

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



**ZONING COMMISSION VARIANCE
STAFF REPORT
10/04/2018**

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2018- 01343	3.D.2.B Property Development Regulations	Maximum 50% Building Coverage for Zero Lot Line (ZLL) homes	Maximum 55% Building Coverage for one-story ZLL homes. Two story ZLL units to remain at a maximum 50%.	5% increase in building coverage for one-story ZLL homes
	3.D.2.A Property Development Regulations	Minimum 25 feet (ft.) Rear Setback	12.5 ft. Rear Setback	-12.5 ft.
SITUS ADDRESS:	14800 Cumberland Dr Delray Beach 33446 7424 N Oriole Blvd Delray Beach 33446 7400 S Oriole Blvd Delray Beach 33446 7422 S Oriole Blvd Delray Beach 33446			
AGENT NAME & ADDRESS:	Wendy Tuma Urban Design Kilday Studios 610 Clematis St West Palm Beach FL 33401			
OWNER NAME & ADDRESS:	13FH Avalon LP 848 Brickell Ave, PH 1 Miami FL 33131			
PCN:	00-42-46-15-08-001-0000; 00-42-46-15-07-000-0010 00-42-46-15-07-007-0010; 00-42-46-15-07-007-0060			
ZONING DISTRICT:	Multi-Family Residential (High Density) District (RH) with a Special Exception (SE) to allow a Planned Unit Development (PUD)			
BCC DISTRICT:	05			
PROJECT MANAGER:	Meredith Leigh, Senior Site Planner			
LEGAL AD:	ZV-2018-01343 Title: Resolution approving a Type 2 Variance application of 13FH Avalon LP by Urban Design Kilday Studios, Agent. Request: to allow an increase in building coverage for one-story Zero Lot Line units; and, to reduce the rear setback for Townhouse units. General Location: North of Atlantic Avenue between Hagen Ranch Road and Jog Road. (AVALON TRAILS AT VILLAGES OF ORIOLE PUD) (1981-00139)			
LAND USE:	High Residential, 12 units per acre (HR-12)	S/T/R: 15-46-42		
CONTROL #:	1981-00139			
LOT AREA:	Total: 448.13 acres +/-			

	Affected Acres: 107.55 acres +/-			
LOT DIMENSIONS:	ZLL Units		Townhouse Units	
	Required	Provided	Required	Provided
Width and Frontage:	45 ft.– interior 50 ft.– corner 55 ft.– side street	45 ft. – interior 50 ft. – corner 55 ft. – side street	16 ft.	28 ft.
Depth:	75 ft.	100 ft.	50 ft.	90 ft.
CONFORMITY OF LOT:	Unbuilt		CONFORMITY OF ELEMENT:	50% Building Coverage for ZLL units 25-ft. minimum rear setback for Townhouse units
TYPE OF ELEMENT:	Building Coverage for ZLL Units		ELEMENT SIZE:	55% Building Coverage for one-story ZLL units
	Rear Setback for Townhouse			12.5-ft. minimum rear setback for Townhouse units
BUILDING PERMIT #:	N/A		NOTICE OF VIOLATION:	N/A
CONSTRUCTION STATUS:	Pods A – H are fully developed. Pods I, J, and K have not commenced construction.			
APPLICANT REQUEST:	to allow an increase in building coverage for one-story Zero Lot Line units; and to reduce the rear setback for Townhouse units.			

STAFF RECOMMENDATION: Staff recommends approval of the request subject to 7 Conditions of Approval as indicated in Exhibit C, based upon the following application of the standards enumerated in Article 2, Section 2.B.7.E.6 of the Palm Beach County Unified Land Development Code (ULDC), which an Applicant must meet before the Zoning Commission who may authorize a variance.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received 3 contacts from the public regarding this project seeking additional information.

APPLICATION SUMMARY: Proposed are two Type 2 Variance requests for the Avalon Trails Development within the Villages of Oriole Planned Unit Development (PUD). The Board of County Commissioners (BCC) originally approved the 448.13-acre site on June 28, 1973, for a Special Exception to allow a PUD. Most recently, on August 24, 2017, the BCC approved a Development Order Amendment (DOA) to reconfigure the Master Plan to re-designate a 107.55-acre golf course to residential, add units, modify Conditions of Approval (Architectural Review, Engineering, Landscaping and Signs), and to restart the Commencement of Development Clock. The DOA established three new Residential Pods (I, J, and K) comprised of 104 Zero Lot Line (ZLL) Homes, 217 Townhomes and 200 Multifamily units (521 units total), and a 3.2-acre Recreation Pod.

The Applicant is requesting Type 2 Variances to increase the maximum building coverage for one-story ZLL units in Pod I, from 50 percent to 55 percent (+5 percent), and to reduce the rear setback for the Townhouse units in Pod J from 25 feet (ft.) to 12.5 ft. (-12.5 ft.).

The Preliminary Master Plan (PMP) for the overall PUD indicates 11 Residential Pods (4,263 units total), 31.62 acres of recreation areas and an 8.96-acre Civic Pod. A total of three existing access points will remain from Hagen Ranch Road (1), West Atlantic Avenue (1), and Jog Road (1).

This application was reviewed for consistency with Unified Land Development Code, Supplement 23.

PROJECT HISTORY:

Application No.	Request	Resolution	Approval Date
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ZC
Application No. ZV-2018-01343
Control No. 1981-00139
Project No.: 00326-317

October 04, 2018
BCC District 05

No Control Number	An Official Zoning Map Amendment Modifying the District Boundaries	R-3-W-70	May 15, 1970
1973-00066	A Special Exception to allow a Planned Unit Development	R-1973-395	June 28, 1981
1981-00139	An Official Zoning Map Amendment to allow a rezoning from CG-General Commercial District to RH-Residential Multiple Family District (High Density)	R-1981-1069	July 23, 1981
	A Special Exception to amend the boundaries of the Master Plan for the Villages of Oriole PUD previously approved under Zoning Petition No 1973-00066	R-1981-1070	July 23, 1981
1981-00140	A Special Exception to amend the boundaries and Site Plan for the Villages of Oriole PCD previously approved under Zoning Petition No 73-39	R-1981-1072	July 23, 1981
1981-00139(A)	Special Exception to amend the Site Plan for Section II, Area "G" Villages or Oriole PUD, previously approved under Zoning Petition No. 1981-00139	R-1983-0607	February 24, 1983
2007-00994	Development Order Amendment to reconfigure the Site Plan and to add square footage	R-2008-0925	May 22, 2008
DOA-2018-00573	Development Order Amendment to reconfigure the Master Plan to re-designate golf course to residential; add units; modify Conditions of Approval (Architectural Review, Engineering, Landscaping, and Signs); and, to modify the Commencement of Development	R-2017-1132	August 24, 2017

On May 15, 1970, the BCC approved a rezoning of a large area of land from Agricultural District (A-1) to Multiple Family Dwelling District (R-2) through Resolution R-3-W-70. The land area described in the legal description included all of what became the Villages of Oriole PUD, of the northern half of what became Villages of Oriole Plaza (Control No 1973-00039) and properties to the east of the Villages PUD boundary. The PUD was originally approved at the June 28, 1973 BCC Hearing subject to two conditions of approval through Resolution R-1973-395. The Master Plan at the time was approved for 4,334 dwelling units on 448.2 acres of land, 2% Civic, 0.6% Medical, and 20% was approved for Open Space, a Golf Course, water tracts and recreation areas. Following that approval, the development underwent a series of revisions to the master plan, approved densities, removal of the medical area and boundary revisions for both the individual Pods and the overall PUD. The original approval included portions of what became Oriole Plaza, a Planned Commercial Development (PCD) approved under a separate petition (Resolution R-1973-396). The Master Plan for Villages of Oriole PUD never included a Commercial Pod within its boundaries. On the Master Plan, what is labeled as a Village equates to what the current ULDC refers to as Pods.

To summarize the effects of the DOAs on the PUD Master Plan, R-1981-1070 added land area, and R-1981-1072, deleted land area from the PUD that was added to the PCD. The land area added by Resolution R-1981-1070 was rezoned from the General Commercial (CG) Zoning District to the RH Zoning District through R-1981-1069. Resolution R-1983-0607 amended the Site Plan for Village G subject to conditions of approval but according to the legal description, the affected area was not impacted by that Resolution. The most recent BCC approval was on August 4, 2017, for a DOA to

reconfigure the Master Plan to convert the golf course to residential to allow Townhouse, ZLL and Multifamily units.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Institutional and Public Facilities (INST)

Zoning District: Public Ownership District (PO)

Supporting: Institutional Public Civic(Hagen Ranch Road Branch Library, Control No 2006-00392)

FLU Designation: Low Residential, 1 unit per acre (LR-1)

Zoning District: Agricultural Residential District (AR)

Supporting: Residential

SOUTH:

FLU Designation: High Residential, 18 units per acre (HR-18)

Zoning District: Multi-Family Residential (High Density) District (RH)

Supporting: Residential (Kings Point PUD/74-105, Control Nos1974-00105 and 1978-00186)

FLU Designation: Commercial High, with an underlying MR-5 (CH/5)

Zoning District: General Commercial District (CG)

Supporting: Commercial (Oriole Plaza, Control No 1981-00139)

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)

Zoning District: General Commercial District (CG)

Supporting: Commercial (Kings Point Plaza, Control No 1979-00129)

FLU Designation: Medium Residential, 5 units per acre (MR-5)

Zoning District: Residential Planned Unit Development District (PUD)

Supporting: Residential (Upjohn PUD, Control No 1992-00005)

EAST:

FLU Designation: Commercial Low, with an underlying MR-5 (CL/5)

Zoning District: Community Commercial District (CC)

Supporting: Commercial (Bank Atlantic, Control No 2001-00010)

FLU Designation: Medium Residential, 5 units per acre (MR-5)

Zoning District: Multi-Family Residential (High Density) District (RH)

Supporting: Residential

WEST:

FLU Designation: Medium Residential, 5 units per acre (MR-5)

Zoning District: Residential Planned Unit Development District (PUD)

Supporting: Residential (Villagio Isles PUD, Control No 2004-00456)

FLU Designation: Medium Residential, 5 units per acre (MR-5)

Zoning District: Single-Family Residential District (RS)

Supporting: Residential (Garden Villas PUD, Control No 1984-00119)

FINDINGS OF FACT:

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

ANALYSIS OF ARTICLE 2, SECTION 2.B.7.E.6 VARIANCE STANDARDS

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

V1/V2 YES: The subject site is part of an active adult community with active and passive recreational facilities planned within in each of the pods as well as recreation trails throughout. The affected area is surrounded by lakes and trails and by allowing an increase in building coverage for the ZLL units, and reducing the rear setback for Townhouse units, it reduces the amount of backyard the residents would have to maintain but does not diminish the quality of life the residents will have to enjoy the outdoors.

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

V1/V2 YES: Special circumstances and conditions are not the result from the actions of the Applicant, who is attempting meet the market demands for larger one-story homes among the active-adult demographic. Without obtaining a variance, the developer would be limited to offering homes utilizing a smaller footprint, and would be at a competitive disadvantage with their single-story models, which are the most popular with the current market and buyers.

c. *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:*

V1/V2 YES: The granting of this variance does not confer any special privilege denied by the Comprehensive Plan or this Code to other parcels of land in the same zoning district and will not be disruptive to the surrounding area. It is simply providing future homebuyers the opportunity to choose from more floor plans and elevations with the desired goal of having more viable single-story floor plans. As noted previously, the approval of the variance will provide the applicant the same privilege that have already been approved for other neighboring communities built during the time when Flexible Regulations were available in the ULDC.

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 zoning district, and would work an unnecessary and undue hardship:*

V1/V2 YES: Several developments within close proximity to Avalon Trails were built and developed during the time when Flexible Regulations were allowed by the Code, which allowed up to 10 percent building coverage increase to be approved administratively. The Applicant is requesting only a 5 percent increase limited to the one-story ZLL units. The reduction in the rear setback will allow the Applicant to provide larger units as well. Additionally, the Zoning Commission has approved many similar variances (The Bridges, Valencia Cove and Canyon Trails PUD, and Hyder AGR-PUD), indicating that that this request would not be granting this parcel of land any rights that have not been commonly enjoyed by others in the same zoning district.

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

V1/V2 YES: The granting of the requested variance for 55% building coverage from 50% is the minimum variance needed to allow the Applicant to offer greater design flexibility for one-story ZLL homes in this community. This is only a 5% increase in the allowed building coverage. This increase was previously allowed through an administrative process. All other property development regulations are being met including setbacks, parking, and buffering.

The granting of the requested variance to allow for a 12.5-ft. rear setback from 25 feet is the minimum variance needed to allow the Applicant to provide for single-story townhouse units in Pod J. All other property development regulations are being met including front and side setbacks, parking, and buffering.

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

V1/V2 YES: Granting of the variance will be consistent with the goals and objectives of the Comprehensive Plan and the Code as, according to the Applicant, would provide a greater diversity of home types and design in the community by allowing homebuyers to have additional common open space. Allowing the applicant to provide additional common open space for this active adult

(age restricted) community, furthers the goals of the Code by providing a variety of housing choices, and enhancing the built environment and common open space.

g. *The granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare:*

V1 YES: Granting the requested variances for an increase in building coverage and reduced rear setback will not be injurious to the area involved or to the public welfare as the additional building coverage and decreased rear setback will only be noticeable from within the proposed development.

CONCLUSION

Staff has evaluated the standards listed under Article 2.B.7.E.6 determined that there is a balance between the need for change and the potential impacts generated by the Type 2 Variance, subject to the Conditions of Approval as indicated in Exhibit C.

ZONING COMMISSION CONDITIONS

Exhibit C

Type 2 Variance – Standalone

VARIANCE

1. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Final Master Plan. (DRO: ZONING - Zoning)
2. This Variance is approved for Pods I and J only and limited to the following:
 - a. a maximum 55 percent building coverage shall apply to one-story Zero Lot Line (ZLL) units only in Pod I. The building coverage for two-story ZLL units shall not exceed 50 percent. (ONGOING/BLDGPMPT: ZONING – Zoning)
3. 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 Master Plan to the Building Division. (BLDGPMPT: BUILDING DIVISION - Zoning)
4. Prior to the issuance of Building Permits, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Final Subdivision Plan for Pods I, J and K (Avalon Trails at Villages of Oriole PUD). (BLDGPMPT/DRO: ZONING – Zoning)

COMPLIANCE

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

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

DISCLOSURE

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

Figure 1 – Land Use Map

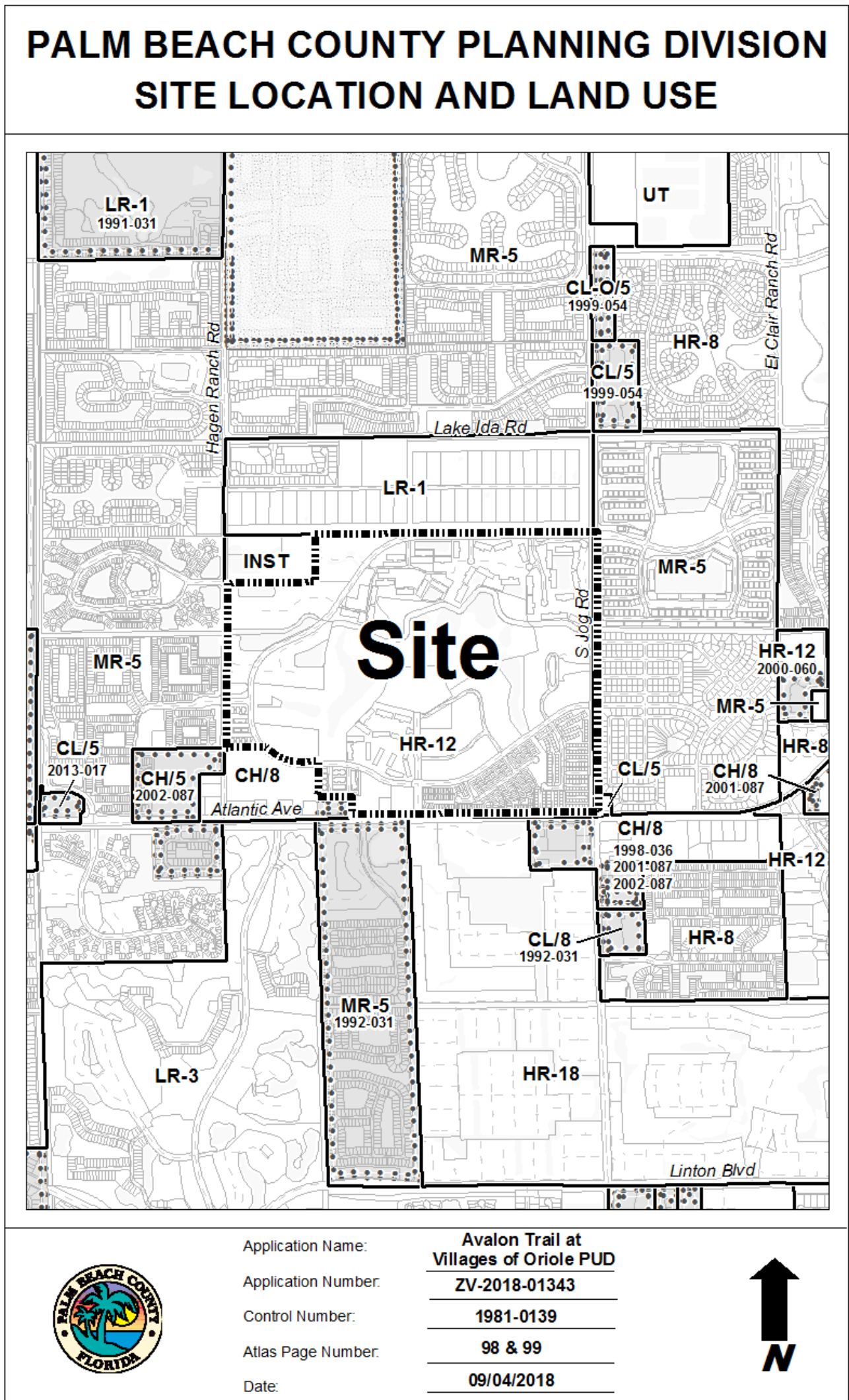


Figure 2 – Zoning Map

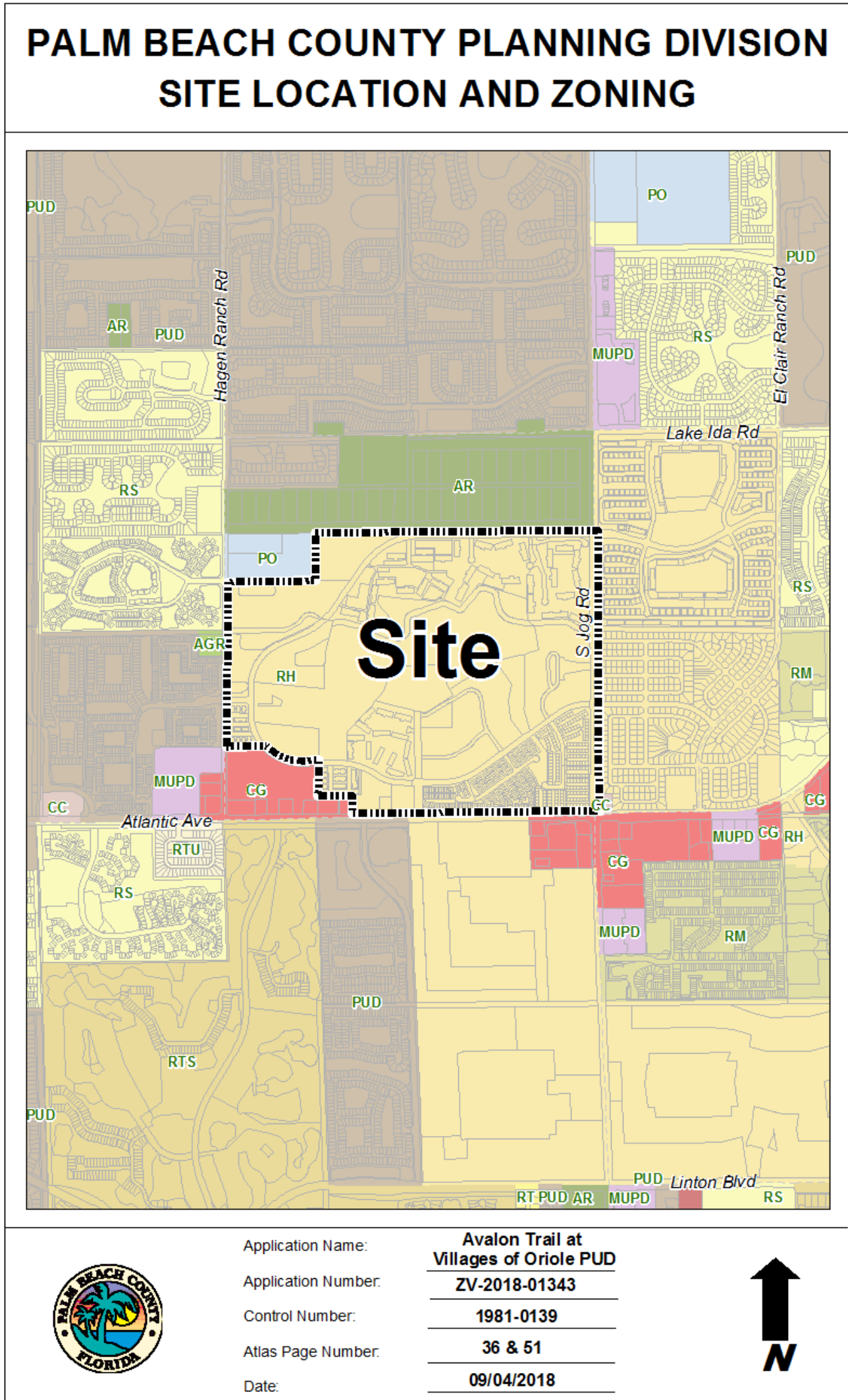
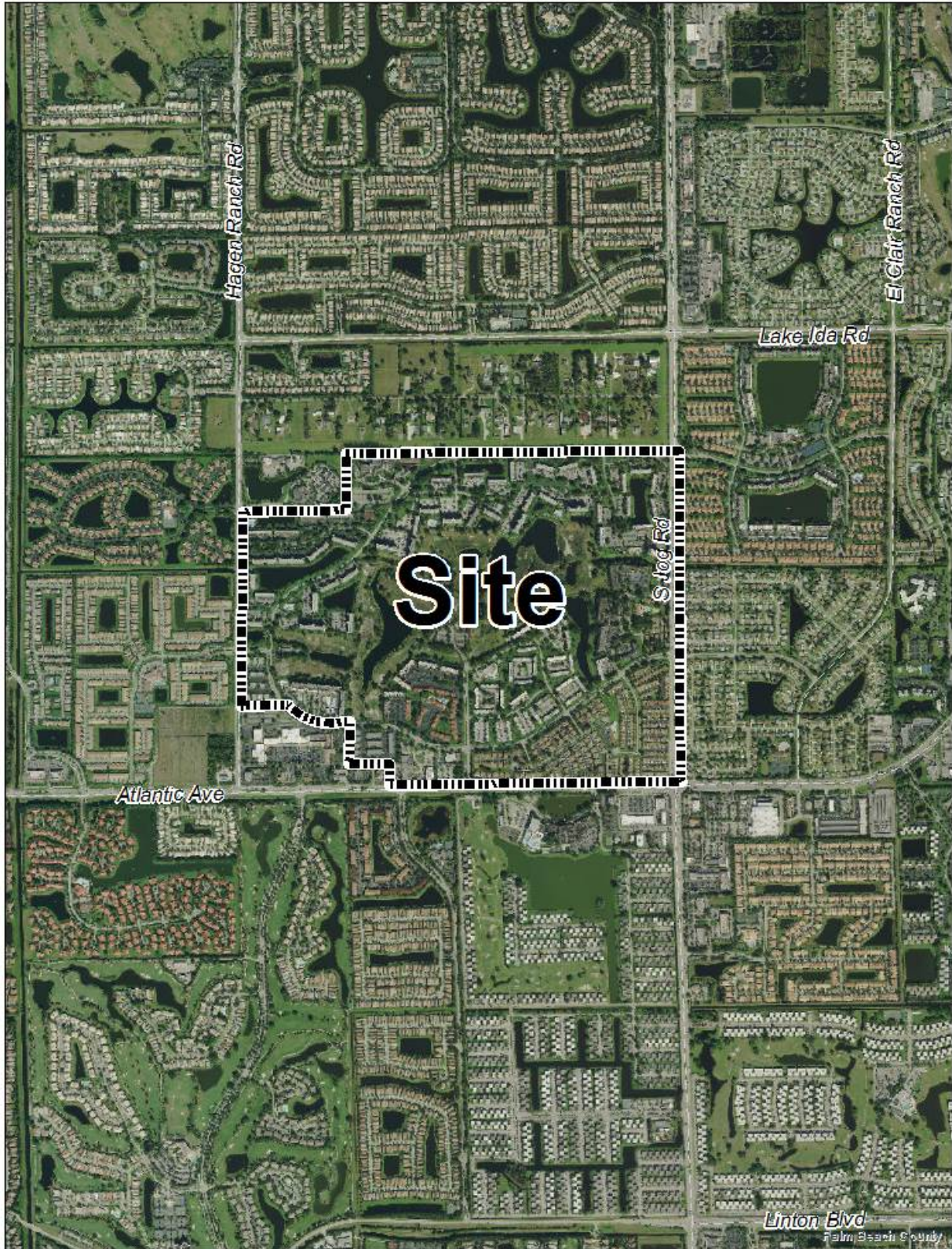


Figure 3 – Aerial

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	Avalon Trail at Villages of Oriole PUD
Application Number:	ZV-2018-01343
Control Number:	1981-0139
Atlas Page Number:	98 & 99
Date:	09/04/2018



Exhibit D – Disclosure

PALM BEACH COUNTY - ZONING DIVISION

FORM # 09

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Michael Nunziata, 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 Authorized Person _____ [position - e.g., president, partner, trustee] of 13FH Avalon LP [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 848 Brickell Avenue, PH1
Miami, FL 33131
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

[Signature]

Michael Nunziata, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 10 day of JUNE, 2018, by MICHAEL NUNZIATA, who is personally known to me or who has produced _____ as identification and who did take an oath.



Elisa Seguin
Commission # FF975191
Expires: March 24, 2020
Bonded thru Aaron Notary

[Signature]

Notary Public

ELISA SEGUIN

(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: MARCH 24, 2020

EXHIBIT "A"
PROPERTY

ALL OF THE RECREATION PLAT OF VILLAGE OF ORIOLE, LESS PARCEL G-2 THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 168, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH:

ALL OF THE PLAT OF GOLF AND TENNIS CLUB OF VILLAGES OF ORIOLE, AS RECORDED IN PLAT BOOK 31, PAGE 213, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO KNOWN AS:

ALL OF PARCELS G-1, G-3, G-4, G-5 AND L.W.D.D. CANAL L-33, RECREATION PLAT OF VILLAGE OF ORIOLE, AS RECORDED IN PLAT BOOK 31, PAGE 168, TOGETHER WITH ALL OF THE PLAT OF GOLF AND TENNIS CLUB OF VILLAGES OF ORIOLE, AS RECORDED IN PLAT BOOK 31, PAGE 213, ALL OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA LYING IN SECTIONS 15 AND 16, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID RECREATION PLAT OF VILLAGE OF ORIOLE; THENCE ALONG THE BOUNDARY LINE OF SAID RECREATION PLAT OF VILLAGE OF ORIOLE, THE FOLLOWING TWENTY FIVE (25) COURSES AND DISTANCES; N.00°14'48"E., A DISTANCE OF 463.98 FEET; THENCE N.84°55'38"W., A DISTANCE OF 927.93 FEET TO A POINT ON A NON-TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES N.78°12'27"E., A RADIAL DISTANCE OF 690.00 FEET; THENCE NORTHERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 12°02'21", A DISTANCE OF 144.98 FEET TO A POINT OF TANGENCY; THENCE N.00°14'48"E., A DISTANCE OF 376.54 FEET TO A POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 630.00 FEET AND A CENTRAL ANGLE OF 05°18'37"; THENCE NORTHERLY ALONG THE ARC A DISTANCE OF 58.39 FEET TO A POINT ON A NON-TANGENT LINE; THENCE S.84°53'10"E., A DISTANCE OF 1,024.14 FEET; THENCE N.00°36'50"E., A DISTANCE OF 527.21 FEET; THENCE N.14°51'50"E., A DISTANCE OF 482.92 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES N.08°02'16"W., A RADIAL DISTANCE OF 300.00 FEET; THENCE EASTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 05°32'48", A DISTANCE OF 29.04 FEET TO A POINT OF REVERSE CURVATURE TO THE RIGHT HAVING A RADIUS OF 300.00 FEET AND A CENTRAL ANGLE OF 27°30'00"; THENCE EASTERLY ALONG THE ARC, A DISTANCE OF 143.99 FEET; THENCE S.76°05'04"E., A DISTANCE OF 310.00 FEET TO A POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 250.00 FEET AND A CENTRAL ANGLE OF 34°56'00"; THENCE EASTERLY ALONG THE ARC A DISTANCE OF 152.43 FEET; THENCE N.68°58'56"E., A DISTANCE OF 183.51 FEET; THENCE N.44°56'35"E., A DISTANCE OF 33.07 FEET; THENCE N.40°13'25"W., A DISTANCE OF 294.25 FEET; THENCE N.12°11'30"E., A DISTANCE OF 100.66 FEET; THENCE S.84°34'13"E., A DISTANCE OF 837.29 FEET; THENCE N.52°06'49"E., A DISTANCE OF 75.00 FEET; THENCE S.64°22'03"E., A DISTANCE OF 311.41 FEET; THENCE N.39°56'43"E., A DISTANCE OF 441.87 FEET; THENCE S.72°25'48"E., A DISTANCE OF 718.47 FEET; THENCE S.01°30'48"E., A DISTANCE OF 314.20 FEET; THENCE S.53°35'52"E., A DISTANCE OF 125.98 FEET; THENCE S.10°07'59"E., A DISTANCE OF 353.01 FEET; THENCE S.71°52'01"W., A DISTANCE OF 220.00 FEET TO THE NORTHEAST CORNER OF PARCEL G-2 OF SAID RECREATION PLAT OF VILLAGE OF ORIOLE; THENCE S.78°10'53"W. ALONG THE NORTH LINE OF SAID PARCEL G-2, A DISTANCE OF 434.33 FEET TO THE NORTHWEST CORNER OF SAID PARCEL G-2; THENCE S.57°33'04"W. ALONG THE BOUNDARY LINE OF SAID RECREATION PLAT OF VILLAGE OF ORIOLE, A DISTANCE OF 775.00 FEET TO A POINT OF INTERSECTION WITH THE BOUNDARY LINE OF SAID PLAT OF GOLF AND TENNIS CLUB OF VILLAGES OF ORIOLE; THENCE ALONG SAID BOUNDARY LINE THE FOLLOWING EIGHT (8) COURSES AND DISTANCES; S.30°41'58"E., A DISTANCE OF 100.04 FEET; THENCE S.57°33'02"W., A DISTANCE OF 419.74 FEET TO A POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 155.48 FEET AND A CENTRAL ANGLE OF 31°45'00"; THENCE WESTERLY ALONG THE ARC A DISTANCE OF 86.16 FEET; THENCE S.89°18'02"W., A DISTANCE OF 14.14 FEET; THENCE N.45°41'58"W., A DISTANCE OF 21.21 FEET; THENCE S.89°18'02"W., A DISTANCE OF 100.00 FEET; THENCE N.00°41'58"W., A DISTANCE OF 22.18 FEET; THENCE N.76°22'38"W., A DISTANCE OF 567.97 FEET TO A POINT OF INTERSECTION WITH THE BOUNDARY LINE OF SAID RECREATION PLAT OF VILLAGE OF ORIOLE; THENCE ALONG SAID BOUNDARY LINE THE FOLLOWING FIVE (5) COURSES AND DISTANCES; S.37°29'01"W., A DISTANCE OF 87.48 FEET; THENCE S.44°10'04"W., A DISTANCE OF 517.48 FEET; THENCE S.01°00'59"E., A DISTANCE OF 423.06 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES S.07°36'16"W., A RADIAL DISTANCE OF 1,040.00 FEET; THENCE WESTERLY ALONG THE ARC, THROUGH A CENTRAL ANGLE OF 08°18'14", A DISTANCE OF 150.73 FEET TO A POINT OF TANGENCY; THENCE S.89°18'02"W., A DISTANCE OF 267.96 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN PALM BEACH COUNTY, FLORIDA.
CONTAINING 4,684,947 SQUARE FEET/107.5516 ACRES MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address
PB Marina Delray Flagler Investors - 411 West Putnam Avenue Greenwich, CT 06830	
Palm Beach Fund Holdings, LP - 848 Brickell Avenue PH1 Miami, FL 33131	
Florida Real Estate Value Fund III, LP - 848 Brickell Avenue PH1 Miami, FL 33131	
CD Holding Company LLC - 411 West Putnam Avenue Greenwich, CT 06830	
Charles E. Davidson 2001 Family Trust - 777 S. Flagler Drive Ste. 602 East West Palm Beach, FL 33401	
Charles E. Davidson - 777 S. Flagler Drive Ste. 602 East West Palm Beach, FL 33401	
J Jacobs Holding LLC - 777 S. Flagler Drive Ste. 602 East West Palm Beach, FL 33401	
Joseph M. Jacobs Estate Trust - 777 S. Flagler Drive Ste. 602 East West Palm Beach, FL 33401	
Liddell Enterprises LLC - 777 S. Flagler Drive Ste. 602 East West Palm Beach, FL 33401	
Wexford Partners Investment Co LLC - 411 Putnam Avenue Greenwich, CT 06830	

AVALON TRAILS AT VILLAGES OF ORIOLE PUD

JUSTIFICATION STATEMENT Type II Stand Alone Variance

Control Number(s): 1981-139
 Application Number: ZV-2018-01343
 Submittal: July 9, 2018
 Resubmittal: August 13, 2018



Urban Planning and Design
 Landscape Architecture
 Communication Graphics

Request

Urban Design Kilday Studios, as agent for 13FH Avalon, LP, the property owner/applicant is requesting two Type II Stand Alone variances for Avalon Trails at Villages of Oriole PUD. The both variances are from Article 3.E.2.D.1 (Table 3.E.2.D) of the Palm Beach County Unified Land Development Code (ULDC).

The first variance seeks from the required maximum 50% lot coverage for zero lot line homes. This request would apply to Pod I and the request would be limited to only the one-story zero lot lines homes. The second variance seeks relief from the required rear setback/separation for townhomes and the request would be limited to Pod J.

The variances requested are described in the following Table:

	Pod	ULDC Code Section	Required	Proposed	Variance
V1	Pod I (ZLL)	Table 3.D.2.B Building Coverage	Maximum 50% Building Coverage for zero lot line homes	Maximum 55% Building Coverage for <u>one-story</u> zero lot line homes Two story single-family units will remain at a maximum 50%	To allow a 5% increase in building coverage for <u>one-story</u> zero lot line homes
V2	Pod J (TH)	Table 3.D.2.A Rear Setback	Minimum 25 foot Rear Setback	12.5 Foot Rear Setback	12.5 Feet

Property Location/ Overview

Avalon Trails is 107.55-acre former golf course, located within the Villages of Oriole (hereinafter referred to as “the Villages”) in Unincorporated Palm Beach County (PBC). The Villages is a +448.13-acre community that is generally located north of Atlantic ZC
 Application No. ZV-2018-01343
 Control No. 1981-00139
 Project No.: 00326-317

610 Clematis Street
 Suite CU02
 West Palm Beach, FL 33401
 561.366.1100 561.366.1111 fax
 www.udkstudios.com

Avenue between Hagen Ranch Road and Jog Road. The site is fully developed with 3,742 attached residential units, a former 18-hole golf course and club, government services, non-profit uses, recreational areas and roadways on properties surrounding the affected area. The former golf course and club primarily comprise the "affected area" of the PUD. The affected area includes four (4) parcels consisting of parcel control numbers (PCN's) 00-42-46-15-07-000-0010, 00-42-46-15-07-007-0010/0060 and 00-42-46-15-08-001-0000.

Avalon Trails, consisting of three (3) residential pods surrounded by open space. A total of 521 new residential units are proposed within the residential pods. The main access to Avalon Trails is from Atlantic Avenue on Cumberland Drive. The secondary access for residents of Pod I and emergency vehicles is from Hagen Ranch Road on Gateway Road. Both access points will have controlled access within Avalon Trails.

The site is within the Urban/Suburban Tier and is within the High Residential, 12 Dwelling Unit's per acre (du/ac) (HR-12) FLUA designation. On the Official Zoning Map Quads 36 and 51, the Villages (inclusive of the affected area) is identified as being within the Multifamily Residential High Density (RH) Zoning District. Although so designated, the RH Zoning District is no longer a recognized zoning district. Per ULDC Article 3.A.3.E.1.e, the RH Zoning District now corresponds to the Residential Multifamily (RM) Zoning District, which is a district that is intended primarily for the development of multiple family dwelling units. As you will see in the approval history below, there were prior approvals granted for a Special Exception (SE) to allow a Planned Unit Development (PUD) on the Villages. Under the current PBC ULDC, properties are no longer granted SE approval to allow a PUD and rather are officially rezoned to a PUD; however, per ULDC Article 3.A.3.E.2.a, prior SE approvals for PUD's now correspond to the PUD Zoning District.

Avalon Trails is approved to construct a 521-unit, age-restricted, zero lot line (ZLL), townhouse and multifamily residential development within the affected area on the subject property. The housing units will consist of 104 ZLL units, 217 townhouse units and 200 multi-family units (rental units) that will be age restricted.

Project History

Below is a breakdown of the prior zoning approvals associated with the subject property.

TABLE 1: PRIOR ZONING APPROVALS				
CONTROL NO.	DESCRIPTION	ACTION	DATE	RESOLUTION NO.
N/A	Modification of District Boundaries (aka Official Zoning Map Amendment or Rezoning) from A-1 to R-2	Approved	May 15, 1970	Zoning Resolution No. 3-W-70
N/A	Modification of District Boundaries (aka Official Zoning Map Amendment or Rezoning) from A-1 to C-1	Approved	May 15, 1970	Zoning Resolution No. 3-X-70
73-66	SE to allow for a PUD in RH Zoning District	Approved	July 17, 1973	R-73-395
73-39	Rezoning from CG, in part, and RH, in part, to CG and an SE to allow Planned Community Shopping Center	Approved	July 17, 1973	R-73-396
80-82	SE to allow Auto Service Station	Approved	May 29, 1980	R-80-035
81-139	Rezoning from CG to RH	Approved	July 23, 1981	R-81-1069
81-139	SE to amend boundaries of PUD and master plan	Approved	July 23, 1981	R-81-1070
81-140	Rezoning from RH to CG	Approved	July 23, 1981	R-81-1071
81-140	SE to amend boundaries of Planned Commercial Development	Approved	July 23, 1981	R-81-1072
80-82/ 82-128	SE to allow site plan amendment to include a car wash	Approved	January 25, 1983	R-83-0136
81-139(A)	SE to allow site plan amendment for all of Huntington Lakes	Approved	February 24, 1983	R-83-0607
73-39(A)	SE to allow site plan amendment to Planned Commercial Development	Approved	September 29, 1983	R-84-51
73-39(C)	SE to allow site plan amendment to Planned Commercial Development	Approved	March 26, 1991	R-91-365
73-39(D)	SE to allow site plan amendment to Planned Commercial Development	Approved	March 26, 1991	R-91-376
1981-139	DOA to reconfigure site plan and to add square footage	Approved	May 22, 2008	R-2008-0925
1981-139	DRO to reconfigure FMP, redesignate golf course to residential, add units, modify conditions of approval and modify commencement of development.	Approved	August 24, 2017	R-2017-1132

Overview of Variance Request and Justification Statement

Avalon Trails is an active adult (age restricted) community consisting of three (3) Residential Pods. Each pod offers a different housing product to meet the varying needs of the active adult buyer. Pod I is a zero lot line pod, Pod J is a townhouse pod and Pod K is a multifamily pod. Both of the variances requested are deviations from the property development regulations. Each variance allows for a slightly smaller fee-simple outdoor lot area which in exchange provides for greater common area open space on the perimeter of the project and more indoor living space. As an active adult community, there is not the need for large backyards which are often desired by young families. The project is surrounded by lakes, open space and miles of paths and provides for 61 acres (56.7%) open space.

Variance 1 (ZLL Lot Coverage):

This variance request applies to Pod I's one story zero lot line units. The purpose of this variance request is to allow a deviation from the maximum building coverage requirement of fifty percent (50%) to a maximum of fifty-five percent (55%) for the proposed single story zero lot line homes.

Variance 2 (Townhouse Rear Setback):

The second variance requested applies to Pod J's one-story townhouse units. The variance requested allows for a reduction in the rear setback from twenty-five feet (25') to twelve and one-half feet (12.5'). Per the Townhouse property development regulations, the rear setbacks measured from plat, parcel, or pod boundary; lake maintenance easement, canal easement, or canal R-O-W; or required landscape buffer. The interior lots of the pod are required to have a 25 foot separation from the adjacent building since they do not abut a plat, parcel or pod boundary, lake maintenance easement, canal easement or landscape buffer. The separation is required to be equidistant between the two buildings. This results in a rear lot depth of 12.5 feet for each townhouse. The townhouse buildings located on open space parcels, along the lake or landscape buffer have either 16.75' or 25' rear yards. Granting the variance would allow all of the units to be the same depth and have the same size rear yards.

It is important to note that the townhouse buildings are all one-story buildings. If the homes were zero lot line or single-family homes, the required rear setback would either be 10' or 15'. If the townhouse units were not fee-simple, they would be classified as multifamily buildings which as a rear setback of 15 feet but the setback is measured from the perimeter buffer. Granting a reduced rear setback of 12.5 feet is reasonable because it is consistent with the other building types.

Variance Criteria

Section 2.B.3.E. of the Palm Beach County ULDC states that in order to authorize a variance, the Palm Beach County Zoning Commission shall and must find that the seven criteria listed below have been satisfied. The criteria for each variance request follows.

- 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:**

Variance 1 (ZLL Lot Coverage) & Variance 2 (Townhouse Rear Setback):

Special circumstances do exist that are peculiar to this parcel of land that are not applicable to other parcels of land in this same zoning district. The development plan for Avalon Trails PUD is unique in that it includes over 60 acres of usable open space consisting of lakes, private recreation, and extensive trails that are accessible to all residents of the Villages of Oriole PUD.

Per ULDC Art. 3.E.1.A.1, the intent of Planned Development Districts (PDDs) "is to encourage ingenuity, and imagination on the part of, architects, landscape architects, engineers, planners, developers, and builders to create development that promotes sustainable living, addresses traffic impacts, encourages alternative modes of transportation, creates logical street and transportation networks, preserves the natural environment, enhances the built environment, provides housing choices, provides services to the community, encourages economic growth, encourages infill development and

redevelopment, and minimizes impacts on surrounding areas through the use of flexible and innovative land development techniques”.

As an active adult community, design principles were implemented to provide for additional community open space instead of large lots providing for private open space. The active adult can still enjoy the walking trails and green space without having the obligation of maintaining a large yard.

In addition, as a golf course redevelopment project, special circumstances exist that are not applicable to other parcels of land. The existing units previously enjoyed views of a golf course but since the golf course was closed, the land was site planned in such a manner to minimize the impacts to the existing residential units. This resulted in the proposed development being centralized and surrounded by lakes, open space and a trail system.

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

Variance 1 (ZLL Lot Coverage):

Special circumstances and conditions are not the result from the actions of the applicant. The special circumstances are a result of a land development code that did not envision current trends and creativity in to allow for flexibility in property development regulations. While there was once the allowance for “flexible regulations” that allowed an increase of 10% in building coverage administratively, the provisions were removed in 2004. This proposed increase in zero lot line building coverage and reduced rear setbacks for the townhomes will allow for greater flexibility in the design of the proposed homes to promote the community goals of additional open space on the perimeter of the property.

The zero lot line homes will meet all ULDC Property Development Regulations relating to setbacks, however the maximum building coverage requirement of 50% works against the design philosophy of this active adult project. The fact that the current version of the ULDC has not been amended to allow for an increased building coverage for one story single family homes is not the result of actions of the applicant. The demand for single-story product types is not a result of actions of the applicant. This is a market-driven demand resulting from the desire of active adult homeowner’s to not have a two-story house but still have a home large enough to meet their needs.

Variance 2 (Townhouse Rear Setback):

Special circumstances and conditions are not the result from the actions of the applicant. The special circumstances are a result of a land development code that did not envision current trends and creativity in to allow for flexibility in property development regulations. The ULDC calls for 25’ rear setbacks for townhouse units but does not take into account a reduced setback for a one-story townhouse (villa) product. The townhouse rear setback is larger than all other residential building types. For example:

- Single Family: 15’ Rear Setback
- Zero Lot Line: 10’ Rear Setback
- Multifamily: 15’ Rear Setback (to perimeter buffer)

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:

Variance 1 (ZLL Lot Coverage) & Variance 2 (Townhouse Rear Setback):

The granting of this variance does not confer any special privilege denied by the comprehensive plan and the ULDC to other parcels of land in the same zoning district, and will not be disruptive to the surrounding area. This variance request is simply allowing additional open space to be located on the perimeter of the site.

Other projects in the PUD Zoning District have received variances from property development regulations:

- Valencia Assemblage (Control No. 2004-00369): Increase in building coverage for single-family lots from 40% to 44% approved by the PBC Zoning Commission (ZC) on February 7, 2013 through Resolution No. ZR-2013-004.
- Hyder AGR-PUD (Control No. 2005-00455): Increase in building coverage for single-family lots from 40% to 44% and ZLL lots from 50% to 55% approved by the PBC ZC on September 16, 2013 through Resolution No. ZR-2013-024.
- Canyon Trails PUD (Control No. 2006-550): Increase in building coverage for single-family lots from 40% to 44% approved by the PBC Zoning Commission (ZC) on June 7, 2012 through Resolution No. ZR-2012-015.
- Gulfstream Polo Properties PUD (Control No. 2005-594): Increase in building coverage for single-family lots from 40% to 44% and zero lot line homes from 50% to 55% approved by the PBC Zoning Commission (ZC) on October 1, 2015 through Resolution No. ZR-2015-040.

As such, allowing the applicant to have an increase in building coverage and a reduced rear setback will not confer any special privilege granted to other parcels within the same PUD Zoning District.

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

Variance 1 (ZLL Lot Coverage) & Variance 2 (Townhouse Rear Setback):

The granting of the variance would provide a greater diversity in the zero lot line homes and townhouse units site design providing flexibility allowing for additional open space to be located on the perimeter of the site as common open space rather than providing larger lots with more private open space which is less desirable to active adult buyers. The flexibility also allows for single story townhomes and zero lot line homes.

Literal interpretation of the Code would deprive the applicant the rights enjoyed by other PUD's that were granted similar variances to allow an increase in the maximum building coverage. As such, this would cause an unnecessary and undue hardship as the applicant would be unable to promote their goals of developing a community that emphasizes a healthy lifestyle and encourages the enjoyment of all of the usable open space areas. The majority of the lots back up to common open spaces. Some of the purposes of a PDD is to create development that promotes sustainable living, enhances the built environment, and provides housing choices. Literal interpretation of this provision of the code would deprive the application of the ability to further this intent.

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

Variance 1 (ZLL Lot Coverage):

The granting of the requested variance for 55% building coverage from 50% is the minimum variance needed to allow the applicant to offer greater design flexibility for one story zero lot line homes in this community. This is only a 5% increase in the allowed building coverage. This increase was previously allowed through an administrative process. All other property development regulations are being met including setbacks, parking, and buffering.

Variance 2 (Townhouse Rear Setback):

The granting of the requested variance to allow for a 12.5 foot rear setback from 25 feet is the minimum variance needed to allow the applicant to provide for single story townhouse units in Pod J. All other property development regulations are being met including front and side setbacks, parking, and buffering.

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

Variance 1 (ZLL Lot Coverage) & Variance 2 (Townhouse Rear Setback):

Pursuant to ULDC Art. 3.E.1.A.1, Purpose and Intent, the intent of Planned Development Districts (PDDs) “is to encourage ingenuity, and imagination on the part of, architects, landscape architects, engineers, planners, developers, and builders to create development that promotes sustainable living, addresses traffic impacts, encourages alternative modes of transportation, creates logical street and transportation networks, preserves the natural environment, enhances the built environment, provides housing choices, provides services to the community, encourages economic growth, encourages infill development and redevelopment, and minimizes impacts on surrounding areas through the use of flexible and innovative land development techniques”. Allowing the applicant to offer greater design flexibility to Builders and homebuyers for the one story zero lot line homes and townhouse units will support the applicant’s desire to provide additional common open space for this active adult (age restricted) community that furthers the goals of the code.

Granting of the variance will be consistent with the goals and objectives of the Comprehensive Plan and the Code as the request would provide a greater diversity of home types and design in the community by allowing homebuyers to have additional common open space.

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

Variance 1 (ZLL Lot Coverage) & Variance 2 (Townhouse Rear Setback):

Granting the requested variances for an increase in building coverage and reduced rear setback will not be injurious to the area involved or to the public welfare as the additional building coverage and decreased rear yard will only be noticeable from within the proposed development. It is believed that granting the variance will promote public welfare by encouraging residents to enjoy the additional common open space located around the perimeter of the site. The additional lakes and open space around the perimeter minimizes the impacts to the surrounding residential units.

On behalf of the applicant, Urban Design Kilday Studios respectfully request approval of this request. The Project Managers at Urban Design Kilday Studios are Wendy Tuma and Shayne Broadnix and can be reached at 561-366-1100.

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