

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



Application No.:	SV/ZV-2010-02232
Control No.:	2003-098
Applicant:	Robert C. Malt and Co.
Owners:	Robert C. Malt and Co.
Agent:	Land Research Management
Telephone No.:	561-686-2481
Project Manager:	Donna Adelsperger, Site Planner I

Location: Approximately 380 feet west of Military Trail on the north side of Orleans Court (Orleans Court Industrial)

Title: a Subdivision Variance Request: to allow a reduction in the required minimum access width.
Title: a Type II Zoning Variance. Request: to allow a reduction for an Incompatible Buffer width along the west property line; to allow 100 percent of the landscape material to be planted on the inside of a wall; to allow off-site signage; to allow an increase in the sign height and sign face area; to allow an off-site directional sign to be located greater than 50 feet from the point of ingress, and to allow the off-site directional sign to be attached to an existing sign.

APPLICATION SUMMARY:

Proposed are a Subdivision Variance and six Type II Zoning Variances for the 1.58-acre site known as Orleans Industrial. The applicant is requesting to allow the subdivision of their property which fronts on a right-of-way less than 80 feet in width. Additionally, they are requesting six Type II Zoning Variances relative to landscaping and signage. The first two requests allow a reduction in the width of an Incompatible Buffer along the west property line from 20 feet to 12 feet and to allow all of the landscape material to be planted on the inside of the wall. The other 4 requests are to allow ff-site signage to be attached to an existing sign; to be located greater than 50 feet from the point of ingress; to allow an increase in height and in sign face area. Access to the site will be from Orleans Court.

ISSUES SUMMARY:

○ Project History

June 14, 2004, the Board of Adjustment approved a Subdivision Variance (SD118) to allow access onto a 60 foot right-of-way, but in order to vest the variance approval they were required to receive final subdivision plan approval. As the property owner did not receive final subdivision plan approval, the prior variance has lapsed.

June 17, 2004, the Board of Adjustment approved Zoning Variances (BA-2004-152) from Article 7 for Landscape Buffer width and location of plant material, and from Article 8 for Off-site signage location, increased height, increased square footage and attachment to another sign.

October 18, 2004 – The Board of County Commissioners (BCC) approved an Official Zoning Map (Z2003-098) rezoning the site from the Residential Multi-family Zoning District to the Light Industrial

(IL) Zoning District with a Conditional Overlay Zone (COZ) to allow for the development of an industrial warehouse project.

January 20, 2005 - the Board of Adjustment approved an extension for the Zoning Variances (BA-2004-1002) approved under BA2004-152. The site is currently vacant and an application for Final Site Plan approval (DRO2010-1988) is pending.

o **Compatibility with Surrounding Uses:**

- NORTH

FLU:Low Residential 3 (LR-3)

Zoning District:Multi-family Residential (RM)

Supporting:Single Family residence
- SOUTH

FLU:Commercial High with underlying Industrial (CH/IND)

Zoning District:General Commercial (CG)

Supporting:retail center
- EAST

FLU:High Residential 8 (HR-8)

Zoning District:Multi-family Residential (RM)

Supporting:Single family Residence
- EAST

FLU:Commercial High with underlying Industrial (CH/IND)

Zoning District:General Commercial (CG)

Supporting:Retail (Control 1992-039)
- WEST

FLU:High Residential 8 (HR-8)

Zoning District:Multi-family Residential (RM)

Supporting:Multi-family residences

To the north, east and west are single family and multi-family residences with Multi-family Residential (RM) Zoning District with Low Residential 3 (LR-3) and High Residential 8 (HR-8) Future Land Use Designations. To the south and east are commercial retail centers with a General Commercial (CG) Zoning District and Commercial High/Industrial (CH/IND) Future Land Use designation. Compatibility with surrounding uses is addressed through the provision of landscape buffers as required by the ULDC, upgraded landscaping and plant materials.

TABULAR DATA

PCN:	00-42-43-36-20-000-0010 and 00-42-43-36-19-000-1560		
ZONING DISTRICT:	Light Industrial/Conditional Overlay Zone (IL/COZ)		
LAND USE:	Industrial (IND)	S/T/R: 36/40/42	
CONTROL #:	2003-0098		
LOT AREA:	1.58 acres +/-		
LOT DIMENSIONS:	247.06 feet x 253.94 feet		
CONFORMITY OF LOT:	Conforming	CONFORMITY OF ELEMENT:	Lot Access, Landscaping and Signage
TYPE OF ELEMENT:	Lot Access, Landscaping and Signage	ELEMENT SIZE:	60 foot right-of-way, landscape buffer reductin, relocation of plant material and off-site signage location, height, square footage and attached to another sign

BUILDING PERMIT #:	N/A	NOTICE OF VIOLATION:	OF	N/A
CONSTRUCTION STATUS:	N/A			

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received no contacts from the public regarding this project.

RECOMMENDATION: Staff recommends **approval** of the Subdivision Variance subject to 5 Conditions of Approval as indicated in Exhibit C-1. Staff recommends **approval** of the Type II Zoning Variances for Landscaping subject to 10 Conditions of Approval as indicated in Exhibit C-2 and staff recommends **denial** of the Type II Zoning Variances for off-site signage for failure to satisfy Criteria 1 - 6.

Zoning Commission Action: April 7, 2011: Postponed 30 days to May 5, 2011. May 5, 2011: Postponed 60 days to July 7, 2011. July 7, 2011: Postponed 60 days to September 1, 2011. September 1, 2011: Postpone 60 days to November 3, 2011.

MOTION: To adopt a resolution approving a Subdivision Variance to allow a reduction in the required minimum access width subject to the Conditions of Approval as indicated in Exhibit C-1.

MOTION: To adopt a resolution approving a Type II Zoning Variance to allow a reduction in the required Type 3 Incompatibility Landscape Buffer along the west property line and to allow 100 percent of the landscape material to be planted on the inside of the wall subject to the Conditions of Approval as indicated in Exhibit C-2.

MOTION: To adopt a resolution denying a Type II Zoning Variance to allow the off-site directional sign to be attached to an existing sign; allow an off-site directional sign to be located greater than 50 feet from the point of ingress; allow an increase in the sign height and an increase in sign face area.

Subdivision Variance

The Subdivision Variance is from Article 11.E.2.A.2, Minimum Legal Access Requirement which requires that each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set forth in Table 11.E.2.A-2. The applicant is proposing to subdivide the subject property from the remainder of the parcel to the east and requires a Subdivision Variance from Article 11, Subdivision, Platting, and Required Improvements prior to Development Review Officer (DRO) approval of a subsequent application (DRO2010-1986) for a Final Subdivision Plan.

This request is to allow access onto a 60-foot right of way, Orleans Court, for development as an Industrial parcel. The area required to expand Orleans Court to an 80 foot right of way would severely limit the applicant's ability to make reasonable use of the property for its intended development, given the configuration, size and previous zoning of the property. This subdivision variance is the minimum variance required for access in order for the proposed subdivided lots to meet Article 11 criteria.

CODE SECTION	REQUIRED	PROPOSED	VARIANCE
11.E.2.A.2 Chart of Minor Streets	80 foot right-of-way	60 foot right-of-way	Reduction of 20 feet

FINDINGS FOR SUBDIVISION VARIANCE:

When considering a Subdivision Variance application, the Zoning Commission (ZC) shall consider Criteria 1-7 pursuant to Article 2.B.3.E. The ZC shall consider the applicant's justification, staff's

analysis and shall determine all 7 Criteria have been satisfied by the applicant prior to making a motion for approval of a Subdivision Variance.

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 zoning district.*

Response: YES. The property has been in its current configuration since the property owner acquired it in 1978 and is comprised of portions of previous platted lots and abandoned right of way. The subject property received zoning approval on October 18, 2004, with a Conditional Overlay, which included a Condition of Approval requiring the property to be replatted to legally establish the lot lines. The fact that the property is being required to comply with the subdivision regulations after having been granted previous development orders is a relatively unique situation.

2. *Special circumstances and conditions do not result from the actions of the applicant:*

Response: YES. At the time of purchase of the property, the proposed division into two lots would not have met the Code definition of a subdivision and would therefore not have been subject to the 80 foot right of way requirement. Subsequently, the Code was amended to include division into two lots as a subdivision. Further, the County has granted development orders to portions of the property. Both of which result in the current situation which the applicant had no direct control.

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, structures or buildings in the same zoning district.*

Response: YES. Since many other commercial projects already exist within this area along Military Trail, and have operated for years with access on local side streets with rights-of-way of 60 feet or less, granting of the variance would not confer a special privilege denied to other area property owners.

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: YES. The existing right-of-way width would be adequate for similar development if the subject property were to be developed as a single lot, as opposed to dividing the project into two separate lots in two different zoning districts. However, even the combination of previously platted lots to create a single development lot would constitute a subdivision by Code definition, and would technically require compliance with subdivision access requirements. Therefore, the applicant is left with no reasonable alternatives for development of the property. In addition, conveyance of the additional 20 feet of right-of-way required to meet the Code would reduce the depth of the property, particularly the eastern portion which is already developed, to a degree that would significantly impair the applicant's ability to meet current on-site standards for buffers, parking, and setbacks. Therefore, failure to grant the variance would impose an undue and unnecessary hardship.

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

Response: YES. The requested variance is the minimum that would allow sufficient lot depths for the proposed lots to be developed in reasonable conformance with current code requirements for buffers, parking, and other onsite facilities.

6. *Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this Code:*

Response: YES. The code's intent in requiring additional local street right-of-way width for commercial subdivisions is to accommodate wider roadside swales to handle the increased runoff from required roadway width of two 12 foot lanes, rather than 10 foot lanes in residential subdivisions. This additional pavement width is normally needed for separation of two-way traffic and increased

turning radii at intersections for the greater degree of truck traffic expected in commercial or industrial subdivisions. However, the short distance along Orleans Court from Military Trail to the west boundary of the property is not expected to generate sufficient additional runoff to necessitate increased swale capacity. Therefore, granting of the variance would not be inconsistent with the Code's intent.

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

Response: YES. Granting of the variance would not result in any greater impact on traffic utilizing Orleans Court than would occur if the property were to be developed as a single commercial or industrial lot without required compliance with the subdivision code. The existing 60 foot right of way is adequate for a standard local street.

Type II Zoning Variances for Landscaping and Off-Site Signage

Proposed are six Type II Zoning Variances – Variance 1 and 2 are to allow for a reduction of an Incompatibility Buffer width along the west property line and to allow 100 percent of all the landscape material to be planted on the inside of the wall. Variances 3, 4, 5 and 6 are to allow the off-site directional sign to be attached to an existing sign; allow an off-site directional sign to be located greater than 50 feet from the point of ingress; allow an increase in the height and in sign face area.

The applicant ultimately proposes to subdivide this 1.58-acre parcel from the overall 2.59-acre parcel to allow for the development of an industrial warehouse which will be accomplished through a subsequent Administrative Review application DRO2010-1986. Access to the site will be from Orleans Court.

CODE SECTION	REQUIRED	PROPOSED	VARIANCE
Article 7.F.3.A	75% to be planted on the exterior of the wall	100% on the interior side of the wall	100% planted on the interior side of the wall
Article 7.F.9	20 foot incompatibility buffer	12 foot incompatibility buffer	Reduction of 8 feet
Table 8.H.1.B	Sign height limited to 8 feet	Sign height 10 feet	Increase of 2 feet
Table 8.H.1.B	Sign face area 24 square feet	Sign face area 40 square feet	Increase of 16 square feet
Article 8.H.1.B	Location – within 50 feet of the point of ingress	446 feet from the point of ingress	Increase of 396 feet from the point of ingress
Article 8.H.1.A	Off-site directional signs shall be completely independent, freestanding structures and not attached to any other structure, nor shall any structure including other signs, be attached to an off-site sign	To allow an off-site sign to be attached to an existing sign	To allow an off-site sign to be attached to an existing sign

FINDINGS FOR TYPE II VARIANCES:

When considering a Type II Variance application, the Zoning Commission shall consider Criteria 1-7 pursuant to Article 2.B.3.E. The ZC shall consider the applicant's justification, staff's analysis and shall determine all 7 Criteria have been satisfied by the applicant prior to making a motion for approval of a Zoning Variance.

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 zoning district:*

Response: YES V1 The 1.58-acre portion of the subject property which supports the proposed Orleans Court Industrial project requires that a 20 foot wide Type 3 Incompatibility Buffer be constructed along the west property line. The site received a prior approval for a variance to allow for the reduction of the buffer width however due to time, conditions and non-commencement with the development of the site, that variance has lapsed and as such to obtain Final Site/Subdivision Plan approval the applicant needs to request a new variance. Staff supported the applicants request under the prior variance application and staff has re-reviewed this request for compliance with current Code and existing conditions. The last approval recognized that along with a 12 foot wide buffer the site contains a 60 foot wide dry detention area which will provide sufficient screening for the proposed warehouse structures. Two of the purposes of the PBAO district are to protect neighborhoods surrounding the PBAO from incompatible land development and to allow property owners to initiate conversion to industrial use where appropriate. Many of the existing commercial and industrial developments along the Military Trail corridor in the surrounding area were developed in the 1970s and 1980s, under less restrictive zoning standards for landscape buffering and setbacks. Proposed within the 12 foot landscape buffer is a 6 foot high solid wall to be constructed on top of a 1.5 foot berm to mitigate impacts to the residential property west of the site. These factors present special circumstances and conditions that are peculiar to the land.

Response: YES V2 The Owner/Applicant coordinated the construction of the wall and landscaping with the residential neighbor residing east and north of the subject parcel during the zoning review process. As reflected in the wording of BCC Condition I.2, Resolution No. R-2004-2274, the owner and neighbor agreed to install the landscaping on the interior side of the required 6-foot high wall so that maintenance of the wall would not present a privacy issue to the neighbor. This agreement between the two parties constitutes a special circumstance not applicable to other parcels of land in the same zoning district. A landscape buffer provides adjacent property owners an aesthetically pleasing vegetation and the buffer width ensures adequate room for maintenance. The adjacent property desires to maintain control of access to their property and has requested that the required landscaping be installed on the interior side of the wall to limit access to their property. The Board has previously granted relief from this requirement (ZV2007-189 Grove MUPD) and denial of this requirement (ZV/PDD2008-804 Hypoluxo Shoppes).

Responses: NO V3-6 Special Circumstances do not exist that are unique to this parcel of land. The applicant has stated in order to obtain visibility for the project from the busy arterial road way, the industrial site signage must be placed on the existing signage located on the commercial site immediately to the east (Orleans Court Commercial). The lack of direct visibility of the industrial parcel from Military Trail is not a special circumstance, as the applicant requested the Industrial (IND) Future Land Use and Industrial (IL) Zoning designations for the property, staff recommended denial of both requests however they were approved by the BCC, knowing that the site did not have direct visibility to Military Trail. The proposed entrance to Orleans Court Industrial is approximately 446 feet east of Military Trail.

The existing sign located on Orleans Court Commercial is a freestanding point of purchase sign (Non-Billboard, Figure 8), and was approved under previous code, if it is to be utilized as an off-site directional sign, it would need to meet all other requirements pursuant to Articles 8.A.1.C.1 (Nonconforming signs) and 1.F.3 (Nonconforming Structure). The Orleans Court Commercial site has a Condition of Approval, Signs 1, in Resolution R-2004-2273 that would require relocation of that sign for any new or replacement freestanding point of purchase sign(s). The condition reads as follows:

New or replacement freestanding point of purchase signs shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point ten (10) feet;
 - b. maximum sign face area per side - one hundred (100) square feet;
 - c. maximum number of signs - one (1) for the entire site;
 - d. style - monument style only;
 - e. location - to the east of the easternmost ingress/egress on Orleans Court only; and,
 - f. sign content shall be limited to identification of tenant name(s) and/or project name only.
- (BLDG PERMIT: BLDG - Zoning)

The applicant has the ability to place a monument sign on the property that would meet ULDC requirements, which is evident by the site plan presented to the BCC when approval for the project was granted.

2. *Special circumstances and conditions do not result from the actions of the applicant:*

Response: YES V1 The 1.58-acre portion of the subject property which supports the proposed Orleans Court Industrial project requires that a 20 foot wide Type 3 Incompatibility Buffer be constructed along the west property line. The site received a prior approval for a variance to allow for the reduction of the buffer width however due to time, conditions and non-commencement with the development of the site, that variance has lapsed and as such to obtain Final Site/Subdivision Plan approval the applicant needs to request a new variance. Staff supported the applicants request under the prior variance application and staff has re-reviewed this request for compliance with current Code and existing conditions. The last approval recognized that along with a 12 foot wide buffer the site contains a 60 foot wide dry detention area which will provide sufficient screening for the proposed warehouse structures. The site plan presented to the BCC in furtherance of the zoning approval for the project relied upon the previously-approved buffer reduction which is clearly depicted on the site plan. Therefore, the special circumstances identified above do not result from actions of the Applicant.

Response: YES V2 The Owner/Applicant coordinated the construction of the wall and landscaping with the residential neighbor residing east and north of the subject parcel during the zoning review process. As reflected in the wording of BCC Condition I.2, Resolution No. R-2004-2274, the owner and neighbor agreed to install the landscaping on the interior side of the required 6-foot high wall so that maintenance of the wall would not present a privacy issue to the neighbor. This agreement between the two parties constitutes a special circumstance not applicable to other parcels of land in the same zoning district. A landscape buffer provides adjacent property owners an aesthetically pleasing vegetation and the buffer width ensures that there is adequate room for the maintenance. The adjacent property desires to maintain control of access to their property and has requested that the required landscaping be installed on the interior side of the wall to limit access to their property. The Board has previously granted relief from this requirement (ZV2007-189 Grove MUPD) and denial of this requirement (ZV/PDD2008-804 Hypoluxo Shoppes). The Board of Adjustment granted variance relief to allow the interior planting pursuant to BA-2004-00152. The Applicant is requesting a variance that has expired. Therefore, the special circumstances identified above do not result from actions of the Applicant.

Responses: NO V3 - 6 Special circumstances and conditions are a result from the actions of the applicant. The lack of visibility for the industrial parcel from Military Trail was know at the time the applicant requested the Industrial (IND) Future Land Use and Industrial (IL) Zoning designations for the property. Staff has determined that the existing sign located on Orleans Court Commercial was permitted as a Sign-Freestanding-Non-Billboard under B010130226. See response to Criteria 1 above for staff's justification for denial.

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, structures or buildings in the same zoning district.*

Response: YES V1-2 The subject request does not confer any special privilege to this applicant as opposed to any other property owner. The variance approval process is available to all, and individual requests may be approved by the Zoning Commission (ZC) based on the project specific criteria. Two of the stated purposes of the PBIAO District are to protect neighborhoods surrounding the PBIA from incompatible land development and to allow property owners to initiate conversion to industrial use where appropriate. The proposed industrial project is deemed to be infill development due to the property's location along the heavily-developed Military Trail commercial corridor. The applicant did receive approval under a prior variance application for this request.

Responses: NO V3-6 If these variances are granted to the applicant it will allow the special privileges denied by the code to other parcels of land, buildings or structures in the same zoning district. See response to Criteria 1 above for staff's justification for denial.

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: YES V1 Literal interpretation of the ULDC requirement would create an unnecessary hardship for the applicant if this variance is not approved. The purpose of establishing minimum landscaping buffer widths for development is to insure that there is sufficient screening from proposed building to neighboring properties. Although the requested buffer width variance is a deviation from the ULDC requirements, the site design has proven to be adequate to provide the necessary screening and buffering (wall, landscaping and location of dry detention area). Therefore, the intent of the code is being met and the literal enforcement of the provisions of the Code would be an unnecessary and undue hardship upon the applicant.

Response: YES V2 Literal interpretation of the ULDC requirement would create an unnecessary hardship for the applicant and the adjacent property owners. The Owner/Applicant coordinated the construction of the wall and landscaping with the residential neighbors of the subject parcel during the zoning review process. As reflected in the wording of BCC Condition I.2, Resolution No. R-2004-2274, the owner and neighbor agreed to install the landscaping on the interior side of the required 6-foot high wall so that maintenance of the wall would not present a privacy issue to the neighbor. Although the requested relocation of the landscaping is a deviation from the ULDC requirements, the site design has proven to be adequate to provide the necessary screening and buffering (wall, landscaping and location of dry detention area) and furthers the request of the neighboring residential properties.

Responses: NO V3-6 Literal interpretation of the Code will not deprive the applicant of rights commonly enjoyed by other parcels within the IL Zoning District and would not constitute an unnecessary and undue hardship as the applicant does have the ability to place signage on their site in conformance with the ULDC as was evidence by the site plan shown to the BCC when the rezoning was approved.

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

Responses: YES V1– V2: The requested variances are the minimum variance that will make reasonable use of the building and land as detailed in the BCC-approved site plan. The Owner/Applicant coordinated the construction of the wall and landscaping with the residential neighbors during the zoning review process. As reflected in the wording of BCC Condition I.2, Resolution No. R-2004-2274, the owner and neighbor agreed to install the landscaping on the interior side of the required 6-foot high wall so that maintenance of the wall would not present a privacy issue to the neighbor.

Responses: NO V3-6 The granting of the location criteria and dimensional variances are not the minimum variances necessary. The applicant can explore other design options to provide the directional signage needed for reasonable use of the parcel such as located the off-premise sign closer to the point of ingress, not attaching to an existing sign and reducing the sign height and sign face area.

6. *Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this Code:*

Responses: YES V1 – V2 The proposed request is consistent with these purposes as well as the general intent of the Comprehensive Plan and Code with respect to compatibility and consistency with adjacent development and land uses. Two of the stated purposes of the PBIAO District are to protect neighborhoods surrounding the PBIA from incompatible land development and to allow property owners to initiate conversion to industrial use where appropriate.

Responses: NO V3-6 Granting of this variance will not be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the Code and will undermine the intent of Table 8.H.1.B. For these reasons this request does not meet Criteria 6 as required by Article 2.B.3.E of the code.

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

Responses: YES V1- V2 Granting of these variances will not be injurious to the area involved or otherwise detrimental to the public welfare. The proposed buffers and open space that extend along the perimeter of the property as well as internal landscaping both of which serve to insure that there are no adverse effects to the public welfare or adjacent properties are sufficient.

Responses: YES V3-6 The granting of the requested variances will not be injurious to the area involved or otherwise detrimental to the public welfare; however, would allow off-site signage to exceed the maximum location from point of ingress, increase the height and sign face area and to be attached to another sign, which does not protect PBC from visual blight.

Should the Zoning Commission choose to approve the Type II Zoning Variances for off-site signage, then staff recommends the approval be subject to the following three Conditions of Approval and the remaining Conditions of Approval in Exhibit C-2 be renumbered accordingly.

6. Prior to final approval by the Development Review Officer (DRO) the Final Site Plan and Regulation Plan for Orleans Court Commercial (Control 1992-039) shall be amended to reflect the location of the off-site directional sign. (DRO: ZONING Zoning)

7. The Variances for the off-site signage will remain valid as long as the existing sign issued under Building Permit B01013026 for Control Number 1993-029, Orleans Court Commercial, remains in the location shown to the Zoning Commission on the Site Plan for Control 1993-029 dated March 16, 2011. (ONGOING: ZONING - Zoning)

8. When the sign issued under Building Permit B01013206 for Control Number 1993-029, Orleans Court Commercial, is relocated the Orleans Court Industrial project shall be permitted one freestanding sign in accordance with the ULDC in effect at that time. (ONGOING: ZONING - Zoning)

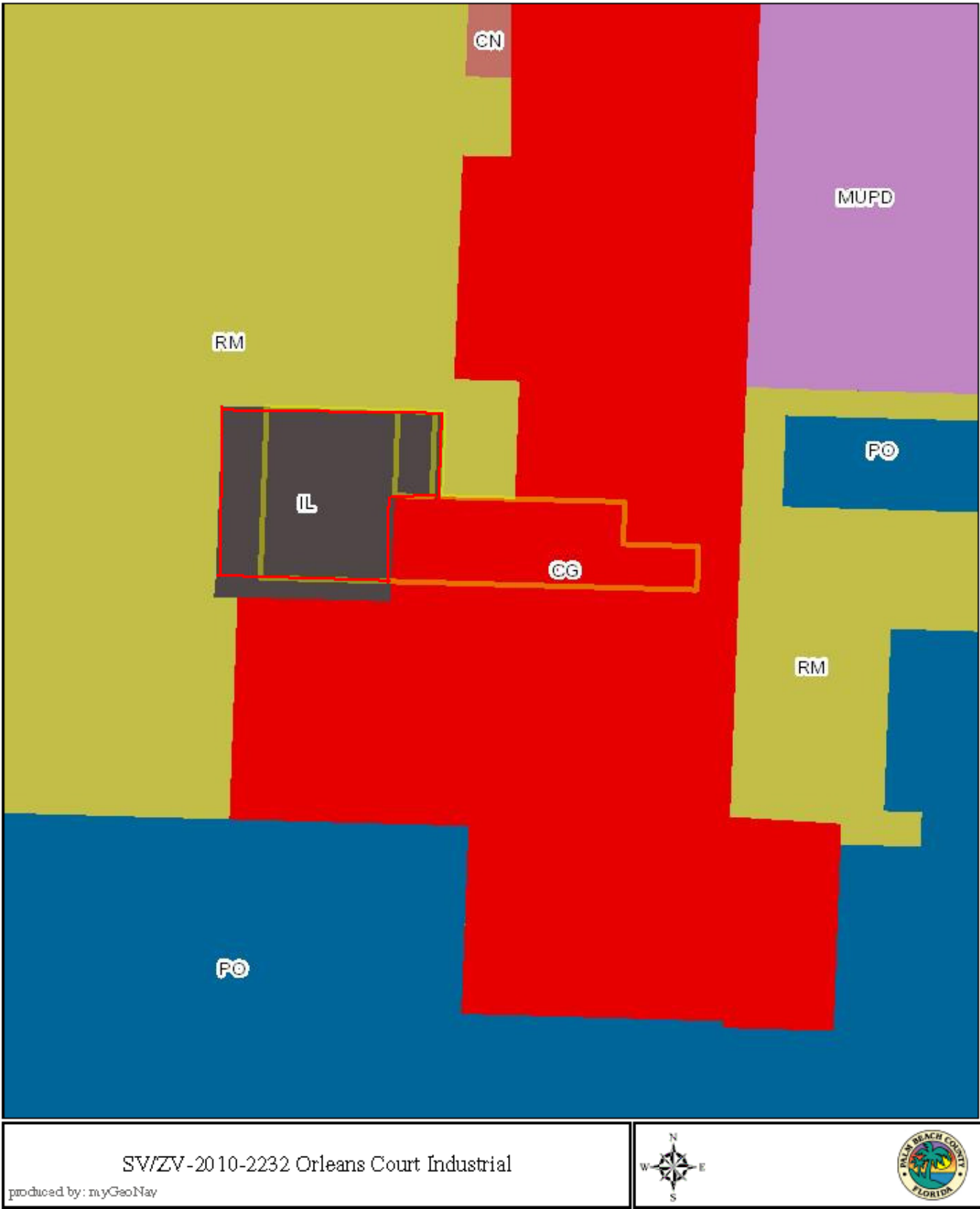
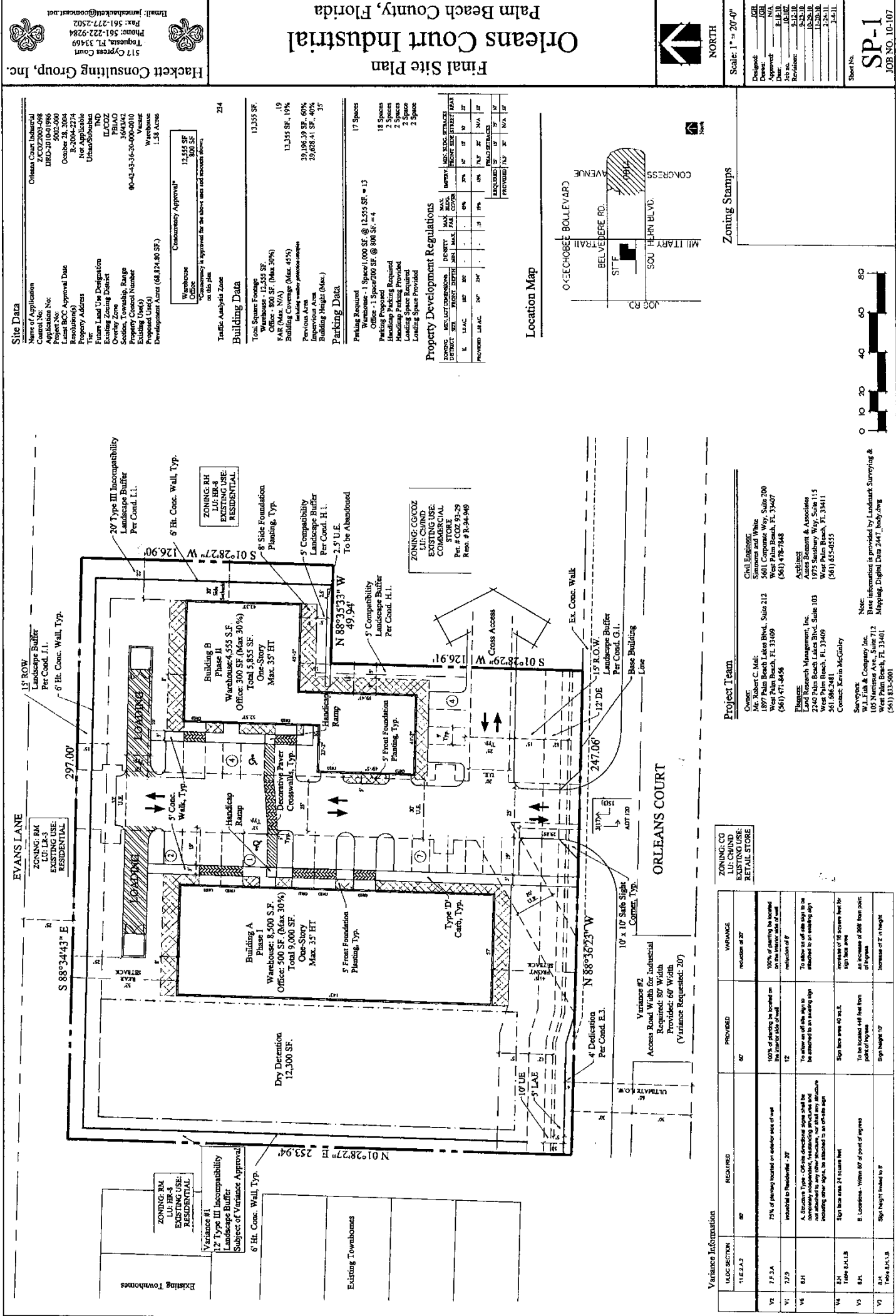


Figure 1 Zoning Quad



Figure 2 Aerial



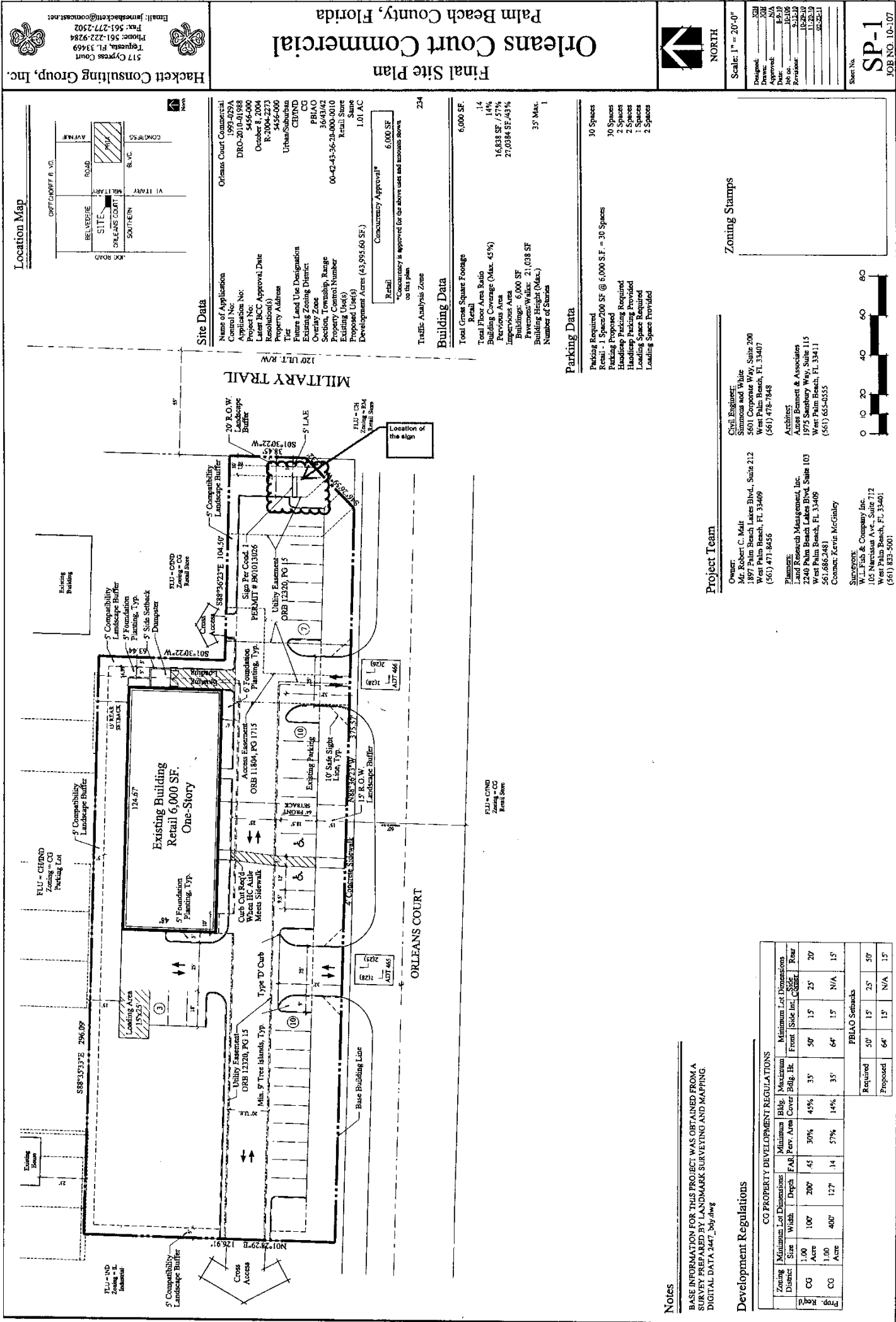


Figure 4 Preliminary Site Plan Orleans Court Commercial dated March 1, 2011



Figure 6 - Looking north along the west property line adjacent to multi-family housing



Figure 7 - North side of parcel looking east along Evans Lane



Figure 8 - Residential homes on the north side of Evans Lane



Figure 9 - Looking east along the south property line adjacent to Orleans Court



Figure 10 - Existing freestanding sign for Orleans Court Commercial (B01013026)

CONDITIONS OF APPROVAL

EXHIBIT C-1 Subdivision Variance

ENGINEERING

1. Approval of the variance shall apply only to subdivision of the property into not more than two (2) lots. (ONGOING: ENGINEERING - Eng)

2. Prior to April 7, 2012, the property owner shall receive approval from the Development Review Officer for a final subdivision plan for the proposed subdivision of the property into not more than two (2) lots for commercial or industrial development. (DATE: MONITORING - Eng)

3. Subsequent to final subdivision plan approval pursuant to Condition No. 2 above, the variance approval shall remain in effect as long as said final subdivision plan remains valid in accordance with applicable time limitations of Article 2.E, ULDC. (ONGOING: ENGINEERING - Eng)

VARIANCE

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 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 (CO); 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; 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 (ULDC) 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)

EXHIBIT C-2

Type II Variance - Concurrent

1. The Development Order for this variance shall be tied to the Time Limitations of the Development Order for DRO2010-1986. (ONGOING: MONITORING - Zoning)

2. Prior to final approval by the Development Review Officer (DRO), the approved variance(s) shall be reflected on the Final Site Plan. (DRO: ZONING - Zoning)

3. This variance was approved based on Site Plan layout dated March 16, 2011. Only minor modifications by DRO shall be permitted provided the changes are consistent with this site plan. (ONGOING: CODE ENF - 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 site plan to the Building Division. (BLDG PERMIT: ZONING-Landscape)

5. No freestanding signs shall be permitted on the Orleans Court Industrial parcel Control Number 2003-098. (ONGOING: ZONING - Zoning)

6. 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 Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

7. 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 (CO); 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; 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 (ULDC) 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)

Exhibit D: Disclosures

Print Form

PALM BEACH COUNTY - ZONING DIVISION

FORM # 08

DISCLOSURE OF OWNERSHIP INTERESTS - APPLICANT

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

STATE OF ~~FLORIDA~~ Arkansas
COUNTY OF ~~PALM BEACH~~ Garland

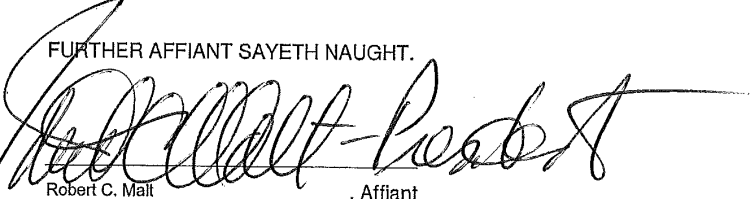
BEFORE ME, the undersigned authority, this day personally appeared
Robert C. Malt, hereinafter referred to as "Affiant,"
who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ individual or ☒ President
[position—e.g., president, partner, trustee] of Robert C. Malt and Co. [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: 196 Silver Spur Trail, Hot Springs, AR 71913
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.

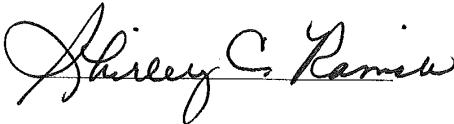
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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.

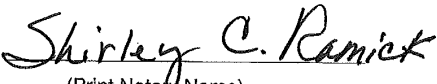
FURTHER AFFIANT SAYETH NAUGHT.


Robert C. Malt, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 8 day of Sept., 2016, by Shirley Ramick, [] who is personally known to me or [] who has produced DL as identification and who did take an oath.



Notary Public


(Print Notary Name)

NOTARY PUBLIC

State of ~~Florida at Large~~ Arkansas

My Commission Expires: 1-19-2016

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

A PARCEL OF LAND IN SECTION 36, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING A PORTION OF THE **REPLAT OF WESTOVER**, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 23, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MILITARY TRAIL, AS CONVEYED TO THE STATE OF FLORIDA, AS RECORDED IN OFFICIAL RECORD BOOK 664, PAGE 360, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, ALSO BEING A LINE 53 FEET WEST OF AND PARALLEL WITH THE NORTH-SOUTH QUARTER SECTION LINE OF SAID SECTION 36, AND THE NORTH LINE OF ORLEANS COURT, FORMERLY KNOWN AS HAZARD STREET, A RIGHT-OF-WAY 60 FEET IN WIDTH, AS SHOWN ON THE PLAT OF **WESTOVER**, AS RECORDED IN PLAT BOOK 4, AT PAGE 2, OF THE AFORESAID PUBLIC RECORDS, SAID INTERSECTION BEING THE SOUTHEAST CORNER OF THE CLEAR SIGHT CORNER IN OFFICIAL RECORD BOOK 9909, PAGE 33 OF SAID PUBLIC RECORDS; THENCE NORTH 88°36'23" WEST ALONG SAID NORTH LINE OF ORLEANS COURT, A DISTANCE OF 400.52 FEET TO THE **POINT OF BEGINNING**; THENCE CONTINUE NORTH 88°36'23" WEST ALONG SAID NORTH LINE OF ORLEANS COURT, A DISTANCE OF 247.06 FEET TO THE SOUTHERLY PROLONGATION OF THE EAST LINE OF FOREST GLEN, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 40, PAGE 85 OF THE AFORESAID PUBLIC RECORDS; THENCE NORTH 01°28'27" EAST, ALONG SAID EAST LINE OF FOREST GLEN AND ITS SOUTHERLY PROLONGATION, A DISTANCE OF 253.94 FEET TO THE NORTHEAST CORNER OF SAID FOREST GLEN AND THE SOUTHERLY RIGHT-OF-WAY LINE OF EVANS LANE (FORMERLY KNOWN AS GREEN STREET); THENCE SOUTH 88°34'43" WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 297.00 FEET TO A LINE 12.00 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF LOT 156 OF SAID PLAT OF **WESTOVER**; THENCE SOUTH 01°28'27" WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 126.90 FEET TO THE EASTERLY PROLONGATION OF THE SOUTH LINE OF LOTS 156 AND 157 OF SAID PLAT OF **WESTOVER**; THENCE NORTH 88°35'33" WEST, ALONG SAID SOUTH LINE OF LOTS 156 AND 157 AND ITS EASTERLY PROLONGATION, A DISTANCE OF 49.94 FEET; THENCE SOUTH 01°28'29" WEST A DISTANCE OF 126.91 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 69061 SQUARE FEET OR 1.58542 ACRES, MORE OR LESS.

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	
Robert C. Malt	196 Silver Spur Trail	100%
	Hot Springs AR 71913	

**ORLEANS COURT INDUSTRIAL
TYPE II VARIANCE STANDARDS**

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

Response:

#1: The 1.58-acre portion of the subject property which supports the proposed Orleans Court Industrial project requires a 20 ft. wide Type III Incompatibility Buffer be constructed along the west property line. The site plan presented and approved by the BCC pursuant to Control No. 2003-00098 (Resolution No. R-2004-2274) depicted a 12-ft. wide buffer with an additional 60-ft. wide dry retention area separating the proposed building from the west property line based on previously granted variance approvals. A 6-ft. height solid wall will also be constructed within the proposed 12-ft. landscape buffer to mitigate impacts to the residential property west of the site.. These factors present special circumstances and conditions that are peculiar to the land.

#2: A portion of the 2.59-acre Orleans Court property – notably the 1.01-acre Orleans Court Commercial project - received BCC approval to allow the construction of a 6,000 sq. ft. retail building in 1994 despite the fact that its sole access was via Orleans Court, a 60-ft. wide platted right-of-way. The 1.58-acre Orleans Court Industrial parcel obtained BCC approval to allow the construction of 15,386 sq. ft. of industrial warehouse space. The site plan presented to the BCC depicted sole access from Orleans Court with a joint internal access to Orleans Court Commercial (Control No. 1993-00029). This access was based on variance SD-118 in June 2004. Special conditions (uniqueness) therefore exist that are not applicable to other parcels of land in the same zoning district.

#3: The Owner/Applicant coordinated the construction of the wall and landscaping with the residential neighbor residing east and north of the subject parcel during the zoning review process. As reflected in the wording of BCC Condition I.2, Resolution No. R-2004-2274, the owner and neighbor agreed to install the landscaping on the interior side of the required 6-ft. high wall so that maintenance of the wall would not present a privacy issue to the neighbor. This agreement between the two parties constitutes a special circumstance not applicable to other parcels of land in the same zoning district.

#4 – 6: The proposed entrance to Orleans Court Industrial is approximately 446 feet east of Military Trail. In order to obtain visibility from this busy arterial roadway, the Owner is requesting that signage for the industrial site be placed on the existing signage located on the commercial site immediately east (Orleans Court Commercial). The interconnectivity of the commercial and industrial site and the poor visibility of the industrial property combine to create special circumstances that are not applicable to other parcels of land in the same zoning district.

**Orleans Court Industrial
Variance Standards
Page 2**

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

Response:

#1: In order to obtain site plan approval (and subsequent plat approval), the lot and proposed buildings and structures must meet conditions of approval and ULDC requirements or obtain (reinstate) the required variance for the reduction in landscape buffer width. The site plan presented to the BCC in furtherance of the zoning approval for the project relied upon the previously-approved buffer reduction which is clearly depicted on the site plan. Therefore, the special circumstances identified above do not result from actions of the Applicant.

#2: Condition E.2, Resolution No. R-2004-2274, requires that the subject property be platted in accordance with Article 11. In order to obtain plat approval, the lot and the proposed access must meet ULDC requirements or obtain required variances, in this case access from a 60-ft. wide right-of-way rather than an 80-ft. right-of-way. The proposed 60-ft. wide access right-of-way (Orleans Court) presently provides access to the commercial retail center south of the subject property. In addition, without dedication of additional right-of-way from the Orleans Court Commercial site, the right-of-way for Orleans Court from Military Trail would still be substandard (60-ft. in width). Requiring the Orleans Court Commercial parcel to dedicate additional right-of-way would render the parcel and existing building non-conforming, requiring additional variances. Therefore, the special circumstances identified above do not result from actions of the Applicant.

#3: Condition I.2, Resolution No. R-2004-2274, allows the owner of the subject property to seek approval for an alternative landscape plan to allow the required planting to be placed on the interior side of the wall, pursuant to an arrangement made with an adjoining property owner. The Board of Adjustment granted variance relief to allow the interior planting pursuant to BA-2004-00152. The Applicant is seeking to reinstate the variance that has since expired. Therefore, the special circumstances identified above do not result from actions of the Applicant.

#4-6: The location of the driveway access on Orleans Court as prescribed by the BCC-approved site plan presents a special circumstance unique to the subject property since signage would otherwise be placed on Orleans Court, a dead-end street providing little exposure to commercial traffic along Military Trail. Therefore, the special circumstances exist that do not result from actions of the Applicant.

**Orleans Court Industrial
Variance Standards
Page 3**

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

Response:

#1: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed industrial project is deemed to be infill development due to the property's location along the heavily-developed Military Trail commercial corridor. Many of the existing commercial and industrial projects along this corridor were developed in the 1970s and 1980s, under less restrictive zoning standards for buffering and setbacks. Granting the variance will allow the proposed building to meet ULDC requirements while meeting the intent of the PBIAO and would not confer and special privileges on the parcel or building.

#2: Since an existing commercial retail center already exists in this area along Military Trail, and has operated for years with access onto Orleans Court with a 60-foot wide right-of-way, granting the variance will not confer a special privilege denied to other area property owners.

#3: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed industrial project is deemed to be infill development due to the property's location along the heavily-developed Military Trail commercial corridor. Many of the existing commercial and industrial projects along this corridor were developed in the 1970s and 1980s, under less restrictive zoning standards for buffering and setbacks (i.e. exterior wall plantings). Granting the variance will allow the proposed lot to meet ULDC requirements while meeting the intent of the PBIAO and would not confer and special privileges on the parcel or building

#4-6: Most, if not all, commercial and industrial businesses along the Military Trail corridor in the vicinity of the subject property have signage along the roadway that identifies the location and nature of the business. Most of these properties were developed in the 1960s-1980s when the signage regulations were less restrictive. Granting the variance will allow the proposed project to meet ULDC requirements while meeting the intent of the PBIAO and would not confer and special privileges on the parcel or building.

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:

#1: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed industrial project is deemed to be infill development due to the property's location along the heavily-developed Military Trail commercial corridor. Many of the existing commercial and industrial projects along this corridor were developed in the 1970s and 1980s, under less restrictive zoning standards for buffering and setbacks. Granting the variance will allow a reduction in the width of the required landscape buffer without compromising the buffering of adjacent residential development and allow the owner to meet ULDC requirements and the intent of the PBIAO. Literal interpretation of the code would deprive the owner of rights commonly enjoyed by other parcels of land in the vicinity of the site and would constitute an unnecessary hardship.

#2: Literal interpretation of the code would not allow the owner to develop the subject property in accordance with the BCC approval and would thus deprive him of the rights commonly enjoyed by other parcels of land in the vicinity of the site and would constitute an unnecessary and undue hardship. The variance is required because sufficient right-of-way width (additional 20 feet) cannot be obtained from other properties abutting Orleans Court without rendering them non-conforming, thus requiring additional variances and incurring additional expenses in terms of acquisition and reconfiguration of the sites. The subject site would be rendered essentially undevelopable if the literal interpretation of the code were applied..

#3: The purpose of establishing minimum landscaping buffer widths for development is to insure that there is sufficient screening from proposed building to neighboring properties. Although the requested buffer width variance is a deviation from the ULDC requirements, the site design has proven to be adequate to provide the necessary screening and buffering (wall, landscaping and location of dry detention area). Literal interpretation and enforcement of the required ULDC buffer would prohibit the subject property from being developed in accordance with BCC approval, thus constituting an unnecessary and undue hardship.

#4-6: Literal interpretation of the code would not allow the owner to place signage sufficient to direct traffic to the premises. Orleans Court neither well-traveled nor well known, such that signage for the project, if restricted to this roadway, would not allow for visibility and could very well contribute to traffic conflicts in terms of deliveries and customer access. Denying the owner the ability to add signage to the existing sign on Military Trail would constitute an unnecessary and undue hardship.

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

Response:

#1: The requested variance is the minimum variance that will make reasonable use of the building and land as detailed in the BCC-approved site plan.

#2: The requested variance is the minimum variance that will make reasonable use of the building and land as detailed in the BCC-approved site plan. Additional variances from neighboring properties would be required if the county required the conveyance of the additional 20-ft. of right-of-way along aOrleans Court.

#3: The requested variance is the minimum variance that will make reasonable use of the building and land as detailed in the BCC-approved site plan.

#4-6: The requested variances are the minimum variances that will make reasonable use of the existing sign on Military Trail while at the same time providing for adequate signage for the proposed development.

6. Grant of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this code.

Response:

#1: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed request is consistent with these purposes as well as the general intent of the Comprehensive Plan and ULDC with respect to compatibility and consistency with adjacent development and land uses.

**Orleans Court Industrial
Variance Standards
Page 6**

#2: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed request is consistent with these purposes as well as the general intent of the Comprehensive Plan and ULDC with respect to compatibility and consistency with adjacent development and land uses. Grant of the variance will allow the property to be developed as Light Industrial, which is consistent with the goals, objectives and policies of the Comprehensive Plan and ULDC.

#3: Two of the stated purposes of the PBIAO District are to (1) protect neighborhoods surrounding the PBIA from incompatible land development and (2) to allow property owners to initiate conversion to industrial use where appropriate. The proposed request is consistent with these purposes as well as the general intent of the Comprehensive Plan and ULDC with respect to compatibility and consistency with adjacent development and land uses.

#4-6: Approval of the variances for the proposed industrial in-fill project will allow for visibility from Military Trail instead of a dead-end local street in furtherance of incentives for in-fill development and policies of the Plan and Code.

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

Response:

#1: There are sufficient proposed buffers and open space that extend along the perimeter of the property as well as internal landscaping – both of which serve to insure that there are no adverse effects to the public welfare or adjacent properties.

#2: Granting the variance will not result in an increase in traffic utilizing Orleans Court than could be expected without compliance to the subdivision code. There is already existing access to commercial development along Orleans Court; therefore, grant of the variance would not be injurious or otherwise detrimental to the public welfare.

#3: There are sufficient proposed buffers and open space that extend along the perimeter of the property as well as internal landscaping – both of which serve to insure that there are no adverse effects to the public welfare or adjacent properties.

#4-6: Locating signage to the existing Military Trail sign and eliminating the sign allowed on Orleans Court will have no effect of the public welfare.

Revised: September 21, 2010