with the ULDC.
- *Landscaping/Buffering:* The proposed landscaping is consistent with Article 7 – Landscaping for Perimeter buffers and foundation planting. The proposed development provides a 10 foot ROW Buffer along the west property line (42<sup>nd</sup> Ave S.), a Type 2, 15 foot incompatible buffer along the north property line, a 10 foot compatibility buffer to the east property line, and an 8 foot compatibility buffer along the south property line.
- *Signs:* A Master Sign Plan (MSP) is required to be submitted at time of application. The Applicant did not provide a MSP and states that no signage is proposed
- *Subdivision Variance:* See Exhibit B-2 for discussion on the requested Subdivision Variance to allow access from a local residential street and from sidewalk requirements pursuant to Article 11.E.2.

**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 Multifamily use is consistent and compatible with the uses, density, and character of the surrounding area and is allowable with the Zoning District and Future Land Use designation. The residential uses along 42<sup>nd</sup> Ave S. and Selberg Ln. are a mix of single family residential and multifamily residential units. The TDR density increase request will result in a density that is consistent with the neighborhood and existing homes that were built predominantly in the late 70's early 80's.

**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.***

The site layout and design is configured in a manner to minimize adverse impacts on adjacent properties. The subject site is surrounded by multifamily dwellings to the south, west and east, with a canal abutting the north. The proposed density on the subject site falls in the median of the surrounding density. With the proposed development's buffers along the north, south and east followed by the Right of Way (ROW) buffer along the west, impact to surrounding properties would be minimal. To reduce the impact of traffic produced from this development, the Site Plan indicates a one way ingress/egress access point to the site off 42nd Avenue South.

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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- *Vegetation Protection:* The site has some native species (e.g. Slash Pines and Cabbage Palm). The proposed development will preserve all the native vegetation on 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-storm water discharge or the maintenance or use of a connection that results in a non-storm water discharge to the storm water system is prohibited pursuant to Palm Beach County Storm water 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 subject site is located east side of 42<sup>nd</sup> Avenue South, approximately 340 feet north of Selberg Lane within the Urban Suburban Tier. The development pattern of the surrounding area shows a varying range of residential density from 1 unit to 20 units. Along 42<sup>nd</sup> Avenue South, there is primarily Multifamily properties of 4 or more units. The proposed development is consistent with the surrounding area and results in a logical, orderly and timely development pattern.

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

TRAFFIC DIVISION:

The Department of Engineering and Public Works Traffic Division have reviewed the request. The proposed multi-family residential development is expected to generate 67 net daily trips, 8 net AM peak hour trips, and 5 net PM peak hour trips. The build out of the project is assumed to be by 2028.

Since the project generates less than 21 peak hour trips, no detailed traffic analysis is required and the traffic impact will be insignificant, as per the definition in the PBC Traffic Performance Standards (TPS). No roadway improvements are necessary.

MASS TRANSIT:

Palm Tran review Staff have no comments on this application

LAND DEVELOPMENT:

The Department of Engineering and Public Works Land Development Division provided comments throughout the review of this application and requested modification have been incorporated by the Applicant. The Property Owner will construct onsite drainage facilities, including dry detention swales and exfiltration trench to accommodate the impervious area being added by this application. The property associated with the application was found to comply with the regulations and code requirements of the ULDC under the authority of the Land Development Division, subject to the following conditions of approval: The Property Owner shall submit a drainage study that identifies historical flows that currently enter the site prior to the Final Site Plan approved by the DRO. The Property Owner shall configure the property into a legal lot of record.

DRAINAGE:

The subject site is located within the Lake Worth Drainage District boundaries, as well as the South Florida Water Management District C-16 Drainage Basin. The Applicant's Engineer states (Exhibit E-4): *"It is proposed that runoff will be directed to on-site water management areas (underground exfiltration trench) by means of storm inlets and storm water drainage structures. Legal positive outfall is available to the site via connection to the LWDD L-12 drainage system structure adjacent to the parcel's north boundary."*

Prior to the issuance of any building permits, the Applicant is responsible for obtaining required permits and approvals for the Districts.



WATER AND WASTEWATER:

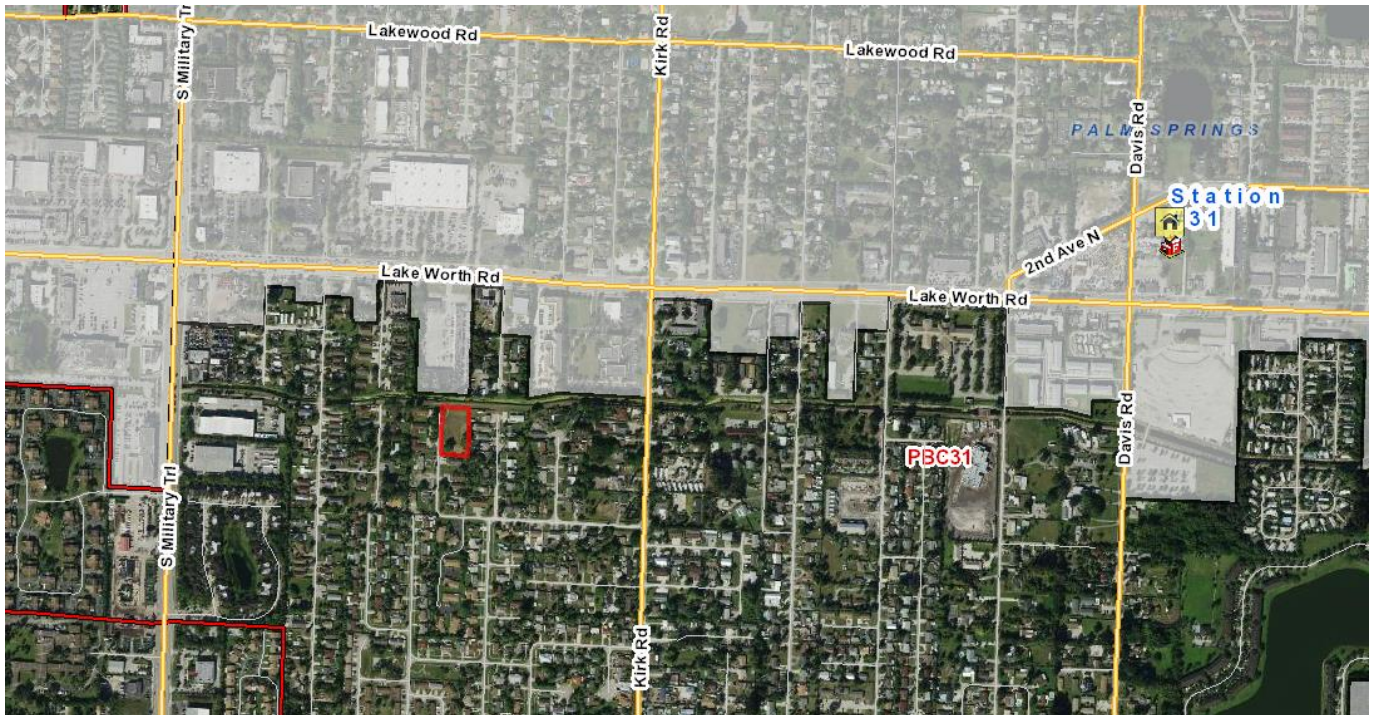
The subject site will be required to connect to water and wastewater within the Palm Beach County Water Utilities Department (PBCWUD) service area, and PBCWUD review staff have provided comments throughout the review of this application. Prior to issuance of a building permit, site must be connected to water and wastewater service, and is subject to the permitting approval process of PBCWUD and their required Agreement. PBCWUD provided a Concurrency Reservation for the proposed residential development as see in Exhibit E-5.

PALM BEACH COUNTY HEALTH DEPARTMENT:

The Florida Department of Health review Staff have issued no comments on this application.

FIRE-RESCUE:

Fire Rescue review Staff have no comments on this application. The development will be reviewed again at time of building permit for compliance with Fire Codes. The subject site is located within the service boundaries of PBC Fire Rescue Station 31.



PARKS AND RECREATION:

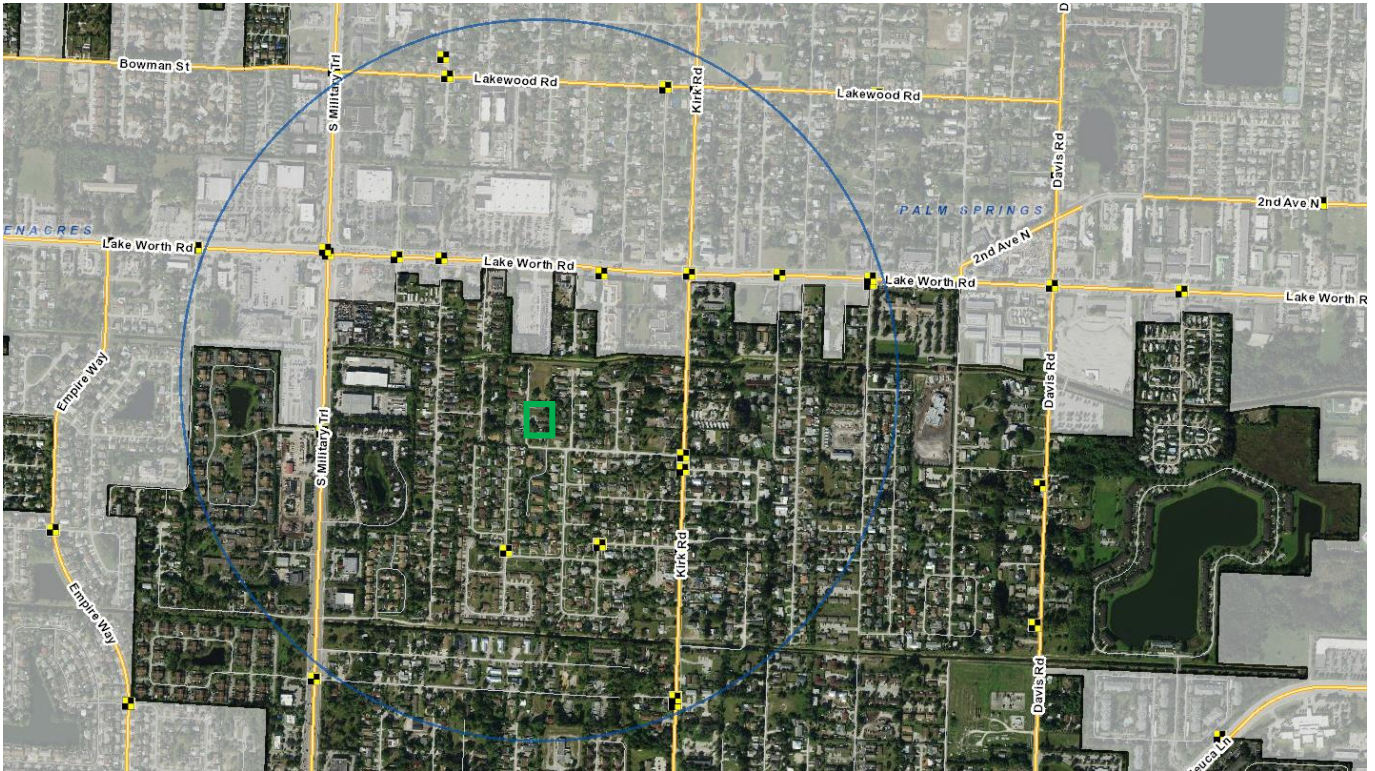
Parks and Recreation review Staff have reviewed the application. The proposed 10 dwelling units require a minimum 50'x 50' recreation site, which has been provided to meet the local Parks and Recreation requirements.

SCHOOL DISTRICT:

In accordance with the adopted Coordinated Planning Interlocal Agreement, a School Capacity Availability Determination (SCAD) for 10 multi-family residential units had been approved on December 9, 2024 (SCAD Case #24120401D). (Exhibit E-6) The subject property is located in SAC 210A.

This project is estimated to generate approximately four (4) public school students. The schools currently serving this project area are Diamond View Elementary School, Tradewinds Middle School and Lake Worth Community High School.

There are several bus stop locations within a ½ mile of the subject parcel, with the closest stops along Kirk Road.



**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: *“At this time, the County is undergoing a critical housing crisis whereby there is an insufficient supply of quality housing to meet the growing demand. In recognition and response to this crisis and to ensure the perpetual protection of environmentally sensitive lands and the targeted redevelopment of blighted areas, the County has established the TDR program and the Redevelopment and Revitalization Overlay to ensure that residential development is appropriately placed. The requested TDRs give the Petitioner the opportunity to provide an appropriately scaled modern housing development on the Property, thus improving housing choice within the County. The local area is developed with a mix of multifamily and single-family residential development that is consistent with the proposed multifamily development. The site as it stands today is vacant and is not serving any beneficial purpose to the County or its residents. The proposed multifamily residential use represents a logical development pattern that complements the surrounding community and meets an ever present need in the County.”*

## Exhibit B - Standards Analysis & Findings (Subdivision Variance)

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The applicant is seeking to redevelop a parcel on the east side of 42<sup>nd</sup> Avenue at the northern terminus of the road. This request includes a Class A conditional use for Transfer of Development Rights (TDR's) (5 units/acre that would allow the development of Multifamily Residential 10 units and a Subdivision Variance from Article 11.E.2.A.2, Table 11.E.2.A-2, Chart of minor streets requirement to provide access from a 40 foot right-of-way, having 20 feet of pavement, with sidewalk on one side of the street and curb-and-gutter drainage.

Engineering staff is recommending **approval** of this 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:** *"There are special conditions and circumstances that exist that are peculiar to the Property that are not applicable to other parcels of land, structures or buildings in the RM district. The Property has retained the same RM zoning and MR-5 future land use throughout the history of land use and zoning in the County, and has been envisioned for the development of medium density residential uses to provide additional housing options within the County. The existing access to the Property is via the existing +/- 55-foot and 60-foot Selberg Lane right-of-way with no sidewalks in lieu of the required minimum 60-foot wide right-of-way with sidewalks on both sides of the street, and via the 30-foot 42<sup>nd</sup> Avenue S right-of-way with no sidewalk in lieu of the minimum 40-foot wide residential access street with a sidewalk on one side of the street as required by the current requirements of the Unified Land Development Code ("ULDC"). The existing Selberg Lane and 42<sup>nd</sup> Avenue South roadways provide access via a developed multifamily residential community to the south, which Applicant does not own. Applicant does not have control over the area leading to the Property and therefore cannot upgrade the access to comply with today's standards. As such, Applicant is unable to provide access via a forty-foot (40') wide right-of-way to be in compliance with today's ULDC requirement. Considering that existing access is provided via a road through an adjacent residential community and that the area has been intended for residential development for decades, there is a special condition and circumstance that is peculiar to the Property and is not normally applicable to other lands within the RM zoning district."*

**Staff Response: YES.** This parcel of land is the last vacant parcel amongst lots that were developed between 1945 and 1979; several of these lots are multi-family lots built in the late 1970's. The property is bordered to the north by LWDD canal. Legal access to this parcel is off of Kirk Road to Selberg Lane and then to 42 Avenue S. 42<sup>nd</sup> Avenue and Selberg Lane were dirt roads that were improved by the County through an MSTU project in 1988 (Palm Beach County Engineering and Public Works Job No. 84192). This project paved the road surface and added drainage.

As the parcels to the south of Selberg Lane were subdivided and platted (between 1976 and 1982), additional right-of-way (R/W) was dedicated to widen Selberg Lane; however a pinch point was created at the intersection of these two roads. The timing of the R/W dedications along with how the properties were developed creates this distinctive road in this same district. Acquiring additional right-of-way would impact existing lots and their property development regulations.

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

**Applicant's Response:** *The special circumstances and conditions do not result from the actions of the Applicant. As mentioned above, the property has been designated MR-5 and zoned RM throughout the history of land use and zoning in the County and has been in its existing configuration since at least the early 1970s. Furthermore, Applicant was not a party to the creation of the existing roadway. Lastly, Applicant was not involved in the approval for the residential development to the south that did not provide a right-of-way dedication to the current Residential Access Street standard. As such, the special circumstances and conditions that created the existing access configuration do not result from the actions of Applicant.*

**Staff Response: YES.** The circumstance of how the road right-of-way was originally created and acquired does not result from the actions of the Applicant. As the properties to the south of Selberg Lane were developed in the late 1970's and early 1980's, they were required to dedicate right-of-way for Selberg Lane. However, the dedications did not completely provide for the full right-of-way along Selberg Lane from Kirk Road to the intersection with 42<sup>nd</sup> Avenue S. At the time their properties were developed they were not required to provide additional right-of-way or improve the roadway to include drainage and a sidewalk.

The properties along 42<sup>nd</sup> Avenue, except for this parcel, were developed between 1945 and 1979. At the time they were developed they were not required to provide additional right-of-way nor improve these roadways to include drainage and a sidewalk.

**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 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 RM district. The Property is zoned RM and has legal access by virtue of a 30-foot roadway that is connected to the County's roadway system by a +/- 55'-60' right-of-way. While the property has legal access, such access width is insufficient per the current ULDC standards. The granting of the variance request would not confer upon the Applicant any special privileges that would be denied to other residential properties. Rather, granting the variance will provide Applicant the same consideration as the other property owners in the surrounding area whose property is served by the existing roadway and is served by the same access configuration. It is not possible for Applicant to provide the access as required by the ULDC because of the existing configuration to the south and lack of alternate accessible roads to access the Property. The same consideration would be provided to any other property under similar constraints.*

**Staff Response: YES.** The proposed multifamily residential building is consistent with the other multifamily developments constructed along 42<sup>nd</sup> Avenue and Selberg Lane. As such, granting the variance shall allow the Applicant to construct housing that is consistent with those in the area; not conferring upon them any special privileges.

**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 literal interpretation and enforcement of the terms and provisions of the ULDC would deprive the Applicant of rights commonly enjoyed by other parcels of land in the RM zoning district and would cause unnecessary and undue hardship. The literal interpretation of this provision of the ULDC would prevent any development of the Property, which is currently sitting vacant. According to Table 11.E.2.A, legal access from a 30-foot wide road is not an enumerated possibility. This table allows residential legal access to be obtained from a 32-foot wide or 40-foot wide residential access street. When the properties to the south were developed, the County did not require dedication to the current standard. As such, literal interpretation and enforcement of the terms and provisions of the ULDC would deprive the Applicant of rights commonly enjoyed by other parcels of land in the RM zoning district and would work an unnecessary and undue hardship by preventing use of the Property.*

**Staff Response: YES.** The proposed multifamily residential development is consistent with the other multifamily developments constructed along 42<sup>nd</sup> Avenue and Selberg Lane. Literal interpretation and enforcement of the terms and provisions of this Code would require the Applicant to acquire right-of-way from the parcels along 42<sup>nd</sup> Avenue S. Additionally, if additional right-of-way is to be acquired it would impact the existing parcels, potentially creating non-conformities which is prohibited by the Code.

**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:** *The variance request is the minimum variance that will allow the Applicant to reasonably use the Property. Applicant is simply seeking to allow access to the Property via the existing road. The road is already used by several small residential developments that are similar to the proposed use, and based on the enclosed traffic study, the proposed Project will be a low traffic generator. As such, the requested variance is the minimum variance that will make possible the reasonable use of the Property.*

**Staff Response: YES.** Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land. The required roadway improvements for the proposed subdivision requires 20' pavement, sidewalk and curb & gutter drainage within a 40' R/W. The existing roads meet the pavement requirements and provides for roadway drainage, as designed by the County through its MSTU project. When 42<sup>nd</sup> Avenue and Selberg Lane were improved, they were designed and constructed with a 20' pavement width and swale drainage within right-of-ways that vary from 30' to 60'. This neighborhood was not developed with sidewalk, nor did the County designed project include a sidewalk.

**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 variance request will be consistent with the purposes, goals, objectives, and polices of the Comprehensive Plan and the ULDC. The MR-5 future land use is intended to provide land that is predominately for the purpose of housing. The RM zoning district is intended primarily for the development of multiple family dwelling units. Approval of this Subdivision Variance will allow for the development of the Property for the multifamily residential use envisioned by the existing land use and zoning. The request for this variance is consistent with the Comprehensive Plan and ULDC.*

**Staff Response: YES.** Granting the variance is consistent with the purposes, goals, objectives and policies of the Plan and the Code. Both roads, 42<sup>nd</sup> Avenue and Selberg Lane, were improved by the County through an MSTU project. Both roads are paved and provide swale drainage.

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

**Applicant's Response:** *Granting the variance will not be injurious to the area or otherwise detrimental to the public welfare. As noted above, the relief sought is to allow access via the existing 30-foot road to continue to provide legal access to the property and allow the development of this vacant, underutilized land. This affords the Applicant the ability to residentially develop the Property and provide a beneficial housing opportunity within the County. As explained above, the roadway is existing, and Applicant does not have the property rights to expand or dedicate the roadway necessary to be consistent with today's ULDC requirements. Furthermore, the roadway has been deemed adequate for the adjacent residential properties to the south and should continue to be sufficient for the Property. As such, granting the variance request will not be injurious to the surrounding area or otherwise be detrimental to the public welfare.*

**Staff Response: YES.** Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. 42<sup>nd</sup> Avenue and Selberg Lane were improved by the County through the MSTU project. The existing road meets the pavement requirements and provides for roadway drainage as designed by the County. This parcel is the last to be developed within this established neighborhood.

## Exhibit C-1 - Conditions of Approval

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### Class A Conditional Use- Transfer of Development Rights

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated December 12, 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)

#### ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2028, 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 issuance of the first building permit, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

3. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's storm water management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

#### PLANNING

1. The subject Development Order for the 10 Multifamily units with a 2-unit Workforce Housing Program (WHP) obligation was calculated based on the base MR-5 FLUA and 5 TDR's. The WHP unit will be for rent and provided onsite. Should a reduction in overall units occur, the WHP obligation may be reduced subject to a new analysis, and the timing mechanisms adjusted administratively as needed. (ONGOING: PLANNING - Planning)

2. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney. (BLDGPM: PLANNING - Planning)

3. Prior to the issuance of the first residential Building Permit, the Property Owner shall provide documentation demonstrating compliance with the required design standards including compatible exteriors and the provision of a model. (BLDGPM: PLANNING - Planning)

4. The Developer shall notify the Planning Division at the commencement of leasing. (ONGOING: PLANNING - Planning)

#### SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board)

## **TRANSFER OF DEVELOPMENT RIGHTS**

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department.

The Contract for Sale and Purchase of TDRs shall accommodate a maximum of 5 TDR units at a total selling price of \$24,180.00 (3 TDR units to be purchased at the Multi-family Full (Market Rate) TDR price of \$7,800.00 per unit (\$23,400.00) and 2 TDR units to be purchased at the at the Multi-family Workforce rate of \$390.00 per unit (\$780.00).

Upon execution, the Property Owner shall submit the Contract to the Palm Beach County Clerk of Court for recordation, and a copy of the recorded Contract shall be provided to the Zoning Division. (DRO: ZONING - Planning)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall submit the Transfer of Development Rights Deed in a manner and form approved by the County Attorney, signed by the Developer and/or Property Owner, in order that it is signed by the Executive Director of Planning, Zoning and Building Department. (DRO: ZONING - Zoning)

3. Prior to Technical Compliance of the plat, or issuance of the first Building Permit, whichever occurs first, the Property Owner shall pay one hundred (100) percent of the Funds, pursuant to the recorded Contract for Sale and Purchase of TDRs, to the Board of County Commissioners, through the Zoning Division. (BLDGPM/TC: ZONING - Zoning)

4. Prior to the issuance of the first Building Permit, except Sales Models or temporary Real Estate Sales and Management Offices, the Zoning Division provides the Developer and/or Property Owner the executed Transfer of Development Rights Deed, in order for the Property Owner to submit the TDR Deed to the Palm Beach County Clerk of Court for recordation, and a copy of the recorded TDR Deed shall be provided to the Zoning Division. (BLDGPM/TC: 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 C-2 Conditions of Approval

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### Subdivision Variance

#### ALL PETITIONS

1. This Subdivision Variance is approved based on the layout as shown on the Preliminary Site Plan dated December 12, 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-2024-00760. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

#### 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 D - Project History

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The site is currently vacant with no prior approvals.

**Exhibit E-1 – Preliminary Site Plan**

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REV	DATE	BY	DESCRIPTION

CLIENT:  
**CONSTRU AMERICAN, LLC**

824 LAKE WORTH AVENUE SUITE 300  
LAKE WORTH BEACH, FLORIDA 33440

PROJECT NAME:  
**CONSTRU AMERICAN 4160**

SITE LOCATION:  
**4160 42nd AVENUE S  
LAKE WORTH, FL 33441**

SHEET TITLE:  
**PRELIMINARY SITE PLAN**

PHASE:  
**PERMIT**

PROJ. NO.:  
**23-0034.01**

SHEET:  
**PSP-1**

DATE:  
**10/07/2024**

SCALE:  
**AS NOTED**

CONSTRUCTION CONTRACT NO. 23-0034.01-01

PROFESSIONAL SEAL:

Alexander D. Scheffer  
Florida P.E. No. 73802  
December 10, 2024

MULTIFAMILY RESIDENTIAL 110 DU

CONCURRENCY RESERVATION

110 DU

CONCURRENCY RESERVATION

110 DU

CONCURRENCY RESERVATION

110 DU

CONCURRENCY RESERVATION

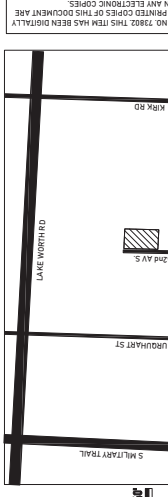
110 DU

CONCURRENCY RESERVATION

110 DU

CONCURRENCY RESERVATION

110 DU



**SITE DATA**

APPLICATION NAME	CONSTRU AMERICAN 4160
ADDRESS	4160 42 AVENUE S
APPLICATION NO.	CA-2024-10740
CONTROL NO.	2023-00297
PROJECT NO.	UNKNOWN
LAST ZC/BOC APPROVAL DATE	NONE
RESOLUTIONS	NONE
PROPERTY CONTROL NUMBERS	00-42-44-25-00-000-1040
ZONING	RM
FUTURE LAND USE	MR-5
EXISTING USE	VACANT
PROPOSED USE	MULTIFAMILY RESIDENTIAL
TIER	URBAN/SUBURBAN
TRAFFIC ANALYSIS ZONE (TAZ)	35F
OVERLAYS	CORR #48 LAKE WORTH WEST AREA
SITE AREA (GROSS)	39,795.07 SF
REQUIRED	PROVIDED
BUILDING HEIGHT / STORIES	3/ 28' (2 STORY)
REC AREA	0.057 ACRES
TOTAL NUMBER OF UNITS	10
UNITS REQUESTED ON-SITE FOR MULTI-FAMILY	5
WHP TD'S REQUIRED (34%)	2
TOTAL WHP REQUIRED/PROVIDED ON-SITE FOR RENT (ORG./PG./BD)	2

**PARKING DATA**

USE	RATIO	RESIDENTIAL BUILDING (UNITS)	PARKING REQUIRED	PARKING PROVIDED
MULTIFAMILY RESIDENTIAL	1.75	10	17.5	
GUEST (1 PER 4 UNITS)	4	10	2.5	
OVERALL TOTALS		10	20.0	23
ADA REQUIRED 1 SPACE FOR 1 TO 25 TOTAL SPACES				
1 ADA PROVIDED				

**PROPERTY DEVELOPMENT REGULATIONS (PDR)**

ZONING DISTRICT	REQUIRED	PROVIDED	SIZE	WIDTH	FRONTAGE	DEPTH	MAX. AREA COVERAGE	FRONT(Y)	SIDES(Y)	REAR
RM	40'	262.8'	48'	48'	48'	48'	40%	28'	10'	10'
RM	30'	262.8'	30'	30'	30'	30%	30'	10'	13'	43.4'

**VARIANCE REQUEST**

ULDC CODE SECTION	REQUIRED	PROPOSED	VARIANCE
TABLE 11E.2.A.2	40' R/W LIKE ON BOTH SIDES OF STREET (SELBERG LANE); 40' R/W W/ SIDEWALK ONE SIDE OF STREET (42ND AVE S)	55' R/W & 64' R/W WITH NO SIDEWALKS (SELBERG LANE); 30' R/W WITH NO SIDEWALK (42ND AVE S)	5' R/W W/ SIDEWALKS ON BOTH SIDE OF STREET (SELBERG LANE); 10' R/W W/ SIDEWALK ON ONE SIDE OF STREET (42ND AVE S)

**CONCURRENCY RESERVATION**

ULDC CODE SECTION	REQUIRED	PROVIDED
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**CONCURRENCY RESERVATION**

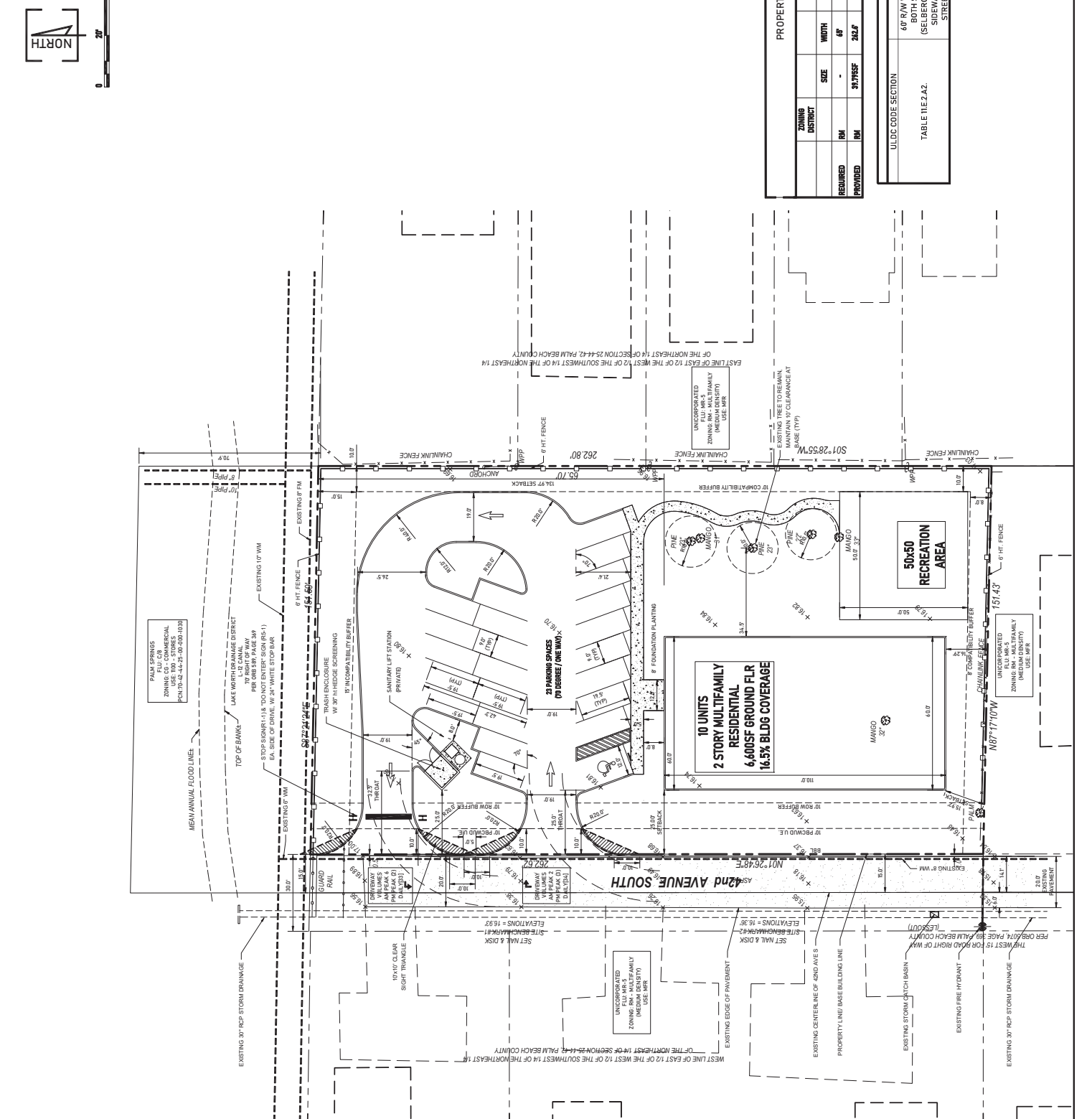
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## Exhibit E-2 – Preliminary Regulating Plan

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**cabezas • alvarez**  
landscape architects, inc  
88 NE 5TH AVENUE  
DELRAY BEACH, FL 33483  
www.cabezasalvarez.com  
561.535.1275

**PROJECT:** CONSTRU AMERICAN 4160  
**CLIENT:** CONSTRU AMERICAN LLC  
**LANDSCAPE PERMIT DRAWINGS**

**REVISIONS:**

No.	Date	Description

**SEAL:** LANDSCAPE ARCHITECT JOSEPH ALVAREZ

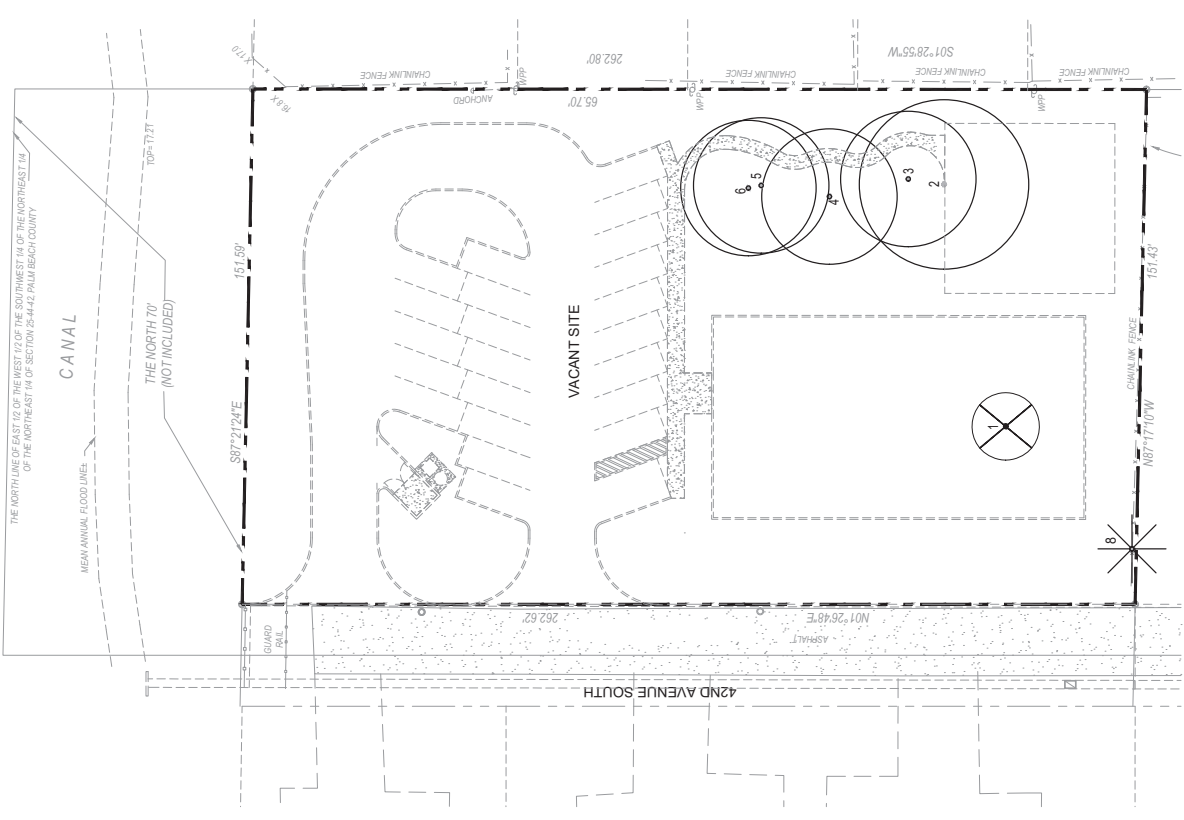
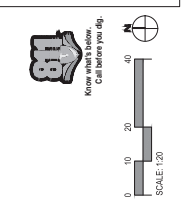
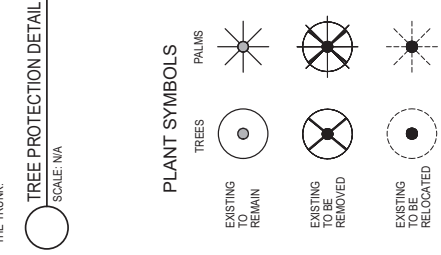
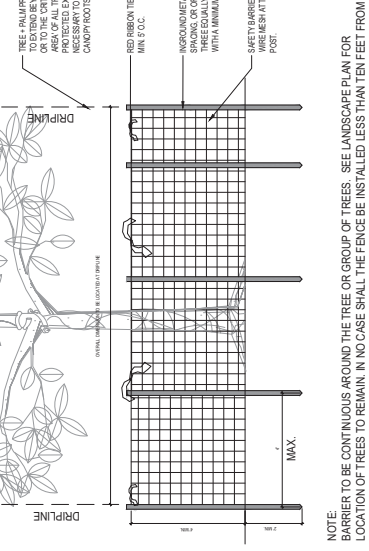
REGISTRATION NO. FLA 48977490  
**SHEET TITLE:** PRELIMINARY REGULATING PLAN  
Scale: 1" = 20' - 0"  
Drawn By: JMA  
Checked By: JMA  
Date: 05/15/2024  
**SHEET NUMBER:** PRP-1  
**SHEET 1 OF 1**

**MITIGATION SUMMARY**

ERM TREES TO REMAIN	3
ERM TREES TO BE REMOVED	0
ERM TREES TO BE RELOCATED	0
ERM REPLACEMENT CREDITS REQUIRED	0
ERM REPLACEMENT CREDITS PROVIDED (PRESERVED)	21
<b>ERM REPLACEMENT CREDITS TO BE PROVIDED VIA ON-SITE MITIGATION</b>	<b>0</b>
ZONING TREES TO REMAIN	2
ZONING TREES TO BE REMOVED	1
ZONING TREES TO BE RELOCATED	0
ZONING REPLACEMENT CREDITS REQUIRED	7
ERM REPLACEMENT CREDITS PROVIDED (PRESERVED)	13
<b>ZONING REPLACEMENT CREDITS TO BE PROVIDED VIA ON-SITE MITIGATION</b>	<b>0</b>
PALMS TO REMAIN	1
PALMS TO BE REMOVED	0
PALMS TO BE RELOCATED	0

**TREE DISPOSITION**

TREE NUMBER	BOTANICAL NAME	COMMON NAME	DBH (IN)	HEIGHT (FT)	CLEAR TRUNK (FT)	ERM	NATIVE	ZONING	DISPOSITION	ERM REPLACEMENT NATIVE VEGETATION MITIGATION	ZONING REPLACEMENT VEGETATION & REPLACEMENT	CREDITS
1	<i>Mangifera indica</i>	MANGO	32	40		NO	NO	NA	REMOVE	-	7	-
2	<i>Mangifera indica</i>	MANGO	33	35		NO	NO	NA	REMAIN	-	-	7
3	<i>Pinus elliotii</i>	SLASH PINE	22	50	50	YES	YES	NO	REMAIN	-	-	7
4	<i>Pinus elliotii</i>	SLASH PINE	23	45		YES	YES	NO	REMAIN	-	-	7
5	<i>Mangifera indica</i>	MANGO	31	25		NO	NO	NA	REMOVE	-	-	6
6	<i>Pinus elliotii</i>	SLASH PINE	23	45		YES	YES	NO	REMAIN	-	-	7
8	<i>Sabal palmato</i>	CABBAGE PALM			7	YES	YES	NO	REMAIN	0	-	-



**AMENDMENTS:**

**ZONING STAMP:**

## Exhibit E-3 – Disclosure of Ownership

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## 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 Julian Prieto Avila, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- Affiant is the  individual or  Manager *[position - e.g., president, partner, trustee]* of Constru American, LLC *[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.
- Affiant's address is: 824 Lake Avenue, #390  
Lake Worth, FL 33460
- 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.
- 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.
- 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.
- 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.

Julian Prieto Avila, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

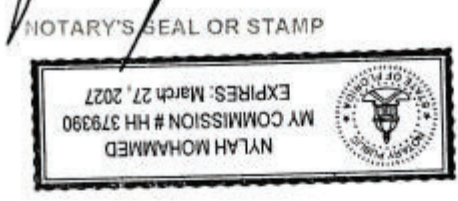
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 17<sup>th</sup> day of April, 2024 by Julian Prieto Avila (name of person acknowledging). He/she is personally known to me or has produced FL DL (type of identification) as identification and did take an oath (circle correct response).

Nylah Mohammed  
(Name - type, stamp or print clearly)

[Signature]  
(Signature)

My Commission Expires on: 3/27/2027





**EXHIBIT "A"**

**PROPERTY**

**LEGAL DESCRIPTION:**

THE EAST ONE-HALF (E ½) OF THE WEST ONE-HALF (W ½) OF THE SOUTHWEST QUARTER (SW ¼) OF THE NORTHEAST QUARTER (NE ¼) OF THE NORTHEAST QUARTER (NE ¼) OF SECTION 25, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. LESS THE NORTH 70 FEET THEREOF AND LESS THE SOUTH 340 FEET THEREOF; AND LESS THE WEST 15 FEET FOR ROAD RIGHT-OF-WAY PURPOSES AS CONVEYED TO PALM BEACH COUNTY IN THAT DEED FILED NOVEMBER 17, 1986 IN O.R. BOOK 5074, PAGE 369, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

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	50%
Sandra Roldan	824 Lake Avenue, Lakewood, FL 33460	50%
Julian Prieto	824 Lake Avenue, Lakewood, FL 33460	50%

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## Exhibit E-4 – Drainage Statement

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December 9, 2024

4160 42 Avenue S  
Palm Beach, FL 33460  
PCN: 00-42-44-25-00-000-1040

#### ENGINEER'S DRAINAGE STATEMENT

Application Name: Constru American 4160  
ApplicationNo: SV/CA-2024-00760

#### PROJECT DESCRIPTION

The proposed project will develop the vacant .913-acre site and construct a new 2-story, 10-unit multifamily residential building. The project site is bound by LWDD L-12 Canal on the north boundary, 42<sup>nd</sup> Avenue South on the west boundary, and existing multifamily residential properties on the South and East boundaries. The site is generally situated south of Lake Worth Road, east of S Military Trail, west of Kirk Road, and north of Selberg Lane. The Finished Floor Elevation (FFE) of 17.5' NAVD and the lowest Pavement Elevation is 16.00' NAVD.

#### PROPOSED DRAINAGE

The Site is within the South Florida Water Management District's (SFWMD) C-16 Drainage Basin and is adjacent to the Lake Worth Drainage District (LWDD) L-12 canal and service area. It is proposed that runoff will be directed to on-site water management areas (underground exfiltration trench) by means of storm inlets and storm water drainage structures. Legal positive outfall is available to the site via connection to the LWDD L-12 drainage system structure adjacent to the parcel's north boundary. Drainage design is to address the following:

1. On-site retention of the runoff from the 3 year, 1 hour rainfall event.
2. No runoff to leave the site except through an approved control structure up to level produced by the 25 year, 3 day rainfall event.
3. Building floor elevation to be at or above the level produced by the 100 year, 3 day rainfall event (zero discharge)
4. Parking lot to be protected from flooding during a 5 year, 24 hour rainfall event.
5. Allowable discharge to be in accordance with SFWMD and LWDD criteria.
6. Due consideration to water quality per SFWMD criteria.

#### Required permits/approvals to include the following:

1. Palm Beach County Building Department (on-site drainage review and approval)
2. Lake Worth Drainage District New Drainage Connection Point
3. Florida Department of Environmental Protection

Sincerely,  
SCHEFFER MOTE & RICKS

ALEX SCHEFFER, P.E., LEED GREEN ASSOC.  
President

## Exhibit E-5 – Utility Letter

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**Letter for  
Concurrency Reservation**

**To: Zoning Division  
PBC Planning, Zoning, & Building Department**

**From: Ebony M. Foreman, Director  
Finance and Administration  
PBC Water Utilities Department**

**Date: February 21, 2024**

**Control # 00207**

**Re: PZ&B Application #:  
Project Name – Constru American 4160**

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The Palm Beach County Water Utilities Department is willing and able to provide the following utility service(s) to the property identified below, and will reserve the indicated utility capacity, in Equivalent Residential Connections (ERCs), for a period not to exceed five (5) years from the date of this letter:

<u>Service Type</u>	<u>Capacity (in ERCs)</u>
Potable Water	<u>7.56</u>
Wastewater	<u>7.56</u>
Reclaimed Water	<u>N/A</u>

An Equivalent Residential Connection represents a system capacity equivalency unit that corresponds to the peak design demand of the 5/8 x 3/4 inch meter sub-category of customer usage. This system capacity equivalency unit is utilized to establish the system demand for various sized connections for the purpose of assessing fees and designing the capacity of capital facilities.

The above capacity is reserved for the following property:

**00-42-44-25-00-000-1040**

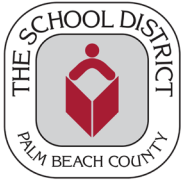
Before the five (5) year period expires, the Developer must pay all Service Initiation Fees and connect to the Department's facilities, or for projects greater than 18.3 ERCs, enter into a Standard or Non-Standard Development Agreement to maintain this capacity reservation. This memorandum does not represent a contract for service, and the Developer remains obligated to meet all of the requirements of the Water Utilities Department prior to obtaining utility service.

Approved By:   
Director of Finance & Administration

Date: 21 Feb -24

**Exhibit E-6 – School Capacity Availability Determination**

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THE SCHOOL DISTRICT OF  
PALM BEACH COUNTY, FL

KRISTIN K. GARRISON, AICP  
DIRECTOR

MICHAEL J. BURKE  
SUPERINTENDENT

PLANNING & INTERGOVERNMENTAL RELATIONS  
3661 INTERSTATE PARK ROAD NORTH, 200  
RIVIERA BEACH, FL 33404

JOSEPH M. SANCHES, MBA  
CHIEF OPERATING OFFICER

PHONE: 561-434-8020 / FAX: 561- 434-8942  
[WWW.PALM BEACHSCHOOLS.ORG](http://WWW.PALM BEACHSCHOOLS.ORG)

## SCHOOL CAPACITY AVAILABILITY DETERMINATION (SCAD)

<b>Application</b>	<b>Submittal Date</b>	12/05/2024		
	<b>SCAD Case No.</b>	24120401D – D. O.		
	<b>FLU /Rezoning/D.O. No.</b>	SV/CA-2024-00760/Unincorporated Palm Beach County		
	<b>PCN No. / Address</b>	00-42-44-25-00-000-1040/4160 42nd Avenue S		
	<b>Development Name</b>	Constru American 4160		
	<b>Owner / Agent Name</b>	Constru American, LLC /Miskel Backman, LLP		
	<b>SAC No.</b>	210A		
	<b>Proposed Unit No. &amp; Type</b>	Ten (10) Multi-Family Units		
<b>Impact Review</b>		<b>Diamond View Elementary School</b>	<b>Tradewinds Middle School</b>	<b>Lake Worth High School</b>
	<b># of New Students Generated</b>	2	1	1
	<b>Capacity Available</b>	290	356	23
	<b>Utilization Percentage</b>	74%	71%	99%
<b>School District Staff's Recommendation</b>	Based on the findings and evaluation of the proposed development, there will be no negative impact on the School District of Palm Beach County public school system. Therefore, the School District has no comment on this application.			
<b>Validation Period</b>	<p>1) This determination is valid from <b>12/09/2024</b> to <b>12/08/2025</b> or the expiration date of the site-specific development order approved during the validation period.</p> <p>2) A copy of the approved D.O. must be submitted to the School District Planning Department prior to <b>12/08/2025</b> or this determination will expire automatically on <b>12/08/2025</b>.</p>			
<b>Notice</b>	School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and by direction of the Superintendent, public school attendance zones are subject to change.			

*Joyce Cai*

December 9, 2024

School District Representative Signature

Date

Joyce C. Cai, Senior Planner

joyce.cai@palmbeachschools.org

Print Name & Title of School District Representative

Email Address

CC: Vismary Dorta, Site Plan Technician, Palm Beach County  
Joyell Shaw, PIR Manager, School District of Palm Beach County



**Exhibit E-7 – Transfer of Development Rights Determination**

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## TDR Request Form

This form is only intended to be utilized under the following circumstances:

- \*when the proposed project has less than 10 total units per FLUA and does not trigger WHP review and determination;
- \*there is no active companion land use amendment in process;
- \*for the purposes of sufficiency in the Zoning Development Review process.

Site address: 4160 42<sup>nd</sup> Avenue South

PCN: 00-42-44-25-00-000-1040      Acres: 0.91 (PAPA)    Future Land Use: MR-5    Zoning: RM

Is the site adjacent to publicly owned Environmental Sensitive Lands: **Yes / No**  
(may require verification from ERM)

**RRIO:** **yes/no** (see Map LU1.1 for boundaries or layer in GEONAV under RRO)

**URA:** **yes/no**    **PRA:** **yes/no**

\*TDR's can go in URA only in cases of opt out's but not in FLUA of UC or UI

**Unit Type:**    Single Family / Townhouse / **Multi-family**                      Apartments

**Number of potential TDR's: 5 TDRs per acre**

The table below represents the available TDR's available per acre for each future land use and includes:

- Maximums per FLUE Policy 2.4-g (pg. 89), and;
- Subsequent limitations (100% bonus cap) per ULDC Article 5.G.3.I.4.c. (pg. 100), and;
- The Extra Bonus unit is based on FLUE Policy 2.4-j (pg. 90) for areas meeting one or both of the following:
  - 1) proximity to community services and amenities including parks, community commercial facilities, and mass transit; and/or
  - 2) proximity to employment centers (defined as regional commercial facilities or major industrial facilities). The determination of the appropriate density increases shall be based upon location, compatibility with the surrounding land uses, and consistency with County Goals, Objectives and Policies.

Future Land Use Designation	Location			Extra Bonus Unit
	West of Turnpike	East of Turnpike	RRI Overlay	
Low Residential 1	1	1	1	1
Low Residential 2	2	2	2	1
Low Residential 3	2	3	3	1
Medium and High Res.	2	3	4	1

0.91 X 5 = 4.55 or 5 when rounding, 5 available TDRs

Acres x permitted TDR's = # available TDR's

**Number of TDR's requested: 5**

**WHP Required:** Per FLUE Policy 2.4-a.5 (pg. 87) and ULDC Art. 5.G.3.I (pg. 99) TDR density bonus units acquired from the TDR Bank shall have a workforce housing obligation of 34 percent.

5 X .34% = 1.7 or 2 when rounding  
Total TDR's x .34% = **2 TDR WHP Obligation**

**Applicable Process:** Per ULDC Art. 5.G.3.K.3 (pg. 102) Review Process The review process for TDR applications is based upon the density and type of residential development proposed.

- a. The transfer of two units per acre or less to a residential subdivision is reviewed by the DRO and shall be subject to the provisions of Art. 2.C, Administrative Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDD or TDD shall not utilize this Chapter option;
- b. The transfer of more than two units per acre to a residential subdivision is reviewed as a Class A Conditional Use and shall be subject to the provisions of Art. 2.B, Public Hearing Processes, except as provided below. Parcels which meet the minimum acreage thresholds for a PDD or TDD are allowed to utilize the option contained in this paragraph, provided the parcel meets the PDD or TDD PDRs contained in Art. 3.E, Planned Development Districts (PDDs), or contained in Art. 3.F, Traditional Development Districts (TDDs);

c. The transfer of any density to a planned development is reviewed as a Conditional Use and shall be subject to the provisions of Art. 3.E, Planned Development Districts (PDDs). A general application by a Property Owner for receiving area status and a density bonus shall be accepted for review and processing.

d. BCC approval is required for any project that is requesting a combined density increase/transfer through the WHP and TDR Program that exceeds two units per acre.

*Requested TDR's / Acres of request =*

**FLUA – Zoning Consistency:** Policy 2.2.1-j: Table 2.2.1-j.1 establishes the consistent residential zoning and planned development district for the Residential Future Land Use Designations. In addition, within the Urban/Suburban Tier of the Glades Tier, the Agricultural Residential and Agricultural Production zoning districts are consistent with all residential future land use designations. Table 2.2.1-j.1, Residential Future Land Use - Zoning Consistency<sup>1</sup>

**Process to be utilized based on request:** \_\_\_\_\_

Future Land Use Designation	Consistent Zoning	
	Zoning District	Planned Development
Agricultural Reserve	AGR	AGR-PUD
Essential Housing		60/40 PUD, MUPD, TMD
Rural Residential	AR <sup>4</sup> , RE <sup>5</sup>	RR-PUD, MHPD, RVPD
Western Communities Residential	AR	PUD
Low Residential	AR <sup>4</sup> , RE, RT, RTS, RS <sup>4</sup>	PUD, TND, MHPD
Medium Residential	AR <sup>4</sup> , RE, RT, RS, RTU, RM/RH <sup>2</sup>	PUD, TND, MHPD, MUPD <sup>6</sup>
High Residential	AR <sup>4</sup> , RE, RT, RS, RM, RH	PUD, TND, MHPD, MUPD <sup>6</sup>
Congregate Living Residential	RM	PUD, MUPD, MXPD <sup>3</sup>

**Notes:**

1. The RTS, RTU, and RH zoning districts and the Special Exception for a PUD have been discontinued. Properties with these districts shall not be required to rezone and shall utilize the property development regulations of their equivalent districts which are as follows: RTS equals RT; RTU equals RS; RH equals RM, Special Exception for a PUD equals a PUD.
2. The RM District is consistent with the MR-5 designation only for those properties that were zoned RM or RH prior to the Plan's August 31, 1989 adoption or are 3+ acres utilizing the Transfer of Development Rights and/or Workforce Housing Program.
3. The CLR designation is consistent with the MUPD and MXPD for mixed or multiple use projects. The uses allowed in the CLR designation, and associated approval processes, are the same as the uses allowed in RM or PUD zoning with the limitation that any residential uses are limited to congregate living facilities.
4. A lot with AR that was legally subdivided shall be considered a conforming lot. Properties with AR zoning with a residential future land use designation in the Urban Suburban Tier are not required to rezone when subdividing for a residential use provided that the newly subdivided density is a maximum of 1 unit per acre, or when developing a non-residential use that is allowed in AR.
5. The RE zoning district is consistent with RR-5, RR-10, and RR-20 only for parcels which held RE prior to the adoption of the 1989 Plan.
6. The Multiple Use Planned Development (MUPD) zoning is consistent with the Medium and High Residential future land use designations within the Urban/Suburban Tier for sites that have and utilize a non-residential future land use designation on a portion of the MUPD.

**Disclaimers:**

\*TDR pricing subject to prices in effect when request is deemed sufficient by Zoning. All TDR forms are required to be filled out, but not executed, when submitted to Zoning for sufficiency.

\*The above potential and requested entitlements may be reduced due to site development requirements such as but not limited to provisions for drainage, Rights-of-way and other dedications, environmental, setbacks, access, and compatibility with adjacent development. Pre-application meetings with staff should be initiated with Zoning staff.

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