

PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION

**Application No.:** ZV/SV/PDD/CA-2023-00374  
**Application Name:** Northlake Commercial  
**Control No./Name:** 1973-00237 (Bellsouth Mobility/Tylaneders)  
**Applicant:** Northlake 3540  
**Owners:** Northlake 3540  
**Agent:** WGINC - Yoan Machado  
**Telephone No.:** (561) 687-7220  
**Project Manager:** Donna Adelsperger, Senior Site Planner

**Title:** a Type 2 Variance **Request:** to allow a reduction of the lot size and side-street setback on 2.02 acres

**Title:** a Subdivision Variance **Request:** to allow secondary access from a non-plan collector road with 22-foot wide pavement and sidewalk only on one side of the street on 2.02 acres

**Title:** an Official Zoning Map Amendment **Request:** to allow a rezoning from the Light Industrial (IL) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 2.02 acres.

**Title:** a Class A Conditional Use **Request:** to allow a Type 1 Restaurant with drive-through on 2.02 acres

**APPLICATION SUMMARY:** The proposed requests are for the 2.02-acre Northlake Commercial MUPD development. The site was last approved by the Zoning Commission (ZC) on January 4, 1974 for a rezoning from General Commercial (CG) to Light Industrial (IL). The site is currently developed with Retail and Auto Repair uses.

The request will allow the rezoning to the Multiple Use Planned Development (MUPD) Zoning District in order to allow for the development of Retail and Type 1 Restaurant with drive-through (Conditional Use) and the General Retail (existing) uses. In addition, the applying is requesting a Type 2 Variance to reduce the lot size and side-street setback; and a Subdivision Variance to allow secondary access from a non-plan collector road with 22-foot wide pavement and sidewalk only on one side of the street. The Preliminary Site Plan (PSP) indicates two buildings with a total of 8,900 square feet (sq. ft.), 55 parking spaces, and access from Northlake Boulevard and Burma Road.

The request is contingent upon a concurrent application for a Small Scale Future Land Use Amendment, SCA-2023-000022, to change the future land use designation from Industrial (IND) to Commercial Low (CL).

**SITE DATA:**

<b>Location:</b>	Southwest corner of Northlake Boulevard and Burma Road
Property Control Number(s)	00-43-42-19-00-000-3024
Existing Future Land Use Designation:	Industrial (IND)
Proposed Future Land Use	Commercial Low (CL)
Existing Zoning District:	Light Industrial District (IL)
Proposed Zoning District:	Multiple Use Planned Development (MUPD)
Total Acreage:	2.02 acres
Tier:	Urban/Suburban
Overlay District:	Northlake Corridor Overlay
Municipalities within 1 Mile	Lake Park, North Palm Beach, Palm Beach Gardens, Riviera Beach
Future Annexation Area	Lake Park, Palm Beach Gardens
Commission District	District 1, Commissioner Maria G. Marino

**RECOMMENDATION:** Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibit C-1 through C-4.

**ACTION BY THE ZONING COMMISSION (ZC):** Scheduled for the November 2, 2023 ZC Hearing.

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

**PROJECT HISTORY:** The development is part of a rezoning from the General Commercial (CG) Zoning District to the Light Industrial (IL) Zoning District granted under R-1974-0062 that included the parcel immediately located to the west. The western portion of that rezoning received an approval for a Special Exception for a Drive Through Restaurant under Resolution R- 1993-00334. The southern portion of the Type 1 Restaurant parcel has a 150-foot Monopole Communication Tower that was permitted in 1994 by a Building Permit (B-94-011097). The site is currently developed with Retail and Auto Repair uses.

**TYPE II VARIANCE SUMMARY:** To allow reduction in the required lot size for an MUPD and the reduction for the side street setback for an existing sturcture.

	ULDC Article	Required	Proposed	Variance
V1	3.E.3.D MUPD Property Development Regulations	3.0 acres	2.02 acres	reduction of 0.98 acres
V2	3.E.3.D MUPD Property Development Regulations	25 foot side setback	21 foot side setback	reduction of 4 feet

**FINDINGS:** Type 2 Variance Standards:

When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

The Applicant is requesting two Variances to allow for a reduction in lot size requirement for an MUPD and a reduction in the side street setback requirement for an existing structure.

- 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:***

**YES: V1:** Special conditions and circumstances exist which are peculiar to the Property and are not applicable to other lands, structures, or buildings in the same zoning district. As noted the Applicant requests a reduction in the minimum lot area required for an MUPD to 2.02 acres. The property was subdivided and developed almost 50 years ago. The Applicant is unable to add property to increase the property acreage and provide the minimum area required. The 2.02-acre parcel area is sufficient to accommodate the proposed Type 1 Restaurant and existing Retail structure. The Northlake Boulevard Corridor is primarily commercial development, and the proposed development on the parcel is consistent with the area. Approval of this variance will allow for a development program that is consistent with the surrounding area. The age of the development, incompatibility of the existing use, and multiple frontages on existing rights-of-way are special conditions and circumstances that apply to the subject site.

**YES: V2:** Special conditions and circumstances exist which are peculiar to the property and are not applicable to other land, structures, or buildings in the same district. The Applicant requests a reduction in the minimum side street setback required for an MUPD to 21 feet for an existing structure. The Applicant is unable to provide the required 25 foot setback without demolishing the existing structure. The building was constructed in 1969 under the setbacks for the Light Industrial Zoning. The constraints created by the existing structure built in 1969 creates special conditions that apply to the subject site specifically.

- b. ***Special circumstances and conditions do not result from the actions of the Applicant:***

**YES: V1:** The special conditions and circumstances listed above do not result from the actions of the Applicant. The lot size cannot be increased, as it has frontage on these two streets and the surrounding parcels are developed. The parcels to the west and to the south are under separate ownership, and not controlled by the Applicant to increase the lot size. Therefore the conditions that do now allow the lot size to meet the minimum requirement are not a result of the actions of the Applicant.

**YES: V2:** The special conditions and circumstances listed above do not result from the actions of the Applicant. They are a result of the existing building, constructed in 1969 by an entity other than the Applicant. In order to meet the side street setback would require further action that would minimize the ability to maintain the current structure and require further impact on the site. The inability to acquire more land or to move the building to allow the site to meet the 25 foot side street setback are not a result of 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:***

**YES: V1:** Granting the variance to minimize the required lot size would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district. It is not possible to provide the minimum lot size of three acres due to the frontages along Northlake Blvd. and Burma Rd and the existing development to the west and south. Properties under similar circumstances regarding location and surrounding development would be considered under the same criteria. As such, granting this variance would not confer on the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district.

**Yes: V2:** Granting the variance to minimize the required side street setback from 25 feet to 21 feet would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD District. It is not possible to provide the minimum side street setback of 25 feet due to the existing structure on the site that was constructed in 1969. Properties under similar circumstances regarding older or nonconforming structures would be considered under the same criteria. As such, granting this variance would not confer on the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district.

**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:***

**YES: V1:** 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 and prevent redevelopment of the property. The inability of the Applicant to provide the required minimum lot size of three acres for MUPD Zoning would create unnecessary and undue hardship on the Applicant as the ability to acquire additional lands is not there.

**YES: V2:** 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 literal interpretation of the ULDC would create unnecessary and undue hardship on the Applicant and require further demolition on the existing structure. The Applicant wishes to maintain the existing structure, built in 1969, which has a 21 foot side street setback. As such, requiring the Applicant to provide the minimum side street setback of 25 feet would create unnecessary and undue hardship on the Applicant.

**e. *Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure:***

**YES V1:** The variance to reduce the minimum lot size requirement is the minimum variance that will allow the Applicant to make reasonable use of the Property. The Applicant has proposed a development that complies with the ULDC and NBOZ requirements to the greatest extent possible. With the parcel having frontages along two ROWs, Northlake Boulevard and Burma Road, and the adjacent parcels under different ownership, prevent the proposed development from meeting the lot size. As such, the requested variance is the minimum variance that will make reasonable use of the parcel of land, building or structure.

**YES V2:** The variance to reduce the side street setback requirement is the minimum variance that will allow the Applicant to make reasonable use of the property. The Applicant would need to demolish the existing structure in order to meet the required setback. As such, the requested variance is the minimum variance that will reasonable use of the parcel of land, building or structure.

**f. *Grant the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:***

**YES V1:** Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. The Applicants request of a FLU Amendment for the Property from Industrial to Commercial Low will allow for the proposed development to be consistent with the proposed CL Future Land Use. The proposed development is located on Northlake Blvd, within a commercial corridor of Palm Beach County. The proposed commercial uses will support and expand upon the existing commercial presence along Northlake Blvd. Approval of the Variance to reduce the MUPD lot size requirement is consistent with the ULDC and Comprehensive Plan.

**YES V2:** Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. The proposed rezoning of the property to a MUPD is permitted under the CL Future Land Use Designation. Approval of the variance to reduce the side street setback to 21 feet will allow for the implementation of the proposed development and minimize further impacts to the site.

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

**YES V1:** Granting of the variances will be not be injurious to the area or otherwise detrimental to the public welfare. The reduction in lot size will allow for the redevelopment of the parcel and will further the purposes, goals, objectives, and policies of both the Comprehensive Plan and the ULDC. The proposed development will include a Type 1 Restaurant, and legitimize an existing Retail Store. The proposed commercial uses will support and expand upon the existing commercial presence along Northlake Blvd.

**YES V2:** Granting of the variances will be not be injurious to the area or otherwise detrimental to the public welfare. The reduction in the side street setback for an existing structure will allow for a existing structure to remain and be redeveloped as a permitted use consistent with the ULDC. The proposed commercial uses will support and expand upon the existing commercial presence along Northlake Blvd.

**SUBDIVISION VARIANCE SUMMARY:** To allow an existing street to not meet the required pavement width and to have a sidewalk only one side of the street.

	ULDC Article	Required	Proposed	Variance
S1	11.E.2.A Local street constructed to County standards	Access from Non-Plan Collector Road having 24 feet wide pavement and sidewalks on both sides of street	22 feet wide pavement with sidewalk only on one side of street	reduction of 2 feet pavement width with sidewalk only on one side of street

**FINDINGS:**  
Subdivision Variance Standards:

When considering a Development Order application for a Subdivision Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Subdivision Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

The Agent for this site is seeking multiple approvals to redevelop a parcel on the southwest corner of Northlake Boulevard and Burma Road. These approvals include a Rezoning to an MUPD, a Class A Conditional Use to allow a Type I Restaurant, a Type 2 Variance to allow a reduction in lot size, a Type 2 Variance to all a reduction in the side street setback and a Subdivision Variance to allow access to a street that is not constructed to local commercial/non-plan collector standards. Pursuant to the Unified Land Development Code (ULDC), Article 11, Chapter E.2.A.4.b., where a lot abuts streets of Local or higher classification, access to the lot shall be by the street of lower classification, unless otherwise permitted by this Code; provided, however, that access shall not be permitted on a Local Residential or Residential Access Street as prescribed on Table 11.E.2.A-2, Chart of Minor Streets, unless the street cross section is improved to meet Local Commercial standards. A subdivision variance is requested to allow a secondary access on Burma Road, which currently does not meet Local Commercial standards. The Applicant will be conditioned to build two (2) 11-foot travel lanes and a sidewalk on the west property line along their property frontage.

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 which are peculiar to the Property and are not applicable to other lands, structures, or buildings in the same zoning district. The Applicant respectfully requests a subdivision variance to allow access from Non-Plan Collector Road having 22 feet wide pavement and a sidewalk only on one side of the street. The Northlake Boulevard access is an existing access point and is required in order to ensure safe and efficient travel patterns in and around the property. Burma Rd is a residential access street with 22 feet of pavement and a proposed sidewalk. The existing development on the subject site and the property on the east side of Burma preclude the widening of the road to non-plan collector standards. The existing structure on the east side of the subject site combined with the required 24 feet of pavement with sidewalks on both sides of the street is a unique circumstance specific to the property.

**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. The existing permitted building would have to be demolished in order to provide the right-of-way to meet the requirements for a non-plan collector road. The variance they are requesting is to construct a 22-foot wide pavement section with sidewalk on side on the road.

**b. *Special circumstances and conditions do not result from the actions of the Applicant:***

**Applicant's Response:** The special conditions and circumstances preventing the site from meeting code do not result from the actions of the Applicant. They are a result of the previously approved Burma Rd and existing structure on the site, both of which existing long before the Applicant took ownership of the property and commenced planning for the proposed infill redevelopment. The site currently has access to both Northlake Boulevard, a 150 foot ROW, and Burma Rd, a 30 foot ROW with 22 feet of pavement and a proposed sidewalk on one side of the road. These two access points have been utilized in their current conditions for years prior to the Applicant's purchase of the property. The Applicant is proposing to shift the access to Burma on the east property line south and increase the throat distance from the existing layout of the site in efforts to improve access and ensure safe circulation patterns. However, providing 24 feet of pavement with sidewalks on both sides of the street is not feasible. Approval of the subdivision variance will allow the Applicant to pursue the infill redevelopment of the site, add landscaping, and eliminate the existing blighted conditions. The Applicant is not responsible for the existing 30 foot ROW and 22 feet pavement width. Burma Rd has existed with these dimensions for years. Therefore, the circumstances and conditions required are not a result of the actions of the Applicant.

**Staff Response: CORRECT.** The special circumstance and conditions are not result from the actions of the Applicant. Burma Road is an existing County maintained 30 foot right-of-way. The property on the east side of Burma Road owns to the east edge of pavement, which is preventing this Property Owner from improving the roadway to meet County standards. This is an existing condition 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 subdivision variance to allow primary access from Northlake and secondary access from the 30 foot wide Burma ROW with 22 feet of pavement and one sidewalk would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district. As stated in the responses above, the current conditions of the site and ROW are unique to this site. The Applicant has designed the proposed development to comply with the ULDC and Comprehensive Plan as much as possible. Despite these efforts, it is not possible to meet the access requirements without significantly reducing the size of the property and existing structure, which would make, it is not possible to meet the 24 feet pavement width with sidewalks on both sides of the street without requiring the Applicant to sacrifice lot size, a portion of the existing structure, and pause retail operations for the tenant in the existing structure, all of which would ultimately halt the much needed infill redevelopment and require that the property remain in its current blighted condition in perpetuity.

**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.

**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:** Literal interpretation and enforcement of 11.E.2.A.4.b. and 11.E.2.A-2 would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district and would create an unnecessary and undue hardship. The literal interpretation of the provisions of the Palm Beach County ULDC would require significant reduction in the lot size and existing structure that currently houses a retail business. Approval of the subdivision variance to allow secondary access from a 30 foot ROW with 22 feet of pavement and sidewalk only on one side of the street would relieve the Applicant of these hardships, allow access to remain as it exists and operates, and support the proposed redevelopment of the site. Requiring the provide 24 feet of pavement and a sidewalk on both sides of Burma Rd would not only reduce the size of the property but require a significant reduction of the existing structure on the site Approval of the subdivision variance to allow 22 feet of pavement and one sidewalk would prevent the Applicant from being deprived of rights commonly enjoyed by other parcels of land in the district.

**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 and would work an unnecessary and undue hardship. Acquiring the additional right-of-way would cause other properties located outside of Unincorporated Palm Beach County to lost parking and possibly cause nonconformities. Dedicating additional right-of-way on this site would result in the loss of an existing building.

**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 subdivision variance to allow for secondary access from a 30 foot ROW with 22 feet of pavement and a sidewalk on one side of the street is the minimum variance that will allow the Applicant to make reasonable use of the Property. The Applicant's request is to allow the subject site and road remain as they exist and have been operating for decades. The request is reasonable, as it minimizes the amount of potential impact on the subject site, Burma Rd, and the surrounding properties, and ultimately allows the Applicant to complete the infill redevelopment project and eliminate the existing blight on the property. The subdivision variance to allow for 22 feet of pavement with sidewalk only on one side of the street is the minimum variance that will allow the Applicant to make reasonable use of the property. The Applicant's request does not create any benefits for the subject property, it is simply requesting to allow the ROW to remain as it exists.

**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. The Applicant will be conditioned to improve Burma Road to two (2) 11-foot lanes and a sidewalk on the west side along the property frontage.

**f.      Grant the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:**

**Applicant's Response:** Granting of the variances be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. Sec. 1-1 Purpose and Intent of the Northlake Boulevard Overlay Zone (NBOZ) states the following objective: Redevelopment of the Corridor in order to build community pride, retain and attract commercial activity, and improve the area's economic condition. Approval of the subdivision variance will allow the existing building to remain and current business to continue operations, supporting the objectives of the NBOZ. Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. Similar to the first subdivision variance request, Sec. 1-1 Purpose and Intent of the Northlake Boulevard Overlay Zone (NBOZ) state the following objective: Redevelopment of the Corridor in order to build community pride, retain and attract commercial activity, and improve the area's economic condition. Approval of the subdivision variance will allow the existing building to remain and current business to continue operations, supporting the objectives of the NBOZ.

**Staff Response: Correct.** Granting of this variance will be consistent with the purposes, goals, objectives and policies of the Plan and Code. The access on Burma Road is a secondary access, with the main access being on Northlake Blvd. This secondary access is being shifted to the south, wider travel lanes and a sidewalk will be provided on Burma Road.

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

**Applicant's Response:** Granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The required access from a non-plan collector road with 24 feet of pavement and sidewalks on both sides of the street may be injurious to the surrounding area and the public welfare. If the Applicant were to provide 24 feet of pavement and sidewalks on both sides of Burma, the increase in width would end at the southern property line. This would create an abrupt transition from 24 feet of pavement with two sidewalks abutting commercial uses, to the existing 22 feet pavement with one sidewalk abutting residential uses. The Applicant is proposing to keep the 22 feet pavement and add one sidewalk on the west side of Burma Road adjacent to the subject site. If the Applicant were to provide 24 feet of pavement with sidewalks on each side of the street, they would contribute to a misalignment with the potential of creating hazardous and unsafe conditions for the surrounding residential area. Approval of the subdivision variance to allow secondary access will allow the Applicant to conserve an existing structure on the site, promote infill redevelopment, eliminate blight, and refrain from contributing to a potentially unsafe traffic pattern.

**Staff Response: CORRECT.** Granting this variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The proposed plan closes the existing entrances on the north property boundary with Burma and creates a new one to the south. The plan also proposes to widen the Burma Road through the property frontage to allow for two (2) 11-foot travel lanes, which increases the width. These changes including a sidewalk, provide an improved travel way for the public.

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## FINDINGS:

### Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order Amendment:

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.

Staff has evaluated both the Official Zoning Map Amendment to the Planned Development District and the Class A Conditional Use under the combined findings below.

**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:* Should the BCC approve the amendment request, then the proposed use and amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ *Concurrent Land Use Amendments:* The site is the subject of a concurrent Small Scale Future Land Use Amendment known as Northlake Commercial (SCA 2023-022). The request seeks to amend the land use from Industrial (IND) to Commercial Low (CL). Staff is recommending approval of the request, subject to conditions limiting maximum trip generation in order to comply with FLUE Policy 3.5-d and to provide for future cross access to the west. The Planning Commission sitting as the Local Planning Agency will hear the item on November 3, 2023 and make a recommendation to the BCC regarding the adoption of the proposed amendment. Please refer to the Planning Division Staff report for additional information regarding the amendment.

The Applicant is requesting the CL FLU designation in order to redevelop the site to add a new restaurant with a drive-through and other site improvements. The proposed rezoning to the Multiple Use Planned Development (MUPD) Zoning District is consistent with the Comprehensive Plan, provided the Board adopts the requested CL FLU designation. Conditions of Approval on the concurrent FLUA Amendment are being applied to the subject Zoning application in order to carry forward conditions made part of the FLUA amendment.

○ *Relevant Comprehensive Plan Policies:* Future Land Use Element (FLUE) policies 4.3-g and 4.3-k employ planning techniques to facilitate uses with similar or like land uses to provide interconnectivity which reduced potential traffic conflicts along the primary roadway.

- Policy 4.3-g: Where appropriate, similar and/or complementary neighboring land uses shall employ access management techniques such as shared entrances (to reduce the number of curb cuts) and vehicular and/or pedestrian cross access between like development projects (to encourage inter-connectivity both within and between sites, and reduce the need to use the primary street system to access adjacent sites).

- Policy 4.3-k: The County shall require, where feasible, that commercial land uses employ access management techniques, such as shared entrances and vehicular cross access, between adjacent existing and proposed commercial land uses.

The subject site incorporates one cross access point to the adjacent parcel on the west of the subject site. Staff are recommending conditions of approval to record cross access easements in the indicated locations prior to Final Approval by the DRO, and to pave to the property line prior to issuance of the Certificate of Occupancy.

○ *Intensity:* The request is for 8,900 sq. ft., which equates to a FAR of approximately 0.10 (8,900 / 87,991.2 sq. ft. or 2.02 acres = 0.10). The maximum Floor Area Ratio (FAR) of .50 is allowed for the subject future land use designation in the Urban Suburban Tier (87,991.2 sq. ft. or 2.02 acres x .50 maximum FAR = 43,995.60 sq. ft. maximum).

○ *Special Overlay District/Neighborhood Plan/Planning Study Area:* The site is located within the Northlake Boulevard Corridor Overlay Zone (NBOZ), which is identified on Special Planning Areas Map, LU 3.1 of the Comprehensive Plan Map Series. The specifics of the Overlay, however, are contained in the ULDC and implemented by the Zoning Division through the development review process. The site is not located within a Neighborhood Plan or Study Area identified by the Comprehensive Plan.



○ *Compatibility:* The Planning Division has reviewed the proposed future land use amendment and determined it is compatible with adjacent and surrounding future land uses.

**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.***

○ *Design Objectives and Performance Standards:* As the proposal is for rezoning to an MUPD, the proposed development is required to be consistent with Article 3.E.1.C.1, PDD Design Objectives, and Article 3.E.1.C.2, Performance Standards. As required by the PDD Objectives and Standards, the proposed development provides adequate pedestrian circulation within the site connecting all buildings, parking areas, and pedestrian pathways to the sidewalks of Northlake Boulevard and Burma Road.

Objectionable Features such as Loading Areas and Dumpster Areas have been adequately screened, as required by Art. 3.E.1.C.1.e, Design Objectives. The proposal is also required to be consistent with Art. 3.E.3.B, Objectives and Standards. After reviewing the provided Site Plan Staff has determined that the proposed development is in compliance with the Design Objectives and Performance Standards for an MUPD. This includes protecting adjacent residential uses from adverse impacts and providing interconnection between on-site uses.

○ *Property Development Regulations (PDR):* The application, with the granting of the Variance for lot size as noted above, will be in compliance with the PDR's as indicate on Table 3.E.3.D. The required lot size is 3.0 acres for a MUPD with a CL FLU and the parcel is 2.02 acres (0.98 acres less than required). The site has frontage and access on Northlake Boulevard meeting the minimum frontage and access required for Planned Developments. The lot exceeds the minimum 200 ft. of width/frontage (301.69 ft. provided on Northlake Boulevard), and exceeds the minimum 200 ft. of depth (292 ft. is provided).

The MUPD zoning district requires a 25 foot front setback, a 30 foot rear setback where adjacent to residential use, a 15 foot side setback and 25-foot side street setback. The development meets all the setbacks with the exception of the side street for which a Variance for the existing structure is requested. Buildings 1 and 2 (Type 1 Restaurant and Retail) are located approximately 67 feet south of Northlake Boulevard. The properties to the east and west have comparable setbacks, allowing for a consistent streetscape when driving Northlake Boulevard. The existing structure has a rear setback of approximately 173 feet, with a proposed setback for the new building of 125 feet and with a height of 25 feet.

○ *Architectural Review:* The Type 1 Restaurant requires the structure to comply with the Architectural Guidelines specified in Article 5.C, Design Standards as well as the requirements of the Northlake Boulevard Overlay Zone (NBOZ). The Applicant has submitted Architectural Elevations as part of the review for Location Criteria Exemption, and have been reviewed by Staff. Staff has included a Condition of Approval that require the Elevations for Building 1 be submitted for final review and approval during the Final Development Review Officer approval. (see Figure 6).

○ *Parking:* The Applicant chose the individual parking ratio of Article 6 Table 6.B.1.B versus using the Article 3.E.1.C.h.2.a PDD Performance Standards Parking Non-Residential Uses. Art. 6 requires a minimum of one parking space per 3 seats for the Type 1 restaurant and 1 parking space per 200 sq ft for the existing retail use on site. The proposed development requires a minimum of 48 parking spaces based on the requirement calculation below. The Applicant is providing 55 parking spaces.

- Type 1 Restaurant requires 1 space/ 3 seats (60 seats) = 20 spaces
- Retail Sales (5,500 sq ft) requires = 28 spaces
- Total provided = 55 spaces

○ *Loading:* The Type 1 Restaurant requires one loading spaces and the retail is exempt from the requirement due to the size of the structure. The PSP shows the 1 Standard "B" (12'x18.5') loading space, on the west side of Building 1.

○ *Landscape/Buffering:* The Preliminary Site Plan indicates a 20-foot Right-of-Way (ROW) buffer along the western portion of the north property line and an existing 15-foot ROW on the eastern portion of the north property line abutting Northlake Boulevard; and a 15-foot ROW along Burma Road. Along the south property, the Applicant has proposed a 20-foot Type 3 Incompatibility buffer, where adjacent to the residential use; and along the west property line an 8-foot compatibility buffer as required per Article 7, Table 7.C.2.C.3.

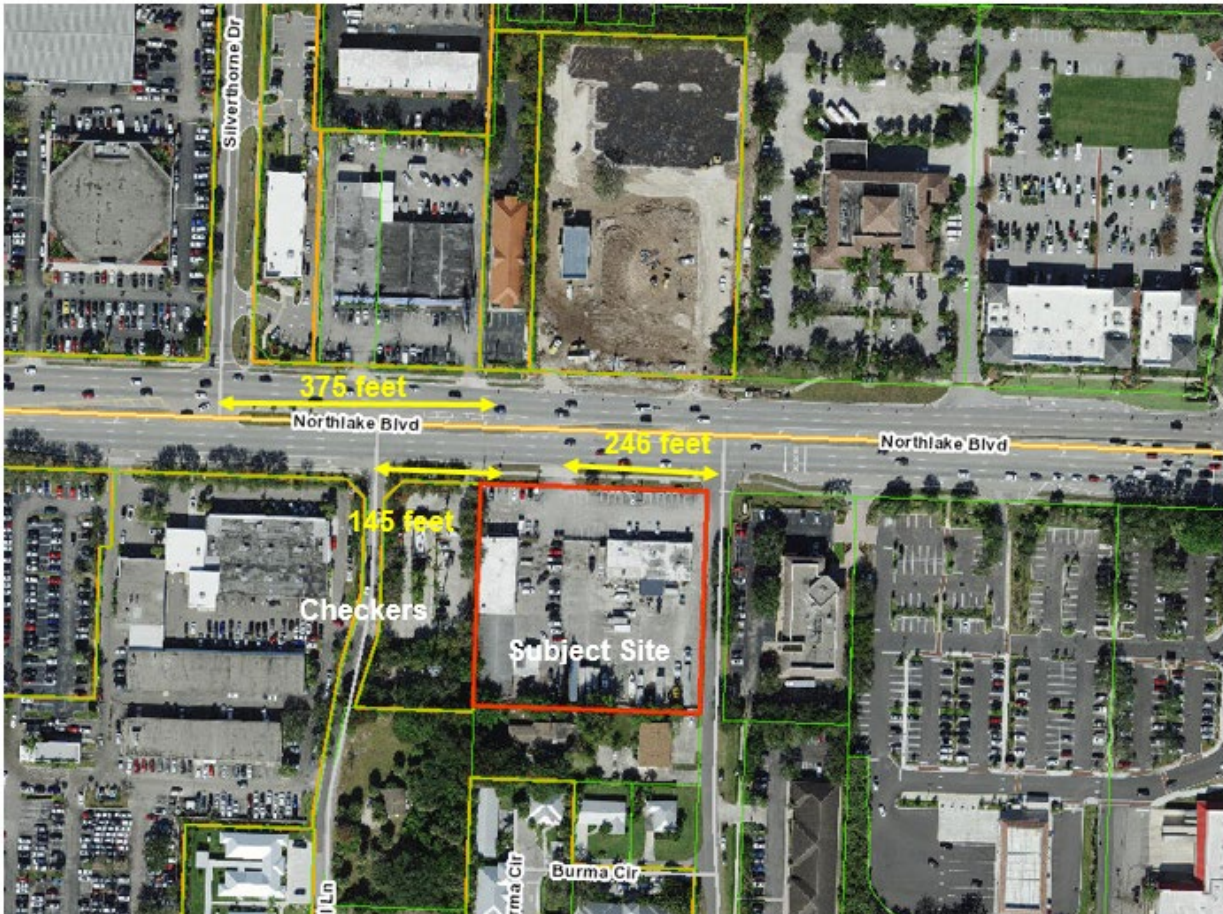
○ *Signage:* The Applicant has submitted a Preliminary Master Sign Plan (see Figure 5) that meets the requirements of Article 8 as well as the requirements of the Northlake Boulevard Overlay Zone (NBOZ). The Applicant is proposing to install one free-standing sign along Northlake Boulevard which will be a maximum of 8 feet in height and will have 36 sq. ft. of sign area on each face of the sign. Furthermore, the PMSP also indicates wall signage for the Commercial structures. All proposed signage is consistent with Art. 8, Signage and the NBOZ, as well as Technical Manual Requirements outlined in Title 5, Signage.



○ *Specific Use Requirements:* The ULDC has incorporated specific supplementary standards for different uses based on their location and potential impacts. These uses have different approval processes based on their FLU, and/or Zoning classifications. The Preliminary Site Plan indicates 5,500 sq ft existing retail use and a proposed 3,200 sq. ft. Type 1 Restaurant with drive-through with 60 seats.

- *Type 1 Restaurant with drive-through:* The proposed Type 1 Restaurant with drive-through must meet the requirements as indicated under Article 4.B.2.33.
- *Location Criteria:* Type 1 Restaurants are limited to a maximum of two within 1000 feet of an intersection. If the proposed restaurant is outside of the intersection it must have a 500-foot separation from an existing Type 1 Restaurant.

The proposed restaurant is within 246 feet of the intersection of Northlake Boulevard and Burma Road; 145 feet of the intersection of Northlake Boulevard and Lyndall Lane; and 375 feet of Northlake Boulevard and Silverthorne Drive; and within 60 feet of the second restaurant within the intersections “Checkers”, thereby complying with the maximum number or restaurants at both intersections; however the site is located within 60 feet of an existing Type 1 Restaurant as shown below.



○ *Overlays:* The development is located within the Northlake Boulevard Overlay Zone (NBOZ) that runs from military Trail to US Highway One for one property depth north and south of Northlake Boulevard, including the street intersection properties at US Highway One and at Military Trail. The purpose and intent of the NBOZ is to implement the objectives of the Northlake Boulevard Corridor Conceptual Streetscape Plan adopted by the Northlake Boulevard Corridor Task Force. These objectives include:

1. Redevelopment of the Corridor in order to build community pride, retain and attract commercial activity, and improve the area's economic condition.
2. Reinforcement of the unique opportunities and long-term stability of the Corridor by the implementation of urban design guidelines for future development.
3. Improvement of signage along the Corridor.
4. Initiation of design improvements for the community through the implementation of the proposed design guidelines.
5. Development of a unifying community design and development theme to work in conjunction with the proposed Corridor streetscaping.
6. Preparation of development regulations to enable refurbishment of properties within the Corridor.
7. Creation of the opportunity for new development to respect existing scale, style, and character, while preserving the positive aspects of the Corridor.

The above NBOZ standards in addition to the requirements of the ULDC need to be met. The proposed development meets or exceeds those requirements including but not limited, landscaping along Northlake Boulevard, signage, parking, architectural and foundation planting.

- 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 amendment is compatible and consistent with the surrounding area and vicinity where proposed. To the north across Northlake Boulevard, to the east across Burma Road; and to the west are commercial uses. To the south is multi-family residential parcel. The rezoning to commercial will further the compatibility as the parcel is current zoned and used as industrial. The PSP provides safe site circulation that includes two way drive aisle to the west of the proposed Type 1 Restaurant. The proposed redevelopment will remove the existing Industrial use, Auto Repair, and replace with a Commercial use, Type 1 Restaurant, which is more compatible with the residential to the south. The proposed Type 1 Restaurant will be located further to the north than the existing Auto Repair use. As noted above the Applicant is providing a Type 3 Incompatible buffer along the south property line that also includes a six foot wall.

- 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 Applicant meet with Staff on this application. As a result of the meetings the Applicant made modifications through the application review process to minimize impacts on adjacent lands. In addition a Type 3 incompatibility buffer and a Dry Detention area are located along the south property line of the development providing a greater separation from the adjacent residential by 125 feet where 30 feet is required. The front and side setbacks also exceed the required setbacks with the front setback is 69 feet in lieu of the 25-feet; and the side setback being 79 feet in lieu of 15 feet. The side street setback is required to be 25-feet however due to the existing structure, that is proposed to remain the Applicant is requesting a 21-foot setback which results in a reduction of 4-feet.

- 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.*

- *Vegetation Protection:* The application request does not impact native vegetation.
- *Wellfield Protection Zone:* This property is located within Wellfield Protection Zone 4.
- *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 use or amendment will result in a logical, orderly and timely development pattern.*

The proposed application will result in a logical, orderly, and timely development pattern. The Applicant states that Northlake Boulevard is a highly traveled arterial roadway that accommodates a wide variety of uses. The area surrounding the subject site is predominantly commercial and proposing an MUPD with commercial uses will remain consistent with the established commercial development pattern of the area. Thus, the request to rezone to MUPD in order to allow for the development of the MUPD compliments existing development, and will not adversely impact the local development pattern in the area.

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

**ENGINEERING COMMENTS:**

The proposed modification to the existing site plan by replacing the existing Automobile Parts and Service land use with a fast Food Restaurant with Drive-Through is expected to generate additional 832 net daily trips, additional 77 net AM peak trips, and additional 55 net PM peak hour trips. The build out of the project is assumed to be by 2025.



Additional trips will have an insignificant impact (as per the definition of the PBC Traffic Performance Standards) on the area roadways.

The Property Owner shall dedicate ROW for the Northlake Boulevard and Burma Road intersection and plat the property prior to the issuance of the building permit.

The Property Owner shall reconstruct Burma Road and build a sidewalk along their east property line prior to the issuance of the certificate of occupancy.

DRAINAGE: This project lies within the South Florida Water Management District (SFWMD) C-17 drainage basin and has an ultimate outfall to the C-17 canal. The site also is within the Northern Palm Beach County Improvement District (NPBCID) and there are no existing SFWMD Environmental Resource Permits for the project site. The site is also partially within Zone AE Elevation 11 per FEMA FIRM Map Number 12099C0387F, effective October 5, 2017.

The Applicant’s engineer states: *“The proposed improvements include a 3,435 SF Type 1 restaurant with a drive through which will be constructed on the western part of the parcel. The improvements will also include new associated surface parking for the restaurant, as well as reconfiguration of the parking area on the South side of the parcel which is behind the existing retail building, which is to remain. Additional pavement/asphalt reconstruction will be completed as required to remediate the existing parking areas and internal drive aisles as well as establish site access on the eastern property boundary from Burma Road. The improvements will also include the creation of buffer areas and landscaped islands which will decrease the overall impervious area from the existing development.”*

*The proposed drainage improvements will include a system of interconnected inlets, pipes, swales, detention, and underground storage with a control structure. The on-site stormwater discharge will be attenuated as required and will follow the historical drainage pattern of the subject site. The site will maintain its legal positive outfall to Northlake Boulevard and water quality and attenuation criteria will be met in the on-site swales and basin prior to discharge.”*

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

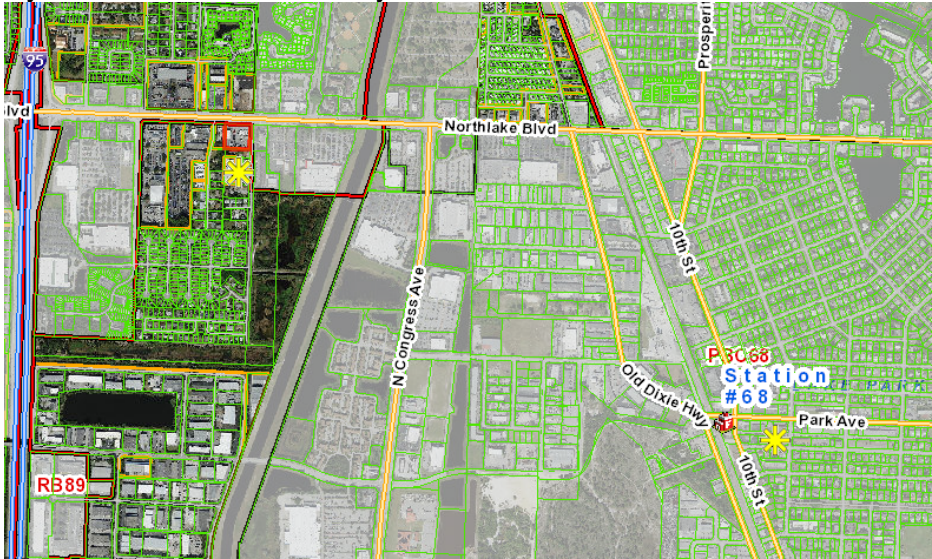
PALM BEACH COUNTY HEALTH DEPARTMENT: This project has met the requirements of the Florida Department of Health.

WATER AND WASTEWATER: The Water and Wastewater provider is the Seacoast Utility Authority. The Applicant has provided a letter indicated such in Exhibit F. Prior to issuance of a building permit, the applicant must connect to water and wastewater service, and is subject to the permitting approval approval process of Seacoast.

SCHOOL IMPACTS: The School Board has no comment regarding this non-residential application.

PARKS AND RECREATION: Non-residential project therefore, Park and Recreation ULDC requirements do not apply.

FIRE PROTECTION: Staff has reviewed this application and have no comment. This project is located within the boundary of the Palm Beach County Fire Station 68.



**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 states that there are changed conditions or circumstances that necessitate the requested rezoning. As indicated by the Applicant’s Justification Statement “*While the retail remains consistent with the surrounding area, the automotive facility is no longer an appropriate use on the property given the commercial nature of the Northlake corridor and residential uses to the south. The proposed changes in FLU and Zoning will provide compliance with the existing and proposed development program*”.

---

**CONCLUSION:** Staff has evaluated the standards listed under Article 2.B, and determined that there is a balance between the need for change and the potential impacts generated by Northlake Commercial MUPD Type 2 Variance, Subdivision Variance, Official Zoning Map Amendment and Conditional Use. Therefore, Staff is recommending approval subject to Conditions of Approval as indicated in Exhibits C1 to C4.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1: Type 2 Variance - Concurrent

#### ALL PETITIONS

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated September 14, 2023. Only minor modifications by Zoning Commission or Development Review Officer shall be permitted provided the changes are consistent with this Site Plan. (ONGOING: ZONING - Zoning)

#### VARIANCE

1. The Development Order for this Variance shall be tied to the Time Limitations of the Development Order for ZV/SV/PDD/CA-2023-00374. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - 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. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Site Plan. (DRO: ZONING - Zoning)

Property Owner

#### 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; 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.

## CONDITIONS OF APPROVAL

### **EXHIBIT C-2: Subdivision Variance**

#### **DISCLOSURE**

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

## CONDITIONS OF APPROVAL

### EXHIBIT C-3:

#### Multiple Use Planned Development District

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 14, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

##### ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2025, 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 to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the 25 foot corner clip at the southwest corner of Northlake Boulevard and Burma Road as approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved 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. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. 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 clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

4. The Property Owner shall reconstruct Burma Road from the south property line to Northlake Boulevard to be consistent with Palm Beach County standards for a local commercial street with 22 feet of pavement. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)



b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering)

5. Property Owner shall construct a minimum foot wide concrete sidewalk along the east property line from the south property line to Northlake Boulevard. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPMT/CO: ENGINEERING - Monitoring)

6. Should the sidewalk be relocated to the Burma Road right-of-way, the Permittee is responsible for obtaining a right-of-way permit for a replacement sidewalk and install the replacement sidewalk within the public right-of-way within 90 days of the removal of the original sidewalk. (ONGOING: ENGINEERING - Engineering)

7. Prior to the approval of the Final Site Plan by the Development Review Officer, Note 1 on the Final Site Plan shall revise the Subdivision Exemption Code referenced to Article 11.A.6.B. The WMT must also be shown as a solid line. (DRO: ENGINEERING - Engineering)

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

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

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

## **PLANNING**

1. Per SCA 2023-022, Condition 1: The site is limited to a maximum of 1,668 net daily trips, 46 net AM peak hour trips, and 139 net PM peak hour trips. (ONGOING: PLANNING - Planning)

2. Per SCA 2023-022, Condition 2: Vehicular cross access shall be provided to the parcel to the west. (ONGOING: PLANNING - Planning)

3. Prior to Final Approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement for the location depicted on the Site Plan. (DRO: PLANNING - Planning)

4. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Site Plan to add the Official Records Book and Page number for the recorded cross access easement. (DRO: PLANNING - Planning)

5. Prior to the release of the Certificate of Occupancy (CO), the Property Owner shall construct, and pave to the property line, the cross access as shown on the Final Site Plan. (CO: MONITORING - Planning)

## **COMPLIANCE**

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

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.

## CONDITIONS OF APPROVAL

### EXHIBIT C-4:

#### Class A Conditional Use Type 1 Restaurant with drive-through

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 14, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

##### ARCHITECTURAL REVIEW

1. At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the Type 1 Restaurant shall be submitted for final approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated September 14, 2023. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (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.

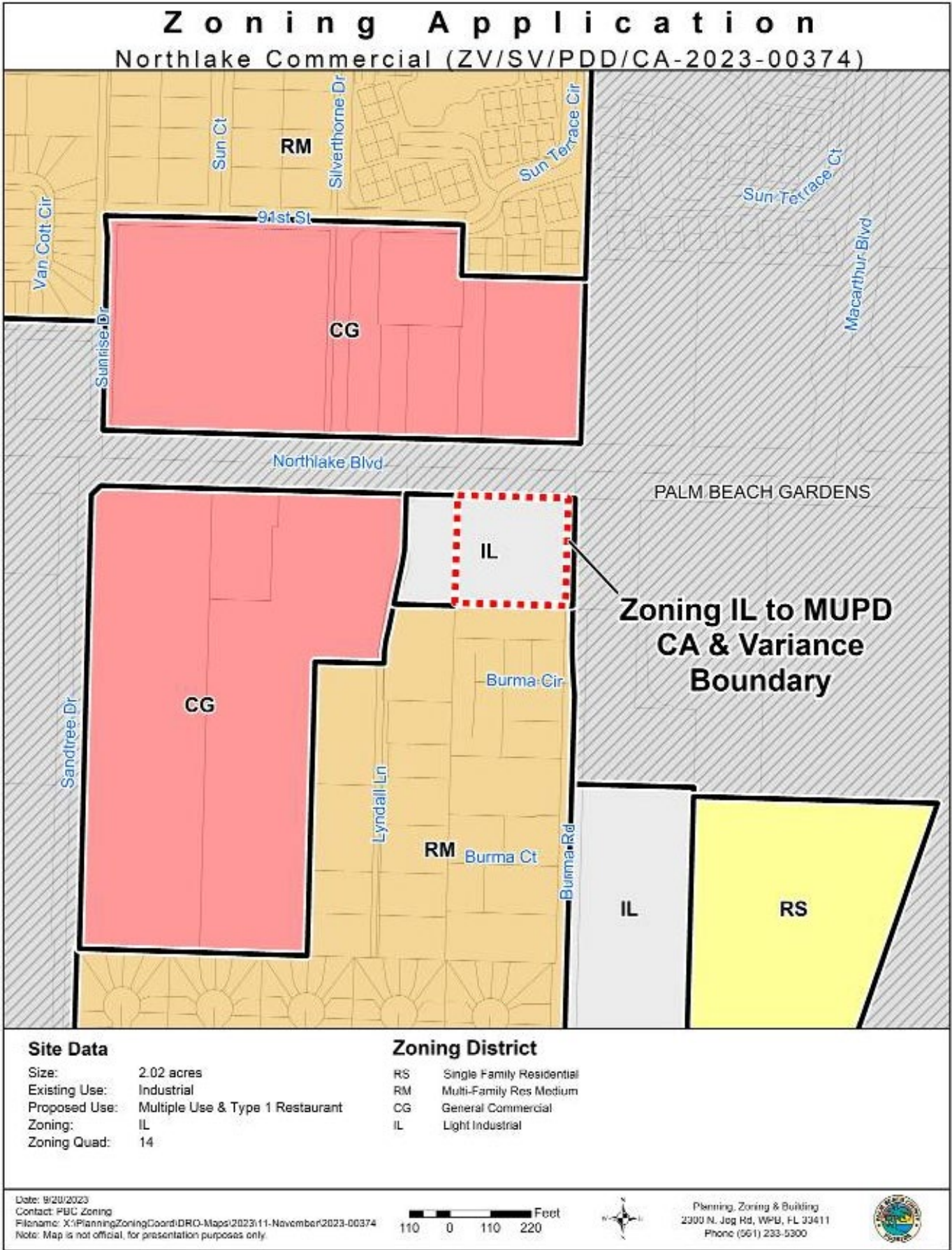


Figure 1 - Land Use Map

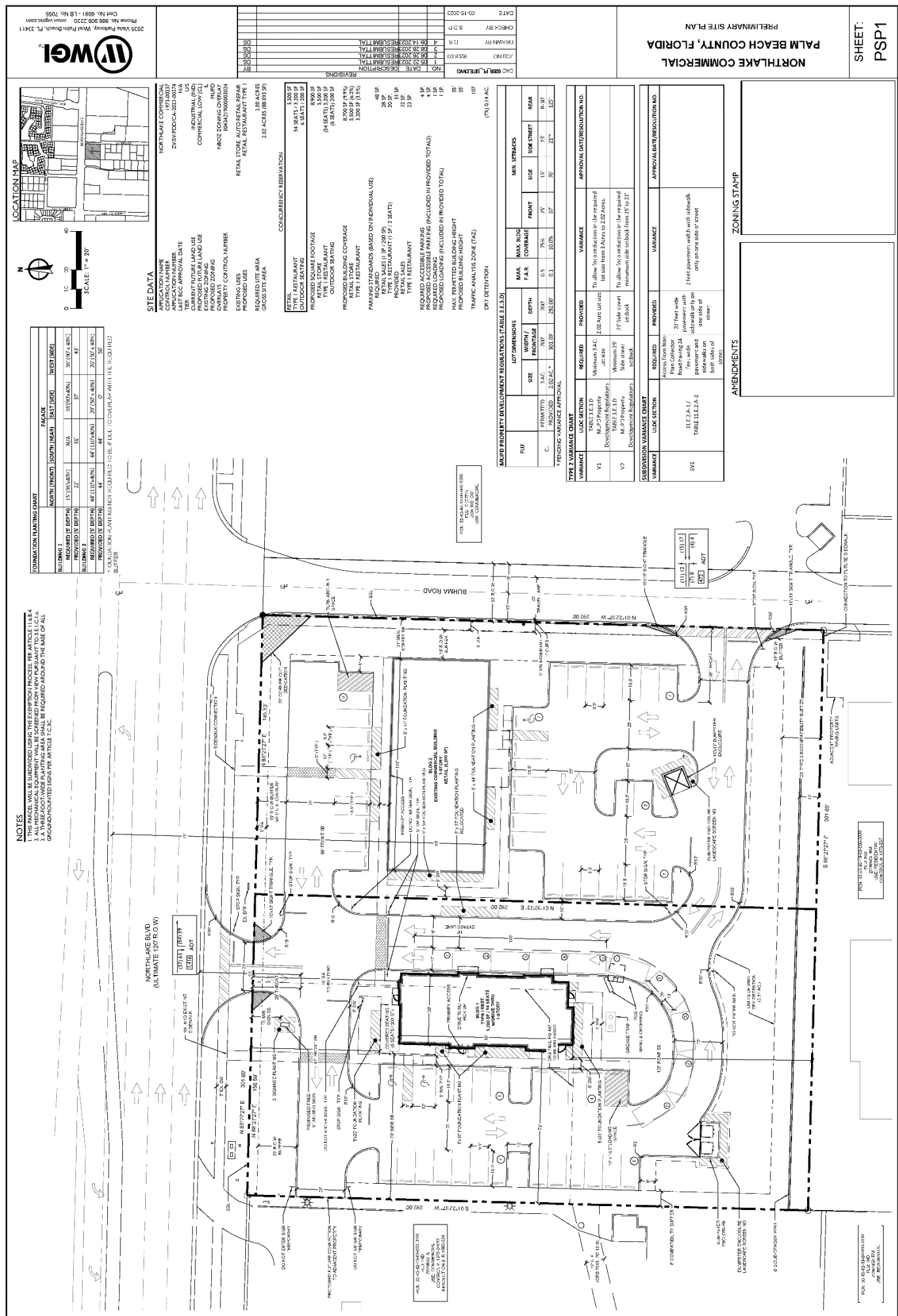




Figure 2 - Zoning Map



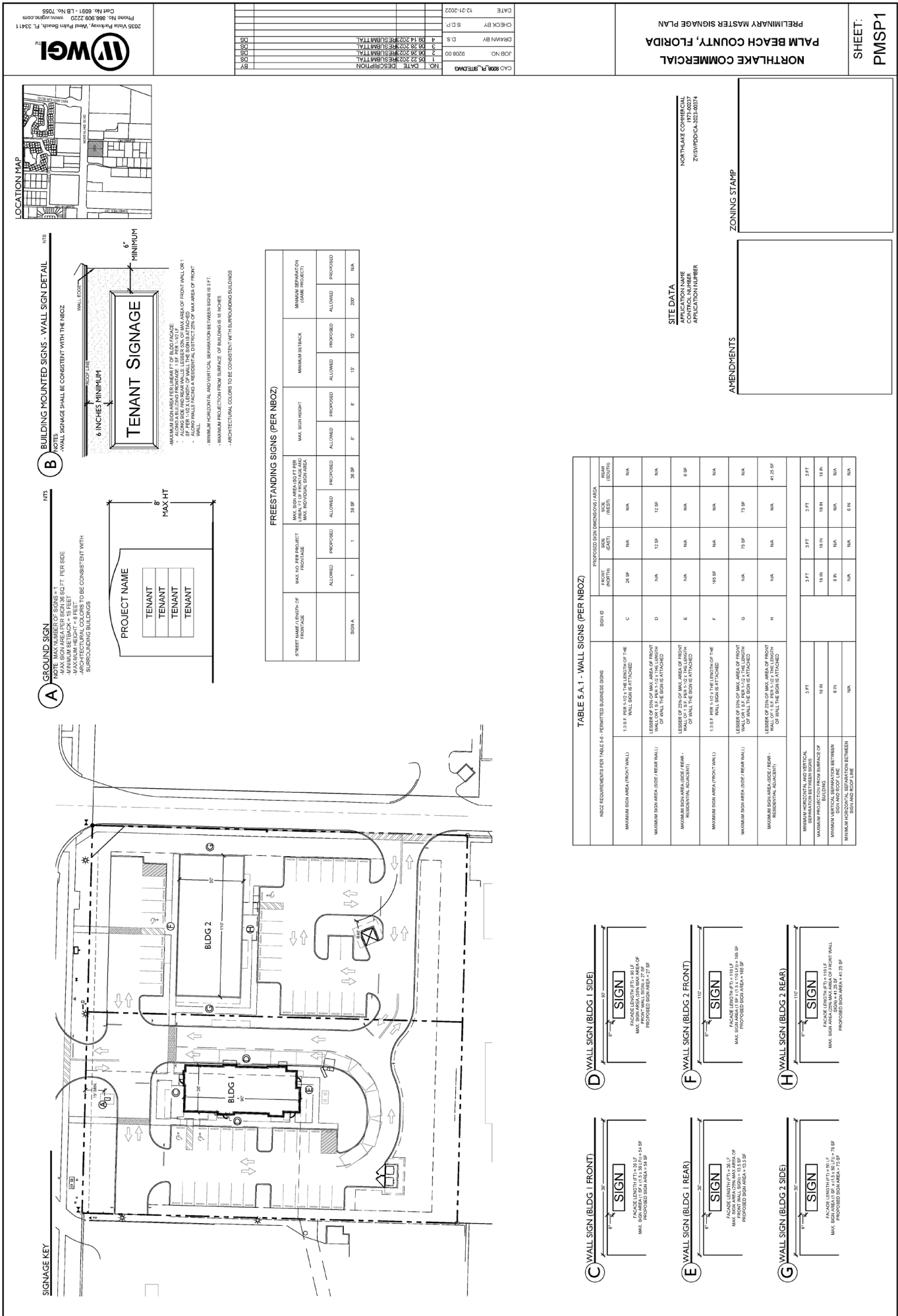
**Figure 3 – Preliminary Site Plan dated September 14, 2023**







**Figure 5 – Preliminary Master Sign Plan dated September 14, 2023**



**Figure 6 – Preliminary Architectural Elevations dated September 14, 2023**

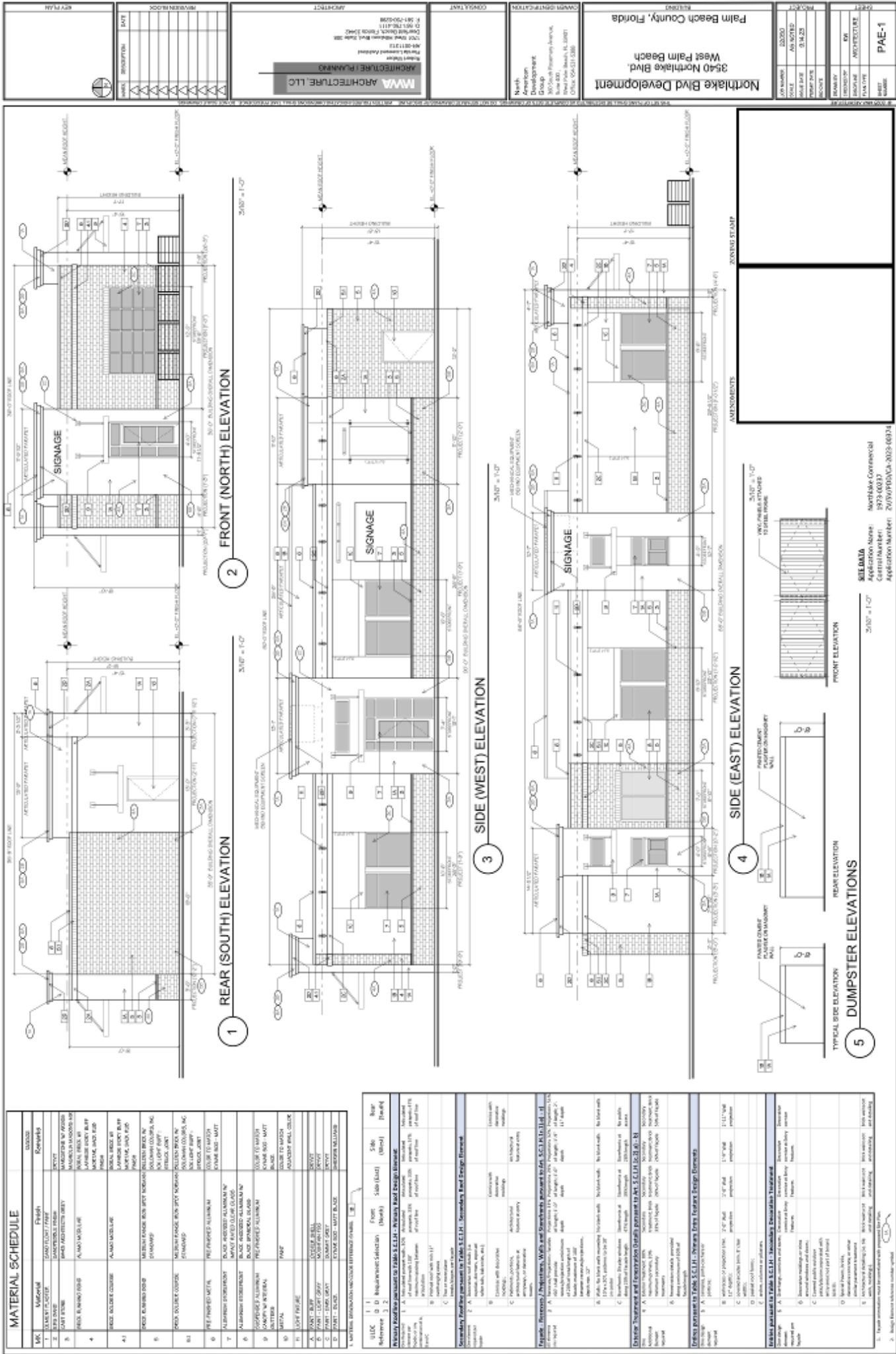




Exhibit D – Disclosure of Ownership

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 Jeffrey W. Preston, 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] Vice President [position - e.g., president, partner, trustee] of NADG (US) GENERAL PARTNER, INC. (General Partner of 3450 NORTHLAKE LP) [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: 360 South Rosemary Avenue Suite 400  
West Palm Beach, FL 33401
- 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.

  
\_\_\_\_\_  
Jeffrey W. Preston, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

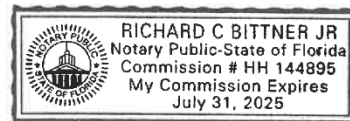
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 11<sup>th</sup> day of April, 20 23 by Jeffrey W. Preston (name of person acknowledging). He/she is personally known to me or has produced N/A (type of identification) as identification and did did not take an oath (circle correct response).

Richard C. Bittner Jr.  
(Name - type, stamp or print clearly)

  
(Signature)

My Commission Expires on: July 31, 2025

NOTARY'S SEAL OR STAMP



**EXHIBIT "A"**  
**PROPERTY**

Legal Description

Acres: 2.022

THE EAST 331.69 FEET OF THE NORTH 367 FEET OF THE EAST ONE-HALF (E-1/2) OF THE NORTHWEST ONE-QUARTER (NE-1/4) OF THE NORTHEAST ONE-QUARTER (NE-1/4) OF THE NORTHWEST ONE-QUARTER (NW-1/4) OF SECTION 19, TOWNSHIP 42 SOUTH, RANGE 43 EAST, PALM BEACH COUNTY, FLORIDA, LESS THE EAST 30 FEET AND THE NORTH 75 FEET FOR ROAD RIGHTS OF WAY.

**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**

[Please refer to the following page]

Disclosure of Beneficial Interest – Property form  
Form # 9

Page 4 of 4

Revised 12/27/2019  
Web Format 2011



Name	Address
NADG Northlake LP	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
Randy Tulepan	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
Northlake FL LP	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
JWP Holdings LLC	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
Jeffrey W. Preston	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
SSBP Corp.	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
Stephen S.B. Preston	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
North American Shopping Center Corp.	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
John W.S. Preston	360 South Rosemary Ave, Suite 400, West Palm Beach, FL 33401
RSG (US) Corp.	2851 John Street, Suite One, Markham, Ontario L3R 5R7 CA
Robert Green	2851 John Street, Suite One, Markham, Ontario L3R 5R7 CA



**ENGINEER'S DRAINAGE STATEMENT**  
**Northlake Commercial**

May 22, 2023

The subject project includes one (1) parcel of land located in Section 19, Township 42 South, and Range 43 East (Parcel 00-43-42-19-00-000-3024) with a total of 2.02-acres. The site has been previously developed and contains two (2) buildings and an accessory structure with associated paved parking areas in unincorporated Palm Beach County. The existing site has one retail building, one repair and maintenance building, and one steel covered shed structure and is almost entirely impervious. The site is bordered by Northlake Boulevard to the North, Burma Road to the East, residential units to the South, and a commercial property to the West.

This project lies within the South Florida Water Management District (SFWMD) C-17 drainage basin and has an ultimate outfall to the C-17 canal. The site also is within the Northern Palm Beach County Improvement District (NPBCID) and there are no existing SFWMD Environmental Resource Permits for the project site. The site is also partially within Zone AE Elevation 11 per FEMA FIRM Map Number 12099C0387F, effective October 5, 2017.

The proposed improvements include a 3,435 SF Type 1 restaurant with a drive through which will be constructed on the western part of the parcel. The improvements will also include new associated surface parking for the restaurant, as well as reconfiguration of the parking area on the South side of the parcel which is behind the existing retail building which is to remain. Additional pavement/asphalt reconstruction will be completed as required to remediate the existing parking areas and internal drive aisles as well as establish site access on the eastern property boundary from Burma Road. The improvements will also include the creation of buffer areas and landscaped islands which will decrease the overall impervious area from the existing development.

The proposed drainage improvements will include a system of interconnected inlets, pipes, swales, detention, and underground storage with a control structure. The on-site stormwater discharge will be attenuated as required and will follow the historical drainage pattern of the subject site. The site will maintain its legal positive outfall to Northlake Boulevard and water quality and attenuation criteria will be met in the on-site swales and basin prior to discharge.

Surface water management levels of service:

- Minimum Crown of Road: 3-year, 24-hour event
- Control Structures: 25-year, 72-hour event
- Perimeter Berm: 25-year, 72-hour event
- Finished Floors: 100-year, 72-hour zero-discharge

The proposed drainage improvements will be designed and permitted in accordance with SFWMD, NPBCID, and Palm Beach County requirements.

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

Respectfully submitted,  
WGI, Inc.

Stephen 2023.05.22  
Cherry 10:06:54  
-04'00'

Stephen C. Cherry, P.E.  
Florida License # 83268  
WGI, Inc. Cert. No. 6091

STEPHEN C. CHERRY P.E., STATE OF FLORIDA, PROFESSIONAL ENGINEER, LICENSE NO. 83268  
THIS ITEM HAS BEEN ELECTRONICALLY SIGNED AND SEALED BY STEPHEN C. CHERRY, P.E. ON MAY 22, 2023  
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 F Water and Wastewater Letter dated October 6, 2022



October 6, 2022

Samantha Kanach  
2035 Vista Parkway  
West Palm Beach, FL 33411

RE:      **Availability for 3540 Northlake Blvd., PBG, FL 33403**  
         **PCN: 00-43-42-19-00-000-3024**

To Whom it May Concern:

As requested this letter is to inform you of the availability for water and sewer services provided by Seacoast Utility Authority. Be advised the property listed above is presently connected with water service from a 10" (ten) watermain on the south side of Northlake Blvd. Be advised the nearest connection for sewer service is a manhole near the southwest corner of the property. As there are multiple buildings on the property, the distance to the manhole from each building varies, the furthest being ± 215 feet.

**3540 Northlake Blvd., PBG, FL 33403** is currently supplied with **water only** by Seacoast Utility Authority.

Sincerely,

SEACOAST UTILITY AUTHORITY  
Laura H. Niemann  
Engineering Technician II

Customer Service (561) 627-2920 • Admin/After Hours (561) 627-2900 • Fax (561) 624-2839 [www.sua.com](http://www.sua.com)

Exhibit G – Applicant’s Justification Statement dated September 14, 2023

JUSTIFICATION STATEMENT  
Rezoning | Class A Conditional Use | Type 2 Variances | Subdivision Variance  
Northlake Commercial

Application No: ZV/SV/PDD/CA-2023-00374| Control No. 1973-00237  
Initial Intake: March 15<sup>th</sup>, 2023; Resubmittal: May 22<sup>nd</sup>, 2023; June 26<sup>th</sup>, 2023; August 28<sup>th</sup>, 2023; Minor  
Resubmittal: September 14<sup>th</sup>, 2023

REQUEST

On behalf of 3540 Northlake LP (Applicant), WGI, Inc. (Agent) is requesting:

- **Official Zoning Map Amendment (Rezoning)** from Light Industrial (IL) to Multiple Use Planned Development (MUPD).
- **Class A Conditional Use** to allow a Type 1 Restaurant in the Multiple Use Planned Development (MUPD) Zoning District.
- **Type 2 Variance** to allow for a reduction in lot size requirement.
- **Type 2 Variance** to allow for a reduction in side street setback requirements.
- **Subdivision Variance** to allow secondary access from a non-plan collector road with 22’ wide pavement and a sidewalk only on one side of the street.

The above zoning Applications for this subject site are being requested to allow for the development of a Type 1 Restaurant on the western portion of the site, and to reconfigure the site plan for the existing legally non-conforming retail use on the eastern portion of the site to be comply with the code to the greatest extent possible. The Type 1 Restaurant is permitted upon approval of the requested Class A Conditional Use in the proposed MUPD zoning district, and the Retail store is permitted by right in the proposed MUPD zoning district.

There is a Small Scale Future Land Use Amendment Application (SCA-2023-022) currently under review with the Planning Division. The Application is requesting to amend the Future Land Use from IND (Industrial) to CL (Commercial Low) and is consistent with the proposed development program requested in the Zoning Application. According to Table 2.2-f.1, Non-Residential Future Land Use, the proposed MUPD Zoning is consistent with the proposed CL Future Land Use. Application ZV/SV/PDD/CA-2023-00374 is contingent on approval of the pending Small Scale Future Land Use Amendment Application.

SITE CHARACTERISTICS

The subject site consists of 2.02 acres and is identified with Parcel Control Number (PCN) 00-43-42-19-00-000-3024. It is located on the southern side of Northlake Boulevard within Unincorporated Palm Beach County. The site is currently zoned Light Industrial (IL) and has a Future Land Use Designation of Industrial (IND). The subject site is approximately 0.5 miles west of the I-95 Northbound and Southbound ramps located on Northlake Blvd., which is classified as an urban minor arterial road.

The site is located in the Northlake Boulevard Overlay Zone (NBOZ). The NBOZ was established in 2002 with the purpose of fulfilling objectives including redevelopment along the right-of-way, reinforcement of opportunity and stability along Northlake Blvd, and development of a unified community design and development theme. The boundaries of the NBOZ include the public right-of-way (Northlake Blvd.) and properties located along Northlake Blvd. from Military Trail to U.S. Highway One/A1A. The boundary extends one property north and south of Northlake Blvd., and includes the properties located at the intersection of US Highway One/A1A Military Trail. Overall, the NBOZ encompasses approximately 3.3 miles of property. The subject site is located within the NBOZ Central District, located from I-95 to the north side of Alternate A1A and the southern side of Prosperity Farms Road.

There are two existing structures located on the site. An existing legally non-conforming 5,500 square foot retail establishment (Curaleaf) is located on the east side of the site. The use is legally non-conforming, as it is not permitted under the current IL zoning according to *ULDC Table 4.B.2.A – Commercial Use Matrix*. Upon approval of the Rezoning to MUPD, the retail site will be conforming as the use is permitted by right in the MUPD zoning district. On the western side of the property there is an Auto Retail Repair business called Dave’s Auto Shop. This structure is 5,000 SF and has 5,826 SF of steel frame accessory use. The development program includes the demolition of the existing Auto Body Shop, and the construction of a Type 1 Restaurant. The Type 1 Restaurant requires Class A Conditional Use approval according to *Table 4.B.2.A.- Commercial Use Matrix* in the ULDC and Article II, Sec. 2-3 31.b of the NBOZ .

Table 1: Existing and Proposed Development

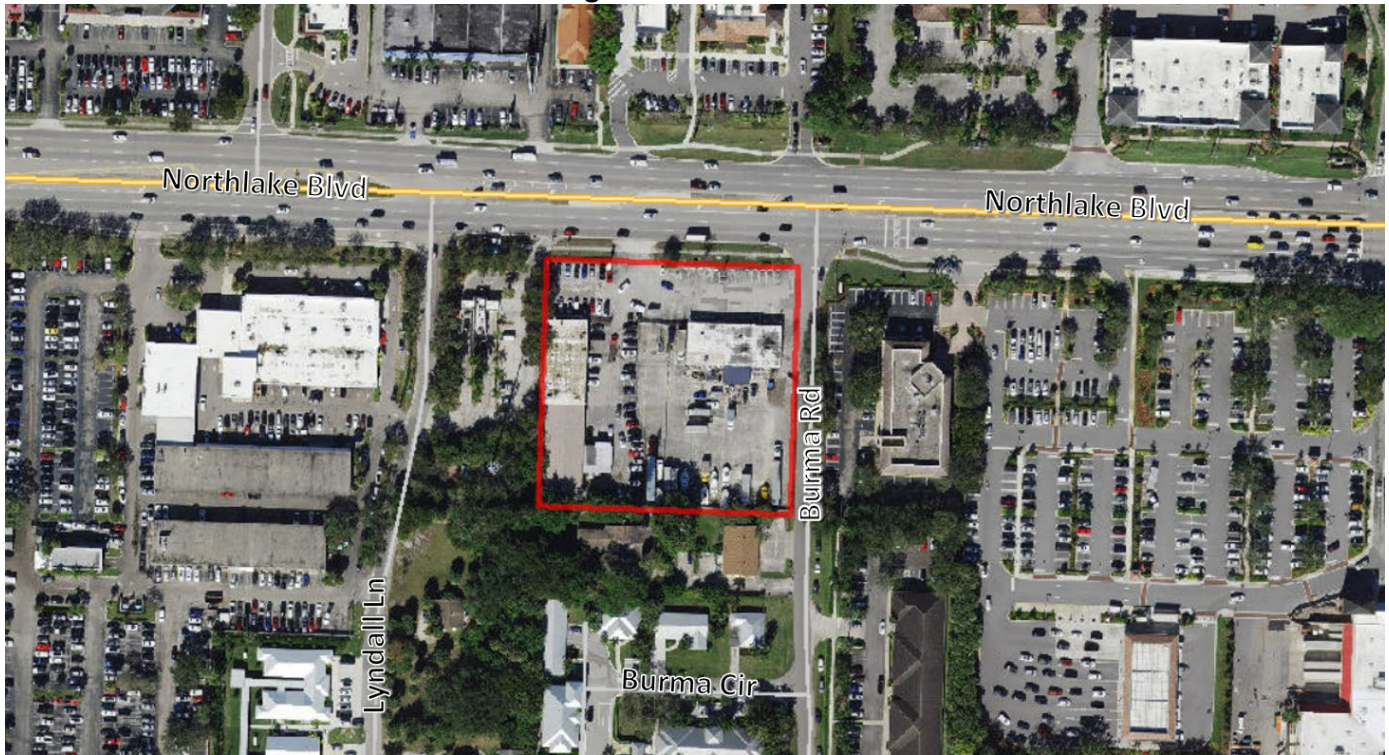
EXISTING	PROPOSED
Retail Store (Curaleaf) 5,500 SF	Retail Store (Curaleaf) 5,500 SF
Auto Retail Repair (Dave’s Auto Body) 5,000 SF and 5,826 SF of an accessory use	Restaurant, Type 1 3,200 SF



The Applicant is requesting an Official Zoning Map Amendment (Rezoning), a Class A Conditional Use, a Type 2 Variance to allow for a reduction in lot size requirement, a Type 2 Variance to allow for a reduction in side street setback requirements, a Subdivision Variance from ULDC Section 11.E.2.A.4.b to allow a secondary access from the existing 30' Burma Road ROW as required by 11.E.2.A-1 Chart of Access Hierarchy, and a Subdivision Variance from Table 11.E.2.A – Chart of Minor Streets to allow access from Non-Plan Collector Road having 22' wide pavement and a sidewalk only on one side of the street.

The proposed development includes the existing 5,500 SF retail store that is currently open and operating. The 5,000 SF repair shop (Dave's Auto Body Shop) with a 5,826 SF accessory use will be demolished and a 3,200 SF Type 1 Restaurant with a drive through will be constructed in place, once permitted upon Class A Conditional Use Approval. Both uses on the site are classified as Commercial uses and will be consistent with the proposed CL Future Land Use designation. The retail store is legally non-conforming under the current IL zoning, but will be permitted upon approval of the rezoning to MUPD. The Type 1 Restaurant will be permitted upon approval of the Class A Conditional Use. There is a concurrent FLUA application identified by Application Number SCA-2023-022. This application is requesting approval to change the site's current IND (Industrial) Future Land Use to CL (Commercial Low) Future Land Use.

Figure 1: Site Aerial



PROJECT HISTORY

Please refer to Table 2 below for prior approval history.

Table 2: Prior Approvals

RESOLUTION #	APPLICATION #	STATUS	TYPE	DESCRIPTION	CHANGES PROPOSED (IF ANY)
R-1974-0062	Z-1973-00237	Approved	Rezoning	Rezone from CG to IL	None.

On January 29<sup>th</sup>, 1974, the Palm Beach County Board of County Commissioners approved application Z-1973-00237 which allowed a rezoning from Commercial General (CG) to Light Industrial (IL). This approved request is associated with Resolution R-1974-0062.

CONCURRENT APPLICATIONS

On February 8<sup>th</sup>, 2023, SCA-2023-022, a Small Scale FLUA Amendment Application, was submitted to the Planning Division. The concurrent FLUA Application requests a Comprehensive Plan Future Land Use Atlas (FLUA) Amendment to redesignate the Future Land Use (FLU) on the site from Industrial (IND) to Commercial Low (CL).

The FLUA Application and Rezoning Application are running concurrently, as the Future Land Use amendment and Zoning amendment are consistent with one another according to the Comprehensive Plan. According to Table 2.2-f.1 Non-Residential Future Land Use, the proposed MUPD Zoning is consistent with the proposed CL Future Land Use. In order for the proposed rezoning from IL (Light Industrial) to Multiple Use Planned Development (MUPD) to be approved, the future land use change from Industrial (IND) to Commercial Low (CL) must be approved prior.

Approval of the concurrent FLUA with a Rezoning to MUPD with a proposed Class A Conditional Use for a Type 1 Restaurant will allow for the proposed development of a 3,200 SF Type 1 Restaurant with the existing 5,500 SF Retail Store on the site.

SURROUNDING PROPERTIES

Please refer to the table below for site information for the surrounding properties.

Table 3: Surrounding Properties

ADJACENT PROPERTY	FLU	ZONING	USE	RESOLUTION #
North	CH/8 (Commercial High, With an underlying HR-8)	CG	<b>Chipotle</b> Control No. 1986-0070 Land Use: Type 1 Restaurant Intensity: 2,398 SF  <b>Olive Garden</b> Control No. 1986-0070 Land Use: Type 2 Restaurant Intensity: 7,272 SF  <b>Trulieve</b> Control No. 1991-00014 Land Use: Retail Intensity: 5,200 SF	R-1987-0506 R-1987-0507 R-2019-1960 R-2019-1959
South	IND	RM	<b>Control Number: NA</b> Multifamily Residential	N/A
East	CH	CG1 (City of Palm Beach Gardens)	<b>Cora Physical Therapy</b> City of Palm Beach Gardens Land Use: Office	N/A
West	IND	Light Industrial (IL)	<b>Checkers</b> Control No. 1973-00237 Land Use: Type 1 Restaurant Intensity: 713 SF	R-1974-0062 R-1993-0334

STANDARDS FOR REZONING TO A PDD

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 (WHP), 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. [Ord. 2007-001] [Ord. 2011-016] [Ord. 2012-003] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2019-033]*

**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. [Ord. 2007-001]

**Response:** The proposed Rezoning to Multiple Use Planned Development (MUPD) 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. Pursuant to Table 3. A.3.B – Future Land Use Designation and Corresponding Standard Zoning Districts, the rezoning from IND to MUPD is compliant with the concurrent FLUA Application to change the Future Land Use designation to CL (Commercial Low). The proposed infill redevelopment to provide a Type 1 Restaurant and Retail Store is consistent with the plan. There is a concurrent Comprehensive Plan Amendment application currently in process. The application is proposing to change the Future Land Use of the site from Industrial (IL) to Commercial Low (CL).

The existing retail use is considered a legally non-conforming use in the current IL zoning district. The proposed FLUA from IL to CL and Rezoning from IND to MUPD will bring the use on the property into compliance. A retail store is a permitted use in the MUPD zoning district (which is compatible with the CL FLU) and will no longer exist as a legally non-conforming use upon approval of rezoning to MUPD. The proposed rezoning and concurrent FLUA Application will ensure that the property is redeveloped in a manner consistent with the County’s plans. These concurrent applications will allow the subject site to expand, enlarge, or redevelop for consistency with the surrounding community. The current Zoning and FLU are not consistent with the surrounding development pattern.

Approval of the Rezoning is not only consistent with the proposed FLU designation of the Property, but also with Policy 2.2.c of the PBC Comprehensive Plan, which requires the PBC Code to be consistent with appropriate elements of the PBC Comprehensive Plan including compatibility with adjacent future land uses. The Rezoning is consistent with Policy 1.2-b of the Plan, which requires that the County encourage and support sustainable urban development, including infill redevelopment. The proposed Rezoning will allow for the unified infill redevelopment of the Property to provide the goods and services required by the surrounding community, consistent with Policy 1.2-b. In addition, the Project complies with the maximum 0.50 FAR provided in TABLE 2.2-e.1 of the Future Land Use Element.

**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. [Ord. 2007-001] [Ord. 2018-002]

**Response:** The Rezoning is not in conflict with any portion of the County Code and is consistent with the stated purpose and intent of the ULDC. Pursuant to Table 3.A.3.B – Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts, the proposed MUPD Zoning district is consistent with the proposed CL FLU designation. Consistency of the Code is further analyzed as follows:

**b.1 Uses**

The proposed rezoning to Multiple Use Planned Development (MUPD) will allow for the uses proposed, which are a Type 1 Restaurant on the western portion of the site and the existing retail store on the eastern portion of the site. The Type 1 Restaurant is permitted as a Class A Conditional Use within the proposed MUPD (Multiple Use Planned Development) Zoning. The existing retail store is currently a legal non-conforming use, as retail is prohibited in the current IL (Light Industrial) Zoning. Upon approval of the rezoning request and the Class A Conditional Use request, the Retail Store and Type 1 Restaurant will be considered permitted uses.

**b.2 Access**

The site currently has access from Northlake Blvd. and Burma Rd. During a pre-application meeting with the Traffic Division, it was noted that the access points of the original development did not meet current access management standards. The project has been designed to eliminate one access point at the northeast corner of the site to reduce any life safety concerns. The property will maintain the primary access on Northlake Blvd. and the secondary access point on Burma Rd.

**b.3 Property Development Regulations**

As mentioned earlier, the site is located within the Northlake Boulevard Overlay Zone (NBOZ). According to Article 3.B.8.D. in the event of conflict between the NBOZ and other applicable regulations, the more restrictive regulation shall prevail. However, in accordance with Article 3.E.1.A.3, if a conflict exists between the Planned Development regulations and other Articles in this Code, the Planned Development District provisions of shall apply to the extent of the conflict.

Please refer to the table 3 below for the Palm Beach County ULDC Property Development Regulations Table.

Table 3.E.3.D- MUPD Property Development Regulations

FLU		Lot Dimensions			Max. Height	Max. F.A.R.	Max. Building Coverage	Minimum Setbacks			
		Size	Width/ Frontage	Depth				Front	Side	Side Street	Rear
CL	Permitted	3 AC	200'	200'	55'	0.5	25%	25'	15'	25'	R-30'
	Provided	2.02 AC*	301.69'	292.00'	35'	0.1	19.7%	64'	75'	21'	123'

\*Pending Variance Approval.

b.4 Parking

The proposed development requires a total of 50 vehicular parking spaces. This calculation is based on individual use of the Type 1 Restaurant and Retail Store. The Applicant is proposing 55 parking spaces total, which exceeds the requirement by 5 spaces. Please refer to the chart below for specifics of parking regulations and proposed parking.

Table 6.B.1.B – Minimum Parking and Loading Requirements

Use	Required	Provided
Type 1 Restaurant (1 Space/3 Seats including outdoor seating area)	20 Spaces	23 spaces
Retail Sales (1 Space/ 200 SF)	28 Spaces	32 Spaces
TOTAL SPACES	48 Spaces	55 Spaces

b.5 Signs

The proposed development shall follow the standards established in the NBOZ. The site included ground signs, building mounted signs, and wall signs. Refer to the Preliminary Master Sign Plan (PMSP) and below for signage details.

There is one ground sign proposed for the development. See below for ground sign requirements per *Article V, Section 5.6.C.2 Table 5-6 Permitted Business Signs* in the NBOZ,

- **Maximum Number of Signs:** 1 sign per min. of 300 l.f. of street frontage
- **Maximum Area (Sign Face):** 36 sf
- **Maximum Height/Dimensions:** 8 ft height
- **Other Limits:** 15 ft minimum from public right-of-way

There are 8 wall signs proposed throughout the site: 2 wall mounted (front wall), 4 wall mounted (side wall), and 2 wall mounted (rear wall). See below for wall mounted sign requirements per Table 5-6 Permitted Business Signs in the NBOZ:

Wall Mounted (Front Wall)

- **Maximum Number of Signs:** 1 sign per business per street frontage with a maximum of 1 signs per business.
- **Maximum Number of Sign Faces:** 1
- **Maximum Area (Sign Face):** 1 sf per 1-1/2 x the length of wall sign the is attached
- **Maximum Height/Dimensions:** Mounting Height is 6” below roof at sign location of 18 ft maximum height on up to 2 story building

Wall Mounted (Side Wall)

- **Maximum Number of Sign Faces:** 1
- **Maximum Area (Sign Face):** Lesser of 50% of maximum area of front wall of 1 sf per 1-1/2 x the length of the wall the sign is attached



Wall Mounted (Rear Wall)

- Maximum Number of Sign Faces: 1
- Maximum Area (Sign Face): Lesser of 25% of the maximum area of front wall of 1 sf per 1-1/2 x the length of the wall the sign is attached

Wall Mounted (Overall)

- Shall not cover or partially cover a required wall opening
- Shall not project more than 18 inches from the building
- Mounted flush with wall
- First floor location only
- 3' minimum between wall signs
- Wall signs shall not exist with projecting signs

The subject site is designed to be compliant with the NBOZ Sign Standards. Please refer to the site plan and master sign plan for further sign details.

b.6 Landscaping

Foundation Planting

Please refer to the chart below and plans for Foundation Planting requirements, and what is being provided:

Foundation Planting Chart				
	Facade			
	North (Front)	South (Rear)	East (Side)	West (Side)
Building 1				
Required (5' Depth)	15' (36'x40%)	N/A	36' (90' x 40%)	36' (92' x 40%)
Provided (5' Depth)	22'	31'	37'	43'
Building 2				
Required (5' depth)	44' (110'x40%)	N/A	20' (50' x 40%)	20' (50' x 40%)
Provided (8' depth)	44'	44'	0'	50'

\*Foundation Planting is not required to be 8' due to the overlap with the required buffer.

The proposed development is in compliance with the minimum standards established in Article IV, Section 4-12 of the NBOZ. The Type 1 Restaurant and Retail Store on the site each have foundation planting. Refer to the table above and plans for dimensions and details.

Minimum Landscape Requirements

Landscape design for the proposed development will follow the standard established in Article IV of the NBOZ. Please refer to the landscape plans.

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:** Compatibility pursuant to Definition, Article 1.H.2.C.50.b means:

“Land uses that are congruous, similar and in harmony with one another because they do not create or foster undesirable health, safety or aesthetic effects arising from direct association of dissimilar, contradictory, incongruous, or discordant activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise, vibration, smoke, hazardous odors, radiation, function and other land use conditions.” The proposed development has been designed to be compatible and consistent with the uses and characteristics of the surrounding land.

The development pattern along Northlake Blvd. is predominantly commercial with high intensities. The proposed development of a Type 1 Restaurant and a Retail Store are compatible with the commercial characteristics of the area, and supportive to the existing traffic patterns in the area. Further, the elimination of an industrial type auto repair facility in close proximity to residential uses will improve compatibility on the subject site.

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 rezoning to Multiple Use Planned District (MUPD) intends to minimize any potential adverse effects on adjacent property. The existing industrial type auto repair facility has significant potential to have adverse impacts on the nearby residential uses. The proposed commercial uses with the required incompatibility buffer will reduce the potential for adverse impacts and ensure

that appropriate buffering is provided between uses. Further, as noted in the surrounding uses table, Commercial Future Land Use and Zoning designations are common in the adjacent area. There are commercial uses to the north, west, and east of the site along Northlake Boulevard, which align with the proposed Type 1 Restaurant and existing retail store on the site. Additional landscaping is proposed on the site within the buffers, landscape islands, and foundation planters. Increasing the amount of landscaping on the site will decrease the visual impact and intensity of the site, as it its current state is primarily impervious. The site layout minimizes adverse impact to the surrounding parcels. A wall is being proposed on the southern property line to minimize impact to the residential community to the south. Rezoning to an MUPD rather than a standard zoning district allows flexibility to the site design, including through access between the two uses on the site. Through access on the site benefits compatibility of the retail and restaurant uses creating adequate circulation and minimizing visual impacts that may be required in a standard zoning district.

**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 development on the proposed Multiple Use Planned District (MUPD) site is designed to minimize environmental impacts. In fact, approval of the Rezoning will have positive environmental impacts by bringing the property into compliance with the current code with regard to landscaping. The existing development was done several decades ago without landscape buffers, foundation planting, landscape islands, etc. The site plan accompanying the Rezoning provides landscape buffers on all four sides of the property, foundation planting around the existing and proposed structures, and landscape islands in the vehicular use areas. Further, in preparation of this application, the Applicant coordinated with Palm Beach County Environmental Resources Management to schedule an on-site Pre-Application meeting to discuss environmental concerns on the site. As there is no existing vegetation on the subject site, Environmental Resources Management Staff indicated that a Pre-Application meeting was not required. Please refer to the correspondence provided with this submittal.

**f. Development Patterns**

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

**Response:** The proposed rezoning to Multiple Use Planned District (MUPD) will result in a logical, orderly, and timely development pattern. As noted in the surrounding uses table, the Northlake Boulevard corridor is developed primarily with Commercial Land Use and Zoning Designations and includes several retail stores and restaurants. Directly to the east of the subject site is a Type 1 Restaurant of similar operation as the one proposed, and directly across the street are additional restaurant and retail establishments. Therefore, this request will create a consistent development pattern along the corridor.

**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 subject site complies with Article 2.F. Concurrency (Adequate Public Facility Standards). Please refer to the Letters of Service provided with this application. The site is currently served by Palm Beach County Fire Rescue Station #68, located approximately 1.75 miles away. In addition, the site is currently served by Seacoast Utility Authority for Water and Wastewater.

**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:** There are changed conditions or circumstances that necessitate the requested Rezoning. As noted above, the property was developed several decades ago for use as an automotive facility and retail. While the retail remains consistent with the surrounding area, the automotive facility is no longer an appropriate use on the property given the commercial nature of the Northlake corridor and residential uses to the south. The purpose of the FLUA and Rezoning Applications are to allow for the proposed Type 1 Restaurant and currently the legally non-conforming Retail Store. The proposed changes in FLU and Zoning will provide compliance with the existing and proposed development program. Furthermore, the Applicant will be making adjustments to Burma Rd. by widening the edge of pavement to 22' total and providing a sidewalk along the east property line within the property boundaries to comply with the intent of the code and the design characteristics requested by Palm Beach County Land Development's Code.

The current IND Future Land Use and IL Zoning are not compatible with the development pattern of the area. Northlake Blvd. is a major corridor that supports the surrounding residential areas with high intensity commercial uses. The proposed MUPD zoning will promote consistency with the surrounding area and allow for a Type 1 Restaurant and Retail Store, further contributing to the commercial characteristics of the area.

### **MULTIPLE USE PLANNED DEVELOPMENT STANDARDS**

According to Section 3.B.1, an MUPD shall comply with the following objectives:

- a. Allow for both residential and non-residential uses within a project that is designed to incorporate vertical or horizontal integration of residential uses, to foster compatibility within and adjacent to the project; **[Ord. 2019-005] [Ord. 2021-023]**

**Response:** The project provides for a compatible mix of commercial uses to foster compatibility within and adjacent to the project. There is an existing legally non-conforming retail store on the east portion of the site, and a proposed Type 1 Restaurant on the west portion of the site. These uses will be permitted upon approval of the Rezoning to MUPD and Class A Conditional use for a Type 1 Restaurant.

- b. Provide innovative building location and orientation;

**Response:** The proposed building location and orientation complements the existing retail store on the eastern portion of the site, and allows for visibility from Northlake Boulevard. With the redevelopment of the site, most of the parking will be on the side and rear of the buildings, making sure there is more of a presence on the street. The proposed building and location is consistent with development in the area and follows the principles of the NBOZ with the purpose of unifying community design and retaining and attracting commercial activity. Further, the proposed buildings will provide a significant improvement to the existing automotive facility.

- c. Protect adjacent residential uses from potential adverse impacts;

**Response:** There is residential development to the south of the site. The proposed development includes buffers and landscaping to protect the adjacent uses from any potential adverse impacts. The proposed development of a Type 1 Restaurant will be a less intense use than the existing Auto Body Shop, therefore bringing the property further into compliance with the code.

- d. Provide a continuous, non-vehicular and pedestrian circulation system which connect uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the MUPD; **[Ord. 2021-023]**

**Response:** The proposed development has a continuous non-vehicular and pedestrian circulation system that connects the two uses on the site.

- e. Allow for landscape design that enhances the appearance of the project; and, **[Ord. 2014-025]**

**Response:** The proposed landscape design will enhance the appearance of the project by utilizing a diversity of trees shrubs, and foundation planting. The site is primarily impervious in its current state. The proposed landscape plans intend to complement the retail and restaurant structures. Refer to the provided landscape plans.

- f. An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution, and storage of products. **[Ord. 2014-025]**

**Response:** The subject site does not have an EDC FLU Designation. Therefore, this criterion is not applicable to the proposed development.

### **MUPD PERFORMANCE STANDARDS**

Per Article 3.E.3.B.2 An MUPD shall comply with the following standards:

- a. **Non-Vehicular Circulation**

An MUPD shall be designed to provide for a pedestrian and bicycle-oriented circulation system throughout the development. **[Ord. 2021-006]**

#### **1) Sidewalks**

Internal sidewalks shall connect to sidewalks located along adjacent streets. Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment. **[Ord. 2021-023]**

**Response:** The proposed development includes internal sidewalks throughout the site that connect to the sidewalk along Northlake Blvd. There is no existing sidewalk along Burma Rd. Sidewalks that cross vehicular use areas are proposed to be constructed of pavers, brick, decorative concrete, or similar pavement treatment as required.

**b. Landscape Buffers**

A Type 3 Incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed-use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process, unless exempted below. [Ord. 2018-002] [Ord. 2019-005] [Ord. 2021-023]

**1) Mixed Use**

No buffer shall be required between residential and non-residential uses within a mixed-use development. Internal vegetation shall be planted to promote integration of uses within the development. [Ord. 2021-023]

**Response:** There are no residential uses being proposed. Therefore, this criterion is not applicable to the site.

**2) Vertical Integration**

A Type 2 Incompatibility Buffer shall be permitted along the perimeter between a structure with vertical integration of residential and non-residential uses and adjacent properties with residential structures greater than 35 feet in height. [Ord. 2021-023]

**Response:** There are no residential uses being proposed. Therefore, this criterion is not applicable to the site.

**c. Cross Access**

Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between an MUPD and adjacent land with a non-residential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.

**Response:** The site is proposed to be rezoned to MUPD, and is adjacent to a non-residential FLU Designation. Cross access is proposed at the northwest corner of the property to connect to the property to the west.

**d. Parking**

On-site parking areas shall comply with [Art. 6, Parking, Loading, and Circulation](#), [Art. 7, Landscaping](#), and the following:

**1) Parking Areas**

- a) Ground cover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all landscape islands and divider medians. [Ord. 2018-002]

**Response:** Landscape plans have been provided.

- b) Where pedestrian access ways cross landscape islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment. [Ord. 2018-002]

**Response:** Specific materials have not been specified on the plans at this time. However, they will include brick, decorative concrete, or similar paving treatment in order to call attention to pedestrian access ways that cross islands.

- c) 20 percent of the required parking shall be located at the side or rear of non-residential uses, unless all spaces are provided within a parking structure per [Art. 6.B.2.E, Parking Structures](#). [Ord. 2021-023]

**Response:** 83% of required parking is provided in the rear and back of the site. There are 55 spaces total provided, and 46 are located on the rear and on the side. The proposed development exceeds the 20% requirement.

- d) All required on-site parking shall be located within 400 feet of a public entrance to any non-residential or individual access points of a residential building within the development. [Ord. 2021-023]

**Response:** Required on-site parking is located within 400 ft of the public entrance along Northlake Blvd.

**2) Loading Area Screening**

Internally oriented loading areas, or loading areas between a building and an adjacent residential use, shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall. [Ord. 2021-023]

**Response:** The site does not include an internally oriented loading area or a loading area adjacent to a residential use. As such, this criterion is not applicable.

**CLASS A CONDITIONAL USE – TYPE 1 RESTAURANT IN THE MUPD DISTRICT**

Pursuant to Article 2.B.7.B.2 of the ULDC, *“When considering a Development Order 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 and ZC shall utilize the Standards “a” through “h” indicated below. An application which fails to meet any of these Standards shall deemed adverse to the public interest, and shall not be approved.”*

The Applicant utilizes the analyses of each Standard to demonstrate that the requests comply with the ULDC, as follows:

**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 Type 1 Restaurant is consistent with the proposed Commercial Low (CL) FLU and Multiple Use Planned Development (MUPD) Zoning associated with the site. Contingent upon the approval by the BCC on the FLU amendment from Industrial (IND) to Commercial Low (CL) and the rezoning from Light Industrial (IL) to Multiple Use Planned Development (MUPD), the Class A Conditional Use for the Type 1 Restaurant will be consistent with the Plan.

**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 Type 1 Restaurant will be located within the Commercial Low (CL) FLU designation and Multiple Use Planned Development (MUPD) Zoning upon BCC approval of this Application. Therefore, requested Conditional Use will be compliant with the Code.

**b.1 Approval Process**

Per ULDC Table 4.B.2.A – Commercial Use Matrix, A Type 1 Restaurant in the MUPD Zoning district is subject to Class A Conditional Use approval. Therefore, the request complies with this requirement.

**b.2 Property Development Regulations (PDR)**

See b.3 Rezoning Standard Analysis for PDR requirements.

**b.3 Location Criteria Exemption**

Per Article 4.b.1.c.33.f.3.b *a Type 1 Restaurant located within an MUPD may be exempt from the location criteria of [Art. 4.B.2.C.33.f.1\)](#), [Intersection Criteria](#), and [Art. 4.B.2.C.33.f.2\)](#), [Separation Criteria](#), where in compliance with the following:*

- (1) Required perimeter landscape buffers, where located between all Type 1 Restaurant areas, including ingress/egress, and any R-O-W or parcel of land with a residential FLU designation or use, unless obstructed from view by other existing structures; and

**Response:** The proposed development will include the required perimeter landscape buffers. There is a 20' Right of Way buffer on the northwest corner of the site, and a 15' Right of Way Buffer with a 5' Utility Easement overlap on the northeast corner of the site. The western property line includes an 8' compatibility buffer. The eastern property line has a 15' Right of Way buffer. The southern property line includes a 20' Type 3 incompatibility buffer. Refer to the landscape plans provided.



- (2) Direct access from any perimeter R-O-W abutting the MUPD shall be prohibited. All access shall be from entrances established for the overall MUPD, and comply with minimum standards for ingress/egress, stacking, turn lanes, and pedestrian connectivity.

**Response:** Primary access to the site will be provided via Northlake Blvd.

**c. Compatibility with Surrounding Uses**

*The proposed use or amendment is compatible and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.*

**Response:**

The proposed Type 1 Restaurant, contingent on Class A Conditional Use Approval, is consistent with the proposed Multiple Use Planned Development (MUPD) zoning and surrounding areas. As noted in the Surrounding Uses table, the surrounding areas include commercial FLU and Zoning designations as well as retail and restaurant establishments. The property directly to the west includes a Type 1 Restaurant with a Drive-Through, which is compatible with the proposed development. Directly north of the site and across Northlake Boulevard, there are several commercial uses including restaurants and retail stores. Overall, the proposed development, specifically the Type 1 restaurant, is compatible with the surrounding uses.

**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 development of a Type 1 Restaurant, contingent on Class A Conditional Approval, is being designed to minimize adverse effects on adjacent property. As noted in the surrounding uses chart, Retail and Restaurants are in close proximity to the site and along Northlake Blvd. Directly to the west of the subject site is a Type 1 Restaurant of similar operation. Directly across the street are additional restaurant and retail spaces. The subject site has been designed to minimize adverse impact to the adjacent parcels in terms of reducing intensity. The proposed 3,200 SF Type 1 restaurant is smaller in size than the existing 5,000 SF auto body shop, which will reduce intensity on the site and minimize adverse impact to the adjacent parcels. In addition, the proposed development shall comply with applicable design standards of the NBOZ, meant to encourage consistency with the character of the area.

**e. Design Minimizes Environment 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.*

**Response:**

The site is currently impervious, with little to no vegetation or natural resources on the site. Through coordination with the Palm Beach County Environmental Resources Management Division, a Pre-Application meeting was not required for the site, indicating that there are no environmental impact concerns at this time. Further, the addition of landscaping to bring the property into compliance with today's landscape standards will result in a positive environmental impact.

**f. Development Patterns**

*The proposed amendment will result in a logical, orderly, and timely development pattern.*

**Response:**

The proposed development of a Type 1 Restaurant, approved as a Class A Conditional Use, will result in a logical, orderly, and timely development pattern. As noted in the surrounding uses table, the surrounding areas include several retail stores and restaurants. Northlake Blvd. is a major corridor with high intensity development and commercial uses. Adjacent to the site is a Type 1 Restaurant of similar operation. The development of a Type 1 Restaurant will be consistent with the general development patterns of the area, specifically along Northlake Blvd.

**g. Adequate Public Facilities**

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

**Response:**

The subject site complies with Article 2.F. Concurrency (Adequate Public Facility Standards). Please refer to the Letters of service provided with this application. The site is currently served by Palm Beach

County Fire Rescue Station #68, located approximately 1.75 miles away. In addition, the site is currently served by Seacoast Utility Authority for Water and Wastewater.

**h. Changed Conditions or Circumstances**

*There are demonstrated changed site conditions or circumstances provided by the Applicant's Justification Statement that necessitate the amendment.*

**Response:**

There are changed conditions or circumstances that necessitate the requested Conditional Use. As noted above, the property was developed several decades ago for use as an automotive facility and retail. While the retail remains consistent with the surrounding area, the automotive facility is no longer an appropriate use on the property given the commercial nature of the Northlake corridor and residential uses to the south. The purpose of the FLUA and Rezoning Applications are to allow for the proposed Type 1 Restaurant and existing legal non-conforming Retail Store on the site. The proposed changes in FLU and Zoning will bring the property into compliance and provide consistency with the proposed development program.

The current Auto Body Shop is not consistent with the general area. Northlake Blvd. is a major corridor that supports the surrounding residential areas with high intensity commercial uses. The proposed MUPD zoning will promote consistency with the surrounding area and allow for a Type 1 Restaurant and Retail Store, further contributing to the commercial characteristics of the area.

In addition to the Palm Beach County ULDC, the Northlake Boulevard Overlay Zoning District (NBOZ) also has outlined criteria that a conditional use shall follow. According to NBOZ Article II.2-331.b, *A fast food restaurant with a drive-through shall be approved as a conditional use. In approving a conditional use for fast food restaurant, the reviewing board shall make a finding that the use is appropriately located, based on the following guidelines:*

- 1) Proper functioning of the site as related to vehicular stacking, circulation and turning movements;

**Response:** The proposed development will allow for vehicular stacking, circulation, and turning movements necessary to accommodate the drive-through. The drive-through lane is designed to wrap around the back of the Type 1 Restaurant Building and offer the ability to circulate north to Northlake Boulevard and East to Burma Rd. Turning movements of a variety of vehicles shall be able to circulate and turn throughout the site.

- 2) Adequate buffering from residential areas; and

**Response:** The proposed development has residential development to the south, which will be adequately buffered by a 20' incompatibility buffer.

- 3) Provision of adequate ingress, egress and access.

**Response:** The site has two main access points, one from Northlake Boulevard and one from Burma Rd. Vehicles and pedestrians will be able to circulate within the site between the Type 1 Restaurant and Retail Uses, as well as connect to Northlake Boulevard and Burma Rd.

**Status of Prior Conditions – Not Applicable**

**VARIANCE REQUESTS**

The Applicant is requesting a Type 2 Variance to allow for a reduction in lot size requirement and Type 2 Variance to allow for a reduction in the side street setback requirement.

VARIANCE	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
V1	Table 3.E.3.D – MUPD Property Development Regulations	Minimum 3 AC. Lot Size.	2.02 Acre Lot Size.	To allow for a reduction in the required lot size from 3 Acres to 2.02 Acres.
V2	Table 3.E.3.D – MUPD Property Development Regulations	Minimum 25’ Side Street Setback	21’ Side Street Setback.	To allow for a reduction in the required minimum side setback from 25’ to 21’.

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).*

- 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;**

**Response:**

**V1:** Special conditions and circumstances exist which are peculiar to the Property and are not applicable to other lands, structures, or buildings in the same zoning district. As noted above, the Applicant respectfully requests a reduction in the minimum lot area required for an MUPD to 2.02 acres in lieu of the three (3) acre lot area required. The property was subdivided and developed almost 50 years ago and is in dire need of infill redevelopment in order to eliminate the blighted conditions that exist. However, Applicant is unable to add property to increase the property acreage and provide the minimum area required due to the Property’s frontage on two (2) right of ways (Northlake Boulevard and Burma Rd). However, the 2.02-acre parcel area is sufficient to accommodate the proposed Type 1 Restaurant and existing Retail structure, which will result in a positive impact on the surrounding area. The Northlake Boulevard Corridor is primarily commercial development, and the proposed development on the parcel is consistent with the area. The current use, an Auto Body Shop, is not consistent with the surrounding area and does not fit the general characteristics of the Northlake Boulevard Corridor. Approval of this variance will allow for a development program that is adequate for the 2.02 acre site and is consistent with the surrounding area. The age of the development, incompatibility of the existing use, and multiple frontages on existing rights-of-way are special conditions and circumstances that apply to the subject site.

**V2:** Special conditions and circumstances exist which are peculiar to the Property and are not applicable to other land, structures, or buildings in the same district. The Applicant respectfully requests a reduction in the minimum side street setback required for an MUPD to 21’ in lieu of the 25’ required. The Applicant is unable to provide the minimum 25’ setback due to the existing building on the east portion of the site. The building was constructed in 1969 and is planned to be vested as part of the development program. The existing structure is legally non-conforming Under the current IL zoning district. The constraints created by the existing structure built in 1969 creates special conditions that apply to the subject site specifically.

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

**Response:**

**V1:**The special conditions and circumstances listed above do not result from the actions of the Applicant. They are a result of the site’s location at the corner of Northlake Boulevard and Burma Rd. The lot size cannot be increased, as it has frontage on these two streets and the surrounding parcels are developed. To the west is a Type 1 Restaurant and to the south is residential development. These parcels are under separate ownership, not controlled by the Applicant. Therefore the conditions that do now allow the lot size to meet the minimum requirement are not a result of the actions of the Applicant.

**V2:**The special conditions and circumstances listed above do not result from the actions of the Applicant. They are a result of the existing building, constructed in 1969 by an entity other than the Applicant. This structure was approved to be developed decades ago, and is currently a retail store. It is important to note that this structure is a legal non-conforming use under the current IL Zoning. Upon approval of the concurrent requests, the site will comply with the code. However, the side street setback would involve further action that would minimize the ability to maintain the current structure and require further impact on the site. The conditions outlined above that do not allow the site to meet the 25’ side street setback are not a result of the actions of the Applicant.

**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;**

**Response:**

**V1:** Granting the variance to minimize the required lot size would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district. As stated in the responses above, the Applicant has designed the proposed development to comply with the ULDC and Comprehensive Plan to the greatest extent possible given the infill nature of the redevelopment and existing site constraints. Despite these efforts, it is not possible to provide the minimum lot size of 3 acres due to the frontages along Northlake Blvd. and Burma Rd and the existing development to the west and south. Properties under similar circumstances regarding location and surrounding development would be considered under the same criteria. As such, granting this variance would not confer on the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district.

**V2:** Granting the variance to minimize the required side street setback from 25' to 21' would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD District. As stated in the responses above, the Applicant has designed the proposed development to comply with the ULDC and Comprehensive Plan as much as practical. However, it is not possible to provide the minimum side street setback of 25' due to the existing legal non-conforming use/building on the east portion of the site. The structure, currently a retail use, was constructed in 1969. Properties under similar circumstances regarding older or nonconforming structures would be considered under the same criteria and allowed to remain without needing a variance approval given the legally nonconforming nature of the use and building. As such, granting this variance would not confer on the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district.

**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;**

**Response:**

**V1:** 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 literal interpretation of the provisions of the Palm Beach County ULDC would create unnecessary and undue hardship on the Petitioner, and prevent redevelopment of the property. As stated earlier, the current use of an Auto Body Shop on the property does not serve the surrounding area and is incompatible with the existing residential development abutting the property to the south. the proposed infill redevelopment of a Type 1 Restaurant will provide an additional dining option for the area residents and with the proposed incompatibility buffer significantly improve the compatibility with surrounding uses. Northlake Boulevard is a commercial corridor and an industrial use such as an Auto Body Shop is not as supportive to the community as a commercial use. As such, requiring the Applicant to provide the required minimum lot size of 3 acres for MUPD Zoning would create unnecessary and undue hardship on the Applicant and prevent a much needed infill redevelopment.

**V2:** 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 literal interpretation of the provisions of the Palm Beach County ULDC would create unnecessary and undue hardship on the Applicant and require further demolition on the property. Per the ULDC, the minimum side street setback along Burma Rd is 25'. The Applicant is proposing to maintain the existing 21' side street setback for the existing legally nonconforming retail building, which was constructed in 1969 with a 21' setback. As such, requiring the Applicant to provide the minimum side street setback of 25' would create unnecessary and undue hardship on the Applicant.

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

**Response:**

**V1:** The variance to reduce the minimum lot size requirement is the minimum variance that will allow the Applicant to make reasonable use of the Property. The Applicant is requesting the variance to reduce the MUPD lot size requirement to accommodate the proposed development. The proposed development is an appropriate use for the site and will serve the community better than the existing Auto Body Shop Use. The Applicant has proposed a development that complies with the ULDC and NBOZ requirements to the greatest extent possible. However, the location with frontages along Northlake Boulevard and Burma Rd do not allow for the 3 Acre lot size requirement to be met. As such, the requested variance is the minimum variance that will make possible the infill redevelopment of the parcel and allow for consistency with the Code.

**V2:** The variance to reduce the side street setback requirement is the minimum variance that will allow the Applicant to make reasonable use of the property. As stated above, the proposed development will better serve the community compared to the existing Auto Body Shop, which does not fit the characteristics of the Northlake Blvd Corridor that is primarily commercial. The Applicant is unable to meet the minimum required side street setbacks due to the existing legally non-conforming retail building. As such, the requested variance is the minimum variance that will make possible the reasonable use of the parcel.

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

**Response:**

**V1:** Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. The concurrent FLUA, Rezoning, and Class A Conditional use requests are consistent with the Plan and Code. As stated above, the Applicant is requesting a FLUA for the Property from Industrial to Commercial Low. The proposed rezoning of the property, from IL to a MUPD, is permitted under the CL Future Land Use Designation. The proposed development includes a Type 1 Restaurant, permitted as a Class A Conditional Use, and an existing Retail Store. Approval of the Rezoning and Class A Conditional use is consistent with the proposed CL Future Land Use and also Policy 2.2.c of the Comprehensive Plan. Policy 2.2.c states: *The County shall ensure its Unified Land Development Code is consistent with the appropriate elements of the Comprehensive Plan.* The proposed development is located on Northlake Blvd, a commercial Corridor in Palm Beach County. The proposed commercial uses will support and expand upon the existing commercial presence along Northlake Blvd. The proposed uses will better serve the community than the existing industrial use on the site, will add significant landscaping to improve compatibility and aesthetic quality, and will provide an additional service for area residents. Approval of the Variance to reduce the MUPD lot size requirement is essential to the proposed development and is consistent with the ULDC and Comprehensive Plan.

**V2:** Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. The concurrent FLUA, Rezoning, and Class A Conditional use requests are consistent with the Plan and Code. Stated above, the Applicant is requesting a FLUA for the Property from Industrial to Commercial Low. The proposed rezoning of the property to a MUPD is permitted under the CL Future Land Use Designation. The proposed development includes a Type 1 Restaurant, permitted as a Class A Conditional Use, and a Retail Store that currently exists on the site. Approval of the Rezoning and Class A Conditional use is consistent with the proposed CL Future Land Use and also Policy 2.2.c of the Comprehensive Plan. Policy 2.2.c states: *The County shall ensure its Unified Land Development Code is consistent with the appropriate elements of the Comprehensive Plan.* The proposed development is located on Northlake Blvd, a commercial Corridor in Palm Beach County. The proposed commercial uses will support and expand upon the existing commercial presence along Northlake Blvd. The uses will better serve the community than the existing industrial use on the site. Approval of the variance to reduce the side street setback of 25' is essential to implement the proposed development and minimize further impact to the site.

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

**Response:**

**V1:** Granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Approval of the request will allow for redevelopment of an industrial site that no longer adequately serves the community, with a program that complies with the ULDC and Comprehensive Plan as closely as possible. Outlined in responses 1-6 above, the Applicant is requesting for a reduction in the minimum lot area required for an MUPD under the CL Future Land Use Designation.

**V2:** Granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Approval of the request will allow for redevelopment of an industrial site that no longer adequately serves the community as best as it can, with a program that complies with the ULDC and Comprehensive Plan as closely as possible. Outlined in responses 1-6 above, the Applicant is requesting for a reduction in the minimum side setback required for an MUPD under the CL Future Land Use Designation.

**SUBDIVISION VARIANCE REQUEST**

The Applicant is requesting a Subdivision Variance to allow secondary access from a non-plan collector road with a 22' wide pavement with a sidewalk only on one side of the street. This request applies to Burma Rd which currently provides access to the site from the east.



VARIANCE	ULDC SECTION	REQUIRED	PROPOSED	VARIANCE
SV	ULDC 11.E.2.A.4.b. / Table 11.E.2.A-2	Access from Non-Plan Collector Road having 24 feet wide pavement and sidewalks on both sides of street	22 feet wide pavement with sidewalk only on one side of street	2 feet pavement width with sidewalk only on one side of street

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].*

**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;**

**Response:**  
Special conditions and circumstances exist which are peculiar to the Property and are not applicable to other lands, structures, or buildings in the same zoning district. The Applicant respectfully requests a subdivision variance to allow access from Non-Plan Collector Road having 22’ wide pavement and a sidewalk only on one side of the street. The Northlake Boulevard access is an existing access point and is required in order to ensure safe and efficient travel patterns in and around the property. Burma Rd is a residential access street with 22’ of pavement and a proposed sidewalk. The existing development on the subject site and the property on the east side of Burma preclude the widening of the road to non-plan collector standards. The existing structure on the east side of the subject site combined with the required 24’ of pavement with sidewalks on both sides of the street is a unique circumstance specific to the property.

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

**Response:**  
The special conditions and circumstances preventing the site from meeting code do not result from the actions of the Applicant. They are a result of the previously approved Burma Rd and existing structure on the site, both of which existing long before the Applicant took ownership of the property and commenced planning for the proposed infill redevelopment. The site currently has access to both Northlake Boulevard, a 150’ ROW, and Burma Rd, a 30’ ROW with 22’ of pavement and a proposed sidewalk on one side of the road. These two access points have been utilized in their current conditions for years prior to the Applicant’s purchase of the property. The Applicant is proposing to shift the access to Burma on the east property line south and increase the throat distance from the existing layout of the site in efforts to improve access and ensure safe circulation patterns. However, providing 24’ of pavement with sidewalks on both sides of the street is not feasible. Approval of the subdivision variance will allow the Applicant to pursue the infill redevelopment of the site, add landscaping, and eliminate the existing blighted conditions. The Applicant is not responsible for the existing 30’ ROW and 22’ pavement width. Burma Rd has existed with these dimensions for years. Therefore, the circumstances and conditions required are not a result of the actions of the Applicant.

**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;**

**Response:**  
Granting the subdivision variance to allow primary access from Northlake and secondary access from the 30’ wide Burma ROW with 22’ of pavement and one sidewalk would not confer upon the Applicant any special privilege denied by the Comprehensive Plan and Code to other properties in the MUPD district. As stated in the responses above, the current conditions of the site and ROW are unique to this site. The Applicant has designed the proposed development to comply with the ULDC and Comprehensive Plan as much as possible. Despite these efforts, it is not possible to meet the access requirements without significantly reducing the size of the property and existing structure, which would make However, it is not possible to meet the 24’ pavement width with sidewalks on both sides of the street without requiring the Applicant to sacrifice lot size, a portion of the existing structure, and pause retail operations for the tenant in the existing structure, all of which would ultimately halt the much needed infill redevelopment and require that the property remain in its current blighted condition in perpetuity.

**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;**

**Response:**

Literal interpretation and enforcement of 11.E.2.A.4.b. and 11.E.2.A-2 would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district and would create an unnecessary and undue hardship. The literal interpretation of the provisions of the Palm Beach County ULDC would require significant reduction in the lot size and existing structure that currently houses a retail business. Approval of the subdivision variance to allow secondary access from a 30' ROW with 22' of pavement and sidewalk only on one side of the street would relieve the Applicant of these hardships, allow access to remain as it exists and operates, and support the proposed redevelopment of the site. Requiring the provide 24' of pavement and a sidewalk on both sides of Burma Rd would not only reduce the size of the property but require a significant reduction of the existing structure on the site. Approval of the subdivision variance to allow 22' of pavement and one sidewalk would prevent the Applicant from being deprived of rights commonly enjoyed by other parcels of land in the district.

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

**Response:**

The subdivision variance to allow for secondary access from a 30' ROW with 22' of pavement and a sidewalk on one side of the street is the minimum variance that will allow the Applicant to make reasonable use of the Property. The Applicant's request is to allow the subject site and road remain as they exist and have been operating for decades. The request is reasonable, as it minimizes the amount of potential impact on the subject site, Burma Rd, and the surrounding properties, and ultimately allows the Applicant to complete the infill redevelopment project and eliminate the existing blight on the property. The subdivision variance to allow for 22' of pavement with sidewalk only on one side of the street is the minimum variance that will allow the Applicant to make reasonable use of the property. The Applicant's request does not create any benefits for the subject property, it is simply requesting to allow the ROW to remain as it exists.

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

**Response:**

Granting of the variances be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. Sec. 1-1 Purpose and Intent of the Northlake Boulevard Overlay Zone (NBOZ) states the following objective: *Redevelopment of the Corridor in order to build community pride, retain and attract commercial activity, and improve the area's economic condition.* Approval of the subdivision variance will allow the existing building to remain and current business to continue operations, supporting the objectives of the NBOZ. Granting of the variances will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. Similar to the first subdivision variance request, Sec. 1-1 Purpose and Intent of the Northlake Boulevard Overlay Zone (NBOZ) state the following objective: *Redevelopment of the Corridor in order to build community pride, retain and attract commercial activity, and improve the area's economic condition.* Approval of the subdivision variance will allow the existing building to remain and current business to continue operations, supporting the objectives of the NBOZ.

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

**Response:**

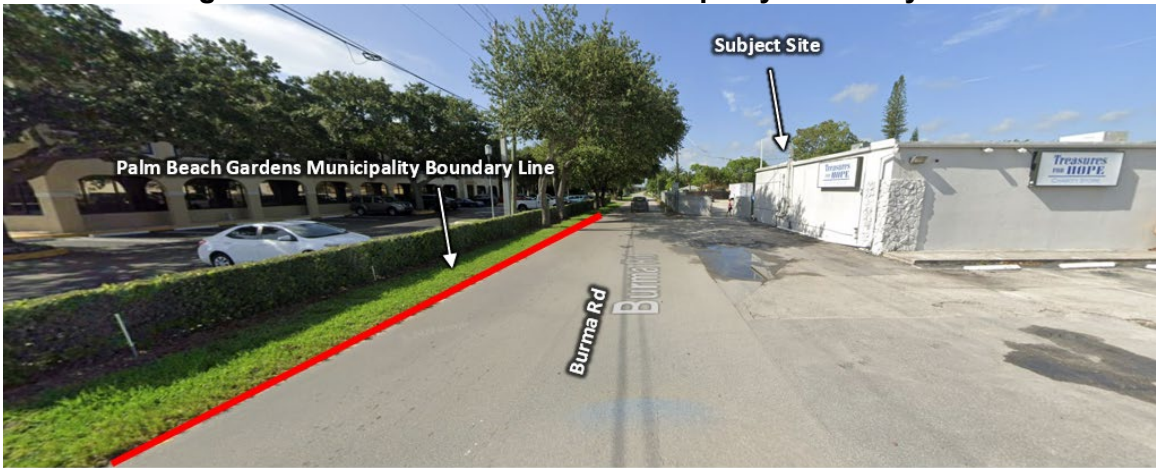
Granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The required access from a non-plan collector road with 24' of pavement and sidewalks on both sides of the street may be injurious to the surrounding area and the public welfare. If the Applicant were to provide 24' of pavement and sidewalks on both sides of Burma, the increase in width would end at the southern property line. This would create an abrupt transition from 24' of pavement with two sidewalks abutting commercial uses, to the existing 22' pavement with one sidewalk abutting residential uses. The Applicant is proposing to keep the 22' pavement and add one sidewalk on the west side of Burma road adjacent to the subject site. If the Applicant were to provide 24' of pavement with sidewalks on each side of the street, they would contribute to a misalignment with the potential of creating hazardous and unsafe conditions for the surrounding residential area. Approval of the subdivision variance to allow secondary access will allow the Applicant to conserve an existing structure on the site, promote infill redevelopment, eliminate blight, and refrain from contributing to a potentially unsafe traffic pattern.

**Figure 2: Southern Property Line of the Subject Site**



*Source: Google Street View*

**Figure 3: Palm Beach Gardens Municipality Boundary Line**



*Source: Google Street View*

**CONCLUSION**

In conclusion, the Applicant respectfully requests the approval to Rezone the property from IL to MUPD, approval of a Class A Conditional Use to allow for a Type 1 Restaurant, approval of a Type 2 Variance to allow for a reduction in the lot size requirement, approval of a Type 2 Variance to allow for a reduction in side street setback requirements along Burma Rd, and approval of a Subdivision Variance to allow access from Non-Plan Collector Road having 22' wide pavement and a sidewalk only on one side of the street.