

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

ZONING COMMISSION STANDALONE VARIANCE STAFF REPORT

Application No.: SV-2021-00127
Application Name: Rice Project
Control No./Name: 2020-00060
Applicant(s): Gregory Rice
Owner(s): Gregory Rice, Betty J. Kaylor
Agent(s): Wallace Surveying, Inc. - Robert J. Cajal
Telephone No.: (561) 640-4551
Project Manager: Joanne Keller, Director Land Development

TITLE: a Subdivision Variance **REQUEST:** to allow access to a residential home from a 20-foot easement.

APPLICATION SUMMARY: Petition of Robert Cajal on behalf of Gregory Rice, requesting variance from the requirement that access shall be by a street of suitable classification and construction as established by the subdivision regulations.

SITE DATA:

Location:	On the south side of Belvedere Road, approximately 500 feet east of North Jog Road.
Property Control Number(s)	00-42-43-27-05-005-0030
Existing Land Use Designation:	Medium Density Residential (MR-5)
Proposed Land Use Designation:	Medium Density Residential (MR-5)
Existing Zoning District:	Agricultural Residential District (AR)
Acreage:	2.08 acres
Tier:	Urban/Suburban
Overlay District:	Palm Beach International Airport Overlay, Turnpike Aquifer Protection Overlay District
Neighborhood Plan:	Haverhill Neighborhood Plan
CCRT Area:	N/A
Municipalities within 1 Mile	Haverhill
Future Annexation Area	Haverhill, West Palm Beach

STAFF RECOMMENDATION: Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C.

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

PROJECT HISTORY:

The subject site currently supports a single-family home and was recently rezoned from Agricultural Residential (AR) to the Single Family Residential (RS) Zoning District with a Conditional Overlay Zone (COZ) by Resolution No. R-2020-1781. The applicant is proposing to subdivide the subject property into two lots and to develop the newly created vacant lot as a future residential site.

SURROUNDING LAND USES:

NORTH (across Belvedere Road):

FLU Designation: Medium Density Residential (MR-5)
Zoning District: Residential Single Family (RS)
Supporting: Residential (Control No. N/A)

SOUTH:

FLU Designation: Medium Density Residential (MR-5)
Zoning District: Agricultural Residential (AR)
Supporting: Residential (Control No. N/A)

EAST:
FLU Designation: Medium Density Residential (MR-5)
Zoning District: Residential Single Family (RS)
Supporting: Residential/Vacant (Control No. 1986-00140)

WEST:
FLU Designation: Medium Density Residential (MR-5)
Zoning District: Residential Single Family (RS)
Supporting: Place of Worship (Control No. 2000-00027)

SUBDIVISION VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
11.E.2.A.2 Chart of Minor Streets	40-foot residential access street	20-foot access easement	20 feet in width and access to easement instead of ROW

FINDINGS:
The Agent for this site is seeking a standalone Subdivision Variance to allow a new lot to access a 20 foot ingress/egress easement. Pursuant to ULDC Table 11.E.2.A-2 in Article 11, residential uses shall have access from a minimum right of way. A subdivision variance is requested to allow access through an existing curb cut to the major street and have this site access a 20 foot ingress/egress easement, which will be over the existing driveway. Engineering staff is recommending **APPROVAL** of the subdivision variance.

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

Applicant’s Response: Yes. The subject site currently supports a Single Family dwelling, and has an existing access point from Belvedere Road that is shared with three other Single Family homes through a previously established joint driveway. The Applicant intends to subdivide the property into two lots in order to possibly construct another Single Family home on Lot 1 in the future. Due to the classification of Belvedere Road as an Arterial designated by the Comprehensive Plan’s Functional Classification of Roads Map TE 3.1, the Land Development standards of Article 11.E.2.A.2 do not allow for direct access to a residential lot from an Arterial Roadway. As such, the aforementioned are the special circumstances and conditions that exist on the subject parcel of land. Granting this variance will allow the Applicant to subdivide the property and provide legal access to the possible future development of a Single Family home on the resultant new lot.

Staff Response: CORRECT. This parcel is peculiar because it’s adjacent to a major and has an existing driveway that provides access to multiple existing adjacent lots. The applicant is proposing the new lot to have the same access that the existing houses and not create a new curb cut. The code prohibits individual lots from having direct connections to major streets. The proposed lot will access through the adjacent lot and record a minimum 20 foot ingress/egress easement from Belvedere Road over the existing driveway connection.

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

Applicant’s Response: The subject site is a Legal Lot of Record established prior to 1973, and has existing legal access directly from Belvedere Road. The adoption of the Comprehensive Plan in 1989 resulted in the creation of a classification system for the County’s street network, and the subsequent designation of Belvedere Road as an Arterial. Due to the provisions of Article 11 preventing residential lots from having direct access to an Arterial identified by the Plan, new development or redevelopment of the existing residential lots abutting Belvedere Road in this corridor would not be allowed access unless granted a Subdivision Variance. The Applicant is therefore not the creator of the special circumstances and conditions on this site.

Staff Response: CORRECT. When subdividing adjacent to major streets, individual lots cannot have access to the major street and would require a minimum 40 foot residential access street. The connection already exists and multiple properties currently use the curb cut for access. The existing access easement is outside the limits of the existing driveway, so the applicant will actually improve the situation by recording the access easement over the existing driveway, if approved.

- c) *Granting the variance shall not confer upon Petitioner any special privilege denied by the comprehensive plan and the ULDC to other parcels of land, buildings or structures in the same zoning district.***

Applicant's Response: Yes. The Applicant is proposing to subdivide the subject site into two lots in order to provide for the possible future development of a Single Family home, which is a Permitted by Right use in the RS Zoning District. The resultant lots will meet the minimum Property Development Regulations of the RS district as required by the Code. Granting this variance will allow the Applicant to provide required legal access to the proposed Single Family home on Lot 1 by way of an access easement through Lot 2, as well as maintaining current access for the three adjoining properties to the south.

Staff Response: CORRECT. Grant of this variance will not confer any special privileges denied by the comprehensive plan or the code.

- d) *Literal interpretation and enforcement of the terms and provisions of the ULDC would deprive the Petitioner of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship.***

Applicant's Response: Yes. If the Applicant were held to a strict enforcement of the terms and provisions of this Code, it would not be possible to subdivide the property to construct a new Single Family home because the subdivided lot would be "land locked" as direct access to Belvedere Road is not allowed by definition in the ULDC. Given the established residential character of the surrounding area, in conjunction with the sequence of events described in Standard b., preventing the Applicant to utilize an alternative form of legal access to the proposed residential lot would deprive the Applicant of rights enjoyed by other RS district properties and cause unnecessary hardship.

Staff Response: CORRECT. Literal interpretation of the code could result in an unnecessary burden on the Property Owner to plat additional right-of-way and build a local residential road with an acceptable turnaround. The driveway exists and is currently used by multiple property owners.

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

Applicant's Response: Yes. Given that the Applicant is not able to provide direct access to Belvedere Road, the granting of this variance to allow legal access from an access easement is the minimum variance possible.

Staff Response: CORRECT. Granting of this request is the minimum variance to allow for the additional lot to be created.

- f) *Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC.***

Applicant's Response: Yes, In order for development to occur, each parcel of land must have legal access from a street. However, the standard provisions of Article 11 do not allow residential lots to have direct access from Belvedere Road due to its classification as an Arterial roadway. In granting this variance, the Applicant will be able to provide the required legal access to the proposed residential lot via existing driveway access in keeping with the purposes, goals, objectives and policies of the Plan and this Code.

Staff Response: CORRECT. Grant of this variance will be consistent with purposes, goals, objectives and policies of the comprehensive plan and the code.

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

Applicant’s Response: As proposed, Lot 1 will be provided legal access through a 20-foot access easement through Lot 2 that will connect to an existing driveway connection with Belvedere Road. As a result of this design, the creation of an additional curb cut onto Belvedere Road will be avoided and thus mitigate a potential increase in vehicular and pedestrian conflict in the predominately residential area. As such, granting this variance will not be injurious to the area or detrimental to the public welfare.

Staff Response: CORRECT. The proposed parcel is seeking a variance to use an existing curb cut and create an access easement in lieu of constructing a private roadway tract in accordance to Article 11. Granting the variance will not be injurious to the area involved or otherwise detrimental to public welfare.

(Remainder of page left intentionally blank)

CONDITIONS OF APPROVAL

EXHIBIT C - Subdivision Variance - Standalone

ENGINEERING

1. Prior to May 31, 2022, the property owner shall create a minimum 20-foot wide access and general utility easement from Belvedere Road to provide legal access to the adjacent parcels with parcel control numbers 00424327050050031, 00424327050050035 and 00424327050050034, as required by the County Engineer. The property owner shall not record this easement until it has been approved by the County Engineer. (DATE: LAND DEVELOPMENT - Land Development)

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) (ONGOING: LAND DEVELOPMENT - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or
- d. Referral to Code Enforcement; and/or
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) (ONGOING: LAND DEVELOPMENT - Zoning)

DISCLOSURE

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

Zoning Commission
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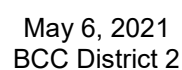


Figure 2 Zoning Map

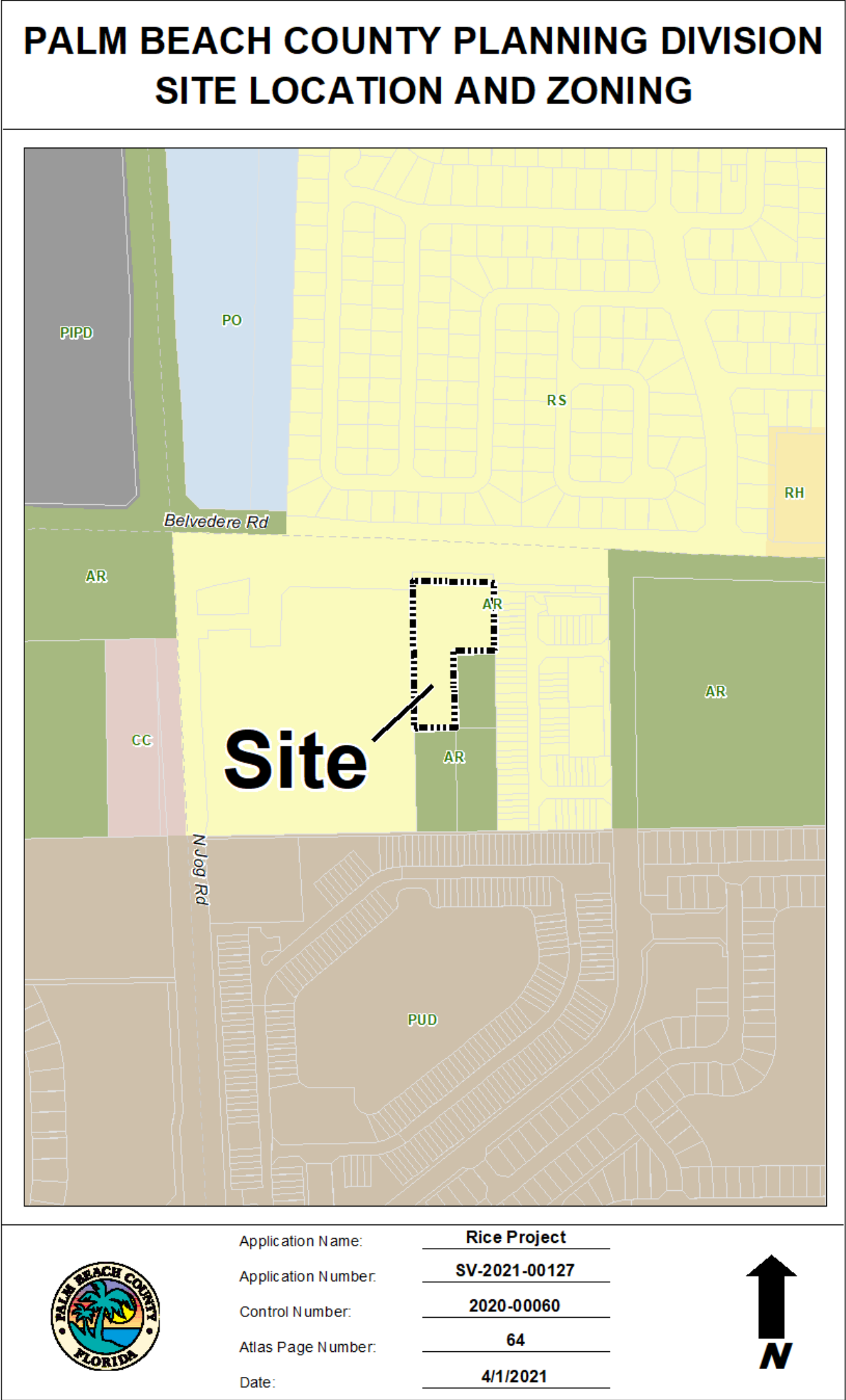


Figure 3 Aerial



Zoning Commission
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Rice Project

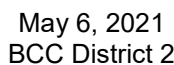


Exhibit D: Disclosure

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 Gregory Rice, 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 ☐ _____ [position - e.g., president, partner, trustee] of _____ [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: 511 Lucerne Avenue, Suite 501
Lake Worth, FL 33460-3860

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.

Gregory Rice, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or [] online notarization, this 31 day of December, 2020 by Gregory Rice (name of person acknowledging). He/she is personally known to me or has produced FLD (type of identification) as identification and did/did not take an oath (circle correct response).

Taryn Brauchle
(Name - type, stamp or print clearly)

Taryn Brauchle
(Signature)

My Commission Expires on: 06/10/2023 NOTARY'S SEAL OR STAMP



TARYN BRAUCHLE
Commission # GG 330358
Expires June 10, 2023
Bonded Thru Budget Notary Services

EXHIBIT "A"**PROPERTY**

RICE-KAYLOR PROJECT
CONTROL NO.: 2020-0060

PROPERTY ADDRESS:
6360 Belvedere Road
West Palm Beach, FL 33413

LEGAL DESCRIPTION:

A parcel of land in Tract 3, Block 5, THE PALM BEACH FARMS CO., PLAT NO.3, as recorded in Plat Book 2, Pages 45 through 54, inclusive, Public Records of Palm Beach County, Florida said parcel being a portion of the West 5 acres (West 262.0 feet) of said Tract 3, and being particularly described as follows:

From the Southwest Corner of said Tract 3, Block 5, run thence Northerly on the West line of said Tract 3 a distance of 332 feet to the POINT OF BEGINNING of the parcel herein described; thence continue Northerly on the same course a distance of 501.02 feet to the Northwest corner of said Tract 3; thence run Easterly, angling 87 degrees, 41 minutes, 30 seconds from South to East, on a line parallel to and 55 feet Southerly from (measured at right angles) the center-line of Belvedere Road, as now laid out and in use (said parallel line being also the approximate center-line of existing Lake Worth Drainage District Lateral Canal No., 1, and being 25 feet Southerly from and parallel to the North line of Section 34, Township 43 South, Range 42 East), a distance of 262.20 feet; thence run Southerly, parallel to said West line of Tract 3, a distance of 247.43 feet; thence run Westerly, at right angles to the preceding course, a distance of 131.0 feet, thence run southerly, parallel to said West line Tract 3, a distance of 245.0 feet; thence run Westerly at right angles to the preceding course, a distance of 131.0 feet to the POINT OF BEGINNING; Less and except right of way of Lake Worth Drainage District Canal No.1 and right of way for Belvedere Road.

Subject to: easement for road purposes over the South 20 feet of the North 76 feet of the East 46 feet of the West 187 feet of said Tract 3 and over the East 20 feet of the West 141 feet of the North 497.73 feet of said Tract 3.
Containing in all 2.081 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
Gregory Rice	511 Lucerne Ave., Suite 501
	Lake Worth, FL 33460-3860
Betty J. Kaylor, Trustee, Title Holder	6388 Belvedere Road
	West Palm Beach, FL 33413
Betty J. Kaylor, Trustee	6388 Belvedere Road
	West Palm Beach, FL 33413

Exhibit E: Justification Statement

VARIANCE REQUESTS – ARTICLE 2.B.7.E. OF THE
UNIFIED LAND DEVELOPMENT CODE
JUSTIFICATION OF APPLICATION

The Palm Beach County Unified Land Development Code, Article 2.B.7.E., requires a statement of special reason or the basis for the variance required. An application for the variance shall be written demonstrating all seven criteria listed below are satisfied to qualify for a variance.

TITLE: a Standalone Variance **REQUEST:** to eliminate the requirement for 40-foot residential access street.

APPLICATION SUMMARY: Proposed is a Standalone Variance for the Rice-Kaylor Subdivision development. The 2.081 acre site currently supports a Single Family home and has just been rezoned from Agricultural Residential (AR) to the Single Family Residential (RS) Zoning District with a Conditional Overlay Zone (COZ) by Resolution No. R-2020-1781 by the Board of County Commissioners, filed December 3rd, 2020.

The Applicant is proposing to subdivide the subject site into two lots (Lots 1 and 2), and is requesting a Standalone Variance to eliminate the requirement for a 40-foot residential access street. No changes are proposed to the current access from Belvedere Road that serves the existing Single Family home on proposed Lot 2, and which will also serve as the primary access to proposed Lot 1 as well as the adjoining three southerly residences by way of a 20-foot Access Easement traversing Lots 1 & 2. The Applicant indicates that Lot 1 will be subject to possible future residential development as allowed by county regulations.

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

YES. The subject site currently supports a Single Family dwelling, and has an existing access point from Belvedere Road that is shared with three other Single Family homes through a previously established joint driveway. The Applicant intends to subdivide the property into two lots in order to possibly construct another Single Family home on Lot 1 in the future. Due to the classification of Belvedere Road as an Arterial designated by the Comprehensive Plan's Functional Classification of Roads Map TE 3.1, the Land Development standards of Article 11.E.2.A.2 do not allow for direct access to a residential lot from an Arterial Roadway. As such, the aforementioned are the special circumstances and conditions that exist on the subject parcel of land. Granting this variance will allow the Applicant to subdivide the property and provide legal access to the possible future development of a Single Family home on the resultant new lot.

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

YES. The subject site is a Legal Lot of Record established prior to 1973, and has existing legal access directly from Belvedere Road. The adoption of the Comprehensive Plan in 1989

resulted in the creation of a classification system for the County's street network, and the subsequent designation of Belvedere Road as an Arterial. Due to the provisions of Article 11 preventing residential lots from having direct access to an Arterial identified by the Plan, new development or redevelopment of the existing residential lots abutting Belvedere Road in this corridor would not be allowed access unless granted a Subdivision Variance. The Applicant is therefore not the creator of the special circumstances and conditions on this site.

c. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district:

YES. The Applicant is proposing to subdivide the subject site into two lots in order to provide for the possible future development of a Single Family home, which is a Permitted by Right use in the RS Zoning District. The resultant lots will meet the minimum Property Development Regulations of the RS district as required by the Code. Granting this variance will allow the Applicant to provide required legal access to the proposed Single Family home on Lot 1 by way of an access easement through Lot 2, as well as maintaining current access for the three adjoining properties to the south.

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

YES. If the Applicant were held to a strict enforcement of the terms and provisions of this Code, it would not be possible to subdivide the property to construct a new Single Family home because the subdivided lot would be "land locked" as direct access to Belvedere Road is not allowed by definition in the ULDC. Given the established residential character of the surrounding area, in conjunction with the sequence of events described in Standard b., preventing the Applicant to utilize an alternative form of legal access to the proposed residential lot would deprive the Applicant of rights enjoyed by other RS district properties and cause unnecessary hardship.

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

YES. Given that the Applicant is not able to provide direct access to Belvedere Road, the granting of this variance to allow legal access from an access easement is the minimum variance possible.

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

YES. In order for development to occur, each parcel of land must have legal access from a street. However, the standard provisions of Article 11 do not allow residential lots to have direct access from Belvedere Road due to its classification as an Arterial roadway. In granting this variance, the Applicant will be able to provide the required legal access to the

proposed residential lot via existing driveway access in keeping with the purposes, goals, objectives and policies of the Plan and this Code.

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

YES. As proposed, Lot 1 will be provided legal access through a 20-foot access easement through Lot 2 that will connect to an existing driveway connection with Belvedere Road. As a result of this design, the creation of an additional curb cut onto Belvedere Road will be avoided and thus mitigate a potential increase in vehicular and pedestrian conflict in the predominately residential area. As such, granting this variance will not be injurious to the area or detrimental to the public welfare.