

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

**Application No.:** PDD/DOA-2020-00268  
**Application Name:** Tuscan Gardens of Delray Beach  
**Control No./Name:** 2005-00506 (Tuscan Gardens of Delray)  
**Applicant:** Tuscan Gardens Of Delray Beach Properties, LLC  
**Owners:** Tuscan Gardens Of Delray Beach Properties, LLC  
**Agent:** WGINC - Jennifer Vail and Yoan Machado  
**Telephone No.:** (561) 687-7220 and (561) 687-2220  
**Project Manager:** Travis Goodson, Planner II

**TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Planned Unit Development (PUD) Zoning District. **TITLE:** a Development Order Amendment to a Planned Development District and a Requested Use **REQUEST:** to reconfigure the Master Plan and Site Plan; add land area; add residents/beds; and, modify Conditions of Approval.

**APPLICATION SUMMARY:** Proposed is an Official Zoning Map Amendment to a Planned Development District (PDD) and a Development Order Amendment (DOA) for the Tuscan Gardens of Delray Beach development. The eastern 7.40-acre portion of the overall 12.78-acre subject site was first approved by the Board of County Commissioners (BCC) on September 24, 2015 for a rezoning from Agricultural Residential (AR) to the Planned Unit Development (PUD) Zoning District, with a Requested Use to allow a Type 3 Congregate Living Facility (CLF). The eastern portion of the site was last approved by the BCC on April 26, 2018 for a DOA to amend the Master Plan and reconfigure the Site Plan; add residents/beds; modify Conditions of Approval; and, to restart the commencement clock. The western 5.38-acre portion of the site has no prior Zoning approvals.

The Applicant is proposing to rezone the contiguous 5.38-acre parcel, located on the western boundary of the site, from AR to PUD. The Applicant is also proposing a DOA to the previously approved PDD and Requested Use to reconfigure the Master and Site Plans to add 5.38 acres to the overall site; increase beds from 217 to 313 (+96 beds); and modify Conditions of Approval.

The Preliminary Site Plan indicates an overall total of 313 residents/beds across 11 buildings, 1.05 acres of on-site recreation with 3,366 square foot (sq. ft.) clubhouse, and 227 parking spaces (inclusive of 2 parking garages). Access to the site remains unchanged with access from Frost Lane (1) and Sims Road (1).

**SITE DATA:**

Location:	West side of Sims Road, approximately 0.5 miles north of Atlantic Avenue.
Property Control Number(s):	00-42-46-14-00-000-3010; 00-42-46-14-00-000-3020; and 00-42-46-14-36-001-0000
Existing Future Land Use Designation:	Congregate Living Residential with an underlying High Residential, 8 units per acre (CLR/8); High Residential, 8 units per acre (HR-8)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Planned Unit Development (PUD); Agricultural Residential (AR)
Proposed Zoning District:	PUD
Total Acreage:	12.78 acres
Affected Acreage:	12.78 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile:	Delray Beach
Future Annexation Area	N/A

**RECOMMENDATION:** Staff recommends approval of the requests, subject to the Conditions of Approval as indicated in Exhibits C-1 through C-3.

**ACTION BY THE ZONING COMMISSION (ZC):** At the February 4, 2021 ZC Hearing, this item was on the Consent Agenda. Prior to the ZC Hearing, the Agent submitted a letter to the Zoning Division requesting a 30-day postponement in order to address the concerns of the adjacent Aspen Ridge Property Owner's Association. During the Hearing, under discussion for Amendments to the Agenda, Staff advised the Commission that prior to the start of the hearing, the Agent requested that the postponement be 60 days to the April 1, 2021 ZC Hearing. The discussion with Staff prior to the hearing was also to discuss landscaping issues on the Phase 1 portion of the development. No one from the public spoke on this item, and there was no discussion among the Commissioners. Commissioner Beatty made a motion to postpone, which was seconded by Commissioner Caliendo. The motion carried by a vote of 9-0-0.

At the April 1, 2021 ZC Hearing, this item was on the Regular Agenda and the Amendments to the Agenda. Prior to the ZC Hearing, the Agent submitted a letter to the Zoning Division requesting a 30-day postponement in order to continue working with the adjacent Aspen Ridge Property Owner's Association to address concerns raised. Executive Vice President of the Delray Alliance, Dr. Lori Vinikoor, spoke in support of the Applicant's request for postponement, and the Board accepted into the record 13 comments cards submitted by the public. There was no further discussion on the item. Commissioner Scarborough made a motion to postpone, which was seconded by Commissioner Caliendo. The motion carried by a vote of 9-0-0.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received 29 contacts from the public regarding this application. One contact indicated support for the project with no additional comments, and 28 were in opposition citing traffic, air and noise pollution, density, building height, and landscaping as concerns.

Additionally, Staff received letters from the Alliance of Delray Residential Associations dated January 31, 2021 and March 26, 2021 (Exhibit E and F, respectively) expressing concerns with existing landscaping and buffering associated with Phase 1 of the Tuscan Gardens development. Upon further review, Staff identified deficiencies in the planting requirements for the aforementioned buffers (Exhibit G) as per Article 7 of the ULDC and prior Conditions of Approval, which have since been communicated to the Applicant for reconciliation. On March 5, 2021, a meeting was held between Staff and the Applicant to further discuss the identified issues and the steps necessary to resolve the landscaping deficiencies and move forward to public hearing. A Code Enforcement Notice of Violation has been issued for Phase 1 of the site for deficient landscaping (C-2021-03120020), which must be resolved regardless of this application's outcome. To date, the original deficiencies identified by Staff have not yet been rectified. In a further effort to ensure a timely resolve, Staff is recommending a Condition of Approval requiring that the landscaping deficiencies associated with Phase 1 are resolved prior to final approval by the Development Review Officer (DRO) or within six months, whichever occurs first (Landscape - General Condition 5).

**PROJECT HISTORY:** The eastern 7.40-acre portion of the overall 12.78-acre subject site was first approved by the Board of County Commissioners (BCC) on September 24, 2015 for a rezoning from Agricultural Residential (AR) to the Planned Unit Development (PUD) Zoning District, with a Requested Use to allow a Type 3 Congregate Living Facility (CLF) (Resolutions R-2015-1351 and R-2015-1352, respectively). The eastern portion of the site was last approved by the BCC on April 26, 2018 for a DOA to amend the Master Plan and reconfigure the Site Plan; add residents/beds; modify Conditions of Approval; and, to restart the commencement clock (Resolutions R-2018-619 and R-2018-620). The site currently supports a Type 3 CLF. The western 5.38-acre portion of the site has no prior Zoning approvals.

**SURROUNDING LAND USES:**

**NORTH (across Frost Lane):**

FLU Designation: High Residential (HR-8)  
Zoning District: Agricultural Residential (AR)  
Supporting: Residential (Single Family dwelling)

FLU Designation: High Residential (HR-8)  
Zoning District: Planned Unit Development (PUD)  
Supporting: Residential (Multifamily, Aspen Square PUD, Control No. 2003-00085)

FLU Designation: High Residential (HR-8) and Low Residential (LR-1)  
Zoning District: Planned Unit Development (PUD)  
Supporting: Residential (Multifamily, Stonybrook on the Lake PUD, Control No. 1978-00032)

**SOUTH:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Single-Family Residential (RS)  
Supporting: Residential (Single Family, Aspen Ridge PUD, Control No. 1986-00036)

**EAST (across Sims Road):**

FLU Designation: High Residential (HR-8)  
Zoning District: Planned Unit Development (PUD)  
Supporting: Residential (Multifamily, High Point of Delray West PUD, Control No. 1974-00066)

**WEST:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Single-Family Residential (RS)  
Supporting: Residential (Single Family, Aspen Ridge PUD, Control No. 1986-00036)

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**FINDINGS:**

Standards for a Rezoning to a PDD and Development Order Amendments: When considering a DO application for a Conditional Use, a Development Order Amendment, or a Rezoning to a PDD or TDD, the BCC or ZC shall consider Standards a – h listed in ULDC Article 2.B.7.B.2, Standards. The Standards and Staff Analyses are indicated below. An application which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

**a. Consistency with the Plan - *The proposed amendment is consistent with the Plan.***

PLANNING DIVISION COMMENTS:

- *Consistency with the Comprehensive Plan:* The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
- *Prior Land Use Amendments:* The 7.57-acre western portion of the subject 12.78 acre site, has been the subject of one previous Small Scale land use amendment known as Tuscan Gardens of Delray Beach, SCA 2018-016, which amended the land use from HR-8 to CLR, and was adopted without conditions via ORD. 2018-006,
- *Density:* The Applicant is requesting a total of 313 residential beds/persons. The maximum of 217 beds is allowed for a CLF with the CLR land use on 7.57-acre portion utilizing a functional equivalent to 12 units per acre. With 12 units per acre, the CLR portion of the site is permitted 91 units (12 x 7.57 acres = 91 units). The 91 units equates to a maximum of 217 residential beds (91 units X 2.39 persons per unit = 217 beds/persons). The maximum of 102 beds is allowed on the 5.38 ac portion of the site with HR-8 land use. The HR-8 portion of the site is permitted 43 units (8 du/acre x 5.38 acres = 43 units). The 43 units equates to a maximum of 102 residential beds (43 units x 2.39 persons per unit = 102 beds/persons). The requested 313 beds/residents is below the maximum allowed total of 319 beds/residents (217 beds + 102 beds = 319 beds).
- *Special Overlay District / Neighborhood Plan/Planning Study Area:* The site is not located within any neighborhood plans, overlays or plan study areas as identified in the Comprehensive Plan.

**b. Consistency with the Code - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.***

**Rezoning to Residential Planned Development District**

The rezoning of 5.38-acres of land from AR to PUD will be consistent with the existing HR-8 Future Land Use, as indicated in Table 3.A.3.C, FLU Designation and Corresponding Planned Development Districts. The parcel of land is being added to the overall 12.78-acre subject site, and will therefore be consistent with the existing PUD Zoning designation of the easterly adjacent parcel and meet the minimum Property Development Regulations required by Table 3.E.2.D, PUD Property Development Regulations. The subject parcel is intended to support an expansion of an existing Type 3 CLF.

### **Development Order Amendments**

The proposed amendments to the previously approved PUD and Requested Use for a Type 3 CLF complies with the ULDC for use, layout, function and general development characteristics. The amendment to the PUD proposes to reconfigure the Master and Site Plans in order to add 5.38 acres of land area comprised of the westerly adjacent parcel. The amendment to the Requested Use proposes to add residents/beds (+96 beds) to allow for the development on the newly added parcel. Conditions of Approval associated with both DOAs are being modified accordingly to account for these developmental changes.

○ *Property Development Regulations (PDRs):* The subject site will continue to meet the minimum requirements as indicated in Table 3.E.2.D, PUD Property Development Regulations, as it meets the minimum size and dimensional requirements for a multifamily residential pod of a PUD. Further, all existing and proposed buildings will adhere to the minimum setback requirements of the Zoning District and the additional setback provisions of Article 3.D.1.E.2, Multifamily, Non-Residential Districts, and PDDs [referring to Building Height] for proposed structures exceeding 35 feet in height.

○ *Design Objectives:* As the proposal is a DOA within the PUD Zoning District, the development must continue to be consistent with Article 3.E.1.C.1, PDD Design Objectives, and Art. 3.E.1.C.2, Performance Standards. As required by the PDD Objectives and Standards, the proposed redevelopment will include adequate pedestrian circulation. Sidewalks have been provided along proposed new buildings, and also provide pedestrian connection points to the adjacent CLF and Sims Road. Per Art. 3.E.1.C.1.d, Preservation of Native Vegetation, and Art. 7.E.2.B, Review and Permit Procedures, a Vegetation Disposition Plan was submitted that indicates the mitigation and incorporation of native species to the greatest extent possible, and the proposal provides for Code-compliant Landscape Buffers. Objectionable Features such as Loading Areas and Dumpster Areas have been adequately screened, as required by Art. 3.E.1.C.1.e. Staff are satisfied that the proposed redevelopment sufficiently meets the Design Objectives and Performance Standards for a PUD.

○ *Architectural Review:* The Applicant has requested to obtain architectural review approval at time of application for Building Permits for the proposed structures. No Architectural elevations have been provided at this time.

○ *Parking:* The Type 3 CLF meets the minimum parking requirements. The PSP indicates a total of 227 parking spaces (100 spaces required), which includes two new parking garages that are incorporated into each of the proposed four-story buildings on the western side of the development. These new parking structures meet the requirements of Art. 6.B.2.E, Parking Structures, as further indicated on Preliminary Regulating Plan (PRP2) in Figure 9.

○ *Landscaping and Buffering:* The proposed development must continue to meet the minimum Landscaping and Buffering requirements of Art. 7, Landscaping. While there are no changes proposed to the structure or parking of Phase 1, it was identified that the landscaping in the existing perimeter buffers is deficient from Code requirements. At this time, the identified deficiencies include the following:

- *The east 217.42 feet of the South Type 2 Incompatibility Buffer (adjacent to the Single Family Lot):* Missing six-foot-high opaque fence or hedge and short quantity of small shrubs.
- *The west 338.00 feet of the South Type 2 Incompatibility Buffer (along Aspen Ridge Circle):* Missing six-foot-high opaque fence or hedge; short quantity of small shrubs; and, short quantity of canopy trees.
- *The south 250.10 feet of the East Type 2 Incompatibility Buffer (adjacent to the Single Family Lot):* Missing six-foot-high opaque fence or hedge; short quantity of small shrubs; and, short quantity of canopy trees.

- *West Type 2 Incompatibility Buffer*: Missing six-foot-high opaque fence or hedge (note that with Phase 2, this buffer will shift to the new western property line identified on the PSP in Figure 7).

As previously noted, a Code Enforcement Case has been opened (C-2021-03120020) and shall be rectified in accordance with Code Enforcement procedures to bring the site into compliance with Code. Additionally, the Type 2 Incompatibility Buffer between the Phase 1 CLF structure and the Recreation Pod, pursuant to Landscape - General Condition 1 of R-2018-0619 and -0620, is missing the 6-foot barrier (opaque fence or hedge). The Applicant has requested that the Condition be amended to include an option to seek a Type 1 Waiver for Landscaping at time of Final DRO in order to eliminate said buffer, indicating that the site's layout provides an integration of the recreation amenities with the CLF. The Landscaping and Buffering for the proposed Phase 2 Development includes a ten foot Right-Of-Way (R-O-W) buffer along the north property line abutting Frost Lane, and a 15-ft. Type 2 Incompatibility buffer is shown along the south and west property lines adjacent to single family residential dwellings. These buffers are to be planted to meet their corresponding requirements of Art. 7.C.2, Types of Landscape Buffers. As noted under *Design Objectives*, a Vegetation Disposition Plan was submitted and reviewed to ensure the preservation of existing native vegetation to the greatest extent possible.

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

The proposed rezoning and amendments to the existing development are compatible and generally consistent with the uses and character of the land surrounding the subject property. The parcel of land subject to the rezoning request from AR to PUD shares adjacency with the existing Type 3 CLF development within the PUD Zoning District. Surrounding lands in all four cardinal directions from the overall subject site support existing single and multifamily dwelling units, which are all well buffered and/or separated from the development by public rights-of-ways (Sims Road and Frost Lane). Further, the nearby multifamily developments lend to the proposed density increase and building coverage on the subject site (+96 residents/beds = 313 total), as the Aspen Square PUD and Stonybrook on the Lake PUD to the north support 171 units and 346 units, respectively. The Aspen Ridge PUD to the south and west supports 156 single family homes, and the High Point of Delray West PUD to the east across Sims Road collectively support approximately 1,100 units. The proposed structures will be reviewed for architectural compatibility and compliance with Article 5.C, Design Standards, at time of submittal for a building permit.

**d. Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands. No changes are proposed to the site's previously approved layout for the existing CLF structure (Phase 1), which orients the existing structure towards Sims Road and away from adjacent residential uses, and provides for Code-compliant Landscape Buffers along its periphery. The addition of the 5.38-acre parcel into the PUD is designed so as to minimize potential adverse impacts to the single family homes to the south and west of the parcel. This is largely being achieved through placement of the proposed structures, which create a stepped transition to the single-story residential units nearby. The two, four-story structures are placed to the interior (east side) of the parcel, creating an approximately 250 ft. setback from the west property line, and 180 ft. setback from the south property line. The eight, single-story independent living villas are then placed between the aforementioned structures and the property lines, and the clubhouse associated with the required recreation area is placed to front on Frost Lane and is oriented away from adjacent residential. Further, 15 ft. Type 2 Incompatibility Landscape Buffers run along the south and west property lines, and a proposed 0.72-acre Dry Detention area lies between the west property line and independent living villas. Staff finds that the rezoning and amendment will not result in adverse impact on adjacent lands or the surrounding community.

**e. Effect on Natural Environment** – *The proposed amendment will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- *Vegetation Protection:* The site is an existing tree nursery. There are 27 Native Trees on site, which consist of Slash Pines, Sabal Palms, and a Seagrape. The proposed site plan requires the removal of 4 Native Trees (Slash Pines) which will be mitigated for by planting 16 trees on site.
- *Wellfield Protection Zone:* The property is not located within a Wellfield Protection Zone.
- *Irrigation Conservation Concerns And Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.
- *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.
- **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The proposed development plan is consistent with the built-out residential development pattern of the area, as the land uses immediately surrounding the site are generally compatible with the Type 3 CLF use. The reconfigured PUD will contribute to the established pattern of development of the area. As such, Staff are satisfied that the proposed rezoning and amendments will result in a logical, orderly and timely development pattern.

**g. Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency.*

ENGINEERING COMMENTS: This Congregate Living Facility project was previously approved for 217 beds. The current proposal is to increase the number of beds to 313 , consisting of 185 bed Assisted Living Facility and 82 dwelling Units (128 beds) Congregate Care Facility). The overall project is expected to generate 647 net daily, 41 net AM peak hour trips, and 63 net PM peak hour trips. The increase in the number of beds with the current proposal will increase the trips by 123 net daily, 14 net AM peak hour, and 19 net PM peak hour when comparing with that of already approved trips. The build out is expected to be by 2024.

There are no roadway improvements required to meet the PBC Traffic Performance Standards. All of the significantly impacted roadways and intersections are expected to operate at the adopted Level of Service during the build out year.

**ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)**

Traffic volumes are in vehicles per hour

Segment: Sims Rd from Lake Ida Rd to Atlantic Ave

Existing count: Northbound=216, Southbound=121

Background growth: Northbound=41, Southbound=39

Project Trips: Northbound=14, Southbound=20

Total Traffic: Northbound=271, Southbound=180

Present laneage: 1 in each direction

Assured laneage: 1 in each direction

LOS "D" capacity: 880 per direction

Projected level of service: LOS D or better in each direction

Segment: Lake Ida Rd from Sims Rd to Military Trail

Existing count: Eastbound=564, Westbound=648

Background growth: Eastbound=59, Westbound=59

Project Trips: Eastbound=9, Westbound=7

Total Traffic: Eastbound=632, Westbound=714

Present laneage: 1 in each direction

Assured laneage: 1 in each direction

LOS "D" capacity: 880 per direction

Projected level of service: LOS D or better in each direction

The Property Owner shall reconfigure the property into a legal lot of record prior to the issuance of the first building permit in Phase II.

The Property Owner shall submit a drainage study that identifies historical flows that currently enter the site prior to the Final Site Plan approved by the DRO.

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

FIRE PROTECTION: Staff has reviewed this Application and have no comments at this time.

SCHOOL IMPACTS: Staff has reviewed this Application and have no comments at this time.

PARKS AND RECREATION: Project is a proposed 313 bed CLF, requiring 0.78 acres of onsite recreation, 0.80 acres of recreation are being provided, therefore the recreational requirement is satisfied.

- h. Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances, provided by the Applicant's Justification Statement, that necessitate the amendment.*

According to the Applicant's Justification Statement, the requested rezoning to PUD and subsequent DOA to the previously approved development will allow the existing CLF development to expand and provide for additional capacity to serve an aging population, while also providing greater compatibility with the surrounding area. The subject property associated with Phase 2 of the development plan, and subject to the rezoning request, is nestled between the existing Tuscan Gardens CLF and single family residential and previously supported Landscape Service and Retail Nursery. As a result, greater compatibility with the adjacent residential uses will be achieved through the development proposal. Staff does not object to this request and justification as the development has prior approval for a CLF, and it is evident that the Property Owner is responding to shifts in market changes.

**CONCLUSION:** Staff has evaluated the standards listed under Article 2.B, and determined that there is a balance between the need for change and the potential impacts generated by this change. Staff is recommending approval of the requests, subject to the recommended Conditions of Approval as indicated in Exhibits C-1, C-2 and C-3.

CONDITIONS OF APPROVAL

**Exhibit C-1: Official Zoning Map Amendment - Residential Planned Unit Development**

**DISCLOSURE**

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



## CONDITIONS OF APPROVAL

### **Exhibit C-2: Development Order Amendment (Residential Planned Unit Development)**

#### **ALL PETITIONS**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2018-619, Control No.2005-00506, which currently states:

The approved Preliminary Master Plan is dated December 22, 2017 and the Preliminary Regulating Plan is dated December 22, 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission.

#### **Is hereby amended to read:**

The approved Preliminary Master Plan is dated December 14, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R-2015-1352 and R-2018-0619 (Control 2005-00506), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

#### **ENGINEERING**

1. Previous ENGINEERING Condition 1 of Resolution R-2018-619, Control No.2005-00506, which currently states:

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2022. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

#### **Is hereby amended to read:**

In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2024. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. Prior to issuance of the first building permit the Property Owner shall combine the property into a single lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2018-619, Control No.2005-00506)

3. The Property Owner shall provide to the Palm Beach County Land Development Division a road right of way deed and all associated documents as required by the County Engineer for: Frost Lane, twenty five (25) feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. Palm Beach County will prepare a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 3 of Resolution R-2018-619, Control No.2005-00506)

4. The Property Owner shall fund the construction plans and construction of Frost Lane from the west limits of the property to Sims Road to be consistent with Palm Beach County standards for a fifty (50) right of way local street, or as approved by the County Engineer. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2018-619, Control No.2005-00506)

5. Property Owner shall construct a five (5) foot wide concrete sidewalk along both sides of Frost Lane and the west side of Sims Road along the property's north and east sides, or as approved by the County Engineer. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. These improvements shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2018-619, Control No.2005-00506)

6. Use of Frost Lane by tractor trailers on a regular basis to and from this project shall be prohibited. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2018-619, Control No.2005-00506)

7. Prior to the issuance of the first building permit in Phase II, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (BLDGPM: MONITORING - Engineering)

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

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

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDG/PMT/PLAT: ENGINEERING - Engineering)

### **LANDSCAPE - GENERAL**

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2018-619, Control No.2005-00506, which currently states:

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall be revised to show, along with other buffer requirements, a Type 2 Incompatibility Buffer along the interior of the recreation pod.

#### **Is hereby amended to read:**

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall indicate a Type 2 Incompatibility Buffer along the interior of the Recreation Pod, or obtain Type 1 Waiver approval for elimination of the buffer. (DRO: ZONING - Zoning)

2. All preserved trees (including canopy trees, pines or palms) are required to be protected with tree barriers during all stages of construction. Permanent tree protection devices including, but not limited to: tree wells, retaining walls, shall be installed for the preservation of trees. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2018-619, Control No.2005-00506)

3. Prior to the issuance of a Building Permit, the Property Owner shall submit a Landscape Plan to the Landscape section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDG/PMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 3 of Resolution R-2018-619, Control No.2005-00506)

4. A landscaping inspection shall be completed prior to the issuance of any tree removal or building permits to ensure preserved trees are properly marked and protection devices are installed. (BLDG/PMT: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 4 of Resolution R-2018-619, Control No.2005-00506)

5. Prior to final approval by the Development Review Officer (DRO) or November 27, 2021, whichever occurs first, the Property Owner shall plant and receive Final Landscape Inspection approval for the deficient landscape material associated with Phase 1 of the development. (DATE/DRO: ZONING - Zoning)

### **PLANNED DEVELOPMENT**

1. Prior to Final Approval by the Development Review Officer, the Master Plan shall be revised to remove any indication of interior driveways and sidewalks from the Master Plan and relocate the Frost Lane access 90 feet east of the western property line. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2018-619, Control No.2005-00506)

2. Prior to Final Plan approval by the Development Review Officer, the Site Plan shall be revised to relocate the service and emergency access along Frost Lane. The centerline of the access shall be a minimum of 90 feet east of the western property line. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 2 of Resolution R-2018-619, Control No.2005-00506)

### **COMPLIANCE**

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

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

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

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

**DISCLOSURE**

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

## CONDITIONS OF APPROVAL

### **Exhibit C-3: Development Order Amendment (Type 3 Congregate Living Facility)**

#### **ALL PETITIONS**

1. Previous ALL PETITIONS Condition 1 of Resolution R-2018-620, Control No.2005-00506, which currently states:

The approved Preliminary Site Plan is dated December 22, 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission.

#### **Is hereby amended to read:**

The approved Preliminary Site Plan is dated December 14, 2020. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R-2015-1351 and R-2018-0620 (Control 2005-00506), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

#### **ARCHITECTURAL REVIEW**

1. At time of submittal for a building permit, the Architectural Elevations for the Type 3 Congregate Living Facility shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated December 22, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (BLDG/PMT/ONGOING: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **ENVIRONMENTAL**

1. Submit a Phase II Audit, consistent with Florida Department of Environmental Protection best management practices, prior to DRO site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management) [Note: COMPLETED] (Previous ENVIRONMENTAL Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **HEALTH**

1. The Property Owner shall adhere to the requirements pursuant to the approved Dust Control Letter during all applicable phases of construction. The Letter shall be posted alongside the Building Permit on the construction site. (HEALTH: HEALTH – Health) (Previous HEALTH Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **LANDSCAPE - GENERAL**

1. Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2018-620, Control No.2005-00506, which currently states:

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall be revised to show, along with other buffer requirements, a Type 2 Incompatibility Buffer along the interior of the recreation pod.

#### **Is hereby amended to read:**

Prior to Final Approval by the Development Review Officer, the Master and Site Plan shall indicate a Type 2 Incompatibility Buffer along the interior of the Recreation Pod, or obtain Type 1 Waiver approval for elimination of the buffer. (DRO: ZONING - Zoning)

2. Prior to the issuance of a Building Permit, the Property Owner shall submit a Landscape Plan to the Landscape section for review and approval. The Plan(s) shall be prepared in compliance with all landscape related Conditions of Approval as contained herein. (BLDGPM: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2018-620, Control No.2005-00506)

#### **LANDSCAPE - PERIMETER-SOUTH PROPERTY LINE**

1. Prior to Final Plan approval by the Development Review Officer, the Applicant shall provide a tree survey along the area of the southern property line abutting Aspen Ridge extending a minimum of 30 feet to the north. Applicant shall meet with Zoning Staff to preserve the maximum amount of vegetation on site. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **LANDSCAPE - PERIMETER-EAST PROPERTY LINE**

2. In addition to the Code requirements, the ROW Buffer along the eastern property line shall include a 2 foot high berm. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - PERIMETER Condition 2 of Resolution R-2018-620, Control No.2005-00506)

#### **LANDSCAPE - PERIMETER-WEST PROPERTY LINE**

3. In addition to the Code requirements, the landscape buffer along the western property line shall be upgraded to include:

- a. No width reduction or easement encroachment shall be permitted;
- b. One (1) palm or pine for each for each thirty (30) linear feet of the property line. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 3 of Resolution R-2018-620, Control No.2005-00506)

#### **PLANNED DEVELOPMENT**

1. Prior to Final Plan approval by the Development Review Officer, the Site Plan shall be revised to relocate the service and emergency access along Frost Lane. The centerline of the access shall be a minimum of 90 feet east of the western property line. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **SITE DESIGN**

1. Prior to Final Approval by the Development Review Officer, the Final Site Plan shall be revised to show Foundation Planting requirements in accordance with ULDC, Supplement No. 23. (ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2018-620, Control No.2005-00506)

#### **COMPLIANCE**

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

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

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

- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

**DISCLOSURE**

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

Figure 1 - Land Use Map

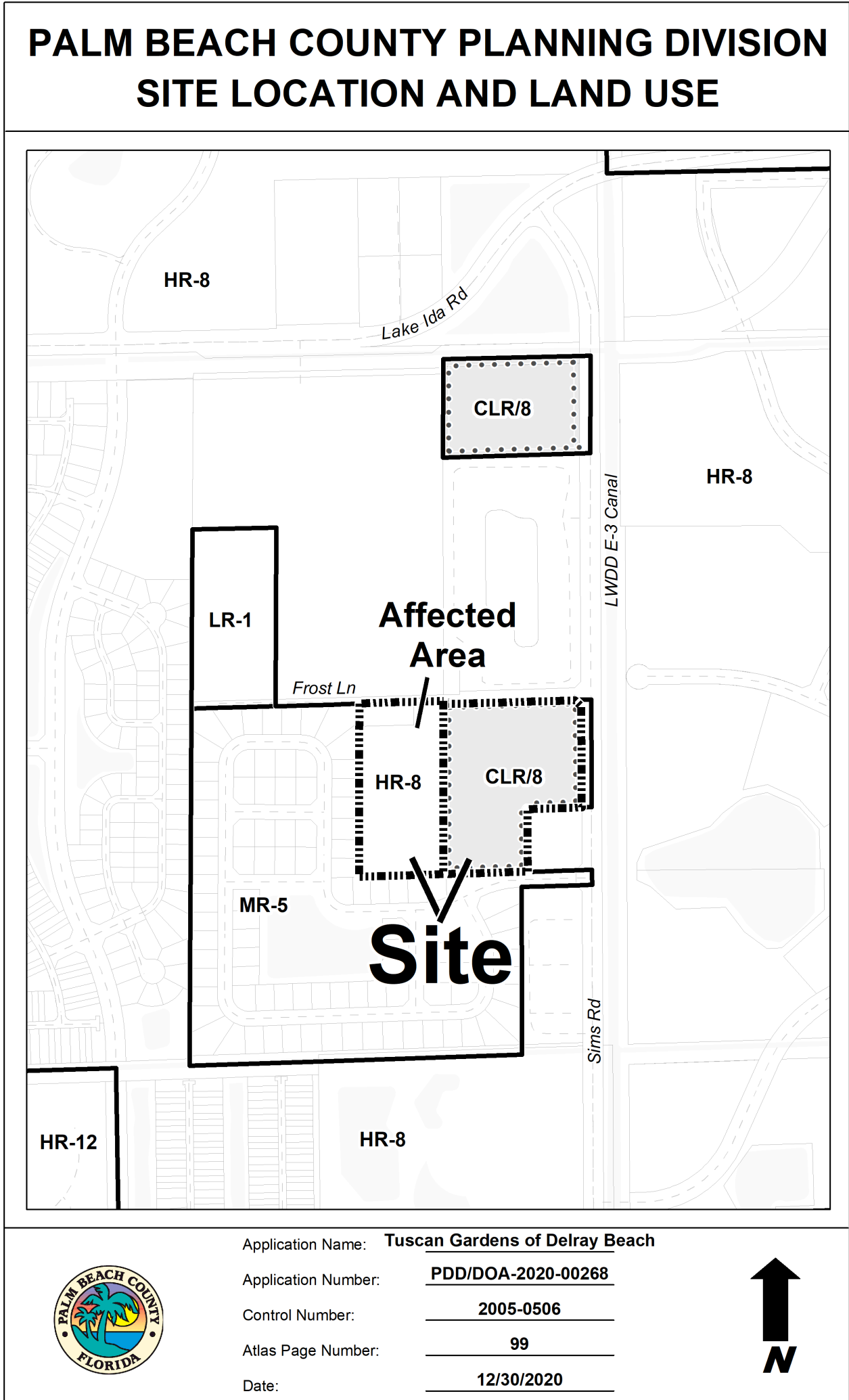
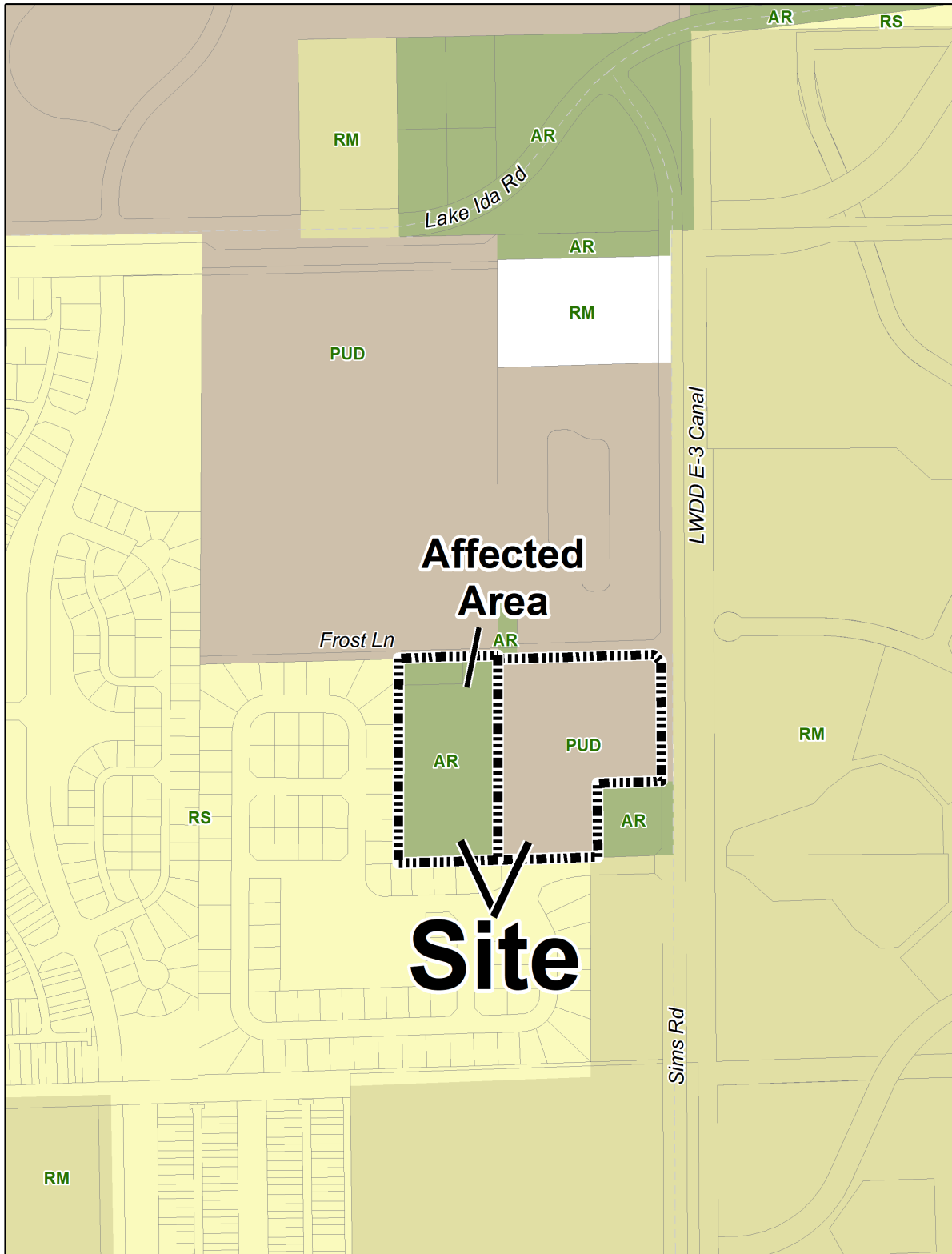




Figure 2 - Zoning Map

## PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND ZONING



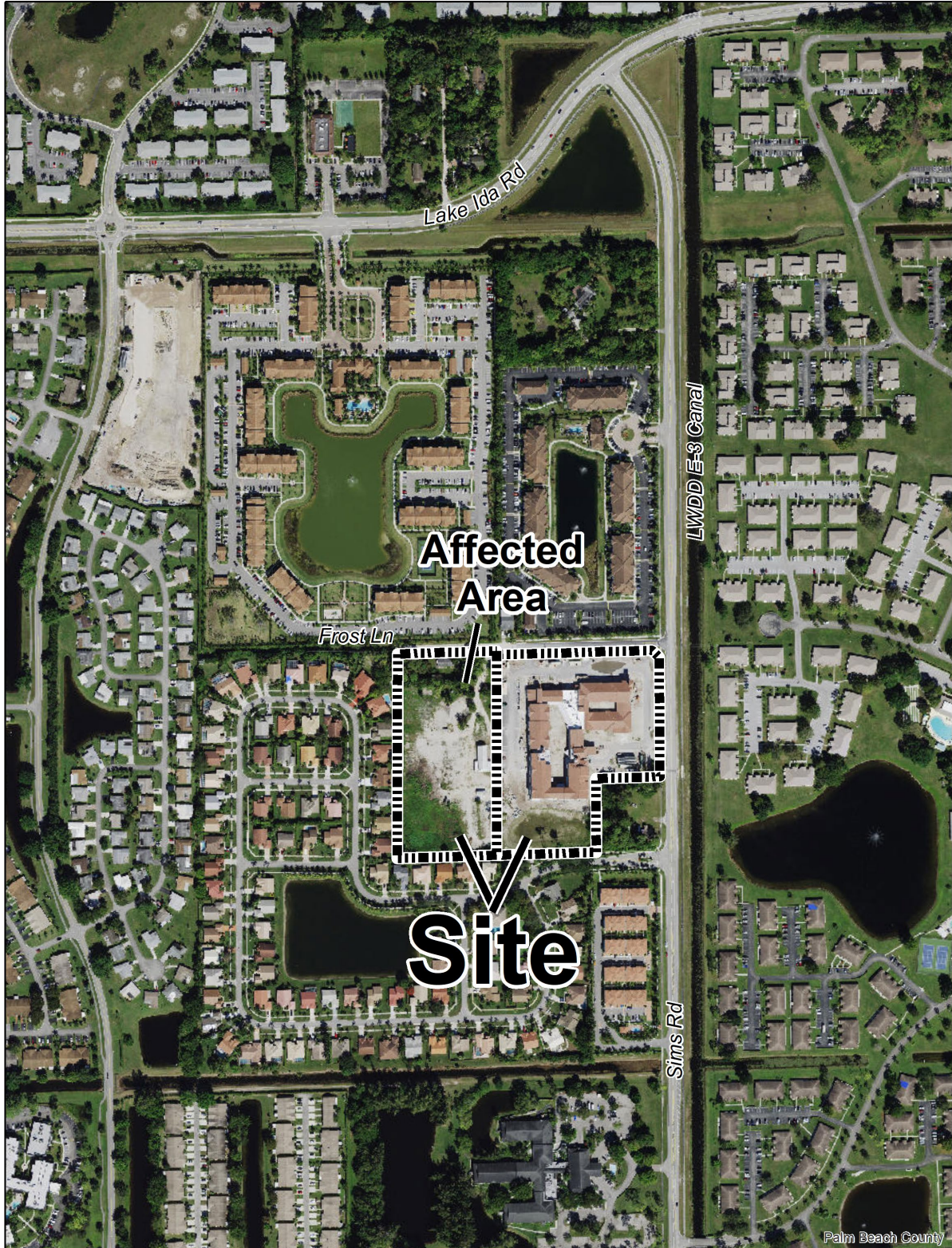
Application Name:	<b>Tuscan Gardens of Delray Beach</b>
Application Number:	<u>PDD/DOA-2020-00268</u>
Control Number:	<u>2005-0506</u>
Zoning Quad Number:	<u>36</u>
Date:	<u>12/30/2020</u>





Figure 3 – Aerial

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name: **Tuscan Gardens of Delray Beach**

Application Number: **PDD/DOA-2020-00268**

Control Number: **2005-0506**

Atlas Page Number: **99**

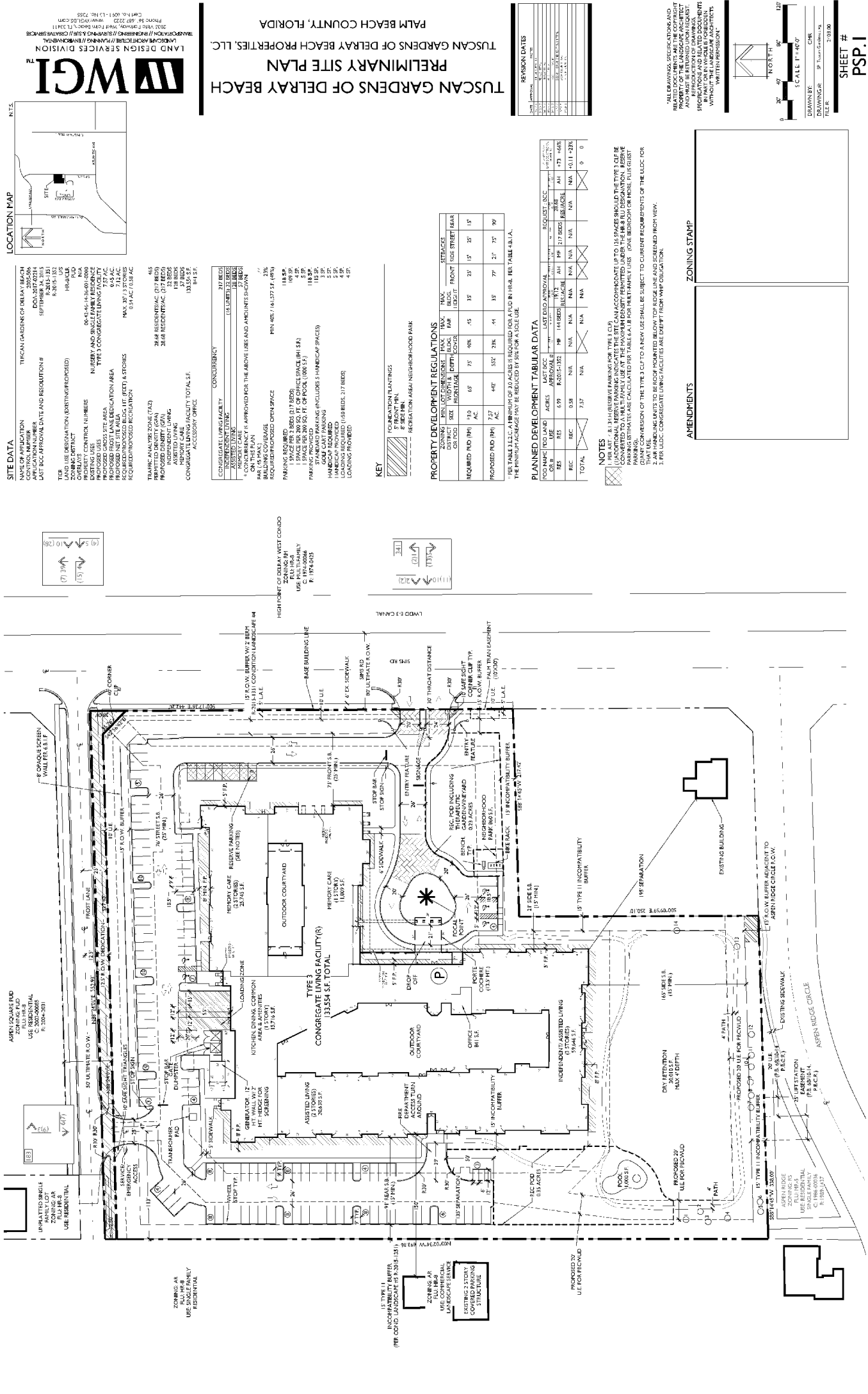
Date: **12/30/2020**







Figure 5 – Previously Approved Site Plan, dated January 22, 2018



### SITE DATA

**TUSCAN GARDENS OF DELRAY BEACH PRELIMINARY SITE PLAN**  
 APPROVAL DATE AND RESOLUTION # PDD-2017-0214  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132  
 APPROVAL DATE AND RESOLUTION # R-2015-132

**TITLE**  
 LAND USE DESIGNATION (EXISTING/PREPROPOSED)  
 PROPERTY CONTROL NUMBERS  
 NURSERY AND LANDSCAPE FACILITY  
 TYPE 3 CONGRGATE LIVING FACILITY  
 PROPOSED GROSS SITE AREA  
 PROPOSED NET SITE AREA  
 PROPOSED NET SITE AREA  
 PROPOSED GROSS SITE AREA  
 PROPOSED NET SITE AREA  
 PROPOSED NET SITE AREA  
 PROPOSED GROSS SITE AREA  
 PROPOSED NET SITE AREA  
 PROPOSED NET SITE AREA

**TRAFFIC ANALYSIS ZONE (TAZ)**  
 LIMITED DENSITY (LD)  
 PROPOSED CONGRGATE LIVING FACILITY TOTAL SF  
 ACCESSORY OFFICE  
 CONGRGATE LIVING FACILITY TOTAL SF  
 CONGRGATE LIVING FACILITY TOTAL SF  
 CONGRGATE LIVING FACILITY TOTAL SF  
 CONGRGATE LIVING FACILITY TOTAL SF

### PROPERTY DEVELOPMENT REGULATIONS

ZONING	MIN. LOT DIMENSIONS (FEET)	MAX. COVERAGE (PERCENTAGE)	MAX. HEIGHT (FEET)	MAX. FRONT SETBACK (FEET)	MAX. SIDE SETBACK (FEET)	MAX. REAR SETBACK (FEET)
REQUIRED AND (RM)	65	75	40K	35	35	35
PROPOSED AND (RM)	217	AC	33K	91	91	91

**KEY**  
 PLANNED DEVELOPMENT REGULATIONS  
 PLANNED DEVELOPMENT REGULATIONS  
 PLANNED DEVELOPMENT REGULATIONS  
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 PLANNED DEVELOPMENT REGULATIONS

**PLANNED DEVELOPMENT TABULAR DATA**  
 ZONING: PDD-2017-0214  
 MAX. GROUND COVER: 40%  
 MAX. HEIGHT: 35 FT  
 MAX. FRONT SETBACK: 35 FT  
 MAX. SIDE SETBACK: 35 FT  
 MAX. REAR SETBACK: 35 FT  
 MAX. LOT AREA: 10,000 SQ FT  
 MAX. LOT WIDTH: 100 FT  
 MAX. LOT DEPTH: 100 FT

### NOTES

1. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
2. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
3. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
4. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
5. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
6. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
7. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)
8. PER ART. 8.1.3.1 (RESERVE PARKING FOR TYPE 3 CLF)

### REVISIONS

NO.	DATE	DESCRIPTION
1	1/22/18	PRELIMINARY
2	1/22/18	PRELIMINARY
3	1/22/18	PRELIMINARY
4	1/22/18	PRELIMINARY
5	1/22/18	PRELIMINARY
6	1/22/18	PRELIMINARY
7	1/22/18	PRELIMINARY
8	1/22/18	PRELIMINARY

### AMENDMENTS

NO.	DATE	DESCRIPTION
1	1/22/18	AMENDMENT
2	1/22/18	AMENDMENT
3	1/22/18	AMENDMENT
4	1/22/18	AMENDMENT
5	1/22/18	AMENDMENT
6	1/22/18	AMENDMENT
7	1/22/18	AMENDMENT
8	1/22/18	AMENDMENT

### ZONING STAMP

APPROVED BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 ZONING COMMISSION  
 TUSCAN GARDENS OF DELRAY BEACH



2025 STATE ROAD 111, SUITE 100  
 DELRAY BEACH, FLORIDA 33484-1111  
 TEL: 561-388-3333  
 FAX: 561-388-3333  
 WWW.WGILANDDESIGN.COM

TUSCAN GARDENS OF DELRAY BEACH  
 PRELIMINARY SITE PLAN  
 PALM BEACH COUNTY, FLORIDA

SCALE: 1" = 40'-0"  
 NORTH  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 DATE: \_\_\_\_\_

SHEET #  
**PSP.1**

Figure 6 - Preliminary Master Plan (PMP) dated December 14, 2020

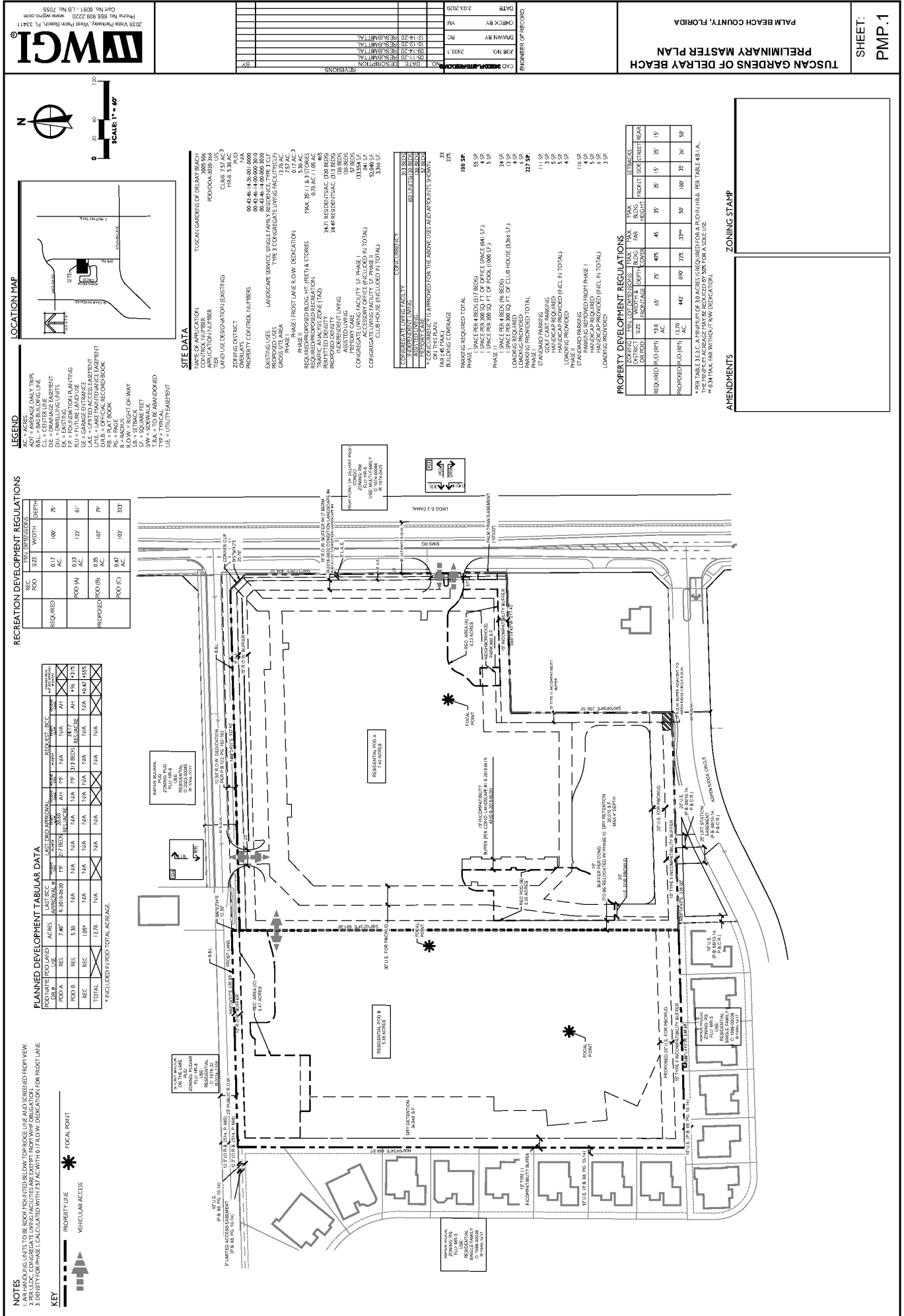


Figure 7 – Preliminary Site Plan (PSP), dated December 14, 2020

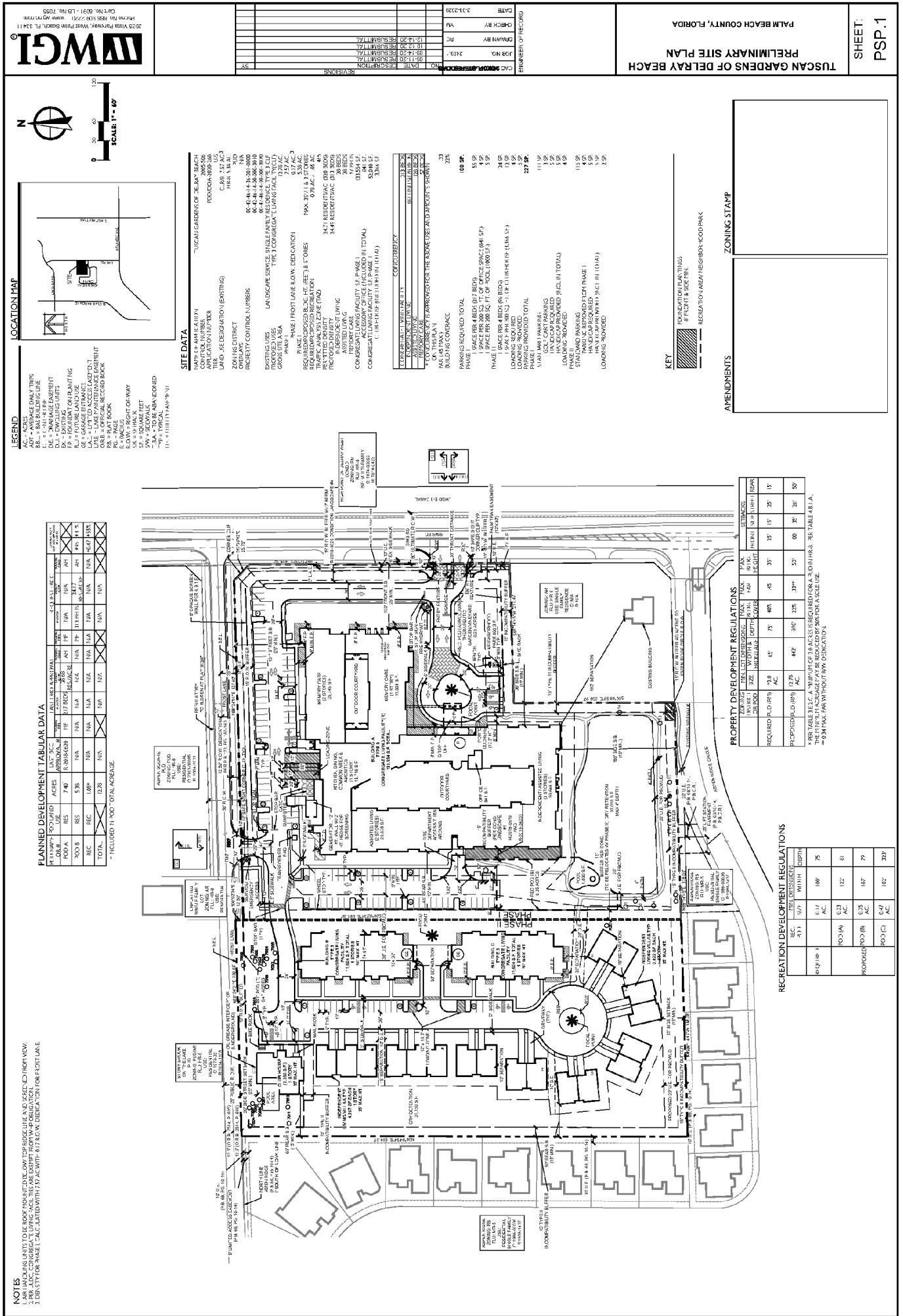


Figure 8 – Preliminary Regulating Plan (PRP1 of 3), dated December 14, 2020

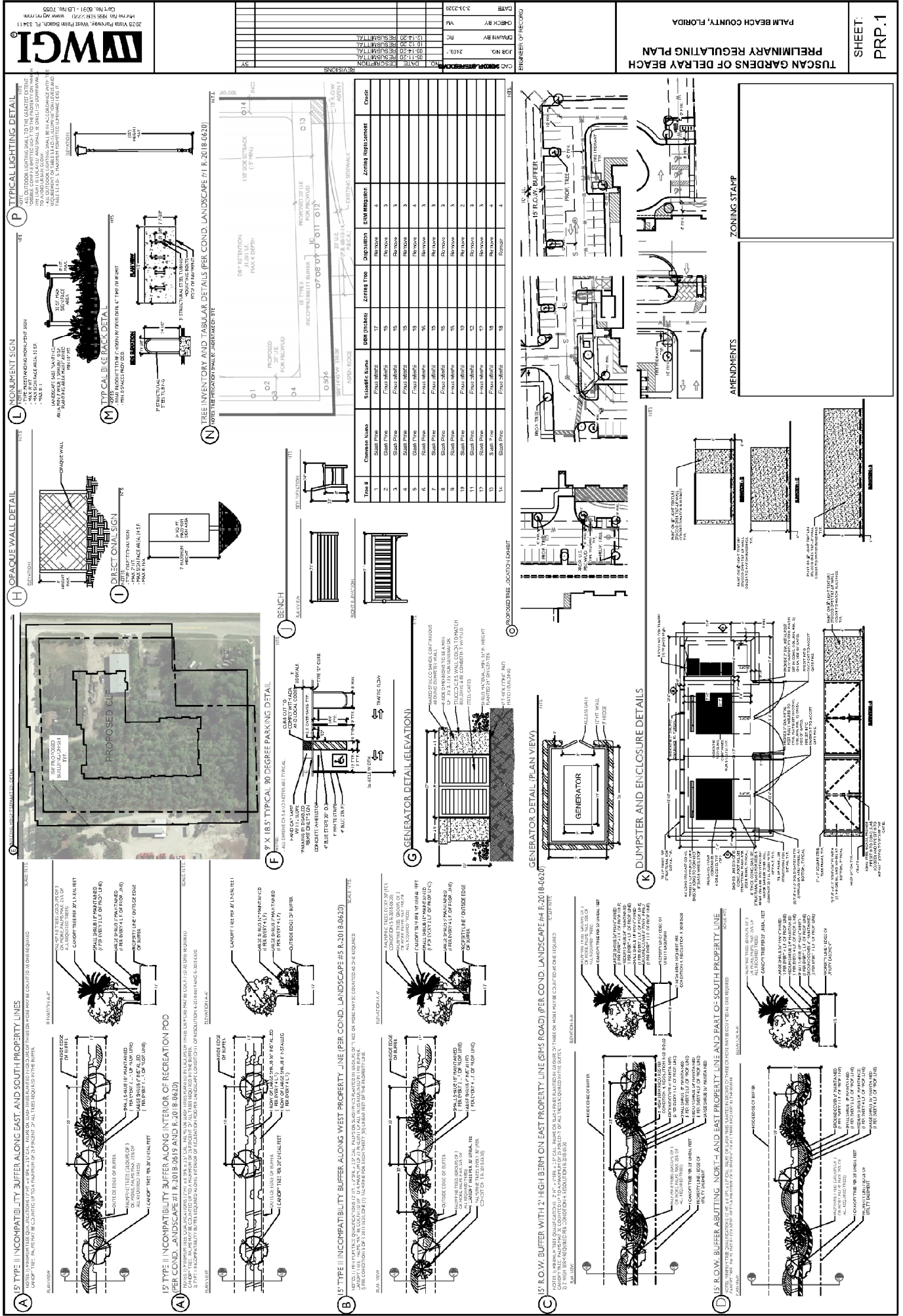
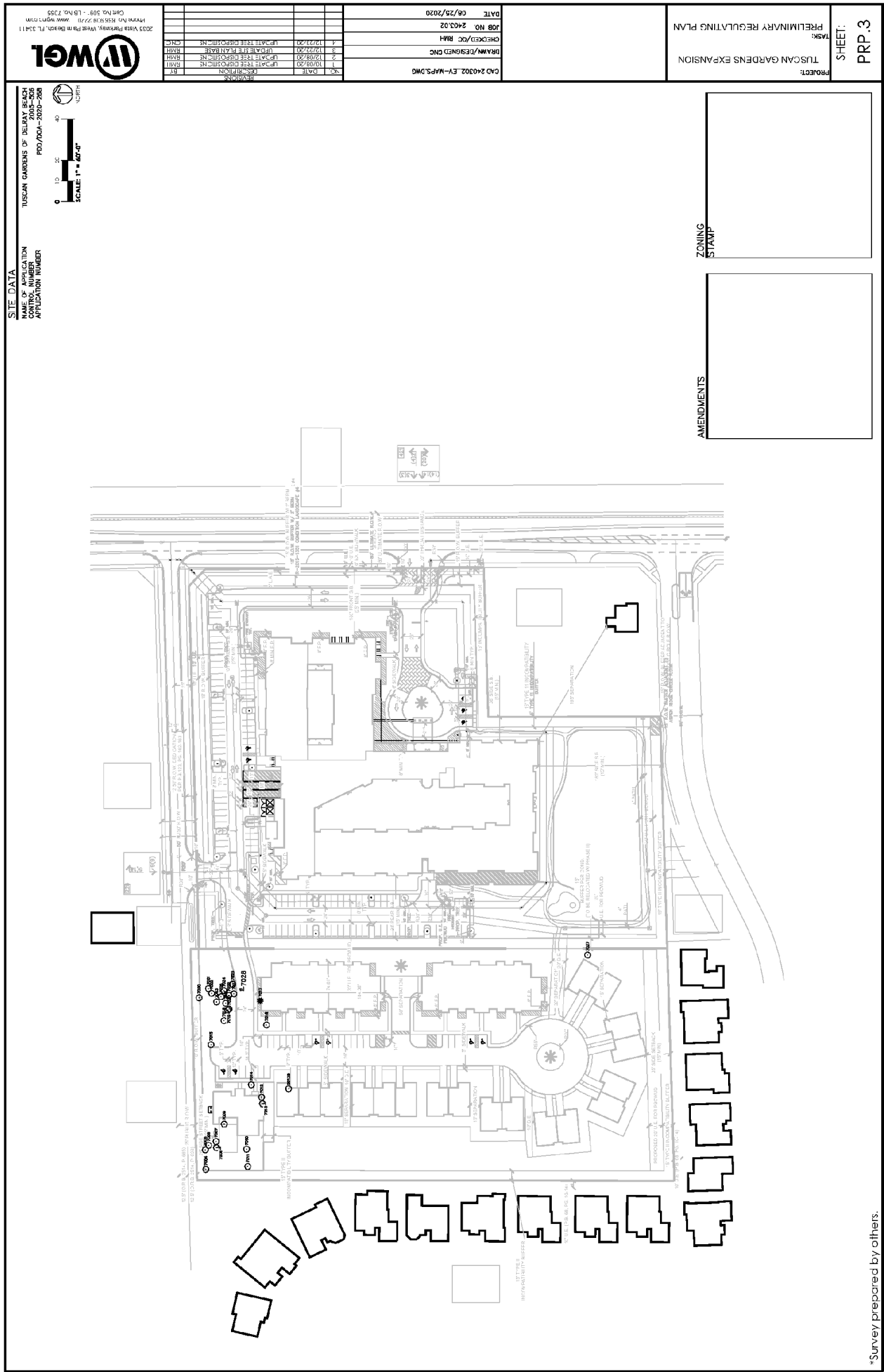






Figure 10 – Preliminary Regulating Plan (PRP3 of 3), dated December 28, 2020



**Exhibit D – Disclosure of Ownership Interests**

**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 Personally before me, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

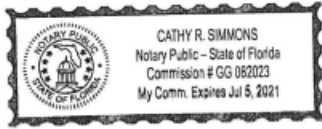
1. Affiant is the [ ] individual or [ Authorized Rep] [position - e.g., president, partner, trustee] of Tuscan Gardens of Delray Beach Properties, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the 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: 189 S Orange Ave - 99 S. New York Ave.  
Suite 1650-  
Orlando, FL 32801 - Winter Park, FL 32789
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.

*Janet Pino, Authorized Rep*  
Janet Pino, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 26 day of November, 2019, by Janet Pino, [x] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



*Cathy R. Simmons*  
Notary Public

Cathy R. Simmons  
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 7/5/2021

**EXHIBIT "A"**

**PROPERTY**

**DESCRIPTION:**

THE EAST ONE-HALF (E 1/2) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4), LESS THE NORTH 105.03 FEET OF THE WEST 219.14 FEET AND LESS THE NORTH 12.50 FEET FOR ROADWAY (FROST LANE) PURPOSES, SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF THE NORTHWEST ONE-QUARTER (NW 1/4) OF SAID SECTION 14; THENCE RUN N 88°24'36" E, ALONG THE NORTH LINE OF SAID S.E. 1/4 OF THE N.W. 1/4 AND THE CENTER LINE OF FROST LANE, A DISTANCE OF 336.54 FEET TO A POINT, SAID POINT BEING THE NORTHWEST CORNER OF SAID E. 1/2 OF THE N.W. 1/4, 1/4, NW 1/4 OF SAID SECTION 14; THENCE RUN S 0°01'46"W, ALONG THE WEST LINE OF SAID E. 1/2, A DISTANCE OF 105.03 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE LAST DESCRIBED COURSE, A DISTANCE OF 601.80 FEET TO THE SOUTHWEST CORNER OF SAID E 1/2; THENCE RUN N 88°16'9" E, ALONG THE SOUTH LINE OF SAID E 1/2 A DISTANCE OF 338.05 FEET TO THE SOUTHEAST CORNER OF SAID E 1/2; THENCE RUN N 0° 06'28" W, A DISTANCE OF 693.47 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF FROST LANE; THENCE RUN S 88°24'36" W, ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 117.43 FEET TO A POINT, THENCE RUN S 0°00'46" W, A DISTANCE OF 92.52 FEET TO A POINT; THENCE RUN S 88°24'36" W, A DISTANCE OF 219.14 FEET TO THE POINT OF BEGINNING

**PARCEL 2:**

PARCEL A: EAST 19.14 FEET OF THE NORTH 100 FEET OF THE EAST HALF (1/2) OF THE NORTH WEST ONE QUARTER (1/4) OF THE SOUTH EAST ONE-QUARTER (1/4) OF THE NORTH WEST ONE QUARTER (1/4) OF SECTION 14 TOWNSHIP 46 SOUTH RANGE 42 EAST, LESS THE NORTH 12.50 FEET THEREOF FOR ROAD PURPOSES.

PARCEL B: COMMENCING TO A POINT THE WESTERLY LINE OF THE EAST HALF (1/2) OF THE NORTH WEST ONE-QUARTER (1/4) OF THE SOUTH EAST ONE-QUARTER (1/4) OF THE NORTH WEST ONE-QUARTER (1/4) OF SECTION 14 TOWNSHIP 46 SOUTH RANGE 42 EAST SAID POINT BEING 100 FEET SOUTH OF THE NORTH WEST COMER OF THE SAID SECTION 14 AND RUNNING THENCE: SOUTH 0 DEGREES 00 MINUTES 46 SECONDS WEST A DISTANCE OF 5.02 FEET TO A POINT IN SAID WESTERLY LINE; RUNNING THENCE; NORTH 88 DEGREES 24 MINUTES 36 SECONDS EAST A DISTANCE OF 219.14 FEET TO AN IRON PIPE; RUNNING THENCE; NORTH 0 DEGREES 00 MINUTES 46 SECONDS EAST AND PARALLEL TO THE FIRST COURSE A DISTANCE OF 5.02 FEET TO A POINT AT THE SOUTH EAST CORNER OF PARCEL A DESCRIBED ABOVE; RUNNING THENCE; SOUTH 88 DEGREES 24 MINUTES 36 SECONDS WEST AND PARALLEL TO THE SECOND COURSE A DISTANCE OF 219.14 FEET TO THE POINT AND PLACE OF BEGINNING..

**TOGETHER WITH**

PARCEL A, TUSCAN GARDENS OF DELRAY BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 123, PAGES 162 AND 163 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 556,788 SQUARE FEET /12.7821 ACRES, MORE OR LESS.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

**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**

Tuscan Gardens Management Corporation 189 S Orange Ave, Suite 1650, Orlando, FL 32801

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- MEMBER COMMUNITIES
- Abbey Village
- Addison Reserve
- Addison Trace
- Aspen Ridge
- Barwick Ranch
- Boca Delray
- Bonsaire Village
- Bridgerview
- Bristol Pointe
- Camelot Village
- Casabella
- Clearbrook
- Cloister Del Mar
- Coco Wood Lakes
- Country Lake
- Crosswinds of Delray
- Deauville Village
- DeSaire Country Club
- Delray Grande
- Delray Harbor Club
- Delray Lakes Estates
- Delray Villas Plat 1
- Delray Villas Plat 4/5
- Delray West Townhouses
- Evergreen 1
- Floral Lakes
- Glensagles Country Club
- Grand Orchid Estates
- Greenward Village I
- Hamilton House
- Hamlet Country Club
- High Point of Delray East 1
- High Point of Delray East 2
- High Point of Delray West 1
- High Point of Delray West 2
- High Point of Delray West 4
- Huntington Lakes Sec 4
- Huntington Lakes Sec 5
- Hunters Run Country
- Huntington Pointe
- Huntington Towers
- International Club
- Kings Point
- Lakes of Delray
- Lakeview Gardens
- Las Verdes
- Legacy at Sherwood Forest
- Lexington Club
- Mizner Country Club
- Monterey Lakes
- Newport Bay Club
- Newport Cove
- Oliveleaf
- Palm Beach Bath & Tennis
- Palm Greens
- Pelican Harbor
- Pines of Delray North
- Pines of Delray West
- Pine Ridge
- Pinewood Cove
- Polo Trace Country Club
- Rainberry Bay
- Rio Foco
- Saturnia Isles
- Seven Bridges
- Shadywoods
- Spanish Wells
- Stone Creek Ranch
- The Bridges
- The Club
- Tierra Del Rey
- Tierra Verde
- Tropic Bay
- Tropic Isle
- Tuscany
- Valencia Falls
- Valencia Palms
- Villa Borghese
- Village at Swinton Square
- Villaggio Reserve
- Vizcaya
- Waterways
- Whisper Walk
- Woodlake

*Alliance of Delray Residential Associations, Inc.*

10290 West Atlantic Avenue #480504  
Delray Beach, FL 33448  
Phone: 561.495.4694  
www.allianceofdelray.com



January 31, 2021

Palm Beach County Zoning Division  
Att: Jon MacGillis, Director  
2300 N Jog Road  
West Palm Beach, FL 33411-2741

Re: Providence Living Phase 1 Application #PDD/R-2015-00755 and Phase 2 Tuscan Gardens Application # PDD/DOA-2020-00268

Dear Mr. MacGillis:

The Alliance is requesting a review of the Providence Living Phase 1 Application's landscaping plan and comparison to what was installed. It has been brought to the Alliance's attention that the buffering on the southern border falls short in quality and quantity of plant material that should have been installed.

Attached are photos of the buffer which was installed with canopy trees that are apparently much more spaced than is designated on the plan. Further, there is an e mail stream (attached) indicating that existing vegetation was to be retained. The removal of a ten ft hedge that provided better screening is a great loss for Aspen Ridge.

This Phase 1 of "Tuscan Gardens" does not appear to be completed. The Community of Aspen Ridge has not been protected. Please inspect this site. The residents are deleteriously impacted by this developer's apparent lack of failing to follow ULDC guidelines.

Phase 2 of this development is an agenda item for Thursday's Zoning meeting. There is much at stake for the residents of Aspen Ridge, especially those homeowners bordering the western and southern portion of Phase 2 who expect adequate buffering of the project.

This letter is being sent via e mail and I have included the President of Aspen Ridge in this correspondence. Please keep the Alliance informed of the development of this case.

Thank you!

Sincerely,

*Lori Vinikoor*

Dr. Lori Vinikoor, Executive Vice President  
[vinikoor@bellsouth.net](mailto:vinikoor@bellsouth.net)  
(561)715-1530

OFFICERS AND DIRECTORS OF THE ALLIANCE:

Robert Schulbaum, President  
Lori Vinikoor, Executive Vice President  
Norma Arnold, Vice President    Allen Hamlin, Vice President  
Arnold Katz, Vice President    Ken Markowitz, Vice President  
Evelyn Spielholz, Secretary    Deborah Borenstein, Treasurer  
Directors: Rob Cuskaden Paul Finkelstein Carol Klausner Phyllis Levine Susan Zuckerman  
Assistants to the President: Rose DeSanto John Gentiles Rhoda Greifer Joel Vinikoor  
Legal Counsel: Joshua Gerstin

Exhibit F – Letter from Alliance of Delray dated March 26, 2021

*Alliance of Delray Residential Associations, Inc.*

10290 West Atlantic Avenue #480504  
Delray Beach, FL 33448  
Phone: 561.495.4694  
www.allianceofdelray.com



- *Serving more than 100 communities between the Everglades and the Ocean in south Palm Beach County.*
- *Working Toward Sustainable Development*
- *Applying Resilience Thinking to Our Natural Resources*

March 26, 2021

Palm Beach County Zoning Division  
Att: Jon MacGillis, Director  
2300 N Jog Road  
West Palm Beach, FL 33411-2741

Re: Code Enforcement Notice of Violation C-2021-03120020  
Providence Living Phase I Application #PDD/R-2015-00755  
Phase II Tuscan Gardens Application # PDD/DOA-2020-00268

Dear Mr. MacGillis:

Thank you for addressing concerns in the Alliance's letter of 1/31/21 regarding existing landscaping and buffering associated with Phase I of the Tuscan Gardens development. Please note:

1. A Code Enforcement Case was opened (C-2021-03120020) and is expected to be rectified in accordance with Code Enforcement procedures to bring the site into compliance with Code.
2. Exhibit C-2 of the current Phase II Tuscan Gardens application requesting a change in the Master Plan states "All previous Conditions of Approval applicable to the subject property, as contained in Resolutions R-2015-1352 and R-2018-0619 (Control 2005-00506), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified."
3. In correspondence, the Applicant's representative wrote "Tuscan Gardens ownership agrees to complete this work before any other permits or development takes place on Phase II of the project."

All of the above are lengthy procedures with no clear deadlines. Aspen Ridge has been suffering for more than a year with a deleterious impact on the front entrance of the Community.

The Alliance is in receipt of a letter from Aspen Ridge's attorney Joshua Gerstin dated March 22, 2021 and completely agrees with the opposition to any action on the Phase II application until the Phase I code violations are cured and promises to the Association fulfilled.

Please provide the Zoning Commissioners with a copy of this letter.

Thank you.

Sincerely,

*Lori Vinikoor*

Dr. Lori Vinikoor, Executive Vice President

Cc: Assist. Cty. Admin. Rutter, PZB Exec. Dir. Bulkeley, PZB Dep. Dir. Carroll, Zoning Dir. MacGillis, Dep. Zoning Dir. Hernandez

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Lori Vinikoor, *Executive Vice President*  
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*Legal Counsel:* Joshua Gerstin

Exhibit G – Phase 1 Landscaping Deficiencies Chart

<p style="text-align: center;"><b>Tuscan Gardens of Delray Beach - Phase 1 Landscaping Deficiencies</b></p>				
Location & Plant Material	Quantity on Landscape Plan	Quantity Required	Currently Planted on Site	
<b>East Buffer (Sims Road Right-of-Way)</b> 2-foot berm (by condition)			4 foot	Complies with Condition
<b>South Buffer Adjacent to Single Family Lot (Type 2 Incompatibility)</b>				
Large Shrubs	55	55	51	Missing 8-ft. high opaque fence or hedge; and short on quantity
Small Shrubs Required	110	108	72	Short on quantity
<b>East Buffer Adjacent to Single Family Lot (Type 2 Incompatibility)</b>				
Large Shrubs Required	63	63	62	Missing 8-ft. high opaque fence or hedge; and short on quantity
Small Shrubs Required	125	125	88	Short on quantity
Trees Required	10	13	12	Short on quantity
<b>South Buffer along Aspen Ridge Circle (Type 2 Incompatibility)</b>				
Large Shrubs Required	84	82	87	Missing 8-ft. high opaque fence or hedge
Small Shrubs Required	154	169	147	Short on quantity
Trees Required	14	17	14	Short on quantity
<b>West Buffer (Type 2 Incompatibility) *</b>				
Large Shrubs Required	158	150	177	Missing 8-ft. high opaque fence or hedge
Pines Required	20	20	21	Complies with Condition
*Note that this buffer will shift to the new western property line pending approval of Phase 2 in process (PDD/DOA-2020-0266)				
<b>Recreation Type 2 Incompatibility Buffer** (Condition)</b>				
8-ft. high opaque fence or hedge			0	Missing 8-ft. high opaque fence or hedge
**Note that the Agent has requested this Condition be amended to allow the option to seek a type 1 Waiver for Landscaping at time of Final DRC, in order to eliminate the required 6-ft. barrier.				