

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

Application No.: ZV-2023-00375
Application Name: Chabad Chai Center
Control No./Name: 2022-00116
Applicant(s): Educational Alternate
Owner(s): Educational Alternate
Agent(s): Schmidt Nichols - Josh Nichols
Telephone No.: (561) 684-6141
Project Manager: Vincent Stark, Site Planner I

Title: a Type 2 Variance **Request:** to allow a reduction in lot size, lot depth, and rear setback on 2.77 acres

APPLICATION SUMMARY: The proposed request is for the proposed 2.77 acre Chabad Chai Center Development. The subject site has no prior Board of County Commissioners (BCC) approvals.

The site does not meet the minimum acreage for the Agricultural Reserve Zoning District, and the application was initially submitted to request three variances to allow a reduction in lot size, lot depth and rear setback. Should the variance be approved, the Applicant will subsequently request an Administrative Approval for a Place of Worship with a seating capacity of 246 seats.

Engineering Staff provided information that the northern portion of the originally platted lots was acquired under the threat of eminent domain for the road project 1998501 Clint Moore Road to accommodate road drainage. The action was settled pre-trial, and the Warranty Deed was signed on April 26, 2002. As a result of this action, the southern portion of the property, which is subject of this request, was reduced in size below the minimum acreage and depth. The Unified Land Development Code (ULDC) states:

“Lots reduced by an eminent domain action to any size or configuration below that require by the applicable zoning district may be developed, subject to the following:

- a. Uses subject to lot size requirements in Art. 4.B, Use Classification, shall comply with those standards. Type 2 Variances relief may be requested from this requirement if it cannot be met as a result of the eminent domain action; and*
- b. In all cases, required districts setbacks shall be used.”*

Therefore, the variance for reduction in lot size and lot depth are not required. The remaining request that is part of this analysis will be for the reduction in the rear setback.

SITE DATA:

Location:	North side of Clint Moore Road, 0.3 miles east of Wagon Wheel Drive
Property Control Number(s)	00-42-43-27-05-071-1192
Future Land Use Designation:	Agricultural Reserve (AGR)
Zoning District:	Agricultural Reserve District (AGR)
Acreage:	2.77 acres
Tier:	Agricultural Reserve
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Boca Raton
Future Annexation Area	N/A
Commission District	District 5, Vice Mayor Maria Sachs

STAFF RECOMMENDATION: Staff recommends **denial** of the request for a Type 2 Variance to allow a reduction in the rear setback.

Should the Zoning Commission move to recommend approval of the request, Staff recommends Conditions of Approval as indicated in Exhibit C.

ACTION BY THE ZONING COMMISSION (ZC): *Scheduled November 2, 2023*

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received over 30 contacts from the public regarding this project both in support and in opposition.

PROJECT HISTORY: There have been no prior approvals by the Board of County Commissioners (BCC) for this site. The site is currently vacant.

TYPE 2 VARIANCE SUMMARY:

As summarized at the beginning of this report, the initially requested variance for lot size and lot depth is no longer required due to a previous Eminent Domain action. Therefore, the analysis following the table below is solely regarding the request to reduce the setback.

Variance	ULDC Article	Required	Proposed	Variance
V-1 Removed	Art. 3.D.1.A, Property Development Regulations	Minimum lot size required of 5 acres	2.77 acres	2.23 acres reduction
V-2 Removed	Art. 3.D.1.A, Property Development Regulations	300 ft. Depth of lot	261.8 ft. lot depth	38.2 ft. reduction
V-3	Art. 3.D.1.A, Property Development Regulations	100 ft. rear setback	60.0 ft. rear setback	40.0 ft. reduction

FINDINGS:

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.

- 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:

V3: *“The subject property was reduced by half due to the purchase of the northern half of the property by Palm Beach County for drainage purposes. The county prescribes a minimum front setback of 100’ and rear setback of 100’ leaving 60’ of developable area in the middle of the site.”*

STAFF’S RESPONSE

V3 The 2.77-acre subject site does not meet the minimum acreage for the Agricultural Reserve Zoning District due to an Eminent Domain Action for Road drainage. The ULDC allows this lot to be developed subject that setbacks be met. The site is vacant and the Applicant is seeking a reduction in the rear setback. The prior deeds reference that the sale of property is subject to conditions, covenants, restrictions; easements and limitations of record, if any, all valid zoning ordinances, and thus were aware of the need to comply with the Unified Land Development Code (ULDC).

The Applicant bought a vacant property (exception for the billboard) that was reduced in size due to eminent domain, and understood that the site was zoned Agricultural Reserve and had 100 foot rear setback. The Applicant has failed to indicate any special conditions or circumstances peculiar to the parcel of land that would prevent compliance with the PDR that would warrant support for the variance. The Unified Land Development Code is very clear that a lot reduced in size due to eminent domain must still meet the setbacks to develop the non-conforming lot. The Applicant could redesign to meet setbacks, or propose a different use that would make better use of the land.

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

APPLICANT’S RESPONSE:

V3: *“The subject site is currently vacant. The conditions by which the proposed variance is created is based on the fact that the site’s developing potential was reduced to almost half of the property due to the purchase of the northern half of the property by Palm Beach County for drainage purposes. The county requires a minimum of 100’ front and rear setback leaving the site with 60’ to develop. The tough circumstances of the site were created by the county when majority of the site was dedicated to the Lake worth Drainage district.”*

STAFF’S RESPONSE

V3 - The subject property was reduced to 2.77 acres by an eminent domain action of the lot in 2002, thus creating a reduced size. The Property Development Regulations require a minimum 100’ Rear Setback depth for any lot in the AGR zoning district. The proposed building, is required to maintain a 100-foot setback from the northern property boundary, as required by Article 1.G.1.B.6. The situation does not involve any hardship that is beyond a self-imposed nature, as the site is vacant and all uses and structures are proposed. The circumstances and conditions are a direct result from the Property Owner due to their action to purchase of the land that was smaller is size and proposing a design that does not meet code.

Further, the property owner owns the property to the east of the subject site and can combine the two properties. The combination of the two properties would potentially negate the need for a variance and allow a joint access between the properties to alleviate issues stemming from separate developments at this location. When the Property Owner bought the property the regulations were the same as they are today, thus when designing the site for use must be in accordance with the ULDC.

- 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:

V1, V2, V3: *“As previously mentioned, the subject site has limited development potential which was not caused by the applicant. The lot was subdivided into 96 blocks in 1997 leaving a nonconforming lot. The subject PCN is comprised of 2 (two) tracts of land which will need to be combined through a future process. Currently, the code requires a minimum lot size of 5-acres with a minimum 300’ depth. The site totals 2.769-acres with 261.80’ depth due to the multiple ROW conveyances. Additionally, the County prescribes a minimum of 5 acres (in the AGR), a front setback of 100’ and rear setback of 100’ leaving 60’ of developable area in the middle of the site. moreover, the site is unique where the development potential is reduced by half due to the purchase of the northern half of the property by Palm Beach County to utilize the property for drainage purposes. Approving this variance will not grant the applicant any special privilege that is not currently afforded to other properties supporting the AGR FLU& Zoning.”*

STAFF’S RESPONSE

V3 – NO. Granting the Variance would allow the Applicant to proceed with an approval for a rear setback that on a lot that does not meet the PDR requirements for an AGR Zoning District where other buildings within the same Zoning District would be required to meet such setbacks. Other properties in the AGR District must meet the same setback. Properties that are subject to Eminent Domain, within the AGR District are also subject to the same requirement that setbacks must be met. The structure and use are proposed and do not exist, which remains in the planning stage, can be redesigned to meet all the required setbacks. Granting the Variance will 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:

V3: *“The subject property was reduced by half due to the purchase of the northern half of the property by Palm Beach County to utilize the property for drainage purposes. The county prescribes a minimum front setback of 100’ and rear setback of 100’ leaving 60’ of developable area in the middle of the site. The literal interpretation of the code would restrict the ability to construct a reasonable structure on the property due to setbacks which are presented for parcels twice the size.”*

STAFF’S RESPONSE

V-3 – Literal interpretation and enforcement does not deprive the Applicant rights enjoyed by others. The Applicant is proposing a use and structures. The ULDC is clear that the lot may exist, however setbacks must be met. The subject use and proposed site design may be inappropriate as proposed.

- 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:

V1, V2, V3: *“Due the unique circumstances of the site, granting of the proposed variance is the minimum variance necessary to make reasonable use of property and construct a building to meet the minimum needs of the applicant.”*

STAFF’S RESPONSE

V3 - NO. Granting the variance is not the minimum variance to make reasonable use of the parcel. Other uses may be more appropriate for the subject site, or a redesign to eliminate the need for the variance. The Property Owner purchased land knowing its location and size. The site is vacant and must comply with the ULDC, and should not assume that variances shall be granted. The Property Owner also owns the property to the west and has owned that parcel prior to purchasing the subject property. The combination of the two properties would potentially negate the need for a variance and allow a joint access between the properties to alleviate issues stemming from separate developments at this location.

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

APPLICANT'S RESPONSE:

“Response: *Granting of the requested variances will be consistent and in keeping with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.”*

STAFF'S RESPONSE

V3 – The Applicant provided no response to the subject standard. Granting of this variance is not consistent with the purposes, goals objectives and policies of the Plan and this Code. The Owner purchased a lot, with knowledge of the size and location. The code is clear that setbacks must be met even when Eminent Domain action was taken. Any approval would be inconsistent with the Plan and the Code.

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

APPLICANT'S RESPONSE:

“V1, V2, V3: *Granting of the requested variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The variances are the result of PBC and other takings, however, the design of the site as proposed will not create any impact to the property or its surrounding neighbors.”*

STAFF'S RESPONSE

V3 – YES Granting the variance would not be injurious or detrimental to the public welfare. The function and layout of the site can be reviewed further through the subsequent application for the use to ensure the design minimizes adverse impacts with the proposed lot dimension and rear setback.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B.7.E.6 and has determined that the request does not satisfy the standards a--f, and is therefore **recommending denial** of all the requests.

CONDITIONS OF APPROVAL

EXHIBIT C

Type 2 Variance - Standalone

ALL PETITIONS

1. The Preliminary Site Plan is dated August 9, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, to site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)
2. The Development Order for this Variance shall be valid till November 1, 2024, a period of one year from the date of the Zoning Hearing. The Property Owner must secure a Building Permit to vest the variance for the setback. (DATE: MONITORING - Zoning)
3. Prior Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Final Site Plan. (DRO: ZONING - Zoning)
4. 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. (BLDG PMT: BUILDING DIVISION - Zoning)

ENGINEERING

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 the Unified Land Development Code or as otherwise approved by the County Engineer (BLDG PMT: MONITORING - Engineering)

COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Zoning Commission for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:
 - a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
 - b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
 - c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; 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

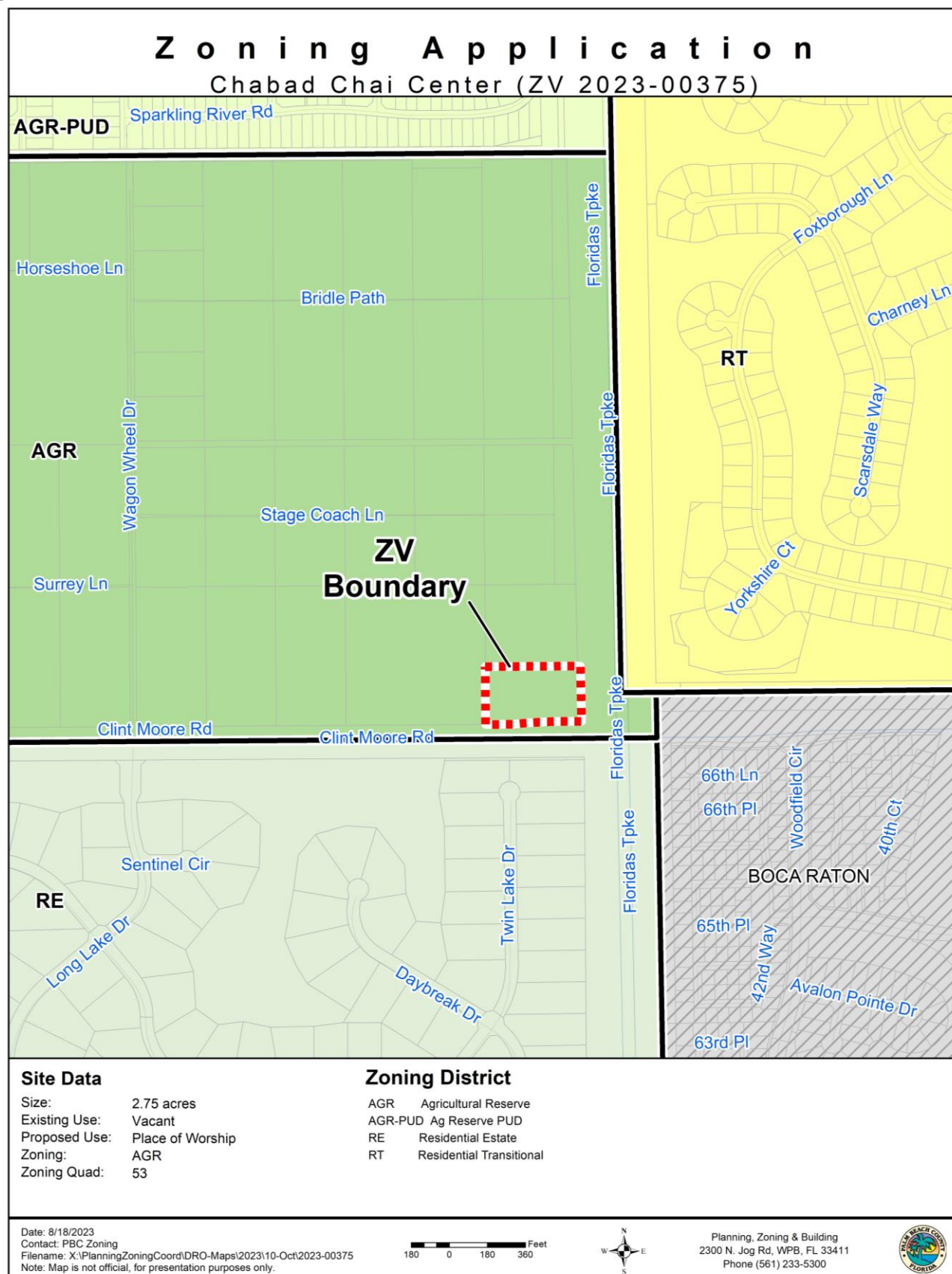


Figure 3 – Preliminary Site Plan dated August 9, 2023

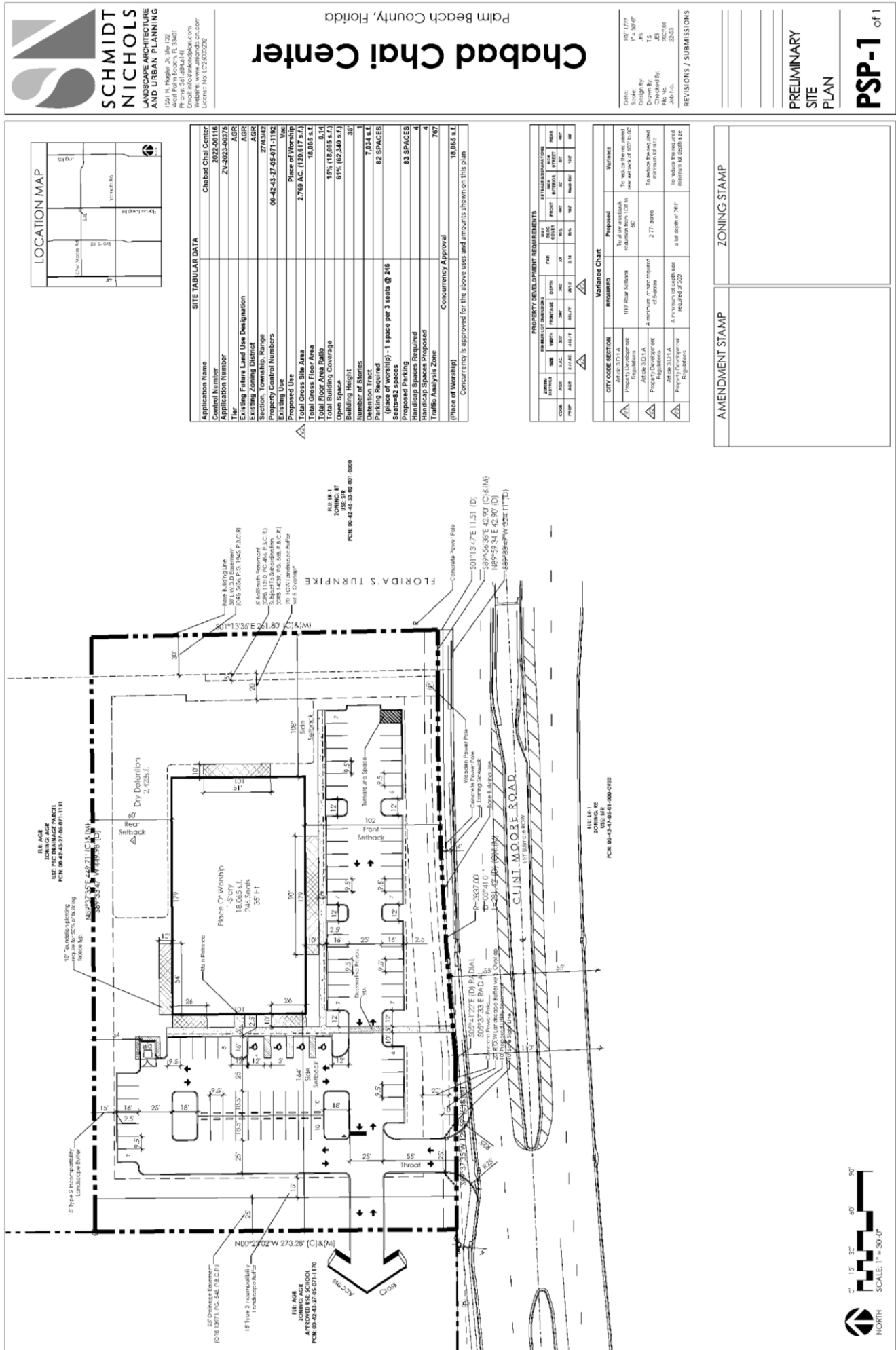


Exhibit D – Disclosure of Ownership

PALM BEACH COUNTY - ZONING DIVISION

FORM # 8

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

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

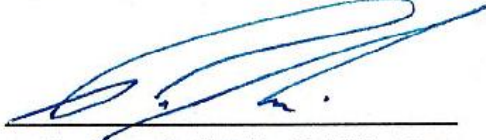
TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Ronald D Simon, Title Manager, Atomato Educational Systems Property 4, LLC, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ individual or ☒ Title Manager *[position—e.g., president, partner, trustee]* of Atomato Educational Systems Property 4, LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]*, (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 10640 La Reina Road, Delray Beach FL 33446

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



Ronald D Simon, Title Manager, Alternate Educational Systems Property 4, LLC, Affiant

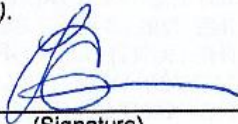
(Print Affiant Name)

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 9 day of February, 2023 by
Ronald D. Simon (name of person acknowledging). He/she is personally
known to me or has produced _____ (type of identification) as
identification and did/did not take an oath (circle correct response).

Lucille Calabro
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: 06/24/2023

NOTARY'S SEAL OR STAMP

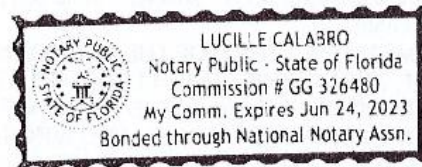


EXHIBIT "A"**PROPERTY****LEGAL DESCRIPTION****PARCEL 2:**

TRACTS 119 AND 120, BLOCK 71, PALM BEACH FARMS COMPANY PLAT NO.3, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM COUNTY, FLORIDA.

LESS AND EXCEPT THE FLORIDA TURNPIKE A/K/A THE SUNSHINE STATE PARKWAY RIGHT OF WAY THROUGH TRACT 120.

AND LESS

A PORTION OF TRACTS 119 AND 120, BLOCK 71, PALM BEACH FARMS COMPANY PLAT NO.3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

BEGINNING AT THE NORTHWEST CORNER OF SAID TRACT 119; THENCE NORTH 89°33' 47" EAST, ALONG THE NORTH LINE OF SAID TRACTS 119 AND 120 A DISTANCE OF 444.70 FEET; THENCE SOUTH 01°13'47" EAST, ALONG THE WEST RIGHT-OF-WAY LINE OF LAKE WORTH DRAINAGE DISTRICT E-2-W CANAL, A DISTANCE OF 386.89 FEET; THENCE SOUTH 89° 33' 47" WEST ALONG A LINE 386.86 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE NORTH LINE OF SAID TRACTS 119 AND 120, A DISTANCE OF 449.98 FEET, THENCE NORTH 00°26'50" WEST, ALONG THE WEST LINE OF SAID TRACT 119, A DISTANCE OF 386.86 FEET TO THE POINT OF BEGINNING.

AND LESS

A PORTION OF TRACTS 119 AND 120, ACCORDING TO THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO.3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND LYING WITHIN SECTION 5, TOWNSHIP 45 SOUTH, RANGE 42 EAST, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT 119; THENCE SOUTH 89°33'47" WEST, ALONG THE NORTH LINE OF TRACT 119, A DISTANCE OF 199.48 FEET; THENCE SOUTH 00°26'13" EAST, A DISTANCE OF 880.00 FEET TO THE POINT OF BEGINNING OF THE HERIN DESCRIBED PARCEL AND A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 2,837.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 05°41'22" EAST; THENCE NORTHEASTLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°41'01", A DISTANCE OF 281.42 FEET; THENCE NORTH 89°59'34" EAST, A DISTANCE OF 42.90 FEET; THENCE SOUTH 01°13'47" EAST, ALONG THE WEST RIGHT OF WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT E-2-W CANAL, A DISTANCE OF 11.51 FEET; THENCE SOUTH 89°33'47" WEST ALONG THE NORTH LINE OF THE 50 FOOT ROAD, DITCH AND DYKE RESERVATION ACCORDING TO THE PLAT OF PALM BEACH FARMS COMPANY PLAT NO.3 AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AS CONVEYED TO LAKE WORTH DRAINAGE DISTRICT (L-40 CANAL RIGHT OF WAY) PER O.R. BOOK 1585, PAGE 505, A DISTANCE OF 324.11 FEET TO THE POINT OF BEGINNING.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the 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

Ronald D Simon 10540 LA Reina Road, Delray Beach fl33446

[illegible]



**Justification Statement
Setback, Lot size and depth Variance
Approval Request
Chabad of Chai Center
Palm Beach County (PBC) Submittal
Original Submittal: March 15, 2023
Resubmittal: April 19, 2023**

Introduction

Schmidt Nichols (“Agent”), on behalf of the Applicant/ Contact Purchaser, Chabad Chai Center (“Applicant”), we are respectfully requesting approval of an application for 3 (three) Type 2 Variances, 1) 40’ setback reduction for the rear setback; 2) 5 (five) acre minimum lot size; 3) Relief from the minimum 300’ lot depth requirement within the Agricultural Reserve (AGR) zoning district. The subject property is situated on the north side of Clint Moore Road and immediately to the west of Florida’s Turnpike. The subject Site is associated with the following PCN number: PCN# 00-42-43-27-05-071-1192.

Currently, the subject property supports a Future Land Use Atlas designation of Agricultural Reserve District (AGR) and falls within the AGR Tier according to the Growth Management Tier System Maps outlined in the Comprehensive Plan Future Land Use Element. The subject property is within the Agriculture Reserve zoning district (AgR).

Below is a summary of surrounding properties:

Adjacent Lands	FLU	Zoning	Uses
Subject Property	AGR	AGR	Place of Worship (proposed)
North	AGR	AGR	Vacant (PBC Drainage)
South	LR-1	RE	Residential
East	LR-1	RT	Recreation
West	AGR	AGR	Vacant

Type II Variance Requests:

Below is an outline of the required applications/requests:
The applicant is respectfully requesting Type 2 variance for the following:

- Request 1:** To allow a rear setback reduction from 100’ to 60’
Request 2: To allow a reduction in the minimum required lot size to 2.77-acre.
Request 3: To allow a reduction in the minimum required lot depth to 261.80’.

The Applicant respectfully requests consideration of the follog (Stand Alone) Variances:

	ULDC ARTICLE	Required	Proposed	Variance
V1	Article 3. D.1.A	100’ Rear Setback	60’ rear setback	To allow the reduction of the rear setback by 40’

V2	Article 3.D.1.A	5-acre minimum lot size	2.77-acres	To reduce the required minimum lot size by 2.23 acres
V3	Article 3.D.1.A	300' minimum lot depth	261.80' lot depth	To reduce the required minimum lot depth size by 38.2'

Site History (Beginning of July 19,2013 through May 27, 2022):

- the subject property was a part of THE PALM BEACH FARMS CO. PLAT NO.3, according to the plat thereof, as recorded in Plat Book 2, Page 45, of the Public Records of County, Florida.
- Reservation in favor of the Lake Worth Drainage District as contained in that certain Deed recorded in Deed Book 629, page 492, of the Public Records of Palm Beach County, Florida. (Enclosed herein)
- Reservations in favor of The Trustees of the Internal Improvement Fund of The State of Florida as contained in that certain Deed recorded in Deed Book 646, Page 303, of the Public Records of Palm Beach County, Florida. (Enclosed herein)
- Reservations in favor of the Lake Worth Drainage District as contained in that certain Deed recorded in Deed Book 668, Page 274, of the Public Records of Palm Beach County, Florida. (Enclosed Herein)
- Easement in favor of the Lake Worth Drainage District recorded in Official Records Book 5656, Page 1845, of the Public Records of Palm Beach County, Florida. (Enclosed Herein)
- Easement in favor of BellSouth Telecommunications, Inc., recorded in Official Records Book 11310, Page 486, of the Public Records of Palm Beach County, Florida (Enclosed Herein)

Per Unified Land Development Code (ULDC) Art.2.B.7.E, Standards, applications for Type II Variances must take the following standards into consideration:

VIII. VARIANCE INFORMATION:

Per ULDC Article 2.B.7, requires a statement of special reason or the basis for the variance required. Article 2.B.7.E states that in order to authorize a variance, the Zoning Commission shall and must find that the conditions enumerated have been met. The Seven Standards below are one of the factors Staff uses in formulating their recommendations and opinions. Address each standard completely and attach additional information or documentation as necessary.

- Drainage Easement in favor of Palm Beach County, recorded in Official Records Book 13971, Page 548, of the Public Records of Palm Beach County, Florida. (Enclosed Herein).

TYPE II VARIANCE SEVEN (7) STANDARDS

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

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

V1: The subject property was reduced by half due to the purchase of the northern half of the property by Palm Beach County for drainage purposes. The county prescribes a minimum front setback of 100’ and rear setback of 100’ leaving 60’ of developable area in the middle of the site.

V2, V3: The subject site was a part of a land subdivision that occurred in 1997 subdividing the land into 96 blocks. This subdivision rendered the site below the minimum 5-acre threshold and below the minimum required depth of 300’. Furthermore, it is reasonable to allow reduction in the lot size, rear setback and lot depth as this is a very unique circumstance. ROW conveyances and County takings (PBC Drainage, Florida’s Turnpike) have rendered the site constrained.

2. Special Circumstances and conditions do not result from the actions of the applicant.

Response: There are special circumstances and conditions that apply are not a result of actions by the

applicant.

V1: The subject site is currently vacant. The conditions by which the proposed variance is created is based on the fact that the site's developing potential was reduced to almost half of the property due to the purchase of the northern half of the property by Palm Beach County for drainage purposes. The county requires a minimum of 100' front and rear setback leaving the site with 60' to develop. The tough circumstances of the site were created by the county when majority of the site was dedicated to the Lake worth Drainage district.

V2, V3: The subject site was a part of a land subdivision that had happened in 1997 which subdivided the land into 96 blocks. This subdivision led to resulting a non-confirming lot that does not meet the minimum required lot size and depth. Currently, the code requires a minimum Lot size of 5-acre with a minimum required 300' Depth; the subject site is 2.769 acre with a 261.80' depth. The current configuration of the site is not the result of the applicant's action.

3. Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district.

Response: Granting the variance will not confer any special privilege upon the applicant denied by the comprehensive plan and this code to other parcels of land, building or structures in the same zoning district.

V1, V2, V3: As previously mentioned, the subject site has limited development potential which was not caused by the applicant. The lot was subdivided into 96 blocks in 1997 leaving a nonconforming lot. The subject PCN is comprised of 2 (two) tracts of land which will need to be combined through a future process. Currently, the code requires a minimum lot size of 5-acres with a minimum 300' depth. The site totals 2.769-acres with 261.80' depth due to the multiple ROW conveyances. Additionally, the County prescribes a minimum of 5 acres (in the AGR), a front setback of 100' and rear setback of 100' leaving 60' of developable area in the middle of the site. moreover, the site is unique where the development potential is reduced by half due to the purchase of the northern half of the property by Palm Beach County to utilize the property for drainage purposes. Approving this variance will not grant the applicant any special privilege that is not currently afforded to other properties supporting the AGR FLU& Zoning.

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 zoning district, and would work an unnecessary and undue hardship.

Response: Literal interpretation of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would work an unnecessary and undue hardship.

V1: The subject property was reduced by half due to the purchase of the northern half of the property by Palm Beach County to utilize the property for drainage purposes. The county prescribes a minimum front setback of 100' and rear setback of 100' leaving 60' of developable area in the middle of the site. The literal interpretation of the code would restrict the ability to construct a reasonable structure on the property due to setbacks which are presented for parcels twice the size.

V2, V3: The literal interpretation of the code requires the applicant to a minimum of 5-acre site with minimum 300' lot depth. Currently the site totals to 2.769-acre with 261.80' lot depth. The condition of the site was a result of a subdivision that was done in 1997. Approving this variance allows the applicant to make a reasonable use of the land with existing constraints.

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

Response: Granting these variances are the minimum needed for the reasonable use of the property.

V1, V2, V3: Due the unique circumstances of the site, granting of the proposed variance is the minimum variance necessary to make reasonable use of property and construct a building to meet the minimum needs of the applicant.

6. Granting of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code.

Response: Granting of the requested variances will be consistent and in keeping with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.

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

welfare.

V1, V2, V3: Granting of the requested variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The variances are the result of PBC and other takings, however, the design of the site as proposed will not create any impact to the property or its surrounding neighbors.

On behalf of the Applicant, Chabad Chai Center Inc. ("Applicant"), Schmidt Nichols respectfully requests your approval of the proposed Variances.