

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

Application No.: ZV/PDD/DOA/CA-2020-02096
Application Name: Hypoluxo Village MUPD
Control No./Name: 2001-00005 (Okean Office MUPD)
Applicant: Morningstar Nursery, Inc.
Hypoluxo Village Owner, LLC
Owners: Morningstar Nursery, Inc.
Agent: JMorton Planning & Landscape Architecture
Jennifer Morton & Lauren McClellan
Toothaker.org - Stephanie J Toothaker
Telephone No.: (561) 721-4463, (561) 371-9384, (954) 648-9376
Project Manager: Ryan Vandenburg, Senior Site Planner

TITLE: a Type 2 Variance **REQUEST:** to eliminate a Type 2 Incompatibility Buffer. **TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Community Commercial (CC) and the Agricultural Residential (AR) Zoning Districts to the Multiple Use Planned Development (MUPD) Zoning District. **TITLE:** a Development Order Amendment **REQUEST:** to reconfigure the Site Plan, add land area, units and access points; and, to modify uses, buildings, square footage and Conditions of Approval. **TITLE:** a Class A Conditional Use **REQUEST:** to allow 3 Type 1 Restaurants with Drive-throughs; Retail Gas and Fuel Sales with a Convenience Store; Workforce Housing Program (WHP) Density Bonus greater than 50 percent; and, Transfer of Development Rights (TDR).

APPLICATION SUMMARY: Proposed is a Type 2 Variance, an Official Zoning Map Amendment, a Development Order Amendment, and six Class A Conditional Uses for the Hypoluxo Village MUPD development. The site is currently developed for agricultural uses. A portion of the site was previously approved for a mixed residential and commercial development, but has not been constructed.

The Applicant is seeking to rezone a portion of the subject site from the CC and AR Zoning Districts to MUPD, to allow for a mixed-use development consisting of 384 Multifamily residential dwelling units and commercial uses. The Applicant is seeking Class A Conditional Uses for 96 TDR Density Bonus units, as well as a WHP Density Bonus greater than 50% (80% = 128 units), which would allow for the requested 384 units within six, three-story multifamily buildings. A 10,000 square foot (sq. ft.) clubhouse is proposed to serve the residential community. Further, the Applicant seeks an additional four Class A Conditional Uses to develop three Type 1 Restaurants with Drive-Throughs (total 8,960 sq. ft. including outdoor seating), as well as a 4,700 sq. ft. Retail Gas and Fuel Sales with Convenience Store. Other proposed commercial uses include a three-story, 100,550 sq. ft. Limited-Access Self-Service Storage building with a 250 sq. ft. Office, a 4,000 sq. ft. car wash, and 10,750 sq. ft. of Retail uses.

Overall, the PSP indicates a total of 129,210 sq. ft. of commercial development across 7 buildings. Further, the PSP indicates 2.34-acres of Recreation area, 1.66-acres of Useable Open Space, and 1.50-acres of Upland Preserve Area. A total of 836 parking spaces will be provided for the overall development. Two access points are proposed from both Hypoluxo Road and Military Trail.

SITE DATA:

Location:	Northeast corner of Military Trail and Hypoluxo Road.
Property Control Number(s):	00-42-45-01-00-000-507; 00-42-45-01-00-000-5030; 00-42-45-01-00-000-5060
Existing Future Land Use Designation:	Commercial High, with an underlying MR-5 (CH/5)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Agricultural Residential District (AR) Multiple Use Planned Development District (MUPD) Community Commercial District (CC)
Proposed Zoning District:	MUPD

Total Acreage:	31.98 acres
Affected Acreage:	31.98 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile:	Atlantis, Boynton Beach
Future Annexation Area:	Lantana

RECOMMENDATION: Staff recommends approval of the requests, subject to the Conditions of Approval as indicated in Exhibits C-1 through C-9.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received 0 contacts from the public regarding this application.

PROJECT HISTORY: The north 19.19-acres was previously approved by the Board of County Commissioners (BCC) on November 29, 2001 for an Official Zoning Map Amendment to allow a rezoning from Agricultural Residential (AR) to MUPD, with two General Daycares and a Type III Congregate Living Facility. No other approvals have been provided on the overall site.

SURROUNDING LAND USES:

NORTH:

FLU Designation: High Residential (HR-8)
Zoning District: Multi-Family Residential (Medium Density) (RM)
Supporting: Institutional (Trails Charter School, Control No 2013-00085)

FLU Designation: High Residential (HR-8)
Zoning District: Agricultural Residential (AR)
Supporting: Residential (Control Name and No. N/A)

SOUTH (across Hypoluxo Road):

FLU Designation: Medium Residential (MR-5)
Zoning District: Residential Planned Unit Development (PUD)
Supporting: Residential (Colony Club Apartments, Control No. 2001-00029)

FLU Designation: Commercial High, with an underlying 5 units per acre (CH/5)
Zoning District: Multiple Use Planned Development (MUPD)
Supporting: Commercial (Hypoluxo Trail Center, Control No. 1985-00013)

EAST:

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

WEST (across Military Trail):

FLU Designation: Commercial High, with an underlying 5 units per acre (CH/5)
Zoning District: Multiple Use Planned Development (MUPD)
Supporting: Commercial (Walmart Plaza, Control No. 1980-00173)

TYPE 2 VARIANCE SUMMARY:

#	ULDC Article	REQUIRED	PROPOSED	VARIANCE
V.1	Table 7.C.2.C, Incompatibility Buffer Types	15 foot, Type 2 Incompatibility Buffer	No buffer between Recreational and Residential Uses	Eliminate 15 foot Type 2 Incompatibility Buffer (100 percent)

FINDINGS - Type 2 Variance Standards: When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under ULDC

Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

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

V-1: Yes. Residential development was only recently added to be a permitted use within the MUPD Zoning District through Ordinance 2019-005. With the introduction of Residential uses to the MUPD district, an alternative application process for the elimination of Incompatibility Buffers between uses is not available for an MUPD. As such, the Applicant is required to seek a Type 2 Variance to eliminate the buffer between a Residential and Recreational use, even as the Code seeks to integrate the uses together, as outlined in Art. 3.E.3.B.2.f, Residential. It should be noted that Planned Unit Development projects are able to receive a Type 1 Waiver for the elimination of buffers between uses, as provided for in Table 7.B.4.A, Type 1 Waivers for Landscaping. As an MUPD does not require a Master Plan that would indicate Pods, the proposed development does not qualify to submit a Waiver for landscape buffering. As the Applicant is seeking to provide a unified development without isolating uses, special circumstances exist that are peculiar to this development.

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

V-1: Yes. The Applicant is seeking to provide recreation areas that would integrate the uses, rather than segregate through buffers, which is consistent with the design objectives for an MUPD outlined in Art. 3.E.3.B.1, Design Objectives. A number of the Recreation areas are to be integrated within and around the proposed residential uses. A large 1.40-acre Recreation area to the south-west of the residential is also being created to integrate pedestrian traffic with the proposed residential development, as well as the proposed preserve area and usable open space areas. A required buffer around this recreation area would segregate it from other uses, and as such would be a detriment to the overall area. Based on the above, special circumstances exist that are not the result of the Applicant.

- 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:***

V-1: Yes. The purpose of the required buffer between residential and recreational is to provide a visual break between the two uses. For the proposed development, the Applicant wishes to integrate the two uses. Providing a Type 2 Incompatibility buffer between these two uses would lessen the recreational area and provide a buffer where one isn't needed, especially for the recreation areas between the proposed residential buildings. For the large recreation area to the south of the residential development, this area already contains substantial native vegetation, and there is no need to further buffer an already forested area. As such, no special privilege will be granted by the support of this variance.

- 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:***

V-1: Yes. As previously stated, the requirement for a Type 2 Incompatibility Buffer between the Recreation and Residential areas would provide an unnecessary buffer between two uses that are to be integrated seamlessly within the development. Staff have worked closely with the Applicant to provide a pedestrian pathway throughout the recreation, open space and preserve areas that tie into both the residential and the commercial uses. Further, significant existing vegetation on-site (see Tree Disposition Plan) will be maintained that will provide a natural integration between uses.

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

V-1: Yes. While the required buffers could be provided within the development, the purpose of this development is to provide a seamless transition between uses, without providing walls or barriers

between the uses. This is consistent with Comprehensive Plan Policy 4.4.7-a., while states that “*Buffering between the different uses within an MUPD may be reduced or eliminated to foster interconnectivity between the uses.*” The Applicant is providing all other necessary Code-required buffers as required by Art. 7, Landscaping.

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

V-1: Yes. For the required buffer between the Recreation and Residential uses, the buffer would once again provide a visual barrier between the two uses that the Applicant is integrating together. For a Planned Unit Development, this Buffer would not be required to seek a Variance to eliminate it, but rather a Type 1 Waiver. The Residential area for the MUPD acts in a similar manner to a PUD, and will continue to meet the goals and objectives of the ULDC.

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

V-1 & V-2: Yes. The elimination of the Type 2 Incompatibility Buffer between the Recreation and Residential use will have no injurious effect on those utilizing these areas.

FINDINGS:

The following analysis is provided for the proposed partial rezoning to MUPD, the Class A Conditional Uses for: the Transfer of Development Rights; WHP Density Bonus greater than 50 percent; Retail Gas and Fuel Sales with Convenience Store; and, three Type 1 Restaurants with Drive-Through.

Standards for a Class A Conditional Use and a Rezoning to a PDD: 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 use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

PLANNING COMMENTS:

○ *Consistency with the Comprehensive Plan:* Should the BCC approve the amendment request, then 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.

The overall project area has a future land use designation of Commercial High, with an underlying 5 units per acre (CH/5) on 31.98 acres. Portions of the proposed project, totaling 24.02 acres, are subject to Ordinance 2021-003, which is limited by the following condition of approval:

- 1. Development under the Commercial High future land use designation is limited to a maximum of 366,200 square feet of commercial retail development or up to the equivalent number of daily trips.

The overall request, for the subject 31.98-acre site, consists of 129,210 sq. ft. of non-residential uses, inclusive of the outdoor seating, and 384 dwelling units. However, 24.02-acre north and east portion of the site is limited by, and subject to the Ordinance condition above, consists of 112,122 sq. ft. of nonresidential uses and 372 units and generates 5,710 daily trips (shown on PRP-12), which is less than the maximum permitted, and thus generally consistent with the above condition (366,200 sq. ft. of retail use equates to 10,423 daily trips). The amendment condition will be carried forward in the zoning process as it was approved by the BCC. Additionally, the 8.08-acre portion of the site, located at the southwestern corner, is not subject to the ordinance condition and contains 4,700 sq. ft. of retail gas and fuel sales with a convenience store, along with approximately 3.27 acres of upland preserve and usable open space.

- *Prior Land Use Amendments:* The subject site has been subject to numerous Future Land Use Amendments. As referenced above, the most recent amendment was a 24.02-acre portion within the overall 31.96-acre site known as Military Hypoluxo Commercial (LGA-2021-002) to revise conditions of approval previously adopted by Ordinance 2008-020, and subject to the condition listed above.

Prior to the amendment that is currently in effect, the site was the subject of two prior amendments. The first, known as Military/Hypoluxo 00-82 MLU 1 (Ord. 2000-044), adopted the designation Multiple Land Use with an underlying Medium Residential, 5 units per acre (MLU/5), on 19.18 acres and subject to five conditions of approval. A subsequent amendment added 4.86 acres of Medium Residential, 5 units per acre, fronting on Hypoluxo Road, and was known Military/Hypoluxo Commercial (LGA 2008-0004, Ord. 2008-020, subject to 5 conditions), which amended approximately 24 acres to CH/5, eliminated the prior ordinance conditions, replacing them with new conditions. Note that approximately 8 acres located at the corner of Military Trail and Hypoluxo Rd. has maintained a CH/5 future land use designation since the adoption of the 1989 Comprehensive Plan, and is not subject to any ordinance conditions limiting development. Furthermore, no zoning application was submitted after the 2001 zoning approval, therefore the conditions within Resolution R-2001-2067 must be amended with the subject application to reflect the current conditions in Ordinance 2021-003.

- *Intensity:* The 24.02-acre north and eastern portion of the site is limited by a Future Land Use Amendment Ordinance condition as previously discussed in detail above. The request for 127,750 sq. ft. (excluding 1,460 sq. ft. of outdoor dining) equates to a FAR of approximately 0.09 (127,750 / 1,393,048 sq. ft. or 31.98 acres = 0.092). Without the condition limitations, the maximum Floor Area Ratio (FAR) of .85 is allowed for the CH future land use designation in the Urban Suburban Tier (1,393,048 sq. ft. or 31.98 acres x .85 maximum FAR = 1,184,090 square feet maximum).

- *Density & Workforce Housing Program (WHP):* The Planning Division reviewed the request for 384 residential units on the subject 31.98-acre site utilizing the Medium Residential, 5 units per acre (MR-5) land use designation, including the utilization of both the Workforce Housing Program (WHP) and Transfer of Development Rights (TDR) Bonus Density programs. The requested 384 dwelling units represents the maximum permitted density utilizing all available dwelling units from the base future land use designation and both density bonus programs as described below.

The MR-5 Land Use yields a maximum of 159.9 dwelling units (5 DU/ac x 31.98 ac. = 159.9). The Applicant is seeking to utilize Full Incentive, an 80% (127.92 DU) WHP density Bonus and requesting 96 TDRs (at 3 DU/acre). Together, both of the Bonus Density programs result in 223.92 bonus density units or an additional 7 DU/ac. Therefore, the request for 384 units on the subject 31.98 acres was achieved as follows:

<u>Units per land use & WHP bonus:</u>	<u>Workforce Obligation:</u>
127.92 Standard units	6.40 WHP units (5%)
31.98 Max units	5.12 WHP units (16%)
127.92 WHP Bonus units (80%)	43.49 WHP units (34%)
<u>96 TDRs (3/ac.)</u>	<u>32.64 WHP units (34%)</u>
383.82 or 384 (rounded up) total units	87.65 or 88 units (rounded up)

- *Workforce Housing Program (WHP):* The WHP has both a mandatory and a voluntary component. The program requires that a percentage of units in new residential developments of 10 or more units to be provided as workforce housing, affordable to income-qualified households having 60 to 140% of area Median Family Income (MFI). The program is applicable in the Urban/Suburban Tier of the unincorporated County and in other areas where required by conditions of approval. The program’s optional component allows for a density bonus in exchange for a portion of the additional units being dedicated as workforce housing.

- *Workforce Housing (WHP) Program Pricing & Income Categories:* In Palm Beach County, the 2020 area Median Family Income (MFI) is \$79,100 for a family of four (per HUD). The following are the current sales and rental prices per income category for 2020 in Palm Beach County. The income categories are the same for both programs. These homes cannot be sold or rented at a higher price.

WHP Sales Prices: The sales prices are based on US HUD annual median income figure.

WHP Income Category			2020 (WHP) Sales Prices
Low	60 -80%) of MFI	\$47,460 - \$63,280	\$166,110
Moderate 1	>80 -100%) of MFI	>\$63,280 - \$79,100	\$213,570
Moderate 2	>100 -120%) of MFI	>\$79,100 - \$94,920	\$261,030
Middle	>120 -140%) of MFI	>\$94,920 - \$110,740	\$308,490*

**Does not apply to WHP units in projects approved under WHP Code adopted 8/22/2019.*

○ **WHP Rental Prices:** The WHP rents are based on the annual Florida Housing Finance Corporation (FHFC) Multi-Family Rental Figures, adjusted for number of bedrooms and any Utility Allowances are applied against gross maximum rent. WHP prices are set annually, based on the provisions of Article 5.G.1.A.3.c.2 of the Unified Land Development Code reflected below, and the following:

WHP Income Category			1 BR	2 BR	3BR	4BR
Low	60-70% of MFI	\$47,460 - \$55,370	\$ 988 - 1,153	\$1,186 - \$1,384	\$1,370 - \$1,598	\$1,528 - \$1,783
	>70-80% of MFI	>\$55,370 - \$63,280	\$1,153 - \$1,318	\$1,384 - \$1,582	\$1,598 - \$1,827	\$1,783 - \$2,038
Moderate 1	>80-90% of MFI	>\$63,280 - \$71,190	\$1,183 - \$1,483	\$1,582 - \$1,780	\$1,827 - \$2,056	\$2,038 - \$2,293
	>90-100% of MFI	>\$71,190 - \$79,100	\$1,483 - \$1,648	\$1,780 - \$1,978	\$2,056 - \$2,284	\$2,293 - \$2,548
Moderate 2	>100-110% of MFI	>\$79,100 - \$87,010	\$1,648 - \$1,813	\$1,978 - \$2,176	\$2,284 - \$2,512	\$2,548 - \$2,803
	>110-120% of MFI	>\$87,010 - \$94,920	\$1,813 - \$1,977	\$2,176 - \$2,373	\$2,512 - \$2,740	\$2,803 - \$3,057
Middle	>120-130% of MFI	>\$94,920 - \$102,830	\$1,977 - \$2,142	\$2,373 - \$2,571	\$2,740 - \$2,969	\$3,057 - \$3,312
	>130-140% of MFI	\$102,830 - \$110,740	\$2,142 - \$2,306	\$2,571 - \$2,768	\$2,969 - \$3,197	\$3,312 - \$3,566

○ **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.*

○ **Design Objectives and Performance Standards:** As a portion of the subject site is being rezoned to a MUPD, the project was required to meet the Design Objectives and Performance Standards for a Planned Development District (per Art. 3.E.1.C) and a Multiple Use Planned Development (per Art. 3.E.3.B). The Applicant has provided the necessary design features which includes: a continuous pedestrian and bicycle oriented system throughout the development as well as the recreation, open space and preserve areas; preservation of existing vegetation (see Tree Disposition Plans, Figures 7-9); interconnectivity between the Residential, Commercial and Recreation uses; minimizing visual impacts based on building locations; decorative paving; and, benches and play structures within the recreation areas to meet the intent of this section of the Code. The Applicant has been conditioned to a 6 ft. wall along the north buffer (Site Design Condition 5, Exhibit C-3). The inclusion of the wall will provide additional visual buffering to the property to the north. Staff are of the understanding the Applicant will request the ZC and BCC to allow for this wall to increase in height from 6 ft. to 8 ft., as has been requested from the Property Owners to the north.

○ **Property Development Regulations (PDR):** Per Table 3.E.3.D, MUPD Property Development Regulations, the subject site is required to outline on the PSP how the proposed development will

meet minimum PDRs. The proposal is for a mix of Multifamily units, Commercial uses including a Car Wash, Retail, 100,500 sq. ft. of Limited-Access Self-Service Storage, a Gas Station with Convenience Store, and three Type 1 Restaurants with Drive-Throughs. The proposed development meets and exceeds all minimum PDRs, as outlined on the MUPD Property Development Regulations chart on the PSP-1, as shown on Figure 4.

- **Access:** The PSP indicates four access points for the proposed development. Two access points will be provided from Hypoluxo Road, as well as two access points to Military Trail.
- **Architectural Review:** Staff reviewed the proposed elevations for the Residential structures (Figures 12 & 13) for compliance with Article 5.C, Design Standards, and found that the buildings meet minimum Code requirements. Architectural drawings are required for review per Art. 5.G.3.K, TDR Receiving Area Procedure. The Applicant has requested the deletion of Conditions 1 and 2 (Architectural Review) that were applicable to the previous approval (PDD-2001-00005). Staff have deleted Condition 1, while modified Condition 2, requiring all buildings to be in compliance with Art. 5.C at time of Building Permit. Architectural Review Condition 3 will be maintained, that requires all ground and roof mounted mechanical equipment to be screened.
- **Parking:** A total of 836 spaces are provided for on the PSP, which includes: 655 spaces for the residential portion of the development, which includes the Code required 82 spaces for guest parking; and, 181 spaces for the commercial development. It should be noted that the Applicant is requesting a Type 1 Waiver (DRO approval) for the parking reduction of 113 spaces as permitted by Art. 6, Parking, Section C.1.A.1.a, Reduce Required Parking. The Applicant has submitted a Reduced Parking Statement that confirms the parking will not be negatively if the Type 1 Waiver is granted.
- **Retail Gas Fuel Sales with Convenience Store Location Criteria:** Staff has evaluated the Applicants request and its compliance with Art. 4.B.2.C.16.e, Location Criteria. Retail Gas and Fuel Sales establishments are limited to two per intersection, unless the proposal meets certain exemption criteria. As the proposal for the Retail Gas and Fuel Sales is within an MUPD, exception criteria may be applied per Art. 4.B.2.C.16.e.6.b, MUPD. The Applicant is providing Code required R-O-W buffers adjacent to Hypoluxo Road and Military Trail, and is not providing a direct access into the proposed gas station, and as such the proposal is exempt from Location criteria.

Type 1 Restaurant with Drive-Through Location Criteria: Staff has evaluated the Applicants request and its compliance with Art. 4.B.2.C.33.f, Location Criteria. Similar to Retail Gas and Fuel Sales, as the subject site will be an MUPD, the exception criteria (which allows more than two Type 1 Restaurants with a Drive-Through at an intersection) identified in Art. 4.B.2.C.33.f.3.b, MUPD apply. The Applicant is providing Code compliant buffers and will not have direct access to any of the restaurants. As such the Location criteria is exempt.

- **Landscaping/Buffering:** The Applicant is proposing to provide a 20 ft. R-O-W Buffer along both Military Trail and Hypoluxo Road, which meets the R-O-W Buffer requirements per Table 7.C.2.A – Width of R-O-W Buffer. The R-O-W buffers will meet the planting requirements of Table 7.C.2.A – R-O-W Buffer Landscape Requirements. Previously the north portion of the subject site had been conditioned to a 35 ft. R-O-W buffer along Military Trail. With the R-O-W dedications required along Military Trail through Engineering and the Code requirements for plantings within the R-O-W buffer, Staff are satisfied that the Code required planting for the 20 ft. buffer will provide sufficient planting and buffering from both arterial roadways for the overall MUPD. As such, the previous conditions of approval for R-O-W plantings have been deleted in Exhibit C-3.

Along the east property line adjacent to the non-residential portion of the site (from Hypoluxo Road, approximately 375 ft. north) a 20 ft. Type 2 Incompatibility Buffer is shown on Figure 5. Staff are requesting a Condition of Approval to revise the Plan prior to final approval by the Development Review Officer to revise to a Type 3 Incompatibility Buffer in order to meet the requirements of Art. 3.E.3.B.2.c, Landscape Buffers. Further, Staff are requesting a Condition to provide a future cross-access to the property to the east for future development. For the residential east property line, the Applicant is providing a 10 ft. Type 1 Incompatibility Buffer, which meets Code requirements.

Along the north property line is proposed 15 ft. buffer. The Applicant has indicated that they have been in communication with the Property Owners to the north, and will be requesting through the ZC and BCC an 8 ft. panel wall to be permitted across the north property limits. At this time, Staff have

requested a Condition of Approval to modify the north buffer to a 15 ft. R-O-W buffer, and include a 6 ft. high concrete panel wall, which has been added under Site Design Condition 5, Exhibit C-3, and is consistent with Art. 5 height requirements.

Interior to the development the Applicant will be providing a Type 2 Incompatibility Buffer between the residential and non-residential elements of the site. This meets the requirements of Table 7.C.2.C – Incompatibility Buffer Types, which requires this buffer type between residential and commercial uses.

- *Useable Open Space:* The Applicant is required to provide a minimum of 5 percent of the total development area as usable open space. The PSP indicates a total of 1.66-acres of usable open space within the Site Data, with a large 0.53-acres being located to the east of the preserve area that’s along Hypoluxo Road. The other usable open space areas are shown around and in between the residential buildings, as indicated PRP-11, Usable Open Space (see Figure 18).
- *Variance:* As previously indicated, the Applicant has requested a Type 2 Variance to eliminate the required Type 2 Incompatibility Buffer requirement between a Residential and Recreation use. Based on the purposeful integration of the two uses for the proposed development, Staff are supportive of this request.
- *Signage:* Per Figure 20 and 21, Preliminary Master Sign Plan (PMSP), the Applicant will be providing Entrance Signs on either side of the two access points along Military Trail, as well as one Entrance Sign on the easterly access point on Hypoluxo Road. The PMSP also indicates five freestanding signs for the Commercial uses, with two being located along Hypoluxo Road, and three being provided along Military Trail. The PMSP also indicates two outparcel signs for the overall development; one along Military Trail adjacent to the proposed Gas Station and Convenience Store, and one adjacent to Building B (Type 1 Restaurant with Drive-Through). Wall signage has also been indicated on the PMSP’s for the commercial structures. All proposed signage is consistent with Art. 8, Signage, as well as Technical Manual Requirements outlined in Title 5, Signage.
- *Workforce Housing Program:* The Applicant is seeking a Class A Conditional Use for 80 percent Workforce Housing Program Density Bonus, which will amount to a total of 128 WHP units. The Applicant is required to utilize the Full Incentive program per Art. 5.G.1.B.2, Full Incentive Option. Additional analysis of this request can be found under the Standard a. Consistency with the Plan.
- *Transfer of Development Rights (TDRs):* *Transfer of Development Rights (TDRs):* The Applicant has requested the Class A Conditional Use for TDRs which exceed 2 units per acre (96 TDR units over 31.98 acres). The TDR program is designed to redistribute population densities or development potential, and to encourage the most appropriate and efficient use of resources, services and facilities. Development rights for the TDR bank are generated from environmentally sensitive lands purchased by the County. The Planning Division has made the determination that the subject site is located in an appropriate receiving area, and meets the requirements needed to qualify for the increase in density permitted under the program. The Agent is requesting to purchase a total of 96 TDRs at the following rates:

- 63 TDRs units at the Market Rate Multifamily price of \$19,900.00 per unit = \$1,253,700; and,
- 33 TDRs units at the WHP Multifamily price of \$995.00 per unit = \$32,835.00.
- Total TDR Cost: \$1,286,535.00

TDR Receiving Areas: Development rights shall only be transferred to those parcels that meet the qualifications for designation as receiving areas. There are five criteria the Applicant must comply with in order to qualify as a TDR Receiving Area:

- a. Be located within the U/S Tier;
- b. Be compatible with surrounding land uses and consistent with the Plan;
- c. Meet all concurrency requirements;
- d. Meet all requirements as outlined in the Code; and,
- e. Be compatible with adjacent Environmentally Sensitive Lands

Furthermore, to qualify as a receiving area and be eligible for an increase in density through TDRs, the application must meet Standards a. – g. as outlined in Art. 5.G.3.K.5, This includes the requirement that the proposed development and density be compatible with the surrounding area and land use; and, the proposed development and density do not negatively impact adjacent environmentally sensitive lands. As outlined in Standard C. Compatibility with Surrounding Land Uses and F. Development Patterns, the proposed development is a compatible land use. Further, as outlined in Standard E. Effect on Natural Environment, there is no negative impact that will be a result of the proposed development. All other standards to qualify as a receiving area for additional TDR units are met.

The Hypoluxo Village MUPD development complies with all the requirements to qualify as a Receiving Area for TDRs. Standard Conditions of Approval have been provided for in Exhibit C-4 for payment of the above-noted fees, as well as the execution of the required Transfer of Development Rights Deed.

c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

The proposed mixed-use development is located at the north-east corner of Hypoluxo Road (110 ft. Ultimate R-O-W) and Military Trail (120 ft. Ultimate R-O-W), and encompasses a total of 31.98-acres. Across the Military Trail R-O-W to the west of the subject site is the Walmart Plaza development (Control No. 1980-00173). This large commercial MUPD includes the two retail buildings for a total of 140,403 sq. ft. (Building A - Walmart & Building B - Retail Shops), a Retail Gas and Fuel Sales (Building C - Chevron) with Convenience Store and Automatic Car Wash located at the immediate north-west intersection of Hypoluxo Road and Military Trail, and a Type 2 Restaurant (Building D - Dennys). The subject site will provide a 20 ft. R-O-W Buffer along the Military Trail frontage to provide visual buffering from the roadway.

Across the Hypoluxo Road R-O-W to the south at the immediate south-east corner of Hypoluxo Road and Military Trail is the Hypoluxo Trail Center (Control No. 1985-00013). This MUPD contains four approved Type 1 Restaurants, Retail, and Self-Service Storage. Directly to the east of this MUPD is the Colony Club Apartments PUD. This Multifamily development contains a total of 214 dwelling units within 10 buildings. The closest residential structure is located approximately 400 feet south of Hypoluxo Road. A 40 ft. LWDD easement is provided adjacent to Hypoluxo Road as well as a 35 ft. perimeter buffer for the residential development.

To the north of the subject site is the Trails Charter School (Control No. 2013-00085). Zoned Medium Residential, the school was approved as a 2-story, 65,000 sq. ft. development, which included 1,240 students. Directly to the east of the school is a Single-family residence. This standalone property is zoned Agricultural Residential. The PSP indicates a 15 ft. buffer along the north property line. As previously indicated, the Applicant has indicated they will be requesting a modification to Site Design Condition 5 (Exhibit C-3) that will require the north buffer to provide an 8 ft. opaque wall, as it is currently conditioned to be a 6 ft. wall. Plantings for the buffer will be required to comply with Art. 7.C.4.D – Requirements for a Wall or Fence in a Landscape Buffer. The buffer requirements and the addition of the wall will provide visual buffering from the development to the north looking towards the proposed development.

To the east of the site adjacent to the proposed residential development is a vacant lot zoned Agricultural Residential (Control Name and No. N/A). The Applicant is providing a 10 ft. Type 1 Incompatibility Buffer along the residential portion of the MUPD. To the east of the proposed non-residential development is a Single-family residence. The PSP indicates a 20 ft. Type 2 Incompatibility Buffer along this perimeter buffer. Staff are requesting a Condition of Approval for the buffer to be revised at final DRO to indicate a Type 3 Incompatibility Buffer (See Exhibit C-3, Landscape Perimeter Condition 3). Staff are also requesting the PSP to be revised through Site Design Condition 6 to provide a future cross-access easement to the property to the east, should it be developed in the future for non-residential uses.

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.*

As indicated in Standard C., Compatibility with Surrounding Uses, the Applicant will meet or exceed the required buffering along all property lines. In addition to meeting required perimeter buffers, the Applicant has indicated that they have been in close contact with the Property Owners to the north of the subject site. The Applicant has indicated they will be requesting an 8 ft. concrete panel wall to be permitted within the 15 ft. north perimeter buffer. Per Art. 5.B.1.A.2.b.4.c, the ZC and BCC may require increased heights (for walls) to ensure adequate screening and buffering between incompatible uses. At this time, Staff have requested a Condition of Approval for a 6 ft. wall, which meets Art. 5 height requirements for residential uses.

Internal to the development, the Applicant is providing 15 ft. Type 2 Incompatibility buffers between the residential and non-residential uses. This meets the requirements of Table 7.C.2.C, Incompatibility Buffer Types, and provides a landscape break between the two uses. Further, with the required preserve, open space and recreation area, a significant portion of the overall site will provide an on-site trail system that can be utilized by the residents within this development. This area will include a pedestrian amenity which includes benches.

Per Art. 5.C.1.G, Visual Impact Analysis (VIA), the Applicant was required to submit a VIA as the project includes buildings which will be contiguous to a public street and residentially-zoned properties. The VIA has been included as Figure 22, and a supplemental VIA study is provided for in Exhibit E. Staff are satisfied that the proposed development meets all the requirements outlined in Art. 5.C.1.G, and the overall design of the project, and the residential structures, will have minimal adverse impacts on adjacent lands.

- e. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The proposed site area consists of three parcels, of which the southwest parcel (approximately 8.08 acres) is heavy-vegetated with native, specimen-sized trees. Under a prior approval in 1992, the site required a 1.65 acre preserve set-aside. However, since then some of the vegetation was adversely impacted by borer beetles, hurricane(s), and clearing of the understory. Given the current condition of the vegetation, the preserve dedication requirement is 1.51 acres of on-site preserve set-aside. The preserve areas and open space have been located to maximize onsite preservation. The understory within the proposed preserve areas will be replanted and maintained in a natural state. Additionally, trees that cannot be preserved in place are being either relocated or mitigated.

WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

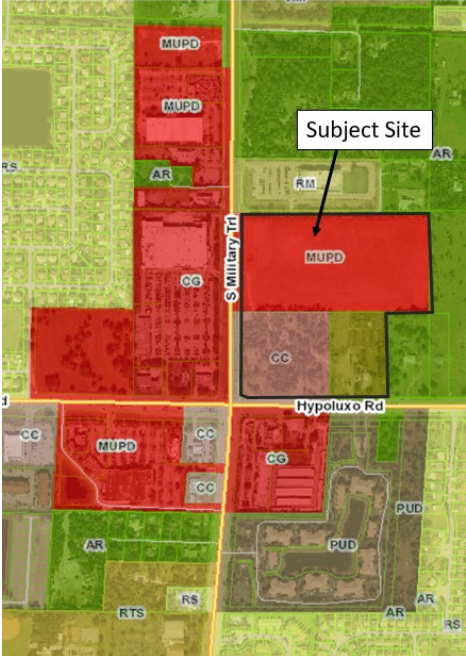
IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non 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.

- f. **Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The proposed partial rezoning and DOA to the existing MUPD, along with the Class A Conditional Uses for the Type 1 Restaurants with Drive-Throughs, Retail Gas and Fuel Sales with Convenience Store, Workforce Housing density bonus, and TDR units will result in a logical development pattern.

The Military Trail corridor has significant commercial development along the west side of the roadway. As previously noted, to the west of the subject site is the Walmart Plaza development. To the north are multiple properties that are also zoned MUPD. To the south and south west are additional properties that are also zoned and utilized for commercial development, as has been previously indicated in Standard C. These properties include an array of commercial uses, including but not limited to retail, retail gas and fuel sales, self-storage and restaurants. In addition to the commercial uses, the Applicant is requesting the residential component to the development. This integrated residential component will give the residents the ability to utilize commercial businesses without the necessary requirement of driving great distances.



The proposed mixed-use development at a major arterial intersection will result in an orderly and timely development pattern along the Military Trail and Hypoluxo Road corridor.

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

ENGINEERING COMMENTS:

The proposed mixed use project is expected to generate 5710 net daily trips, 394 net AM peak hour trips, and 432 net PM peak hour trips. The build out of the project is expected to happen by 2025.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Segment: Hypoluxo Rd from Military Trail to Lawrence Rd

Existing count: Eastbound=1801, Westbound=1987

Background growth: Eastbound=265, Westbound=271

Project Trips: Eastbound=50, Westbound=59

Total Traffic: Eastbound=2116, Westbound=2317

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS “D” capacity: 2680 per direction

Projected level of service: Better than LOS D in both directions

Segment: Military Trail from Lantana Rd to Hypoluxo Rd

Existing count: Northbound=1436, Southbound=1296

Background growth: Northbound=261, Southbound=247

Project Trips: Northbound=59, Southbound=70

Total Traffic: Northbound=1756, Southbound=1613

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS “D” capacity: 2680 per direction

Projected level of service: Better than LOS D in both directions

The Property Owner shall dedicate R-O-W to be consistent with the PBC Thoroughfare Identification Map, take in the storm drainage runoff from Hypoluxo Road and Military Trail prior to the issuance of the building permit.

The Property Owner shall install landscaping within the medians of Hypoluxo Road and Military Trail along the project frontage in accordance with OTIS.

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 comment.

SCHOOL IMPACTS:

In accordance with the adopted Coordinated Planning Interlocal Agreement, a School Capacity Availability Determination (SCAD) for 384 apartment units had been approved on February 22, 2021 (SCAD Case #21020801DO). The subject property is located in SAC 231A.

This project is estimated to generate approximately sixty-one (61) public school students. The schools currently serving this project area are: Starlight Cove Elementary School, Tradewinds Middle School and Santaluces Community High School.

The School Capacity Availability Determination (SCAD) analysis for this application has determined that the proposal would exacerbate capacity deficiencies at the District high school level. The additional sixteen (16) high school students generated by this proposal will increase the utilization percentage of Santaluces Community High School to 125%.

The revised Preliminary Site Plan (dated 5/24/21) shows one (1) 10' by 15' public school bus shelter location. A bus shelter condition of approval has been applied to this request.

PARKS AND RECREATION:

Project proposes 384 dwelling units requiring 2.30 acres of onsite recreation. The Site Plan indicates 2.34 acres of onsite recreation will be provided, therefore the recreational requirement is satisfied.

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

While this area within the County was once predominantly agricultural uses, there has been a significant shift in the form of development along both Hypoluxo Road and Military Trail over the past 20 years with the increase in both residential and commercial developments. With the proposed addition of land area to the previously approved MUPD, the prior approval no longer was feasible for development. With the recent changes to the ULDC to allow for residential development within an MUPD, the overall site was able to shift from a commercial development to an integrated residential-commercial development proposal. Further, with the ever-increasing cost of living within South Florida, the inclusion of Workforce housing will give more individuals an ability to find housing at an affordable cost. The Applicant has satisfactorily demonstrated changed circumstances that necessitate the proposed requests.

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. Therefore, Staff are recommending approval subject to the Conditions of Approval in Exhibits C-1 through C-9.

CONDITIONS OF APPROVAL

EXHIBIT C-1: Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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 Zoning Commission for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. The Development Order for this concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD/DOA/CA-2020-02096. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

COMPLIANCE

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

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

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; 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-2: Official Zoning Map Amendment

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 (Planned Development District)

ALL PETITIONS

1. Previous A Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Development of the site is limited to the uses and site design as approved by the Board of County Commissioners. The approved site plan is dated July 10, 2001. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

The approved Preliminary Site Plan is dated May 24, 2021. 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 Resolution R-2001-2067 (Control No. 2001-00005), 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. Previous B Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

The proposed buildings on site shall be compatible with the facade elevations by Oliver, Glidden & Partners dated October 3, 2001. Deviations shall be permitted to comply with Architectural Guidelines adopted by the BCC on July 24, 2001, and Building and Site Design Conditions B.1 through B.3. (BLDGPMT: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: The site has been reconfigured with different uses.]

2. Previous B Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Architectural Review Section of the Zoning Division for review and approval. Development shall be consistent with the approved architectural elevations.

Is hereby amended to read:

The development shall comply with the requirements of Article 5.C and submit elevations for review and approval no later than at time of Building Permit application. (BLDGPMT: BUILDING DIVISION - Zoning)

3. All ground and roof mounted air conditioning; mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BUILDING DIVISION - Zoning) (Previous B Condition 3 of Resolution R-2001-2067, Control No.2001-00005)

ENGINEERING

1. Previous E Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to the issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed additional right of way for the construction of a right turn lane on Military Trail at the project's main entrance road. This right-of-way shall be a minimum of 180 feet in storage length, twelve feet in width and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include "Corner Clips" where appropriate as determined by the County Engineer. 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. Also, required will be relocation costs associated with the relocation of any existing FPL power poles.

Is hereby amended to read:

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, the Property Owner shall provide to Palm Beach County Right of Way Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMPT/ONGOING: MONITORING - Engineering)

2. Previous E Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

The Property owner shall construct:

- I) Right turn lane south approach on Military Trail at the project's main entrance road;
- II) Extend the existing left turn lane north approach on Military Trail at the projects entrance road to a minimum of 345 feet plus the appropriate paved taper.
 - a) 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.
 - b) Permits required by Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDG PERMIT: Monitoring-Eng)
 - c) Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: Monitoring-Eng) (BLDGPMPT: MONITORING - Engineering)

Is hereby deleted. [REASON: New condition will be added to address turn lane construction.]

3. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

Building Permits for more than 38,650 square foot Medical Office plus the 5,000 square feet Drive in Bank shall not be issued until construction commences on Hypoluxo as a 6 lane section from Congress Avenue Military Trail plus the appropriate paved tapers. Construction commences is defined as awarding the contract for construction, the acquisition of all right of way and construction easements, and the acquisition of all required permits. (BLDG PERMIT: MONITORING-Eng) (COMPLETE)

The mix of allowable Commercial uses, as permitted by the Zoning Division, listed above may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (DATE: Monitoring-Eng) (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous E Condition 3 of Resolution R-2001-2067, Control No.2001-00005)

4. Previous E Condition 4 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

LANDSCAPE WITHIN MEDIAN OF MILITARY TRAIL

Prior to issuance of a building permit, the property owner shall apply to the Palm Beach County Engineering and Public Works Department Permit Section for a permit to:

- landscape the adjacent median

- provide cutouts within the concrete median

a. All above landscaping shall be planted within the median of Military Trail. This permit shall comply with all permit requirements, including but not limited to indemnifying Palm Beach County. When permitted by the Land Development Division of the Palm Beach County Department of Engineering and Public Works, landscaping shall, at a minimum, consist of the "Low Cost Planting Concept" outlined in the latest revision to the Palm Beach County Engineering and Public Works Department Streetscape Standards. The property owner shall also be responsible for supplementing any existing landscape material previously planted in this median and all new landscape material shall be consistent with the landscaping theme adopted for this roadway. All landscaping installation and maintenance requirements shall be subject to the standards as set forth by the Streetscape Standards. If all xeriscape material is utilized, the watering of the plant material during the initial heal-in period shall be the responsibility of the property owner. Alternative species other than those listed in the County standards may be allowed subject to approval by the County Engineer.

b. All required median landscaping, including an irrigation system if required, shall be installed at the property owners expense. All landscaping, paver block or similar materials shall be the perpetual maintenance obligation of the petitioner and its successors, or assigns or duly established Property Owner's Association or maintenance may be assumed by the County upon payment equal to the long term maintenance cost, in accordance with the adopted policy approved by the Board of County Commissioners. All existing landscape material shall also be the perpetual maintenance obligation of the petitioner and its successors, heirs or assignees or duly established Property Owner's Association and/or Homeowners's Association. Perpetual maintenance includes, but is not limited to, pruning, fertilizing, irrigation, and alternate watering of Xeriscape material during periods of drought in order to maintain healthy plant material. All landscape material shall be installed prior to the issuance of the first certificate of occupancy.

c. Declaration of Covenants and Restriction Documents shall be established or amended as required, prior to issuance of a building permit/platting to reflect this obligation.

Is hereby amended to read:

Landscape Within the Median of Military Trail

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Military Trail. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Engineering)

c. At Property Owners option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the

OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Military Trail. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPM: MONITORING - Engineering)

5. 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, 2025, or as amended. 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)

6. The Property Owner shall construct i) right turn lane east approach on Hypoluxo Road at project's eastern entrance ii) right turn lane south approach on Military Trail at project's southern entrance iii) right turn lane south approach on Military Trail at project's main entrance iv) any required modification to the existing right turn lane east approach on Hypoluxo Road at Military Trail to accommodate project's in-only entrance within this right turn lane v) the lengthening to the maximum length feasible, as approved by the County Engineer, of the left turn lane north approach on Military Trail at the main project entrance by adjusting the taper length.

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 from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

7. 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, the Property Owner shall provide to Palm Beach County Right of Way Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Military Trail at both project entrances. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way 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. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

8. Landscape Within the Median of Hypoluxo Road

The Property Owner shall design, install, and perpetually maintain median landscape within the median of all abutting right of way of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioner's approval. Median landscaping installed by the Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c and d below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from Palm Beach County Land Development prior to the issuance of the first building permit. (BLDGPMPT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPMPT/CO: MONITORING - Engineering)

c. At Property Owner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the Property Owner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the Property Owner. The Property Owner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Property Owner. (ONGOING: MONITORING - Engineering)

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMPT: MONITORING - Engineering)

9. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Military Trail, 67 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, 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 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. The Property Owner shall provide to the Right of Way Section 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. (BLDGPMPT/ONGOING: MONITORING - Engineering)

10. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from

those segments of Hypoluxo Road and Military Trail along the property frontage; and a maximum of an additional 800 feet of these adjacent roadway(s), with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project s system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT: MONITORING - Engineering)

ENVIRONMENTAL

1. The native preserve area(s) shall be surrounded by a permanent barrier (e.g., a fence) with a minimum height of four feet and utilize signage on all sides to indicate the area is under preservation. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
2. The understory within the native preserve area(s) shall be restored and reestablished with native species typically found in its respective land cover classification and/or as approved ERM, and shall remain in perpetuity. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
3. Any landscape material that is planted adjacent to the native preserve area(s) shall be native to Florida. (ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
4. A Conservation Easement with a minimum cumulative acreage of 1.51 acres shall be submitted, reviewed and recorded prior to final site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
5. A Preserve Management Plan and fee, shall be submitted and approved prior to final site plan approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
6. The littoral zone within the water management tract shall be shown on the Final Site Plan prior to Technical Compliance. (TC: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

HEALTH

1. Architectural plans must be submitted to the Institutional Child Care Section, Palm Beach County Health Department in accordance with Rule 64E-13 FAC. (BLDGPMT: HEALTH DEPARTMENT - Health Department) [Note: COMPLETED] (Previous F Condition 1 of Resolution R-2001-2067, Control No.2001-00005)
2. Any biomedical waste which may be generated at this site shall be properly handled and disposed of in accordance with Rule 64E-16FAC (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous F Condition 2 of Resolution R-2001-2067, Control No.2001-00005)

3. Generation and disposal of any hazardous effluent into sanitary sewer system shall be prohibited unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection and the agency responsible for sewage works are constructed and used by project tenants or owners generating such effluent. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous F Condition 3 of Resolution R-2001-2067, Control No.2001-00005)

4. Any toxic or hazardous waste which may be generated at this site shall be handled and disposed of in accordance with Rule 62-730 FAC. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous F Condition 4 of Resolution R-2001-2067, Control No.2001-00005)

LANDSCAPE - GENERAL

1. Previous D Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Fifty percent (50%) of canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:

- a. Tree height: fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;
- c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length;
- d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Perimeter Buffer landscaping to comply with Art. 7, Landscaping.]

2. Previous D Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All palms required to be planted on site by this approval, shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18)
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Required Palms to be planted in accordance with Art. 7, Landscaping requirements.]

3. Previous D Condition 3 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All shrub or hedge material shall be planted in a hierarchy of layers consisting of a minimum of three (3) varying heights as follows:

eighteen (18) to twenty-four (24) inches - groundcover and small shrub;
twenty-four (24) to thirty-six (36) inches - medium shrub; and,
forty-eight (48) to sixty (60) inches - large shrub

These heights shall be continuously maintained to achieve the hierarchical effect. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Required shrubs and hedge material to be planted in accordance with Art. 7, Landscaping requirements.]

4. Previous D Condition 4 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Code requirement per Art. 7.C.2.A, Managed Growth Tier System Compliance, U/S Tier.]

LANDSCAPE - INTERIOR

1. A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous I Condition 1 of Resolution R-2001-2067, Control No. 2001-00005)

2. Landscaped divider medians shall be provided between all rows of abutting parking. The minimum width of this median shall be ten (10) feet excluding curb. One tree and appropriate ground cover shall be planted for each thirty (30) linear feet of the divider median, with a maximum tree spacing of sixty (60) feet on center. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous I Condition 2 of Resolution R-2001-2067, Control No. 2001-00005)

3. Landscaped divider medians with at grade bicycle and pedestrian cuts shall be provided in the center of all driveways over thirty (30) feet in width providing ingress or egress to the site. The minimum length of this median shall be twenty five (25) feet. A minimum width of eight (8) feet of landscaped area shall be provided. One tree and appropriate ground cover shall be planted for each twenty (20) linear feet of the divider median. (BLDGPMT: BUILDING DIVISION - Zoning) (Previous I Condition 3 of Resolution R-2001-2067, Control No. 2001-00005)

4. Previous I Condition 4 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Foundation planting or grade level planters shall be provided along the front and side facades of all structures to consist of the following:

- a. The minimum width of the required landscape areas shall be eight (8) feet;
- b. The length,of the required landscaped areas shall be no less than 50% of the total length of each side of the structure; and,
- c. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear foot of building facade and appropriate ground cover. (CO/DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Foundation Planting to be consistent with Art. 7, Foundation Planting requirements.]

LANDSCAPE - PERIMETER-LANDSCAPE ALONG THE WEST PROPERTY LINE (MILITARY TRAIL FRONTAGE)

1. Previous G Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Landscaping and buffering along the west property line shall include:

- a. a minimum thirty-five (35) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. one (1) canopy tree planted each thirty (30) linear feet of the frontage;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the frontage with a maximum spacing of sixty (60) feet between clusters;
- d. one (1) small shrub for each two (2) linear feet of frontage. Shrub shall be twenty-four (24) inches high at installation.
- e. one (1) medium/large shrub for each four (4) linear feet of frontage. Shrub shall be thirty (30) inches high at installation. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Landscaping and Buffering along west property line to meet ULDC Art. 7 width and planting requirements.]

LANDSCAPE - PERIMETER-LANDSCAPE ALONG THE NORTH, SOUTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL AND COMMERCIAL PROPER

2. Previous H Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Landscaping and buffering along the north, south and east property lines shall include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. one (1) canopy tree for each twenty (20) feet of the property line;
- c. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters;
- d. one (1) small shrub for each two (2) linear feet of frontage. Shrub shall be twenty-four (24) inches high at installation.
- e. one (1) medium/large shrub for each four (4) linear feet of frontage. Shrub shall be thirty (30) inches high at installation. (CO: ZONING - Zoning)

Is hereby deleted. [REASON: Landscaping and Buffering along north, south and east property lines to meet ULDC Art. 7 width and planting requirements.]

LANDSCAPE - PERIMETER-LANDSCAPE AND BUFFERING ALONG THE SOUTH 375 LINEAR FEET OF EAST PROPERTY LINE

3. Prior to final approval by the Development Review Officer, the Plans shall be revised to indicate a Type 3 Incompatibility Buffer along the south 375 feet of the east property line. (DRO: ZONING - Zoning)

LIGHTING

1. Previous J Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Code Requirement.]

2. Previous J Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All outdoor lighting fixtures shall not exceed twenty-five (25) feet in height measured from finished grade to highest point. (CO: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Code Requirement.]

3. Previous J Condition 3 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

All outdoor lighting shall be extinguished no later than 9:00 p.m. excluding security lighting only. This condition does not apply to the congregate living facility. (ONGOING: CODE ENF - Zoning)

Is hereby deleted. [REASON: Outdoor Lighting shall meet requirements of Art. 5.E.4.E, Outdoor Lighting.]

4. Previous J Condition 4 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning)

Is hereby deleted. [REASON: Outdoor Lighting shall comply with Art. 5.E.4.E, Outdoor Lighting.]

PALM TRAN

1. Prior to final certification of the preliminary development plan or site plan by the Development Review Committee, whichever occurs first, the petitioner shall amend the plan to indicate one or more of the following: mass transit access, mass transit shelter(s) and/or a bus stop(s) on or adjacent to the subject property, if required by the Palm Beach County School Board and/or the County Engineer. (DRO: PALM-TRAN - Palm-Tran) [Note: COMPLETED] (Previous K Condition 1 of Resolution R-2001-2067, Control No.2001-00005)

2. Mass transit access, shelters and/or bus stops, if required, shall be constructed by the petitioner in a location and manner acceptable to the Palm Beach County School Board, Palm Tran, and County Engineer prior to issuance of the first certificate of occupancy (CO). The petitioner shall accommodate the requirement for mass transit access, bus shelters and/or bus stops by dedicating additional right-of-way, if requested by the County Engineer. Provisions for mass transit shall include, at a minimum, a covered shelter, continuous paved pedestrian and bicycle access from the subject property or use to the shelter, appropriate lighting, waste container, and bicycle rack. Bus shelters or bus stops located on private property or in common areas shall be the maintenance responsibility of the property owner. (CO: MONITORING - Engineering) [Note: COMPLETED] (Previous K Condition 2 of Resolution R-2001-2067, Control No.2001-00005)

PLANNED DEVELOPMENT

1. Previous L Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director.

Is hereby amended to read:

Prior to platting, the property owner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (PLAT: ZONING - County Attorney)

2. Previous L Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to certification of the preliminary development plan by the Development Review Committee, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director.

Is hereby amended to read:

Prior to platting, the property owner shall record a covenant in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (PLAT: ZONING - County Attorney)

3. Previous L Condition 3 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate a focal point at the terminus of the main access from Military Trail. The focal point(s) shall be in the form of a plaza, fountain, arcade or any other site element or similar pedestrian

oriented public areas. Plans of the focal points shall be submitted to the Public Hearing Section for review and approval. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: Focal Points to be provided interior to the development.]

PLANNING

1. Previous M Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

LAND USE TABLE 1. The underlying land uses, associated maximum acreages, intensities, and densities for the MLU designation for the entire subject property shall be as follows: Based on the above information, if Petition 2001-005 is approved, additional professional and medical office, day care, and CLF uses will not be permitted. In addition, all development must comply with the mix of other uses as specified in Ordinance 2000-40. (DRO: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

2. Previous M Condition 2 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Development of the overall 19.1 8 acre site shall comply with the preliminary master plan. (Exhibit 2 of Ordinance 2000-40) Any changes which affect more than 20% of the land area, and/or which result in the project no longer meeting the intent of the MLU language in the Comprehensive Plan, as determined by the Planning Director, shall be remanded back to the Local Planning Agency and Board of County Commissioners for public hearings. (DRO/ONGOING: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

3. Previous M Condition 3 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

The height of the buildings on the Commercial High Office and Commercial Low Office portions of the site is limited to a maximum of 25 feet from finished grade to the highest point of the building. (CO/DRO: PLANNING - Building Division)

Is hereby deleted. [REASON: No longer applicable.]

4. Previous M Condition 4 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

The height of the building(s) on the Institutional portion of the site is limited to a maximum of 15 feet from finished grade to the highest point of the building. (CO/DRO: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

5. Previous M Condition 5 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Development of the site shall comply with Design Criteria for Landscape Buffers and Pedestrian Open Space System dated December 6,2000 that are attached as Exhibit 3 in Ordinance 2000-44. (ONGOING: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

6. Previous M Condition 6 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to final site plan approval, a detailed plan for the “pedestrian plaza” shown on the certified site plan dated July 10, 2001 that includes the locations of benches, water fountains, landscaping, pavement treatment, and other pedestrian amenities, shall be submitted for review by the Planning and Zoning Divisions. (ONGOING: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

7. Previous M Condition 7 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to final site plan approval, architectural elevations for buildings that are adjacent to open spaces on the ordinance required Master Plan, dated June 6, 2000, shall be submitted for review by the Planning Division. (DRO: PLANNING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

8. Previous PLANNING Condition 8 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

SUBMIT ARCHITECTURAL PLAN TO PLANNING DIV. (BLDGPMPT: MONITORING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

8. Previous M Condition 8 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Prior to the issuance of each building permit for a primary structure, the architectural elevations for buildings on the Master Plan, dated June 6,2000, shall be subject to the Planning Division's review for consistency with the Design Criteria for Landscape Buffers and Pedestrian Open Space System. (BLDGPMPT: MONITORING - Planning)

Is hereby deleted. [REASON: No longer applicable.]

9. Per LGA 2021-002 condition 1: Development under the Commercial High Future Land Use designation is limited to a maximum of 366,200 square feet of commercial retail development or up to the equivalent number of daily trips. (ONGOING: PLANNING - Planning)

10. The subject request for 384 units with a 88-unit Workforce Housing Program (WHP) obligation was calculated based on Full Incentive Development Option with the WHP units to be rental and will be provided onsite. The following density bonuses were utilized: a 80% WHP density bonus, or 128 units, and a TDR bonus of 96 units. Should any change occur to the calculation, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning)

11. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning. (BLDGPMPT: MONITORING - Planning)

12. Prior to the release of the 3rd Building Permit (192 units), Fifty percent of WHP units (44) must receive certificates of occupancy. (BLDGPMPT: MONITORING - Planning)

13. Prior to the release of the 5th Building Permit (326 units), All WHP units (88) must receive Certificates of Occupancy (CO). (BLDGPMPT: MONITORING - Planning)

14. Prior to the release of the first building permit, the Developer shall provide documentation demonstrating compliance with the required design standards: compatible exteriors, provision of a dry model. (BLDGPMPT: MONITORING - Planning)

15. The Developer shall notify Planning and DHES at the commencement of leasing. (ONGOING: PLANNING - Planning)

SCHOOL BOARD

1. The property owner shall post a notice of annual boundary school assignments for students from this development. A sign 11” X 17” shall be posted in a clear and visible location in all sales offices and models with the following:

“NOTICE TO PARENTS OF SCHOOL AGE CHILDREN”

School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10' by 15' school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board)

SIGNS

1. Previous N Condition 1 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

Freestanding point of purchase signs fronting on Military Trail shall be limited as follows:

- a. Maximum sign height, measured from finished grade to highest point - ten (10) feet;
- b. Maximum sign face area per side - 100 square feet;
- c. Maximum number of signs - one (1); and
- d. Style - monument (CO: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Freestanding signs shall comply with Art. 8, Signage requirements.]

2. Previous N Condition 2 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

Wall signs shall be limited as follows:

- a. west facades of the professional office and medical buildings;
- b. north and south facades of the daycare centers;
- c. west facades of the congregate living facility buildings; and,
- d. lettering size for all wall signs shall be limited to eighteen (18) inches high. (CO: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Wall signage shall comply with the revised Master Sign Plan.]

SITE DESIGN

1. Previous C Condition 1 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

Total gross floor area shall be limited to a maximum of 163,335 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable with new development proposal.]

2. Previous C Condition 2 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

The maximum height for all structures except for the daycare centers and CLF buildings including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-five (25) feet. The daycare centers and the CLF buildings shall not exceed fifteen (15) feet. All heights shall be measured from finished grade to highest point.

Is hereby amended to read:

Residential Buildings 1, 2 and 3, and non-residential building A, shall be limited to a maximum of 35 feet in height, as defined in Art. 1.C.4.C.1, Building Height. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning)

3. Previous C Condition 3 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (CO: BUILDING DIVISION - Zoning)

Is hereby deleted. [REASON: Duplicate Condition, see Architectural Review Condition 3]

4. Previous C Condition 4 of Resolution R-2001-2067, Control No. 2001-00005, which currently states:

The paved pedestrian access system shall provide for interconnectivity of all uses and meander through the perimeter buffers per approved site plan dated July 10, 2001.

Is hereby amended to read:

The pedestrian access system shall provide for interconnectivity of all uses per the Preliminary Site Plan dated May 25, 2021. (DRO: ZONING - Planning)

5. Prior to final approval by the Development Review Officer, the Site Plan shall be revised to provide for 15 ft. R-O-W Buffer along the north property line. A 6 ft. high concrete panel wall shall be provided for within the buffer, a minimum of 7.5 ft. from the Base Building Line or property line, as applicable. (DRO: ZONING - Zoning)

6. Prior to final approval by the Development Review Officer, the Applicant shall submit revised Plans identifying a future cross access to the property to the east to the north of Building G. (DRO: ZONING - Zoning)

USE LIMITATIONS

1. Previous O Condition 1 of Resolution R-2001-2067, Control No.2001-00005, which currently states:

Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the facility.

Is hereby amended to read:

Storage or placement of any material, refuse, equipment or debris shall not be permitted in the rear of the Self-Service Storage Facility. (ONGOING: CODE ENF - Zoning)

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-4: Class A Conditional Use – Transfer of Development Rights (TDRs)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

TRANSFER OF DEVELOPMENT RIGHTS

1. Prior to Final Approval by the Development Review Officer, the Property Owner shall execute a Contract for Sale and Purchase of Transfer of Development of Rights (TDRs) in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building Department. The Contract shall accommodate 96 TDR units at a total selling price of \$1,286,535.00 (63 TDR units to be purchased at the Market Rate Multifamily price of \$19,900.00 per unit = \$1,253,700.00; and, 33 TDR units to be purchased at the WHP Multifamily price of \$995.00 per unit = \$32,835.00). Upon execution of the contract, the contract shall be recorded by the Property Owner, and a copy shall be provided to the Zoning Division. (DRO: ZONING - County Attorney)

2. Prior to Final Approval by the Development Review Officer, the Property Owner shall execute the Transfer of Development Rights Deed in a manner and form approved by the County Attorney, and formally executed by the Executive Director of Planning, Zoning and Building Department. (DRO: ZONING - County Attorney)

3. Prior to technical compliance of the plat or issuance of the first Building Permit, whichever occurs first, the Property Owner shall pay one hundred (100) percent of the Transfer of Development Rights (TDR) Funds to the Zoning Division. Upon payment of the funds, the TDR Deed shall be recorded by the Property Owner, and a copy shall be provided to the Zoning Division. (BLDGPM/TC: ZONING - Zoning)

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-5: Class A Conditional Use – Workforce Housing Program (WHP) Density Bonus greater than 50 percent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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-6: Class A Conditional Use – Retail Gas and Fuel Sales with Convenience Store

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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-7: Class A Conditional Use – Type 1 Restaurant with Drive-Through (Building B)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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-8: Class A Conditional Use – Type 1 Restaurant with Drive-Through (Building F)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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-9: Class A Conditional Use – Type 1 Restaurant with Drive-Through (Building G)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 24, 2021. 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)

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

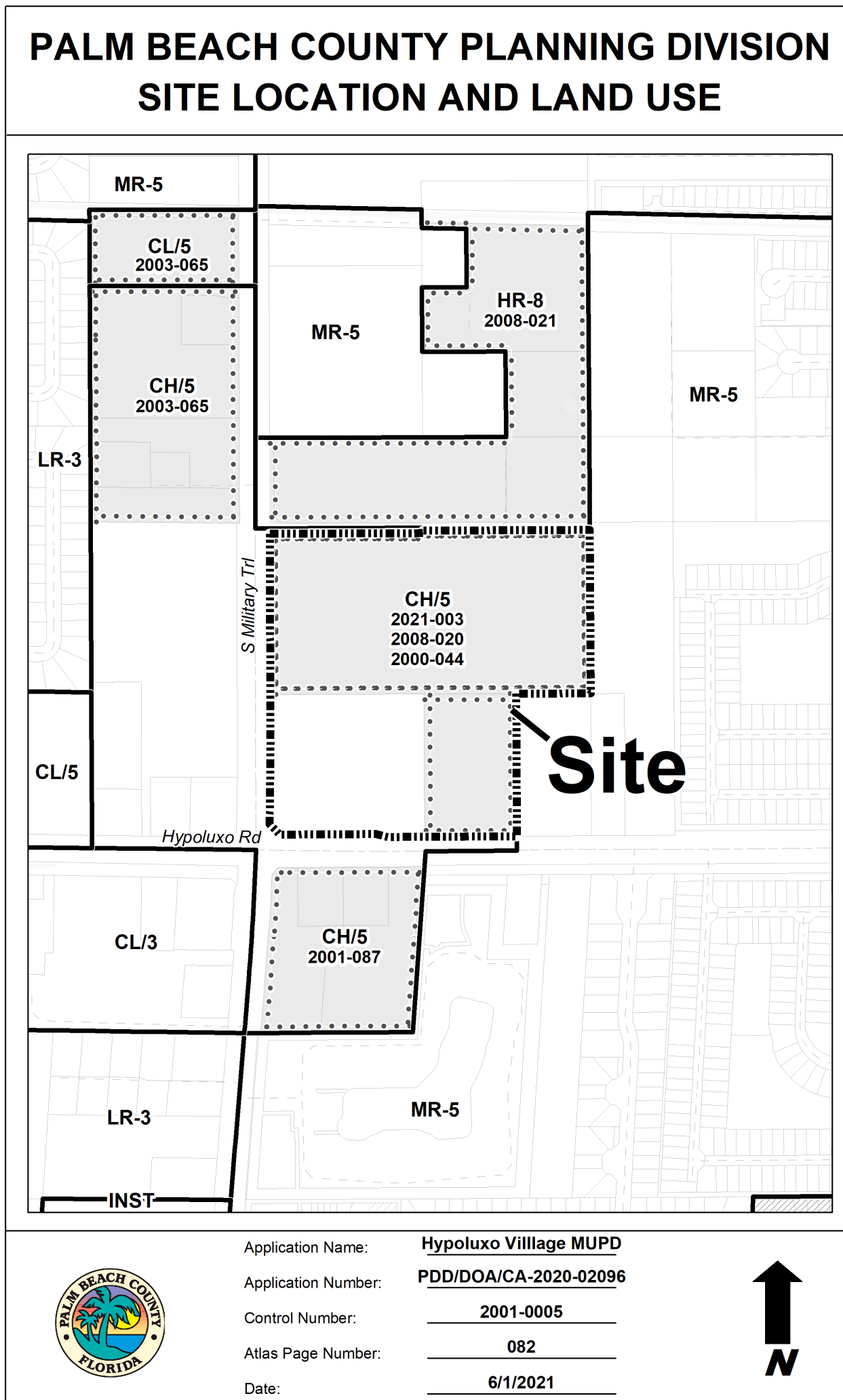


Figure 2 - Zoning Map

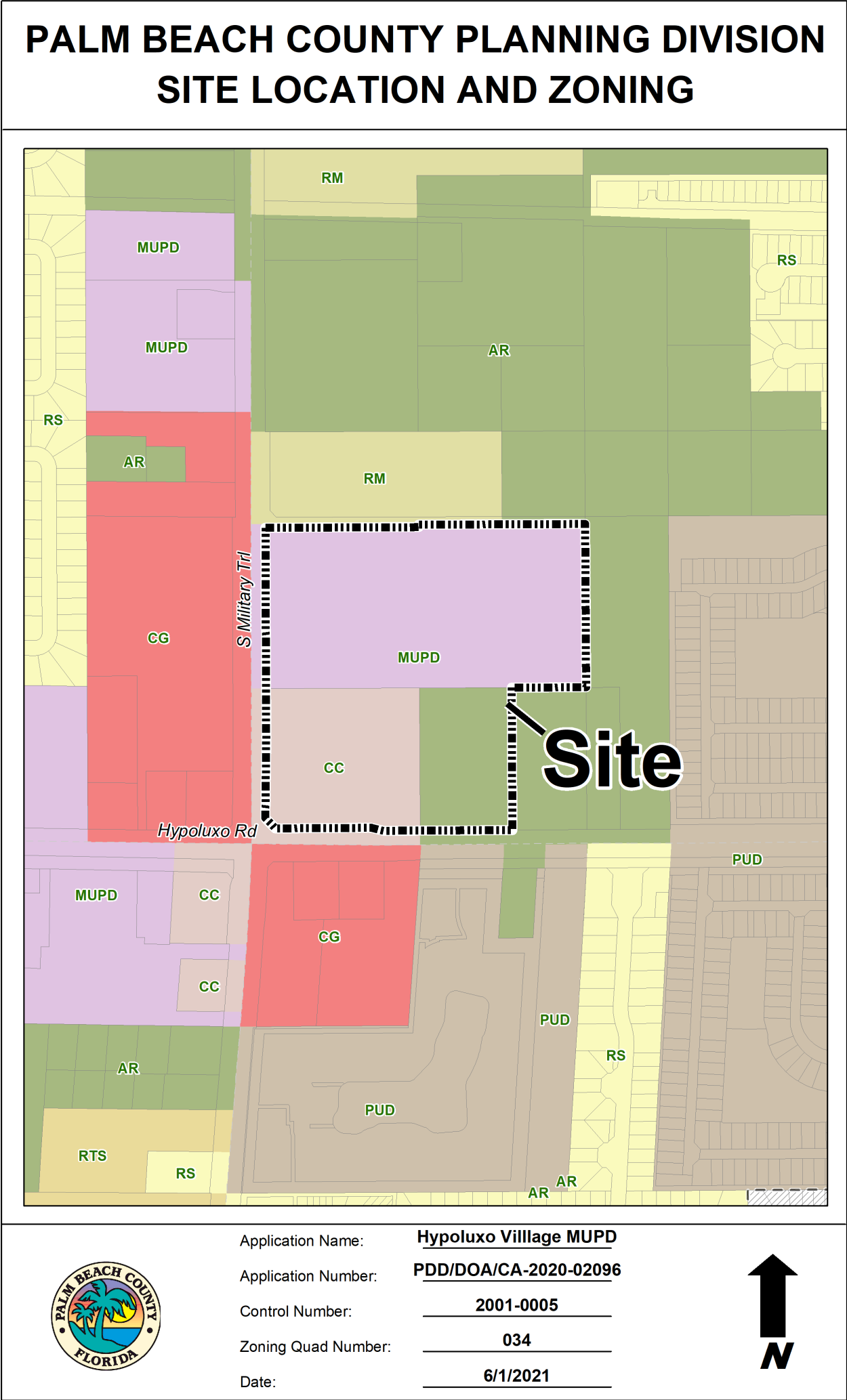
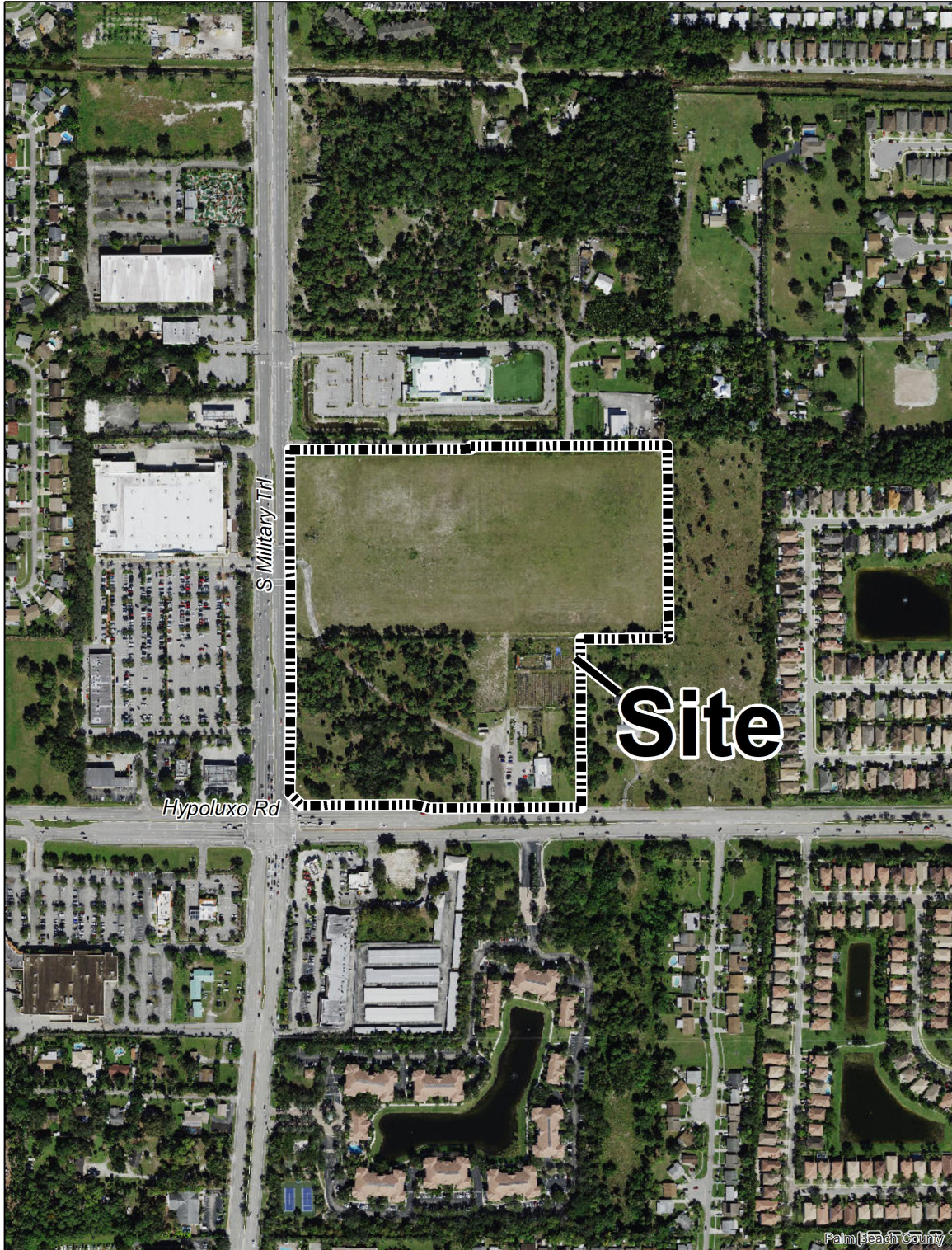


Figure 3 – Aerial

PALM BEACH COUNTY PLANNING DIVISION

SITE LOCATION



Application Name:	<u>Hypoluxo Village MUPD</u>
Application Number:	<u>PDD/DOA/CA-2020-02096</u>
Control Number:	<u>2001-0005</u>
Atlas Page Number:	<u>082</u>
Date:	<u>6/1/2021</u>



Zoning Commission
Application No. ZV/PDD/DOA/CA-2020-02096
Hypoluxo Village MUPD

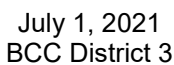
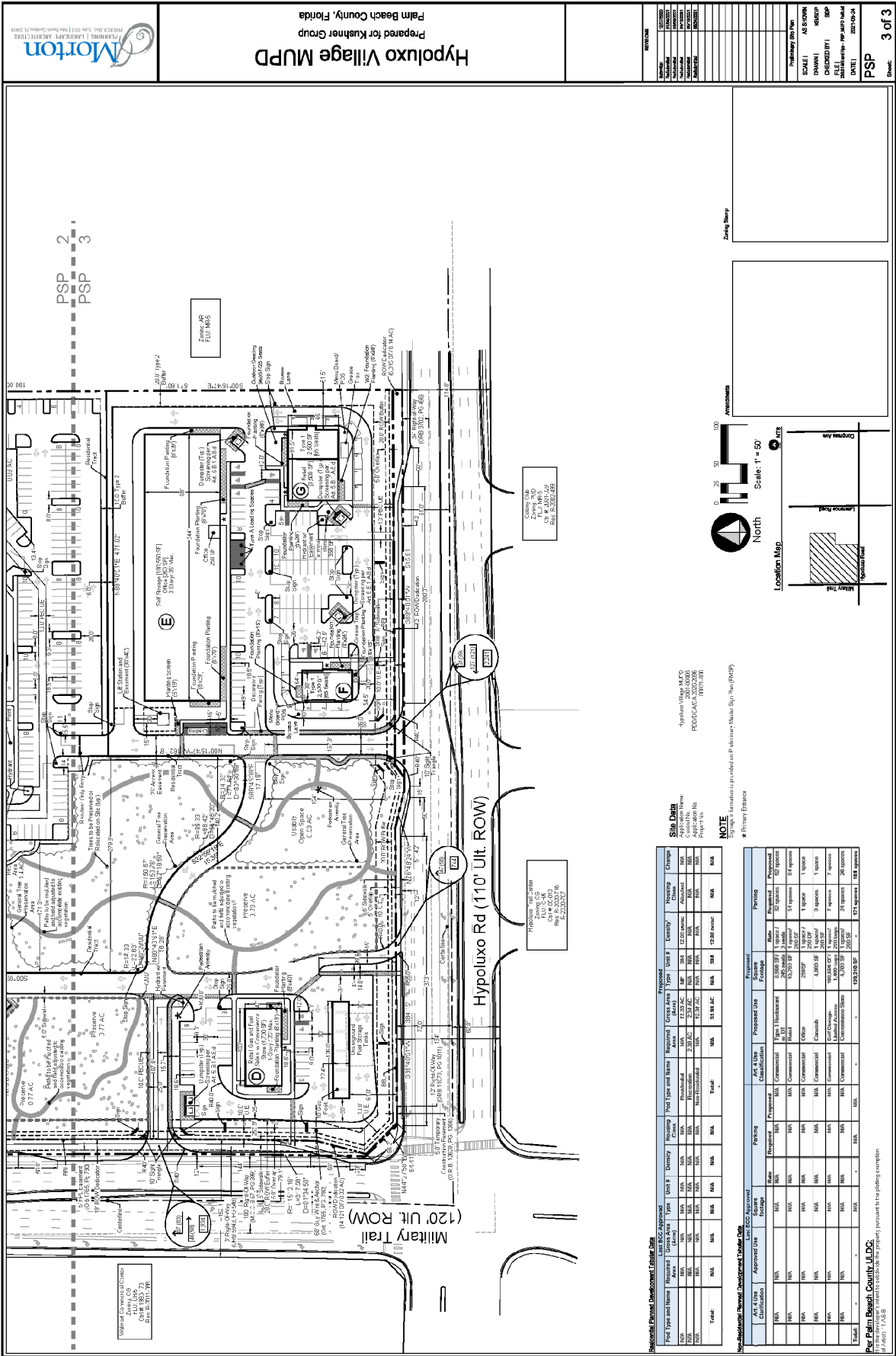


Figure 6 – Preliminary Site Plan (PSP-3 of 3), dated May 24, 2021



Zoning Commission
Application No. ZV/PDD/DOA/CA-2020-02096
Hypoluxo Village MUPD

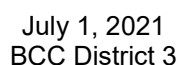


Figure 10 – Preliminary Regulating Plan (PRP-3 of 12), dated May 24, 2021

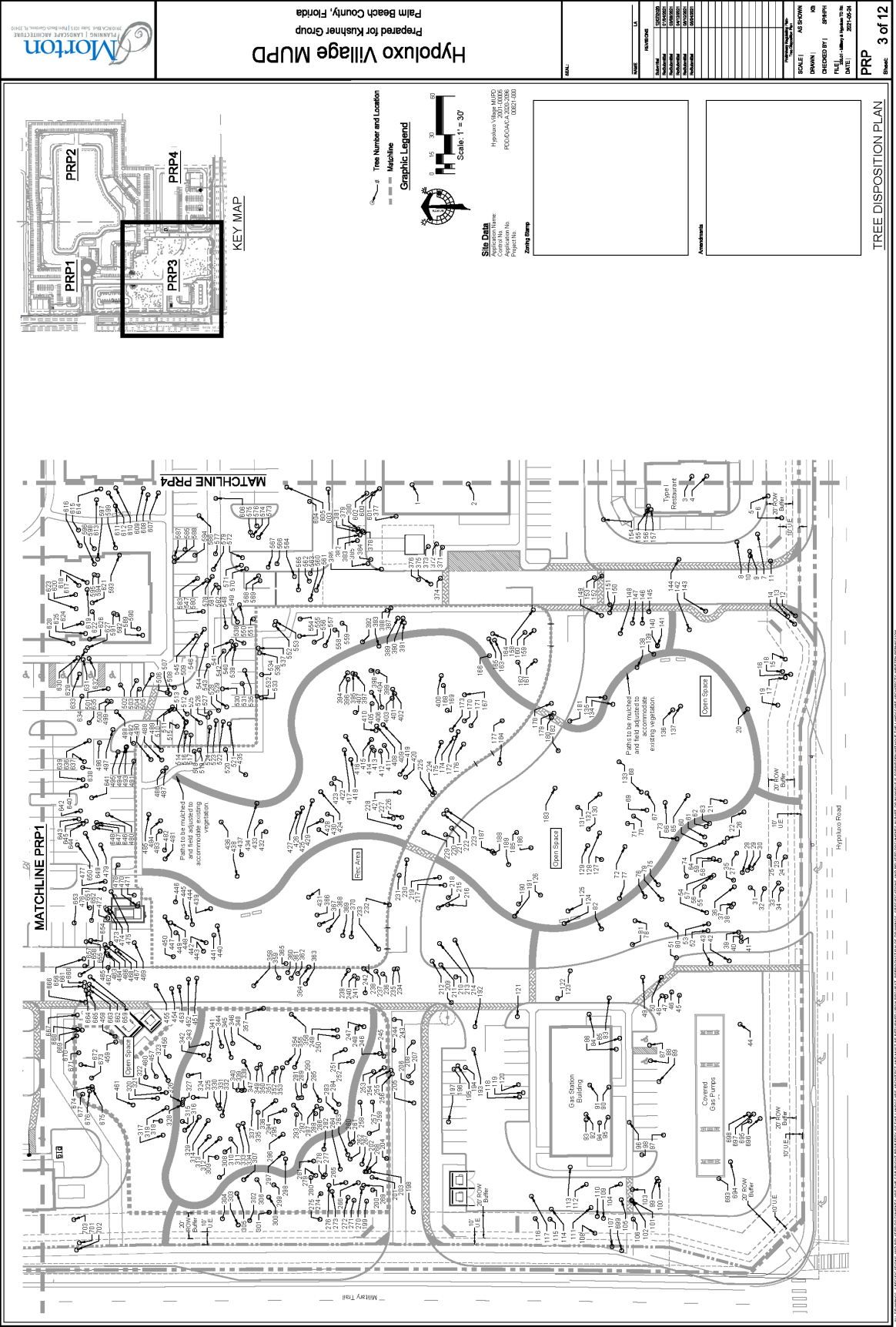


Figure 12 – Preliminary Regulating Plan (PRP-5 of 12), dated May 24, 2021

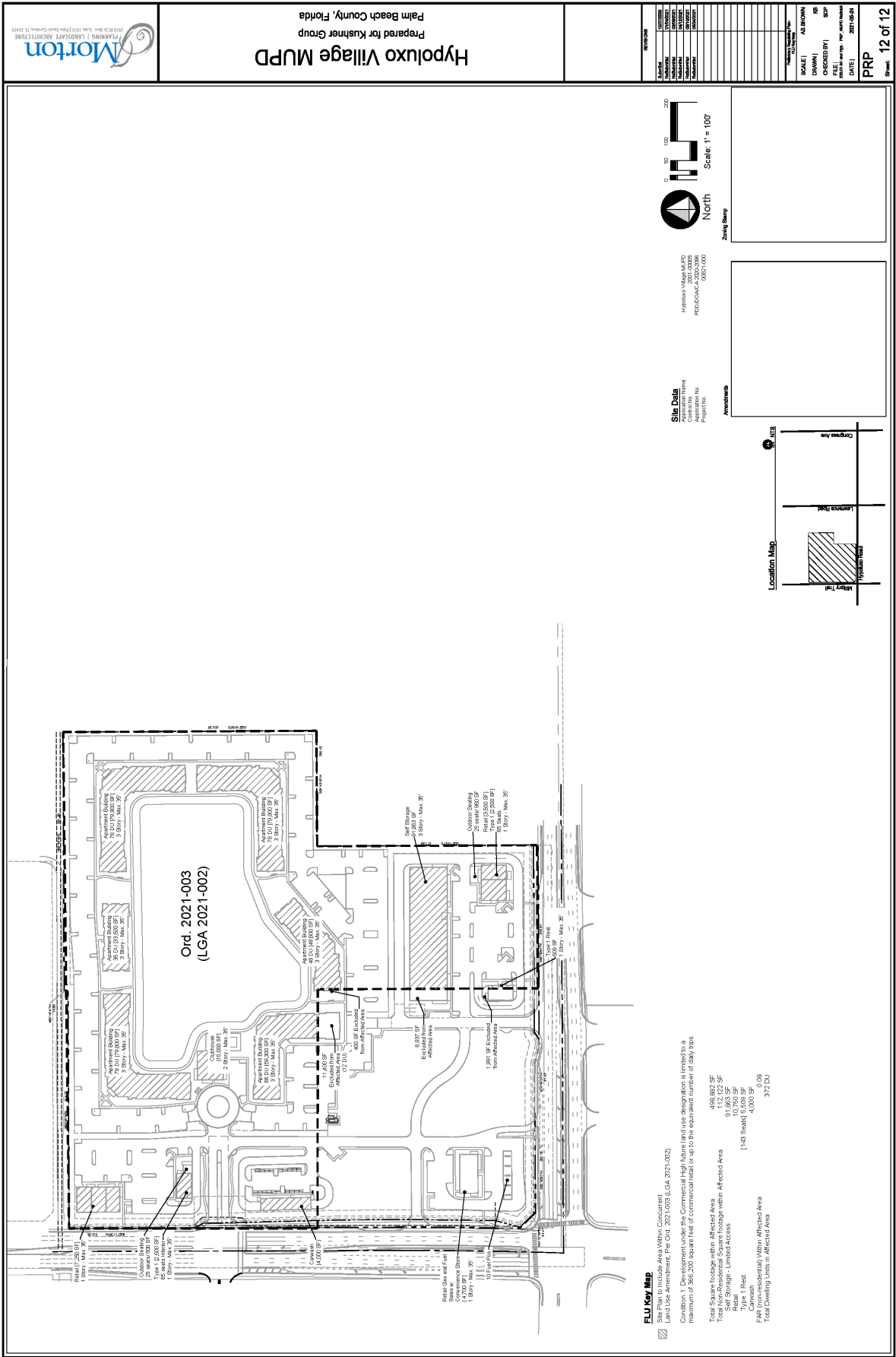
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Figure 13 – Preliminary Regulating Plan (PRP-6 of 12), dated May 24, 2021

[illegible]

Zoning Commission
Application No. ZV/PDD/DOA/CA-2020-02096
Hypoluxo Village MUPD

Figure 19 – Preliminary Regulating Plan (PRP-12 of 12), dated May 24, 2021



Zoning Commission
Application No. ZV/PDD/DOA/CA-2020-02096
Hypoluxo Village MUPD

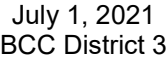


Figure 26 – Preliminary Architectural Elevations (PAE-4 of 10), dated May 10, 2021

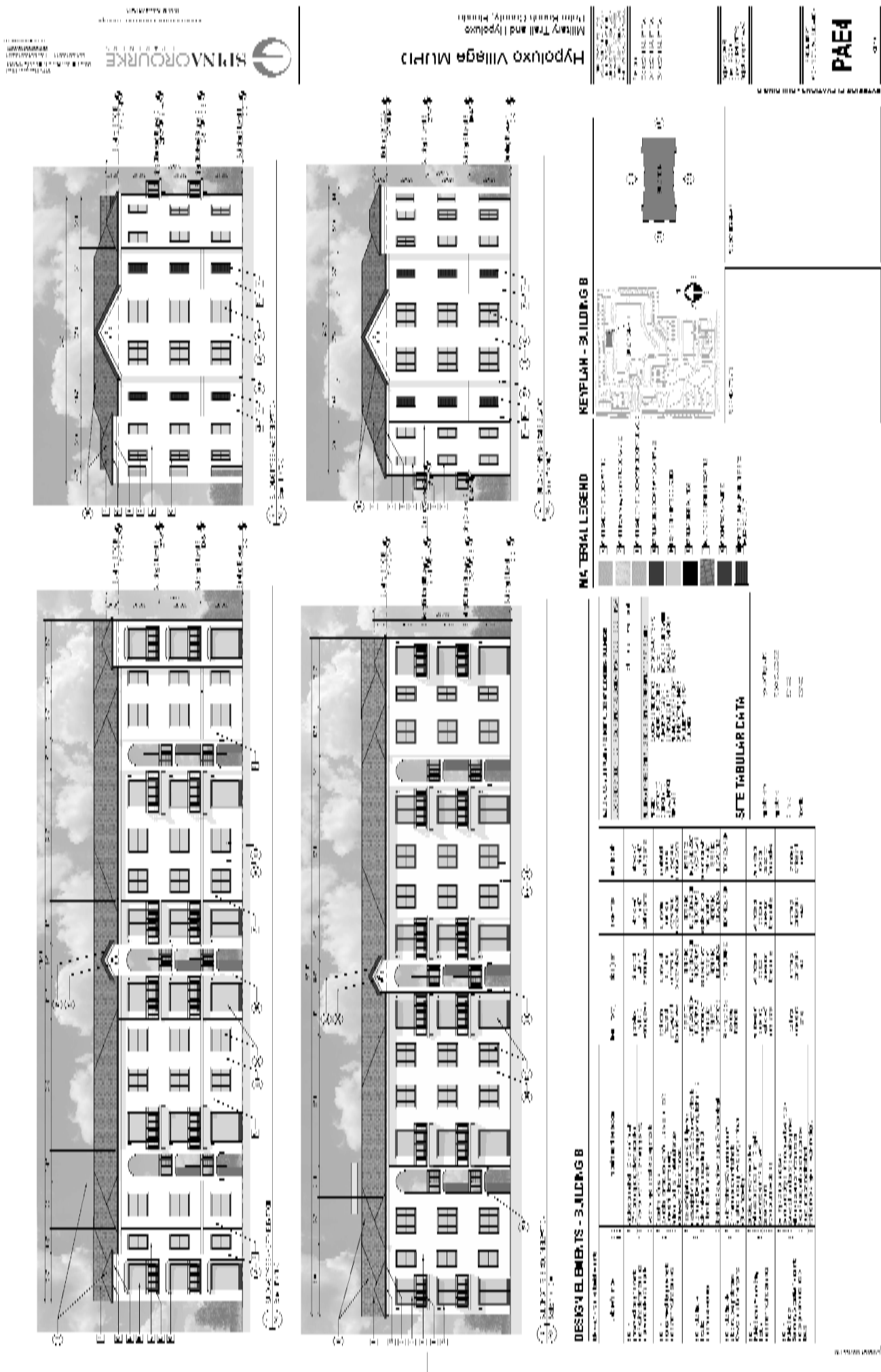


Figure 27 – Preliminary Architectural Elevations (PAE-5 of 10), dated May 10, 2021

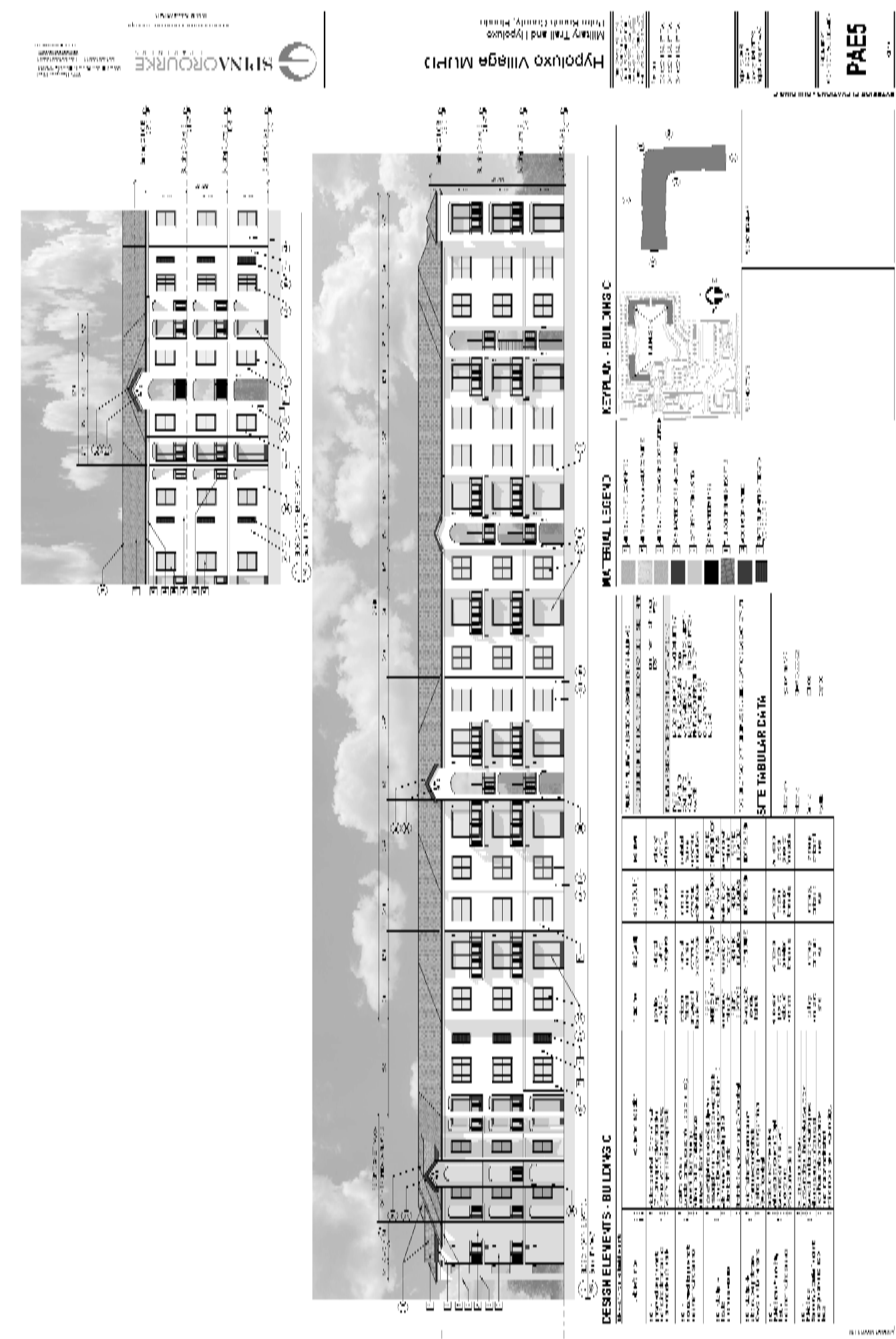


Figure 28 – Preliminary Architectural Elevations (PAE-6 of 10), dated May 10, 2021

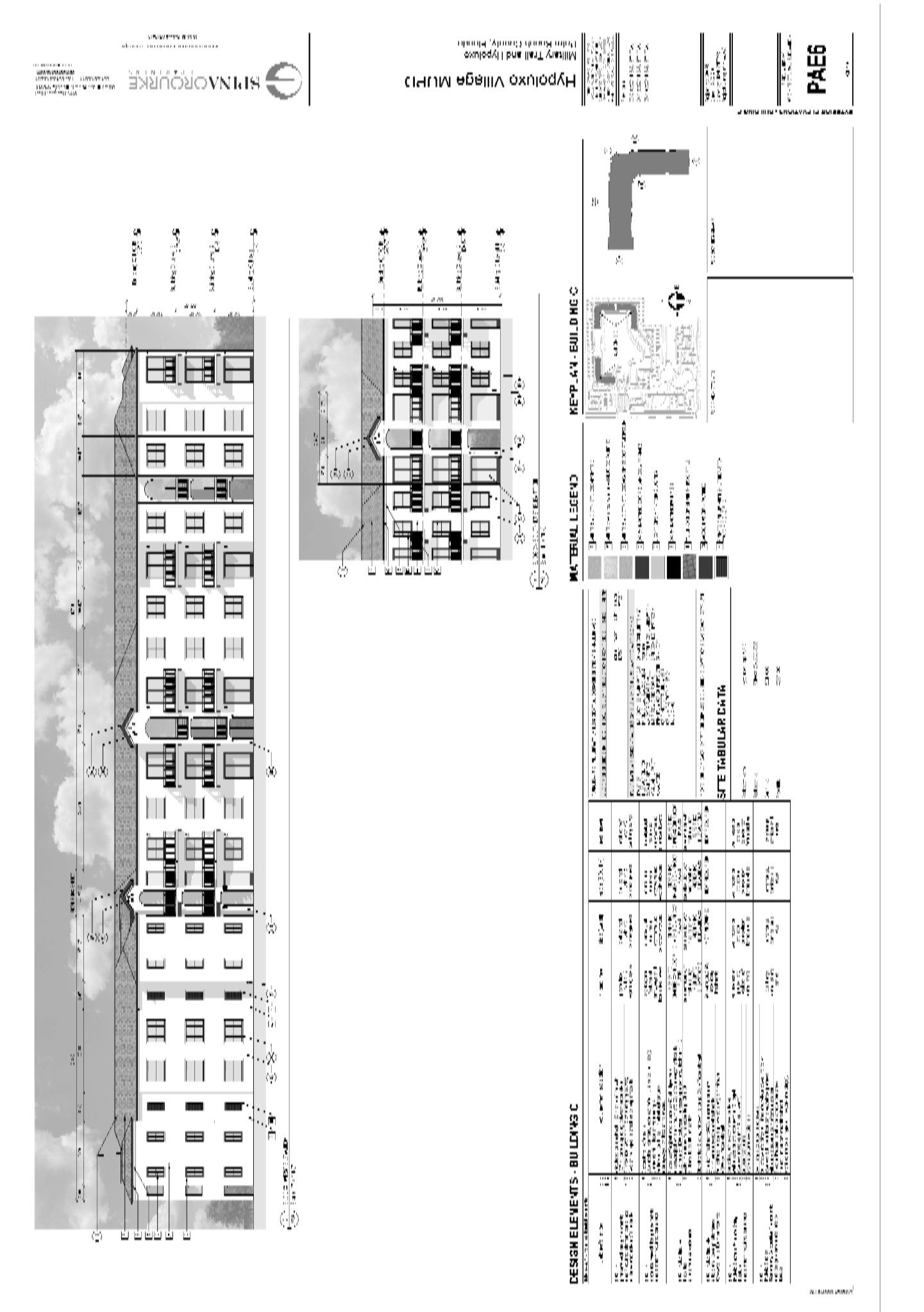


Figure 29 – Preliminary Architectural Elevations (PAE-7 of 10), dated May 10, 2021

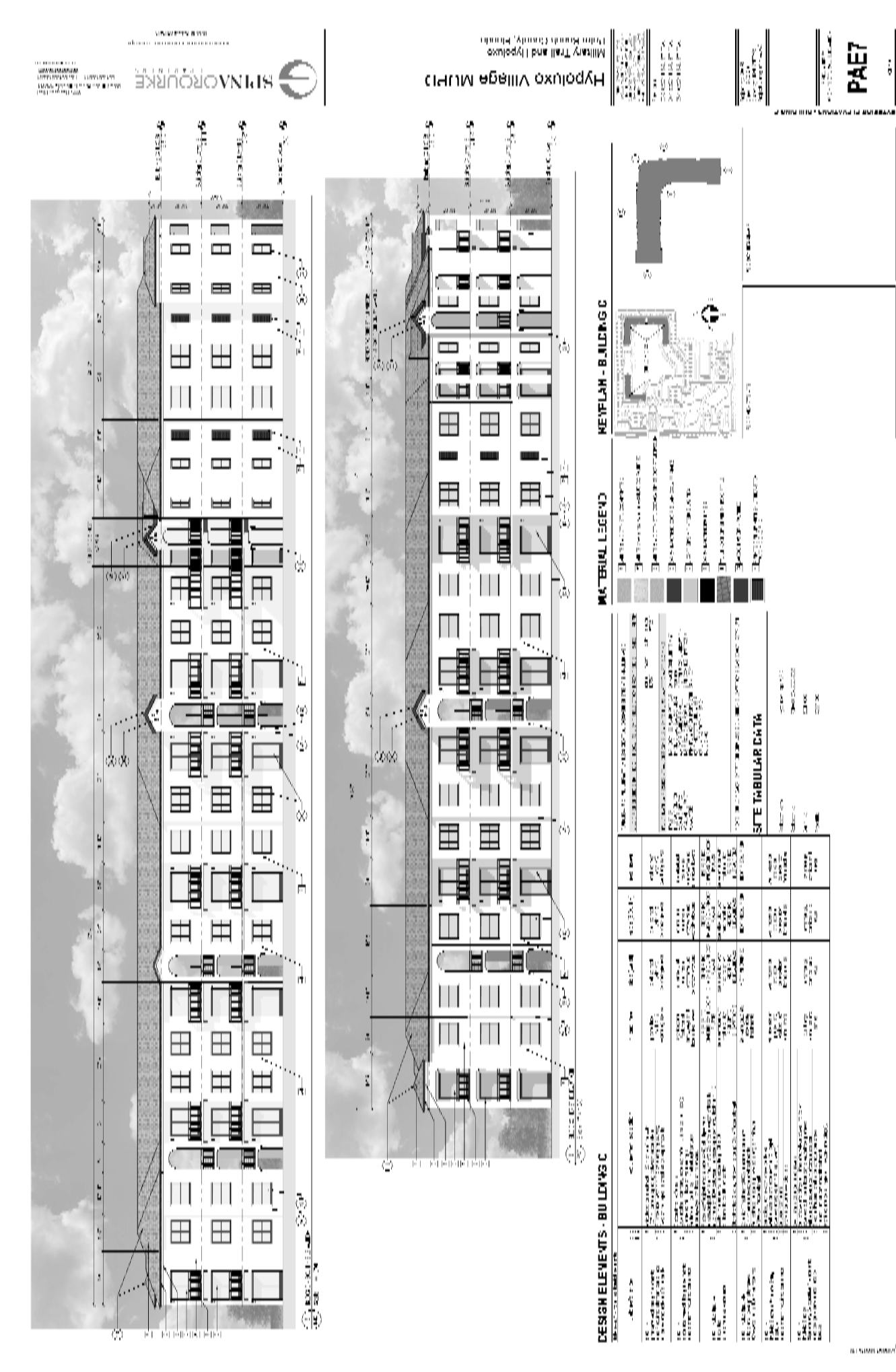


Figure 31 – Preliminary Architectural Elevations (PAE-9 of 10), dated May 10, 2021

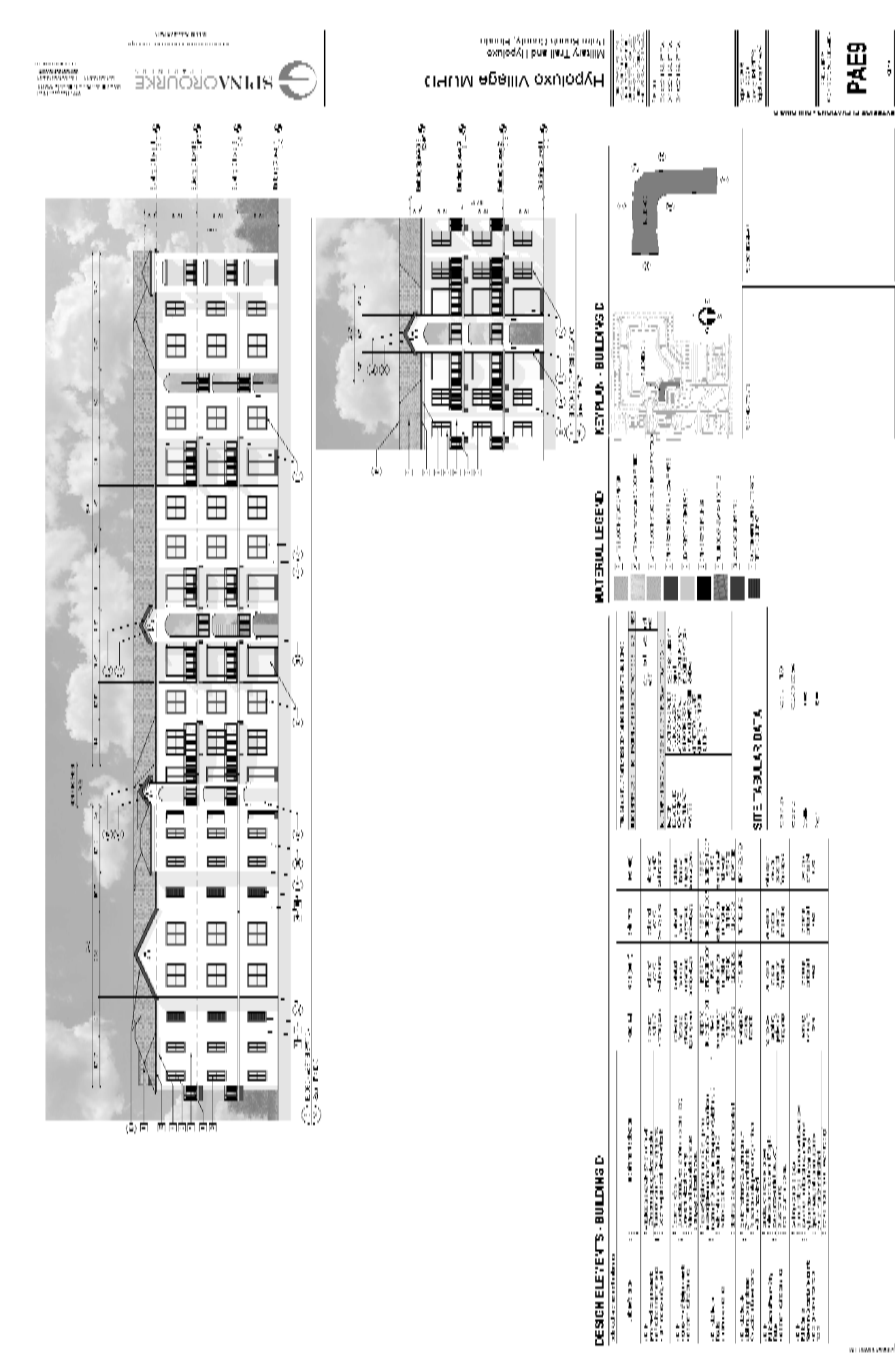


Figure 32 – Preliminary Architectural Elevations (PAE-10 of 10), dated May 10, 2021

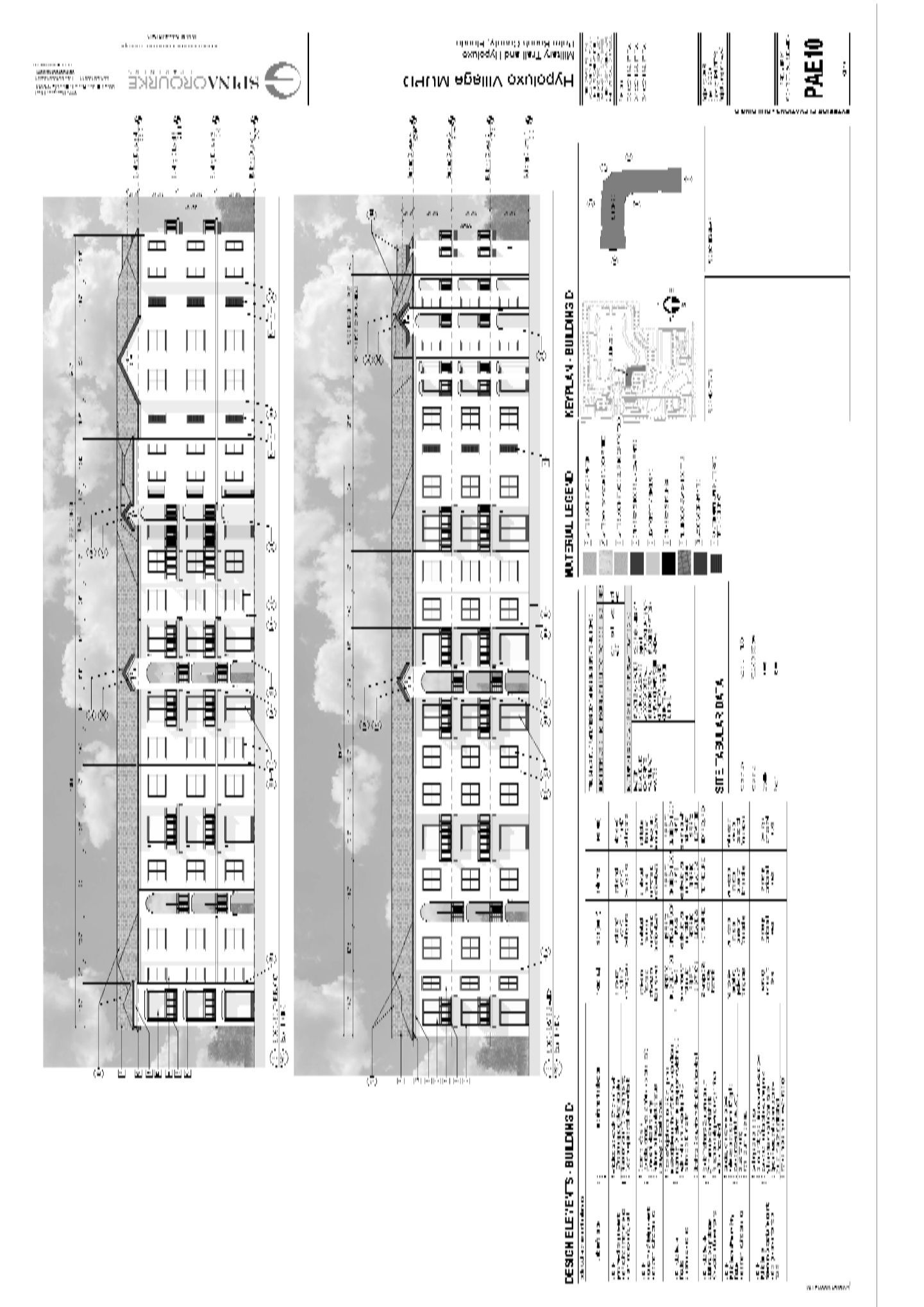


Exhibit D-1 – Disclosure of Ownership – Owner

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

1. Affiant is the ☐ individual or ☒ President *[position - e.g., president, partner, trustee]* of Momingstar Nursery, Inc. *[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: 505 S. Flagler Drive, Suite 1100
West Palm Beach, Florida 33401

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.

Disclosure of Beneficial Interest – Property form
Form # 9

Page 1 of 4

Revised 12/27/2019
Web Format 2011

Zoning Commission
Application No. ZV/PDD/DOA/CA-2020-02096
Hypoluxo Village MUPD

July 1, 2021
BCC District 3

Page 101

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.

Paul Okean
 Paul Okean, 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 24th day of November, 2020 by Paul Okean (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Lauren McClellan
 (Name - type, stamp or print clearly)

Lauren L. McClellan
 (Signature)

My Commission Expires on: 2/28/21

NOTARY'S SEAL OR STAMP



LAUREN L. MCCLELLAN
 MY COMMISSION # GG 043160
 EXPIRES: February 28, 2021
 Bonded Thru Budget Notary Services

EXHIBIT “A”
PROPERTY

PARCEL 1

THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS AND EXCEPT RIGHT-OF-WAY FOR STATE ROAD 809 (MILITARY TRAIL) AND ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6074, PAGE 1822, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY AND THE NORTH 40 FEET, AND THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS THE NORTH 30 FEET, SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 2

THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE EAST 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE RIGHT-OF-WAY FOR MILITARY TRAIL AND LESS AND EXCEPT THE RIGHT-OF-WAY FOR HYPOLUXO ROAD.

PARCEL 3

THE WEST 370 FEET OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAY FOR HYPOLUXO ROAD.

AREA OF PROPERTY SURVEYED IS 31.98 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
Paul Z. Okean Trust	203 Via Vizcaya, Palm Beach, Florida 33480
Blane M. Okean Trust	203 Via Vizcaya, Palm Beach, Florida 33480
Alexandra P. Okean Trust	203 Via Vizcaya, Palm Beach, Florida 33480

Exhibit D-2 – Disclosure of Ownership – Applicant

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Laurent Morali, 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 Signatory _____ [position—e.g., president, partner, trustee] of Hypoluxo Village Owner LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, “Applicant”). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit “A” (the “Property”).

2. Affiant's address is: 767 Fifth Avenue, 50th Floor
New York, NY 10153

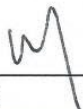
3. Attached hereto as Exhibit “B” is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

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

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



Laurent Morali, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF ~~FLORIDA~~ New York
COUNTY OF ~~PALM BEACH~~ New York

The foregoing instrument was acknowledged before me by means of [☒] physical presence or
[☐] online notarization, this 29 day of December, 20 20 by
Laurent Morali (name of person acknowledging). He/she is personally
known to me or has produced _____ (type of identification) as
identification and did/did not take an oath (circle correct response).

Andrew Berman

(Name - type, stamp or print clearly)



(Signature)

My Commission Expires on: 12/10/22

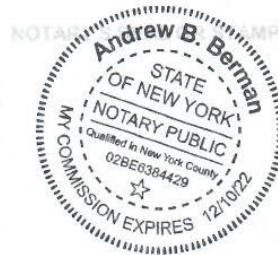


EXHIBIT "A"

PROPERTY

PARCEL 1

THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS AND EXCEPT RIGHT-OF-WAY FOR STATE ROAD 809 (MILITARY TRAIL) AND ORDER OF TAKING RECORDED IN OFFICIAL RECORDS BOOK 6074, PAGE 1822, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY AND THE NORTH 40 FEET, AND THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER, LESS THE NORTH 30 FEET, SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 2

THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE EAST 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THE RIGHT-OF-WAY FOR MILITARY TRAIL AND LESS AND EXCEPT THE RIGHT-OF-WAY FOR HYPOLUXO ROAD.

PARCEL 3

THE WEST 370 FEET OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT RIGHT-OF-WAY FOR HYPOLUXO ROAD.

AREA OF PROPERTY SURVEYED IS 31.98 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

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

Name	Address
KFF Hypoluxo Village LLC (100% of Applicant)	767 Fifth Avenue, 50 Floor, New York, NY 10153
K Hypoluxo LLC (50% of KFF Hypoluxo Village LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
The Dara Orbach GST Trust (20% of K Hypoluxo LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
The Nicole Meyer GST Trust (20% of K Hypoluxo LLC))	767 Fifth Avenue, 50 Floor, New York, NY 10153
The Joshua Kushner GST Trust (20% of K Hypoluxo LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
The Seryl LLC (20% of K Hypoluxo LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
Charles Kushner (10% of K Hypoluxo LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
Seryl Kushner (10% of K K Hypoluxo LLC)	767 Fifth Avenue, 50 Floor, New York, NY 10153
M Group Lake Worth 100, LLC (25% of KFF Hypoluxo Village LLC)	115 Front Street, Suite 300, Jupiter, FL 33477
Nicholas A. Mastroianni, II, 2012 Irrevocable Trust (69.9% of M Group)	115 Front Street, Suite 300, Jupiter, FL 33477
George Gellert (25% of KFF Hypoluxo Village LLC)	146 Two Town Road, Craryville, New York 12521

Exhibit E – Applicant’s Justification Statement dated May 24, 2021



JUSTIFICATION STATEMENT

Hypoluxo Village MUPD

Rezoning to Multiple Use Planned Development (MUPD), Development Order Amendment, and Conditional Use Requests

Initial Submittal: December 7, 2020

Resubmittal: March 8, 2021

Resubmittal: April 12, 2021

Resubmittal: May 10, 2021

Resubmittal: May 24, 2021

REQUEST

On behalf of the Applicant, JMorton Planning & Landscape Architecture is requesting the following:

- Rezoning to Multiple Use Planned Development (MUPD);
- Development Order Amendment to previously approved MUPD;
- Class A Conditional Use Approval for 3 Type 1 Restaurants with Drive-Thru;
- Class A Conditional Use Approval of a Convenience Store with Gas Sales;
- Class A Conditional Use Approval of 80% Density Bonus (Workforce Housing Program); and
- Class A Conditional Use Approval for 96 Transfer of Development Rights;
- Development Order Abandonment of 2 daycares and type III congregate living facility; and
- Type 2 Variance to allow for elimination of required Type 2 Incompatibility buffer between recreation use and multi-family buildings.

SITE CHARACTERISTICS

The property is 31.98 acres and is located at the northeast corner of Military Trail and Hypoluxo Road (“Property”). The Property is currently utilized for agricultural purposes. A farmer’s market and cow pasture exist on the Property. The Property has frontage on Military Trail and Hypoluxo Road. The Property is located within the Urban/Suburban Tier. The Property is comprised of three parcels as further detailed below:

PCN 00-42-45-01-00-000-5030 – This parcel is approximately 19.18 acres. The current future land use designation is Commercial High, with an underlying 5 units per acre (CH/5) and the current Zoning designation is Multiple Use Planned Development (MUPD).

PCN 00-42-45-01-00-000-5060 – This parcel is approximately 8.08 acres. The current future land use designation is Medium Residential, 5 units per acre (MR-5) and the current Zoning designation is Community Commercial (CC).

PCN 00-42-45-01-00-000-5071 – This parcel is approximately 4.86 acres. The current future land use designation is Medium Residential, 5 units per acre (MR-5) and the current Zoning designation is Agriculture Residential (AR).

The proposed MUPD will be comprised of a total of 384 multi-family dwelling units and 129,210 square feet of commercial uses. The Applicant will be requesting an 80% density increase through the Workforce Housing Program which totals 128 additional units of which 43 will be required to be provided as Workforce Housing units bringing the total amount of workforce housing units provided on-site to 88 dwelling units. Additionally, the Applicant will be requesting the purchase of 96 Transfer of Development Rights units of which 33 will be required to be provided as Workforce Housing units.

Development History

The Property has been the subject of multiple land use and zoning change requests and approvals. Specifically, the Property has been the subject several previous comprehensive plan amendment applications between 2000 and 2008. The first adopted future land use application amended the future land use designation from Medium

Residential, 5 units per acre (MR-5) to Multiple Land Use (MLU). This adopted Ordinance No. 2000-044 included multiple conditions of approval regarding site design, maximum permitted density and maximum permitted intensity. Several comprehensive plan amendment applications were submitted when Wal-Mart desired to develop a new Supercenter on the Property rather than redevelop their existing store to the west. These applications were ultimately withdrawn by the applicant and/or not transmitted by the Board of County Commissioners. Finally, in 2008 the County approved Ordinance No. 2008-020. This approved a future land use amendment from MLU to Commercial High but retained and/or modified some of the conditions of approval related to site design, maximum density and maximum intensity. Since the adoption of this amendment, changes have occurred in the area. The Property to the north was not developed with multi-family residential as originally anticipated but rather with a charter school. The lifestyle center mandate has been widely unsuccessful especially those that require development of live/work units. These changed conditions have caused the need to amend the previous conditions of approval. The Property has remained undeveloped through all of the past future land use amendments and changes to the surrounding properties.

The Property has been the subject of several zoning applications as further detailed in the table below:

Reso. No.	App. No.	Status	Type	Description
R-2009-717	1992-007	Revoked	Status Report	Revoked previous approval for Planned Commercial Development (PCD) with drive-thru fast food restaurant, auto service station, and drive-thru financial institution
R-2001-2067	2001-005	Approved	Rezoning & Special Exception	Rezoning from Agricultural Residential (AR) to Multiple Use Planned Development (MUPD) and special exception approval of 2 daycares and a type 3 congregate living facility
R-2001-1354	1992-007	Approved	Status Report	Amended conditions of approval requiring compliance with architectural guidelines
R-2000-1228	1992-007	Approved	Status Report	Amended condition of approval related to signage
R-1996-826	1992-007	Approved	Status Report	Amended conditions including but not limited to extension of build out date and amended square footages
R-1993-516	1992-007	Approved	Special Exception	Special Exception for Planned Commercial Development (PCD) with drive-thru fast food restaurant, auto service station, and drive-thru financial institution
R-1993-515	1992-007	Approved	Rezoning	Rezoning from Multifamily residential (RM) and General Commercial (CG) to Community Commercial (CC)

One portion of the Property received approval for the development of a Multiple Use Planned Development in 2001. That MUPD never received final approval and was not revoked. The Applicant is requesting a Development Order Abandonment of the 3 conditional (special exception) uses that were approved as part of the MUPD.

A Comprehensive Plan Amendment to modify the existing conditions of approval imposed on PCNs 00-42-45-01-00-000-5071 & 00-42-45-01-00-000-5030 was adopted on January 25, 2021. Ordinance 2021-003 modified the conditions as follows:

1. Development under the Commercial High future land use designation is The subject site shall be limited to a maximum of 366,200 square feet of commercial retail development or up to the equivalent number of daily trips;
2. The subject site shall be developed with a minimum of 30 Live/Work and/or residential units on site;

- ~~3. A master plan shall be provided which shows vehicular/pedestrian circulation throughout the subject site with a true cross access easement and a minimum of two (2) vehicular and two (2) pedestrian connections to the adjacent site to the north. The master plan requires approval by the Planning Division to ensure it demonstrates superior design and a functional integration of uses with sidewalks, shade trees and streetlights;~~
- ~~4. The master plan and the final site plan for this property shall clearly indicate cross access easements with the proposed commercial development to the north (Application LGA 2008-008) and a shared access road to Military Trail along the property line separating the two developments, at the general locations shown on the master plan;~~
- ~~5. A portion of the site (approx. 3.04 acres) along the eastern property line shall be restricted to water retention and landscaping only.~~

Surrounding Properties

The intersection of Military Trail and Hypoluxo Road is a commercial node within the central part of Palm Beach County. A Wal-Mart commercial plaza is developed to the west of the Property and a variety of commercial uses, a self-storage facility and a multi-family rental community are developed to the south of the Property. The area to the north and east are comprised of large lot single family homes. A breakdown of the surrounding uses is provided below.

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number	Resolution Number
North	HR-8	RM	Trails Charter School	2013-085	R-2013-1523 & R-2013-1524
South	CH/5	CG	Hypoluxo Trail Center (including fast food restaurant, drycleaners, and other commercial uses	85-013	R-2020-716 & R-2020-717
	MR-5	PUD	Colony Club Apartments PUD	2001-029	R-2002-499
East	MR-5	AR	Single Family Residence & vacant property	N/A	N/A
West	CH/5	CG	Wal-Mart Plaza (including gas station)	1980-173	R-2011-088

REZONING TO PLANNED DEVELOPMENT STANDARDS

As part of this application, the Applicant is requesting a rezoning to the Multiple Use Planned Development (MUPD). Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

A. Consistency with the Plan

The proposed rezoning to Multiple Use Planned Development (MUPD) is consistent with the future land use designation of Commercial High with an underlying Medium Residential, 5 units per acre (CH/5).

Additionally, as referenced above Ordinance No. 2021-003 was adopted on January 25, 2021. This ordinance limits development of the Property to a maximum of 366,200 square feet of commercial retail development or up to the equivalent number of daily trips. While the entire project contains a total of 129,210 square feet of commercial uses and 384 multi-family units, the portion of the Property subject to this ordinance contains a total of 112,122 square feet of commercial uses (including self-storage, carwash,

retail, and type I restaurants) and 372 multi-family residential units. These uses generate 5,710 daily trips which is less than 10,423 daily trips generated by 366,200 square feet of retail use.

The Applicant is proposing to utilize the TDR and workforce housing programs to achieve the maximum density proposed. The proposed MUPD provides for 5% of the project as usable open space. This usable open space includes a portion of the native tree preservation area and other open spaces throughout the project that do not include the recreation areas. The Applicant is proposing to provide trails throughout the native vegetation area in order to ensure the area is usable.

The proposed MUPD is also consistent with the following Future Land Use Element Policies:

- **FLUE Policy 4.4-b:** “All proposed mixed use and multiple use projects shall demonstrate that the land uses included on site are functionally integrated. Mixed use and multiple use projects with a residential component shall demonstrate functional integration through the use of connected open spaces, pedestrian systems, and street network in order to foster a sense of community by creating a stronger pedestrian orientation through design, placement and organization of buildings connected to a common public space or spaces.”

Response: The County’s zoning code has recently been amended to allow residential uses within MUPDs. The proposed MUPD has been designed to provide for pedestrian access throughout the entire project and will connect all residential and non-residential uses. The pedestrian pathways are also proposed to be located within the open space and native vegetation areas.

- **FLUE Policy 4.4.7-b: “MUPD Design Objectives** – The Multiple Use Planned Development (MUPD) shall be subject to the following design objectives:
 1. Provide innovative building location and orientation;
 2. Protect adjacent residential uses from potential adverse impacts;
 3. Provide interconnection between uses in and adjacent to the project; and
 4. Allows for both residential and non-residential uses within a single project designed in a manner that fosters compatibility within the project and with adjacent properties.

Response: The proposed MUPD has been designed to incorporate the existing native vegetation located at the southwest corner of the project to the greatest extent possible. This area is connected to the other uses within the MUPD by pedestrian pathways and provides an amenity for the residents of the project. The proposed multi-family residential buildings are oriented around the 5 acre lake and the proposed non-residential buildings have been oriented towards the adjacent rights-of-way while ensuring the design considers the location of the existing vegetated area. Landscape buffers are provided around the perimeter of the project to address compatibility with the adjacent single family homes.

B. Consistency with the Code

The proposed rezoning to Multiple Use Planned Development (MUPD) for the proposed Hypoluxo Village MUPD is consistent with the stated purpose and intent of the County Unified Land Development Code. The Property meets the minimum frontage and access requirements. The Property has frontage and access on Military Trail and Hypoluxo Road.

The proposed MUPD meets the objectives and standards as described in Art. 3.E.3.B. The project contains both residential and non-residential uses that have been designed in a manner to foster compatibility internal to the project as well as with the adjacent residential uses to the north and east. The project does not exceed the maximum number of freestanding buildings for an MUPD within the Commercial High future land use designation. Pedestrian connections have been provided between all buildings within the project as well as to Military Trail and Hypoluxo Road.

In conformance with Art. 3.E.3.B.2.f. the proposed residential units are located within 1,320 feet of a

recreation area and/or usable open space. All proposed residential buildings are located on the large lake. As mentioned above, the pedestrian circulation network connects all of the residential units to one another as well as to the proposed non-residential buildings. The proposed multi-family units will provide a transitional use between the intense commercial uses adjacent to Military Trail and Hypoluxo Road and the single family residential to the north and east.

A fountain has been provided in the proposed lake as well as two focal points in the residential portion of the project. One focal point is located in front of the community clubhouse and the other is across from the southern entry into the residential portion of the MUPD. The specifics of the focal point are unknown at this early stage of the site planning process. Most likely the focal point will be a specimen tree with additional ornamental landscape materials.

A minimum of 5% of the project is dedicated for usable open space. The usable open space includes the mulched paths through the preserve area, additional vegetation area excluded from the required preserve area and the open spaces around the residential buildings that can be utilized for dog walking. The plazas at the corners of the residential buildings designated as usable open space are intended as usable plazas with seating and trash receptacles. The proposed recreation area is located between the commercial and residential components of the MUPD as well as throughout the residential portion of the MUPD. Pedestrian connections are provided to the proposed recreation area to ensure that it is accessible to the entire MUPD.

Per Art. 3.E.1.C.1. Planned Developments shall comply with the following objectives:

- a. Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design;
Response: The Property has approximately 850 feet of frontage on Military Trail and 950 feet of frontage on Hypoluxo Road.
- b. Provide a continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD;
Response: A continuous sidewalk has been provided throughout the entire project connecting all commercial buildings as well as residential buildings.
- c. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses;
Response: As mentioned above, sidewalks are provided throughout the entire project connecting all uses and buildings. Additionally, parking has been provided throughout the project which is convenient to all uses and buildings.
- d. Preserve existing native vegetation and other natural/historic features to the greatest possible extent;
Response: A major of the Property has previously been cleared and utilized for agriculture and pastureland uses. A large area of upland exists at the southwest corner of the Property. This area contains a number of trees that will be preserved and incorporated into the design of the project to the greatest extent possible. The required preserve area will contain mulched paths for the enjoyment of the residents and patrons of the MUPD. All other significant trees that require mitigation or relocation will meet code requirements for such in accordance with the Tree Disposition Plan submitted as part of this application.
- e. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound;
Response: Dumpsters, loading areas, etc. have been screened from public view as required.
- f. Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs, and other primary elements to minimize the potential for any adverse impact on adjacent properties;

Response: The project has been designed so as to locate the more intense commercial uses adjacent to the Military Trail and Hypoluxo Road frontages. The multi-family residential uses are located to the northwest of the commercial project. The multi-family structures are separated from the adjacent residential uses by required landscape buffers.

- g. Minimize parking through shared parking and mix of uses;

Response: The project is a multiple use planned development with both residential and commercial uses, therefore encouraging residents and patrons to walk to the various uses within the project. Additionally, a parking waiver will be requested as part of the Final DRO approval process. A parking waiver statement has been provided with this request.

- h. Creation of a strong pedestrian system through the design and placement of buildings connected to a common public space or usable open spaces; and,

Response: Pedestrian network has been provided throughout the entire project that connects the commercial, residential and recreation uses. Additionally, a meandering mulched pathway is provided through the native vegetation preserve area that will also connect to the commercial and residential uses.

- i. For PDDs with non-residential uses, a minimum of one pedestrian amenity for each 100,000 square feet of non-residential GFA, or fraction thereof, shall be incorporated into the overall development to create a pedestrian friendly atmosphere.

Response: Outdoor seating areas have been provided to serve the commercial uses and patrons of the commercial portion of the project. Benches will be provided throughout the project and mulched paths are provided through the preserve area to serve the pedestrians.

Per Art. 3.E.1.C.2. Planned Development shall also comply with the following standards:

a. Access and Circulation

1) Minimum Frontage

PDDs shall have a minimum of 200 linear feet of frontage along an Arterial or Collector Street.

Response: The Property has approximately 850 feet of frontage on Military Trail and 950 feet of frontage on Hypoluxo Road.

2) PDDs shall have legal access on an Arterial or Collector Street;

Response: The Property has access on Military Trail and Hypoluxo Road.

3) Vehicular access and circulation shall be designed to minimize hazards to pedestrians, non-motorized forms of transportation, and other vehicles. Merge lanes, turn lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate the need for such controls;

Response: Pedestrian circulation has been designed to avoid conflicts with vehicular traffic as much as possible. Crosswalks have been provided to ensure safety of the pedestrians at various intersections.

4) Traffic improvements shall be provided to accommodate the projected traffic impact;

Response: A right turn lane is proposed from Lake Worth Road per FDOT Standards. Additionally, a connector roadway is being provided between Hooks Road and Polo Club Road which will address traffic concerns for other projects within the immediate vicinity.

5) Cul-de-sacs

The objective of this provision is to recognize a balance between dead end streets and interconnectivity within the development. In order to determine the total number of Local Streets that can terminate in cul-de-sacs, the Applicant shall submit a Street Layout Plan, pursuant to the Technical Manual. The layout plan shall indicate the number of streets terminating in cul-de-sacs, as defined in Art. 1, General Provisions of this Code, and how the total number of streets is calculated. During the DRO certification process, the addressing section shall confirm the total number of streets for the development, which would be consistent with how streets are named. Streets that terminate in a T-intersection providing access to less than four lots, or a cul-de-sac that abuts a minimum 20-foot-wide open space that provides pedestrian cross access between two pods shall not be used in the calculation of total number of cul-de-sacs or dead end streets.

- a) 40 percent of the Local Streets in a PDD may terminate in a cul-de-sac or a dead end by right.
Response: No cul-de-sacs are proposed.
- 6) Non-residential PDDs shall provide cross access to adjacent properties where possible, subject to approval by the County Engineer;
Response: Cross-access between the commercial and residential components of this project are provided. The road to the north is a private access road, therefore no cross-access to the north is proposed.
- 7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project; and,
Response: The project will provide appropriate drainage as required by the Engineering Department. On-site retention is provided.
- 8) Public streets in the project shall connect to public streets directly adjacent to the project. If no adjacent public streets exist, and the County Engineer determines that a future public street is possible, a connection to the property line shall be provided in a location determined by the County Engineer. This standard may be waived by the BCC.
Response: No public streets are proposed as part of this project.
- b. Street Lighting
 Streetlights shall be a maximum of 25 feet in height and shall be installed along all streets 50 feet in width or greater. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with Art. 5.E, Performance Standards.
Response: Lighting on-site will comply with code requirements.
- c. Median Landscaping
 Refer to the most recent Engineering and Public Works Operations – Streetscape Standards available from the PBC Engineering Department.
Response: Required median landscape improvements will be met as required by Engineering.
- d. Street Trees
 Street trees shall meet the Canopy tree requirements of Art. 7, Landscaping and planting standards pursuant to Engineering and Public Works Operations – Streetscape Standards, and as follows:
- 1) Street trees shall be spaced an average of 50 feet on center. Palms meeting the requirements of Art. 7, Landscaping and Engineering and Public Works Operations – Streetscape Standards, may be planted as street trees if spaced an average of 40 feet on center.
 - 2) Street trees shall be located along both sides of all streets 50 feet in width or greater and shall be planted between the edge of pavement and sidewalk. Appropriate root barrier techniques shall be installed where applicable.
 - 3) Street trees shall be installed in accordance with the phasing of the Planned Development pursuant to Art. 7.F.2.B.1, Developments with Phasing. For residential PDDs, planting of street trees shall be completed prior to the issuance of the final Certificate of Occupancy within that phase or pursuant to Conditions of Approval.
 - 4) This requirement may be waived or modified by the County Engineer if the location of the proposed street trees conflict with requirements of Art. 11, Subdivision, Platting, and Required Improvements.
Response: The project will meet the requirement for street trees per the Code requirement.
- e. Bike Lanes
 Bike lanes shall be provided in all streets 80 feet in width or greater, unless an alternative is approved by the County Engineer in accordance with Art. 11, Subdivision, Platting, and Required Improvements.
Response: Land Development and FDOT will determine if bike lanes are needed within the existing adjacent rights-of-way. Bike racks have been provided throughout the project to accommodate proposed bicyclists.
- f. Mass Transit
 All non-residential PDDs over five acres and 50,000 square feet, and all PUDs over 50 units, shall comply with the following, unless waived by the DRO:

- 1) The location of a Bus Stop Boarding and Alighting Area shall be shown on the Master Plan and/or Final Site Plan prior to approval by the DRO, unless written conflicts that one is not required. The purpose of this easement is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran;
- 2) Prior to the issuance of the first Building Permit, the Property Owner shall convey to PBC an easement for a Bus Stop Boarding and Alighting Area, in a location and manner approved by Palm Tran. As an alternative, prior to Technical Compliance of the first plat, the Property Owner shall record an easement for a Bus Stop Boarding and Alighting Area in a manner and form approved by Palm Tran. The Property Owner shall construct continuous paved pedestrian and bicycle access compliant with the Americans with Disabilities Act (ADA) to and through the Bus Stop Boarding and Alighting Area; and,
- 3) All PDDs with more than 100 units shall comply with the following requirement:
Prior to the issuance of the Building Permit for the 100th unit, the petitioner shall construct a Palm Tran-approved mass transit shelter with appropriate access lighting, trash receptacle, and bicycle storage. The location of the shelter shall be within an approved Bus Stop Boarding and Alighting Area easement. Any and all costs associated with the construction and perpetual maintenance shall be funded by the petitioner.

Response: Bus stops already exists along the Military Trail and Hypoluxo Road frontages.

g. Utilities

All utility services located in a utility easement, such as telephone, cable, gas, and electric, shall be installed underground or combination/alternative acceptable to the DRO.

Response: Utility easements are provided along the rights-of-way as required to accommodate underground installation.

h. Parking

1) Residential Uses

Parking for residential uses shall comply with Art. 6, Parking, Loading, and Circulation. The DRO may require a covenant to be recorded limiting the affected area to a specific use or uses.

2) Non-Residential Uses

Non-residential uses located within a PDD may apply the parking standards indicated in Table 6.B.1.B, Minimum Parking and Loading Requirements, based on the use or the minimum/maximum parking standards below or a combination of both. The site plan shall clearly indicate which parking standards are being utilized for the entire site.

3) Design

Parking areas open to the public shall be interconnected and provide safe efficient flow of traffic. Parking areas directly adjacent to other parking areas in the same project shall have cross access.

4) Cross Access

Cross access shall be provided to adjacent internal uses/properties, if required by the DRO.

5) Location – Non-Residential PDDs

A minimum of ten percent of the required parking shall be located at the rear or side of each building it is intended to serve.

6) Distance

All parking spaces shall be located within 600 linear feet of a public entrance of the building which it is intended to serve.

Response: Parking has been provided throughout the project which is convenient to all uses and buildings. Parking areas have been designed to provide for safe and efficient flow of traffic. Parking is provided on the rear and sides of the non-residential structures within the MUPD as required.

i. Way Finding Signs

Off-site directional signs, consistent with the on-site directional sign standards in Art. 8, Signage, may be allowed along internal streets in the R-O-W, subject to approval by the County Engineer.

Response: No way finding signs are proposed as part of the Master Sign Plan included with this application.

j. Emergency Generators

A permanent emergency generator shall be required for all Type 2 and Type 3 CLFs, Nursing or Convalescent Facilities, and PDD clubhouses 20,000 square feet or greater, and shall meet the standards of Art. 5.B.1.A.19, Permanent Generators.

Response: No CLF or PDD Clubhouse in excess of 20,000 square feet are proposed, therefore Emergency generators are not required as part of this application.

A Type I Waiver will be requested from Table 6.B.1.B to allow for a parking reduction. A parking statement has been provided to justify this request. A Type I Waiver will be requested from Table 7.C.3.B to allow for the relocation of 50% of the required foundation planting for Buildings B & G.

C. Compatibility with Surrounding Uses

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, two uses whose functions are different can complement and support each other. In addition, buffering, screening, setback, height, and landscaping requirements can further enhance compatibility, and reduce the potential negative effects of functionally different land uses. Several factors lead to the conclusion that the proposed MUPD will be compatible with neighboring uses.

- Primary access is available from Military Trail and Hypoluxo Road, two rights-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity.
- The Property is located at a major intersection and at a major transportation node (Military Trail and Hypoluxo Road). Hypoluxo Road is currently developed with a mix of institutional, commercial, residential and agricultural uses. Military Trail is currently developed primarily with commercial uses. The proposed mixed use development will provide for additional services along these important transit corridors of Palm Beach County. On this basis, the proposed development concept at this location is determined to be compatible.
- The proposed uses are consistent with the existing development pattern and adjacent uses that have occurred along the Military Trail and Hypoluxo Road corridors.

The above factors, coupled with setbacks, buffers and landscaping requirements will dictate that on-site structures will be compatible with the neighboring properties and not create or foster undesirable health, safety, or aesthetic effects. The MUPD has been designed to ensure appropriate separation and landscaping between the proposed multi-family buildings and existing single family and institutional uses. Additionally, the MUPD access points have been designed so as to align with the existing approved project to the west across Military Trail. This will minimize traffic conflicts with adjacent projects as well as impacts on the roadways.

D. Design Minimized Adverse Impact

The proposed rezoning will minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. As shown in the architecture plans, the design that is compatible with existing developments within the area, while maintaining the functionality of the overall MUPD. Requirements in Article 5.C will be met. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

E. Design Minimizes Environmental Impact

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for pastureland, however the southwest corner of the Property where the convenience store with gas sales is proposed to be located contains a number of trees. The MUPD has been designed to incorporate this native vegetation to the greatest extent possible. There are no protected species on the Property.

F. Development Patterns

The proposed MUPD will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located on a major commercial node where all four corners of the intersection are designed as Commercial High. The Property is the last remaining undeveloped commercial parcels at this intersection. There are a few remaining residential parcels for future infill development along both corridors, but this specific Property is appropriate and suitable for such uses as proposed within the MUPD.

Additionally, residential development has increased in the immediate area. As more dwelling units are developed, more services are needed. These services are best accommodated at the established intersection of Military Trail and Hypoluxo Road in order to keep residents in the area and reduce the number of trips on both rights-of-way.

G. Adequate Public Facilities

The proposed rezoning to MUPD will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development including the proposed MUPD.

H. Changed Conditions or Circumstances

The Applicant is requesting a rezoning to Multiple Use Planned Development (MUPD). The proposed development will consist of commercial and residential uses. The proposed rezoning will allow for the development of one cohesive mixed use project.

This area of the County was once comprised of nurseries and other agriculture uses. This area has been evolving into a commercial and residential area over the past 15 years as more people continue to move to South Florida. This intersection is ideally suited for higher density and intensity as it has been designated as Commercial High on the Future Land Use Atlas. The recent zoning code changes to allow residential within an MUPD have allowed for more efficient use of land where residential and non-residential uses can co-exist. The proposed MUPD will allow for much needed density in the area to meet the workforce housing needs of the area. There are multiple schools within the immediate vicinity and the proposed MUPD can provide much needed housing and services for those teachers, faculty, and support staff.

Based on the above justification and attached information, the Applicant respectfully requests approval of this rezoning to Multiple Use Planned Development (MUPD).

DEVELOPMENT ORDER AMENDMENT DEVELOPMENT STANDARDS

As part of this application, the Applicant is requesting a Development Order Amendment to the existing Multiple Use Planned Development (MUPD) originally approved by Resolution R-2001-2067. Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

A. Consistency with the Plan

The proposed Development Order Amendment is consistent with the proposed future land use designation of Commercial High with an underlying Medium Residential, 5 units per acre (CH/5).

The new MUPD will encompass the former MUPD and 2 additional parcels. The proposed MUPD will contain residential and commercial uses consistent with other uses and Future Land Use designations in the immediate vicinity. The Applicant is proposing to utilize the TDR and workforce housing programs to achieve the maximum density proposed. The proposed MUPD provides for 5% of the project as usable open space. This usable open space includes a portion of the native tree preservation area and other open spaces throughout the project that do not include the recreation areas. The Applicant is proposing to provide trails throughout the native vegetation area in order to ensure the area is usable.

B. Consistency with the Code

The proposed Development Order Amendment for the proposed Hypoluxo Village MUPD is consistent with the stated purpose and intent of the County Unified Land Development Code. The Applicant is proposing to add land area, add uses and reconfigure the site plan for the MUPD. The Property continues to meet the minimum frontage and access requirements. The Property will now have frontage and access on Hypoluxo Road in addition to Military Trail.

The proposed MUPD meets the objectives and standards as described in Art. 3.E.3.B. The project contains both residential and non-residential uses that have been designed in a manner to foster compatibility internal to the project as well as with the adjacent residential uses to the north and east. The project does not exceed the maximum number of freestanding buildings for an MUPD within the Commercial High future land use designation. Pedestrian connections have been provided between all buildings within the project as well as to Military Trail and Hypoluxo Road.

In conformance with Art. 3.E.3.B.2.f. the proposed residential units are located within 1,320 feet of a recreation area and/or usable open space. All proposed residential buildings are located on the large 5.3 acre lake. As mentioned above, the pedestrian circulation network connects all of the residential units to one another as well as to the proposed non-residential buildings. The proposed multi-family units will provide a transitional use between the intense commercial uses adjacent to Military Trail and Hypoluxo Road and the single family residential to the north and east.

C. Compatibility with Surrounding Uses

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, two uses whose functions are different can complement and support each other. In addition, buffering, screening, setback, height, and landscaping requirements can further enhance compatibility, and reduce the potential negative effects of functionally different land uses. Several factors lead to the conclusion that the proposed Development Order to the existing MUPD will continue to be compatible with neighboring uses.

- Primary access is available from Military Trail and Hypoluxo Road, two rights-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity.
- The Property is located at a major intersection and at a major transportation node (Military Trail and Hypoluxo Road). Hypoluxo Road is currently developed with a mix of institutional, commercial, residential and agricultural uses. Military Trail is currently developed primarily with commercial uses. The proposed mixed use development will provide for additional services along these important transit corridors of Palm Beach County. On this basis, the proposed development concept at this location is determined to be compatible.
- The proposed uses are consistent with the existing development pattern and adjacent uses that have occurred along the Military Trail and Hypoluxo Road corridors.

The above factors, coupled with setbacks, buffers and landscaping requirements will dictate that on-site structures will be compatible with the neighboring properties and not create or foster undesirable health, safety, or aesthetic effects. The MUPD has been designed to ensure appropriate separation and landscaping between the proposed multi-family buildings and existing single family and institutional uses. Additionally, the MUPD access points have been designed so as to align with the existing approved project to the west across Military Trail. This will minimize traffic conflicts with adjacent projects as well as impacts on the roadways.

D. Design Minimized Adverse Impact

The proposed Development Order Amendment will minimize adverse effects, including visual impact

and intensity of the proposed use on adjacent lands. As shown in the architecture plans, the design that is compatible with existing developments within the area, while maintaining the functionality of the overall MUPD. Requirements in Article 5.C will be met. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

E. Design Minimizes Environmental Impact

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for pastureland, however the southwest corner of the Property where the convenience store with gas sales is proposed to be located contains a number of trees. The MUPD has been designed to incorporate this native vegetation to the greatest extent possible. There are no protected species on the Property.

F. Development Patterns

The proposed Development Order Amendment will allow for the development of a larger MUPD that will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located on a major commercial node where all four corners of the intersection are designed as Commercial High. The Property is the last remaining undeveloped commercial parcels at this intersection. There are a few remaining residential parcels for future infill development along both corridors, but this specific Property is appropriate and suitable for such uses as proposed within the MUPD.

G. Adequate Public Facilities

The proposed Development Order Amendment will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development.

H. Changed Conditions or Circumstances

The Applicant is requesting a Development Order Amendment to the previously approved Multiple Use Planned Development (MUPD). The proposed changes include the additional of land area, square footage, uses, and density. The proposed development will encompass two additional parcels that were not included in the original MUPD approval. The proposed Development Order Amendment will allow for the development of one cohesive mixed use project.

The previous MUPD did not receive final site plan approval and now the contract purchaser desires to develop a larger cohesive project that has frontage and access on both Military Trail and Hypoluxo Road. This area has been evolving into a commercial and residential area over the past 15 years as more people continue to move to South Florida. This intersection is ideally suited for higher density and intensity as it has been designated as Commercial High on the Future Land Use Atlas. The recent zoning code changes to allow residential within an MUPD have allowed for more efficient use of land where residential and non-residential uses can co-exist. The proposed MUPD will allow for much needed density in the area to meet the workforce housing needs of the area. There are multiple schools within the immediate vicinity and the proposed MUPD can provide much needed housing and services for those teachers, faculty, and support staff.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Development Order Amendment.

CONDITIONAL USE APPROVAL STANDARDS (Three Type 1 Restaurants with Drive-thrus)

As part of this application, the Applicant is requesting three Class A Conditional Use Approvals for three Type 1 restaurants with drive-thrus. Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval

by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

A. Consistency with the Plan

The proposed Class A Conditional Uses (Type 1 Restaurant with drive-thrus) are consistent with the County Comprehensive Plan. The current Future Land Use designation of the portion of the Property where this use is proposed is Commercial High. The Commercial High Future Land Use designation is intended for such intense uses.

B. Consistency with the Code

The proposed Type 1 Restaurants with drive-thrus meet the location exemption design criteria as well as indicated in Article 4 – Use Regulations. Both Type 1 Restaurant with drive-thru has been designed so that the drive-thru lane and queuing are not visible from the adjacent streets as appropriate screening will be accomplished through the landscape material provided within the right-of-way buffer as needed. Additionally, all of the required parking spaces for the uses are located within close proximity of the restaurants. Additionally, no direct access to the proposed restaurants is provided from the adjacent rights-of-way.

C. Compatibility with Surrounding Uses

The Property is located at a major commercial intersection, where all four corners are designated as Commercial High on the Future Land Use Map. The MUPD access points have been designed so as to align with the existing approved project to the west as well as ensure appropriate driveway spacing from the intersection. This will minimize traffic conflicts with adjacent projects as well as impacts on the roadways.

The commercial uses have been located along Hypoluxo Road and Military Trail where a majority of the other commercial uses are located along these two corridors. The multi-family residential use is located in the northeast quadrant of the Property adjacent to the single-family homes and charter school. The proposed Type 1 Restaurants with drive-thrus are located adjacent to Military Trail which will ensure consistency and compatibility with the character of the surrounding area.

D. Design Minimized Adverse Impact

The proposed Type I Restaurants with Drive-thrus are located within the MUPD so as to minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. Requirements in Article 5.C will be met at the time of permitted. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

E. Design Minimizes Environmental Impact

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for pastureland, however the southwest corner of the Property contains a number of trees which will be integrated and incorporated into the design of the MUPD to the greatest extent possible. The area where the restaurants are proposed does not contain any significant vegetation. There are no protected species on the Property.

F. Development Patterns

The proposed Class A Conditional Use will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located a major commercial node where all four corners of the intersection are designed as Commercial High. The Property is the last remaining undeveloped commercial parcels at this intersection. There are a few remaining residential parcels for future infill development along both corridors, but this specific Property is appropriate and suitable for such uses as a convenience store with gas sales.

Additionally, residential development has increased in the immediate area. As more dwelling units are developed, more services are needed. These services are best accommodated at the established intersection of Military Trail and Hypoluxo Road in order to keep residents in the area and reduce the number of trips on both rights-of-way.

G. Adequate Public Facilities

The proposed Class A Conditional Use will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development including the proposed Type 1 Restaurants with drive-thrus.

H. Changed Conditions or Circumstances

The Applicant is requesting Class A Conditional Use approval for three Type I Restaurants with drive-thrus. This area of the County has become an area for infill and redevelopment. There are several long established residential neighborhoods and some older commercial plazas in the area. The commercial project to the south was recently approved to eliminate the old previously approved convenience store with gas sales and replace it with some retail and restaurants uses. This area is ideally suited for more intense uses due to the Property’s location at this major intersection, frontage on both Military Trail and Hypoluxo Road and proximity to other commercial and residential uses.

The recent pandemic has created the need for more drive-thru restaurant opportunities. Restaurants only providing dine-in services are disappearing and are being replaced by restaurants offering drive-thru service. This trend will likely continue for the foreseeable future as the pandemic has impacted many people’s behaviors.

Based on the above justification and attached information, the Applicant respectfully requests approval of the Class A Conditional Use request for three Type 1 restaurants with drive-thrus.

CONDITIONAL USE APPROVAL STANDARDS (Convenience Store with Gas Sales)

As part of this application, the Applicant is requesting Class A Conditional Use Approval for a convenience store with gas sales. Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

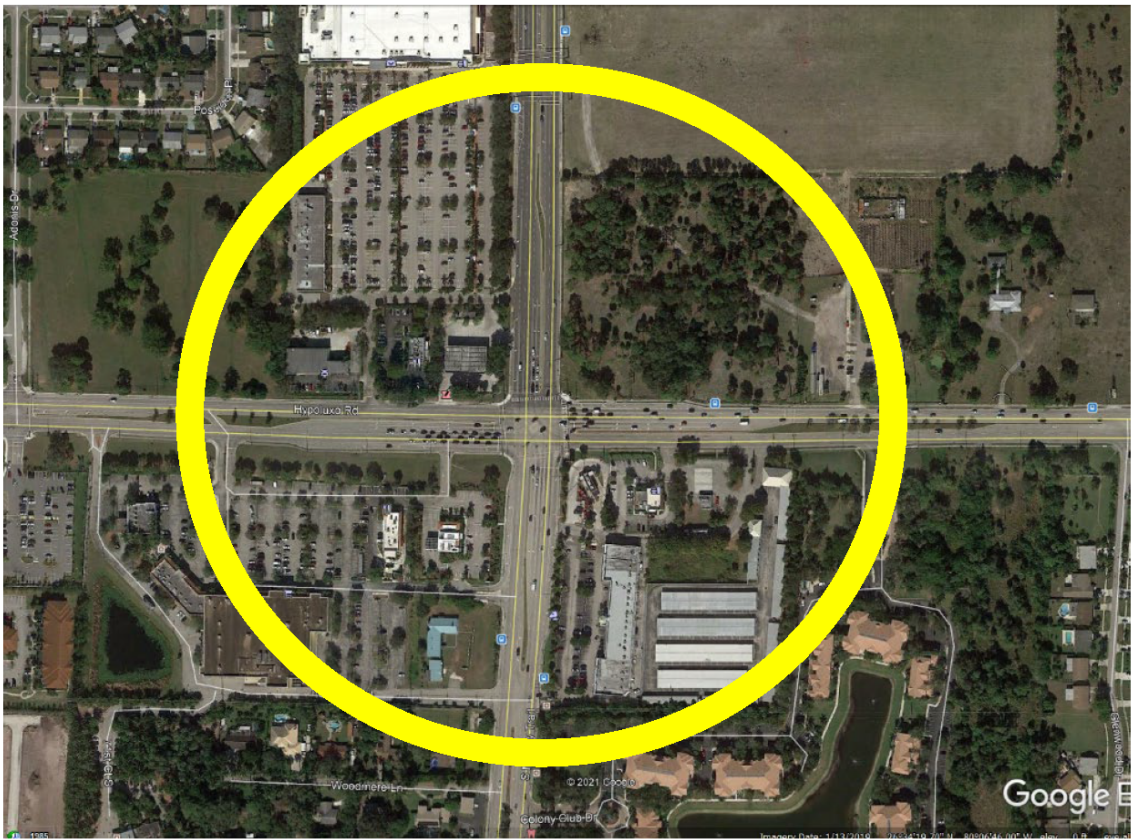
A. Consistency with the Plan

The proposed Class A Conditional Use (convenience store with gas sales) are consistent with the County Comprehensive Plan. The current Future Land Use designation of the portion of the Property where this use is proposed is Commercial High. The Commercial High Future Land Use designation is intended for such intense uses.

B. Consistency with the Code

The proposed convenience store with gas sales meets the exception location criteria indicated in Article 4 – Use Regulations. The convenience store with gas sales has been designed without direct access from adjacent streets. A long median separates the convenience store with gas sales so as to allow access to the western access aisle of the MUPD from Hypoluxo Road. The existing preserve area is located so as to make vehicular access and connectivity design challenging. This additional access aisle will serve those patrons accessing the property from Hypoluxo Road while letting them avoid the right turn onto Military Trail. Additionally, all of the required parking spaces for the use are located within close proximity of the convenience store.

Although convenience stores with gas sales within MUPD’s may be exempt from the location criteria, the aerial below depicts a 1,000 foot radius of the intersection of Hypoluxo Road and Military Trail. As shown, the proposed convenience store with gas sales meets the intersection location requirement as there is only one other existing gas station located at this intersection. A convenience store with gas sales is located at the northwest corner of the intersection of Military Trail and Hypoluxo Road.



C. Compatibility with Surrounding Uses

The Property is located at a major commercial intersection, where all four corners are designated as Commercial High on the Future Land Use Map. The MUPD access points have been designed so as to align with the existing approved project to the west as well as ensure appropriate driveway spacing from the intersection. This will minimize traffic conflicts with adjacent projects as well as impacts on the roadways.

The commercial uses have been located along Hypoluxo Road and Military Trail where a majority of the other commercial uses are located along these two corridors. The multi-family residential use is located in the northeast quadrant of the Property adjacent to the single-family homes and charter school. The proposed convenience store with gas sales is located at the hard corner of the property immediately adjacent to the roadway intersection which will ensure consistency and compatibility with the character of the surrounding area.

D. Design Minimized Adverse Impact

The proposed Convenience Store with Gas Sales is located within the MUPD so as to minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. Requirements in

Article 5.C will be met at the time of permitted. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

E. Design Minimizes Environmental Impact

The Property is located within the Urban/Suburban Tier and is generally surrounded by suburban development. The proposed convenience store with gas sales will not result in significantly adverse impacts on the natural environment. The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for pastureland, however the southwest corner of the Property where the convenience store with gas sales is proposed to be located contains a number of trees. The MUPD has been designed to incorporate this native vegetation to the greatest extent possible. There are no protected species on the Property.

F. Development Patterns

The proposed Class A Conditional Use will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located a major commercial node where all four corners of the intersection are designed as Commercial High. The Property is the last remaining undeveloped commercial parcels at this intersection. There are a few remaining residential parcels for future infill development along both corridors, but this specific Property is appropriate and suitable for such uses as a convenience store with gas sales.

Additionally, residential development has increased in the immediate area. As more dwelling units are developed, more services are needed. These services are best accommodated at the established intersection of Military Trail and Hypoluxo Road in order to keep residents in the area and reduce the number of trips on both rights-of-way.

G. Adequate Public Facilities

The proposed Class A Conditional Use will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development including the proposed convenience store with gas sales.

H. Changed Conditions or Circumstances

The Applicant is requesting Class A Conditional Use approval for a Convenience Store with Gas Sales. This area of the County has become an area for infill and redevelopment. There are several long established residential neighborhoods and some older commercial plazas in the area. The commercial project to the south was recently approved to eliminate the old previously approved convenience store with gas sales and replace it with some retail and restaurants uses. This area is ideally suited for more intense uses due to the Property's location at this major intersection, frontage on both Military Trail and Hypoluxo Road and proximity to other commercial and residential uses.

Two gas stations have historically been located at this intersection. As reference above, the gas station to the south of the Property went out of business many years ago and that prior approval has since been abandoned. There are limited opportunities to purchase gas within the immediate area, therefore necessitating the proposed conditional use request. Additionally, the new residential projects in the area, including Toscana Isles to the southwest will patronize the proposed project and utilize the convenience store with gas sales.

Based on the above justification and attached information, the Applicant respectfully requests approval of the Class A Conditional Use request for a convenience store with gas sales.

CONDITIONAL USE APPROVAL STANDARDS (Workforce Housing & Transfer of Development Rights)

As part of this application, the Applicant is requesting Class A Conditional Use Approval for a Workforce Housing density bonus greater than 50% and the purchase of 96 TDR Units. Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

A. Consistency with the Plan

Per the Planning Density Letter dated September 15, 2020, the 31.98 acre Property can be developed with a maximum of 384 units by utilizing the workforce housing program and the transfer of development right program. The Applicant is proposing to purchase 96 TDR units and obtain an 80% density increase. Utilizing both programs would require that 88 units be provided as workforce housing units. This Property is appropriate for this increased density as it is designated as Commercial High and is located at the major intersection of Hypoluxo Road and Military Trail.

B. Consistency with the Code

The proposed MUPD will include Workforce Housing Units with a density bonus greater than 50%. The Applicant is proposing to utilize the Full Incentive development option. The required WHP units will be provided on-site as multi-family rental units. The WHP units will be equitably distributed throughout the various income categories and throughout the entire project as required by the Code. The proposed rental units will target all four WHP income categories. Rent ranges shall be based on the monthly rent ranges published annually by Palm Beach County based on the Florida Housing Finance Corporation Multi-Family Rental Programs, by number of bedrooms, for the following income ranges: > 60 to 70 percent; > 70 to 80 percent; > 80 to 90 percent; > 90 to 100 percent; > 100 to 110 percent; > 110 to 120 percent; > 120 percent to 130 percent; and, > 130 to 140 percent of AMI. These rental units will be income restricted for a period of 30 years as required by the ULDC. The rental units will be equally distributed throughout the project and have a compatible design with the market rate units within the development. It is anticipated that a representative WHP model will be available on-site as required by the ULDC.

The propose request for an 80% density increase is consistent with Article 5.G.1.B.2.e.2)b) as discussed further below:

(1) The extent of which the proposed WHP units further County objectives:

(a) The intent to provide the workforce housing units on site;

The proposed WHP units will be provided on-site.

(b) The intent to provide Single Family and for-sale workforce housing units;

The proposed WHP units will be provided as multi-family rental units.

(c) The proximity of the location where the WHP units are to be provided to employment centers; and,

The proposed WHP units will be distributed throughout the residential portion of the development. The proposed MUPD is located at the intersection of Military Trail and Hypoluxo Road where multiple employment opportunities currently exist and others are being developed. These employment opportunities include the Santaluces High School and Freedom Shores Elementary School located to the east of the project, the Trinity Christian Academy and Hidden Oaks Elementary to the south of the project, the Wal-Mart to the west of the Property, as well as the various retail centers in the immediate vicinity.

(d) The concentration of households with incomes in the WHP income categories, in the location where the WHP units are to be provided.

There is not a concentration of very low, low and moderate incomes existing in the immediate area. This area of Hypoluxo Road has been developed recently with single family homes starting at approximately \$400,000 to \$500,000. There are a couple multi-family rental opportunities within the area however there is still a need for additional rental opportunities. The proposed development will contribute to the diversity of housing options within the area.

(2) The potential impact of the proposed density bonus:

(a) The total number of units proposed, including any Transfer of Development Rights; and

The proposed 384 dwelling units will not negatively impact the surrounding area. The proposed density of the MUPD is consistent with the other mixed use projects approved throughout the County. This Property is appropriate for this increased density as it is designated as Commercial High and is located at the major intersection of Hypoluxo Road and Military Trail.

(b) The compatibility with the character of the adjacent and surrounding area in the location of the subject development.

The surrounding area is comprised of a variety of commercial, multi-family, townhouse, and single family developments. The proposed multi-family project will be consistent with that existing development pattern. The multi-family component of the proposed project as has been designed so as to provide a transition from the more intense commercial abutting the intersection of Military Trail and Hypoluxo Road and the single family home to the north and east. It is anticipated that these properties will likely be redeveloped in the future. The proposed multi-family project will be designed in an architectural style that is compatible with other projects in the immediate vicinity.

The Property qualifies as a receiving area for TDRs as it is located with the Urban/Suburban Tier, is compatible with surrounding land uses as discussed below, is consistent with the Comprehensive Plan as discussed above, meets all concurrency requirements, and meets code requirements.

The proposed request for Transfer of Development Rights is consistent with Article 5.G.3.K.5 - TDR Receiving Area Standards as discussed further below.

a. The Transfer of Development Rights is by deed, and the deed shall be recorded before Final Site Plan approval;

The deed will be recorded prior to Final Site Plan approval.

b. The transfer is to a parcel of land which meets all the requirements of this Code and within which the transferred densities have been included and amended;

The Property meets all the requirements to be a receiving parcel.

c. The proposed development meets all concurrency requirements at the level of impact calculated to include the TDR density;

The MUPD meets all concurrency requirements including the additional TDR density.

d. If the transfer is between two private parties, at the time the transfer is approved, the sending area from which the transfer will occur shall be subject to a conservation easement, no Development Order approvals shall be issues for the sending area of receiving area;

Not applicable.

e. If the transfer of rights is from the PBC TDR Bank, all rights have been accounted for and there are enough development rights in the bank to cover the project;

The Applicant is proposing to purchase 96 TDR units from the County's TDR Bank. There are sufficient units within the TDR Bank to cover this purchase.

f. The proposed development and density are compatible with the surrounding area and land use;
The proposed MUPD and density are compatible with the surrounding area and land uses.

g. The proposed development and density do not negatively impact adjacent environmentally sensitive lands.
The proposed MUPD is not adjacent to environmentally sensitive lands.

C. Compatibility with Surrounding Uses

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, two uses whose functions are different can complement and support each other. In addition, buffering, screening, setback, height, and landscaping requirements can further enhance compatibility, and reduce the potential negative effects of functionally different land uses. Several factors lead to the conclusion that the proposed MUPD will be compatible with neighboring uses.

- Primary access is available from Military Trail and Hypoluxo Road, two rights-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity.
- The Property is located at a major intersection and at a major transportation node (Military Trail and Hypoluxo Road). Hypoluxo Road is currently developed with a mix of institutional, commercial, residential and agricultural uses. Military Trail is currently developed primarily with commercial uses. The proposed mixed use development will provide for additional services along these important transit corridors of Palm Beach County. On this basis, the proposed development concept at this location is determined to be compatible.
- The proposed multi-family use is consistent with the existing development pattern and adjacent uses that have occurred along the Military Trail and Hypoluxo Road corridors.

The above factors, coupled with setbacks, buffers and landscaping requirements will dictate that on-site structures will be compatible with the neighboring properties and not create or foster undesirable health, safety, or aesthetic effects. The MUPD with the increased density has been designed to ensure appropriate separation and landscaping between the proposed multi-family buildings and existing single family and institutional uses. Additionally, the MUPD access points have been designed so as to align with the existing approved project to the west across Military Trail. This will minimize traffic conflicts with adjacent projects as well as impacts on the roadways.

D. Design Minimized Adverse Impact

The proposed Workforce Housing and TDR units are designed to minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. As shown in the architecture plans, the design that is compatible with existing developments within the area, while maintaining the functionality of the overall MUPD. Requirements in Article 5.C will be met. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

E. Design Minimizes Environmental Impact

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for pastureland, however the southwest corner of the Property where the convenience store with gas sales is proposed to be located contains a number of trees. The MUPD has been designed to incorporate this native vegetation to the greatest extent possible. There are no protected species on the Property. The proposed multi-family with increased density has been designed around a +/- 5 acre lake. Additionally, the native vegetation area located at the southwest corner of the property will be designed as an amenity with pathways to serve the residents of the MUPD.

F. Development Patterns

The proposed MUPD will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located a major commercial node where all four corners of the intersection are designed as Commercial High. The Property is the last remaining undeveloped commercial parcels at this intersection. There are a few remaining residential parcels for future infill development along both corridors, but this specific Property is appropriate and suitable for such density increases within the MUPD.

Additionally, single family residential development has increased in the immediate area. As more expensive dwelling units are developed, the need for additional workforce housing and multi-family housing is needed to provide opportunities to the many teachers, salespeople, and other such workforce housing consumers. This housing can best be accommodated by the proposed MUPD located at the established intersection of Military Trail and Hypoluxo Road in order to keep residents in the area and reduce the number of trips on both rights-of-way.

G. Adequate Public Facilities

The proposed Class A Conditional Uses for increased density through the Workforce Housing and TDR Programs will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development.

H. Changed Conditions or Circumstances

The Applicant is requesting Class A Conditional Use approval for an increase in density above 50% for WHP as well as additional density through the TDR Program. This area of the County has become an area for infill and redevelopment. There are several long established residential neighborhoods and some older commercial plazas in the area. The commercial project to the south was recently approved to eliminate the old previously approved convenience store with gas sales and replace it with some retail and restaurants uses. This area is ideally suited for more intense uses due to the Property’s location at this major intersection, frontage on both Military Trail and Hypoluxo Road and proximity to other commercial and residential uses. The market for single-family and townhouse units has been addressed in the vicinity. Multi-family rental housing is desperately underserved throughout much of Palm Beach County including this area of Hypoluxo Road as the demographics of Palm Beach County continue to evolve. This area is ideally suited for higher density due to the existing and proposed commercial uses, the existing schools in the immediate area and availability of land to develop a large cohesive project.

Based on the above justification and attached information, the Applicant respectfully requests approval of these Class A Conditional Uses for increased density through the TDR and Workforce Housing Programs.

DEVELOPMENT ORDER ABANDONMENT STANDARDS

As part of this application, the Applicant is requesting a Development Order Abandonment of three uses originally approved by Resolution R-2001-2067. Article 2.B.7.F. requires that four (4) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all four (4) criteria standards, as provided below.

A. Consistency with the Plan

The proposed Development Order Abandonment is consistent with the proposed future land use designation of Commercial High with an underlying Medium Residential, 5 units per acre (CH/5). The Applicant is requesting to abandon two previously approved daycares and a type III congregate living facility in order to develop a mixed use project that has uses more desirable given the current economic trends.

B. Consistency with the Code

The proposed Development Order Abandonment is consistent with the stated purpose and intent of the County Unified Land Development Code. The previously approved MUPD never received final site plan approval and is therefore not a valid approval. The Applicant is now proposing to add land area, add uses and reconfigure the site plan for the MUPD consistent with the current code regulations.

C. Adequate Public Facilities

The proposed Development Order Abandonment will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Military Trail and Hypoluxo Road to accommodate the proposed development.

D. Changed Conditions or Circumstances

The Applicant is requesting a Development Order Abandonment of 2 previously approved daycares and a type III congregate living facility. The previously approved uses are no longer desired by the new developer thereby necessitating the abandonment. The previous MUPD did not receive final site plan approval and now the contract purchaser desires to develop a larger cohesive project that has frontage and access on both Military Trail and Hypoluxo Road. This area has been evolving into a commercial and residential area over the past 15 years as more people continue to move to South Florida. This intersection is ideally suited for higher density and intensity rather than the previously approved daycares and congregate living facility.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Development Order Abandonment.

TYPE 2 VARIANCE – ELIMINATION OF 15’ INCOMPATIBILITY BUFFER

The proposal includes a request to eliminate the required 15’ Incompatibility buffer between recreation and the proposed multi-family buildings. When determining whether to support the Variance, the ZC shall consider and find that all seven criteria listed below have been satisfied by the Applicant prior to making a motion for approval of a zoning variance:

- 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;**

Article 7, Landscaping of the Unified Land Development Code (ULDC) under Ordinance 2018-002 was amended to allow the elimination of an Incompatibility buffer for residential pods in a Planned Development District or tracts within a residential subdivision subject to an Administrative Type 1 Waiver process, provided 1) the pod or tract is located adjacent to an open space that is 100 feet or greater in width; or 2) the site layout of the pod or tract will integrate recreational amenities with multifamily units and CLFs. This amendment in 2018, unfortunately did not consider that both the Comprehensive Plan and Zoning Code have been amended to now allow residential uses within an MUPD; the current Code only requires pods for a Planned Unit Development or a Planned Industrial Development, but not in an MUPD. In addition, this MUPD is not a tract in a subdivision. Since this proposed MUPD does not meet the current code criteria to eliminate the buffer through a Waiver process; therefore, a Variance must be sought.

This parcel is located within the Urban Suburban Tier in a proposed Multiple Land Use (MLU) MUPD, the design of the project incorporates a significant amount of usable open space to comply with the MUPD zoning requirements as well as with the MLU Comprehensive Plan requirements. If the 15-foot wide Type 2 Incompatibility buffer is installed between the outdoor recreational area and the proposed multi-family buildings, the buffer will block the view from the residents into the outdoor amenity and to the lake. Additionally, this landscape buffer would potentially take away usable open space from other areas of the project that ensure a well designed mixed use project.

- b. **Special circumstances and conditions do not result from the actions of the Applicant;**
As mentioned above in Standard a, the Applicant could propose to eliminate this buffer via a Type 1 Waiver pursuant to Article 7, Landscaping since it meets the Criteria as stated in Table 7.B.4.A -Type 1 Waiver for Landscaping, see below:

Table 7.B.4.A – Type 1 Waivers for Landscaping

Article/Table Reference and Title	Maximum Waiver	Criteria
Incompatibility Buffer		
Art. 7.C.2.C.1, Elimination of Incompatibility Buffer	Allow to eliminate the requirement of an Incompatibility Buffer for Residential Pods in a PDD or tracts within a residential subdivision.	<ul style="list-style-type: none">• The pod or tract is located adjacent to open space that is 100 feet or greater in width; or• The site layout of the pod or tract will integrate recreational amenities with Multifamily units and CLFs.

The request is to allow this request to be processed through a Type 2 Variance since the design layout will integrate recreational amenities with the residential buildings, thus leading to a better integrated project between the residential and non-residential uses.

- 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;**
As mentioned above in Standard a, the Applicant could propose to eliminate this buffer via a Type 1 Waiver pursuant to Article 7, Landscaping since it meets the Criteria as stated in Table 7.B.4.A -Type 1 Waiver for Landscaping. Granting the Variance will 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.
- 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;**
As mentioned above in Standard a, the Applicant could propose to eliminate this buffer via a Type 1 Waiver pursuant to Article 7, Landscaping since it meets the Criteria as stated in Table 7.B.4.A -Type 1 Waiver for Landscaping. However, the current Article 7 only contemplates the 2 scenarios which is a Pod of a PUD or a PIPD, or a tract in a subdivision. The proposed multi-family units are located in a MUPD, and the Code does not recognize that residential uses are currently allowed in an MUPD, and until Table 7.B.4.A has been updated to recognize that multi-family units are allowed within an MUPD, the Applicant must request for a Type 2 Variance.
- e. **Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;**
The Applicant is requesting to eliminate the Type 2 Incompatibility buffer between the outdoor recreational area and the multi-family buildings because the project design layout will integrate the residential buildings with the recreation.
- f. **Granting the variance will be consistent with the purposes, goals, objectives and policies of the Plan and this Code; and,**
Granting this variance will be consistent with the Future Land Use Map designation of Commercial High with an underlying 5 units per acre and the Zoning concurrent applications for the approval of the MUPD.

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

Granting this variance will provide an improved design that integrates the multi-family buildings with the recreation areas, will provide a safe and pleasant environment for the residents of the project, and will not be injurious to the public welfare.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Type 2 Variance to eliminate the Incompatibility Buffer.

Modifications to Conditions of Approval

Resolution 2001-2067 provides for multiple conditions that will need to be struck in order to recognize the new development plans that have been submitted or recognize existing code requirements. The Applicant will agree to accept new revised conditions based upon these updates. All conditions are also referenced in the Status of Conditions attachment.

Architecture Review

- ~~1. The proposed buildings on site shall be compatible with the facade elevations by Oliver, Glidden Partners dated October 3, 2001. Deviations shall be allowed to comply with Architectural Guidelines adopted by the BCC on July 24, 2001 and Building and Site Design Conditions B.1 through B.3. (BLDG PERMIT: BLDG Zoning)~~
- ~~2. Prior to final DRC certification of the site plan, the petitioner shall submit architectural elevations to the Architectural Review Section of the Zoning Division for review and approval. Development shall be consistent with the approved architectural elevations. (DRC: BLDG PERMIT Zoning)~~

Building and Site Design

- ~~1. Total gross floor area shall be limited to a maximum of 163,335 square feet. Expansion shall be limited to an increase of five percent (5%) of the total square footage or 1,000 square feet, whichever is less, subject to approval by Traffic Division and DRC. (DRC: ZONING).~~
- ~~2. The maximum height for all structures except for the daycare centers and CLF buildings including air conditioning, mechanical equipment and satellite dishes shall not exceed twenty-five (25) feet. The daycare centers and the CLF buildings shall not exceed fifteen (15) feet. All heights shall be measured from finished grade to highest point. (BLDG PERMIT: BLDG Zoning/Planning)~~

Landscaping-Standard

- ~~1. Fifty percent (50%) of canopy trees required to be planted in the perimeter buffer shall meet the following minimum standards at installation:
 - ~~a. Tree height: fourteen (14) feet;~~
 - ~~b. Trunk diameter: 3.5 inches measured 4.5 feet above grade;~~
 - ~~c. Canopy diameter: seven (7) feet. Diameter shall be determined by the average canopy radius at 3 points measured from the trunk to the outermost branch tip. Each radius shall measure at least 3.5 feet in length;~~
 - ~~d. Credit may be given for existing or relocated trees provided they meet current ULDC requirements. (CO: LANDSCAPE Zoning)~~~~
- ~~2. All palms required to be planted on site by this approval, shall meet the following minimum standards at installation:
 - ~~a. Palm heights: twelve (2) feet clear trunk;~~
 - ~~b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,~~
 - ~~c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE (CO: LANDSCAPE Zoning)~~~~
- ~~3. All shrub or hedge material shall be planted in a hierarchy of layers consisting of a minimum of three (3) varying heights as follows:~~

~~eighteen (18) to twenty-four (24) inches—groundcover and small shrub;
twenty-four (24) to thirty-six (36) inches—medium shrub; and,
forty-eight (48) to sixty (60) inches—large shrub
These heights shall be continuously maintained to achieve the hierarchical effect. (CO: LANDSCAPE
Zoning)~~

~~4. All trees, palms and shrub/hedge material shall be planted in a meandering and naturalistic pattern.~~

Engineering

All previous conditions to be struck and updated as necessary. See attached Status of Conditions attachment.

Health

~~1. Architectural plans must be submitted to the Institutional/Child Care Section, Palm Beach County Health Department in accordance with Rule 64E-13 FAC. (BLDG: HEALTH/BLDG)~~

Landscape Along the West Property Line (Military Trail frontage)

All previous conditions to be struck and the Applicant will follow code requirements. See attached Status of Conditions attachment.

Landscape Along the North, South and East Property Lines/Abutting Residential and Commercial Properties

All previous conditions to be struck and the Applicant will follow code requirements. See attached Status of Conditions attachment.

Landscaping-Interior

All previous conditions to be struck and the Applicant will follow code requirements. See attached Status of Conditions attachment.

Lighting

All previous conditions to be struck and the Applicant will follow code requirements. See attached Status of Conditions attachment.

MUPD

~~3. Prior to final site plan certification by the Development Review Committee (DRC), the site plan shall be amended to indicate a focal point at the terminus of the main access from Military Trail. The focal point(s) shall be in the form of a plaza, fountain, arcade or any other site element or similar pedestrian-oriented public areas. Plans of the focal points shall be submitted to the Public Hearing Section for review and approval. (DRC: ZONING)~~

Planning

All previous conditions to be struck and updated as necessary. Applicant will accept new condition of approval matching that of the recently adopted Large Scale Amendment. See attached Status of Conditions attachment.

Signs

All previous conditions to be struck and updated as necessary. See attached Status of Conditions attachment.

Exhibit F: Visual Impact Analysis Supplemental



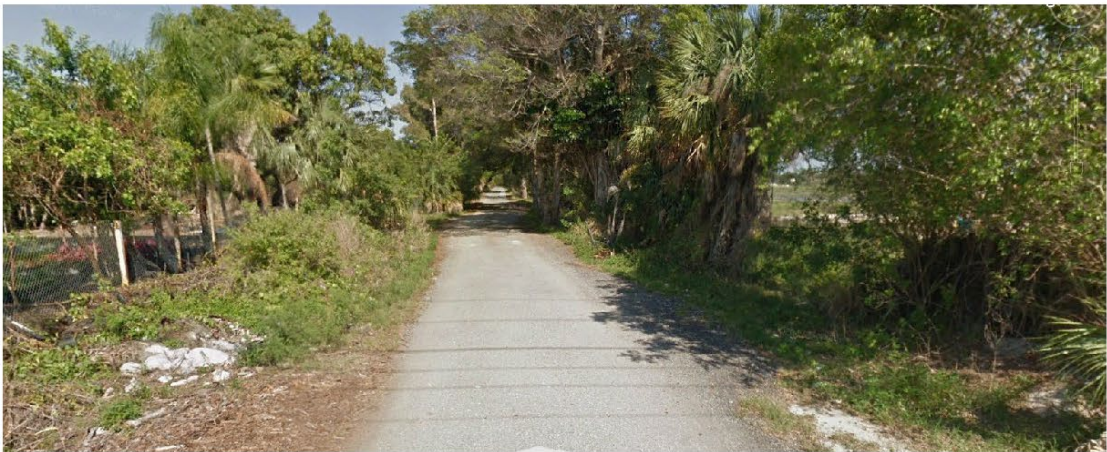
Visual Impact Analysis Supplement
Hypoluxo Village MUPD

The proposed Polo Gardens MUPD meets the criteria of Art. 5.C.1.G. as further detailed below.

Environmental Assessment

The Property is currently utilized for agricultural/nursery/pasture purposes. The proposed development will not result in significantly adverse impacts on the natural environment. The Property currently supports an area of upland vegetation that will be preserved and incorporated into the design of the overall project. The proposed site is located adjacent to commercial and residential properties on currently undeveloped land. The surrounding neighboring buildings are commercial/retail multi-use development, other multi-family developments and single family developments. This project’s use closely relates to the uses located on the 3 adjacent corners of the main intersections of Military Trail and Hypoluxo Road. The aerial below shows a rendered site plan graphic.





View of private road to the north of the Property

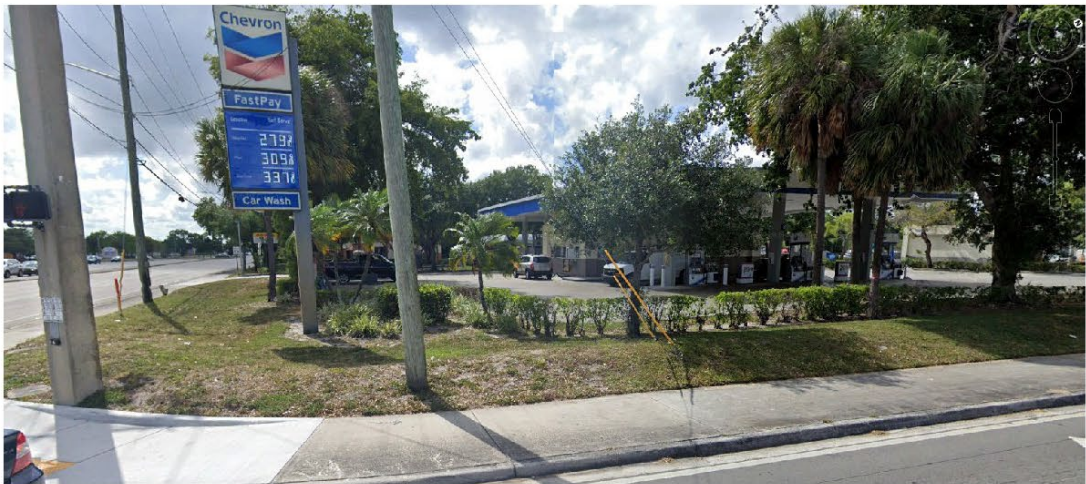


View of charter school to north across the private road

Below are pictures of the adjacent properties.



View of Wal-Mart across Military Trail to the west



View of gas station on northwest corner of Military Trail & Hypoluxo Road intersection to the west of the Property



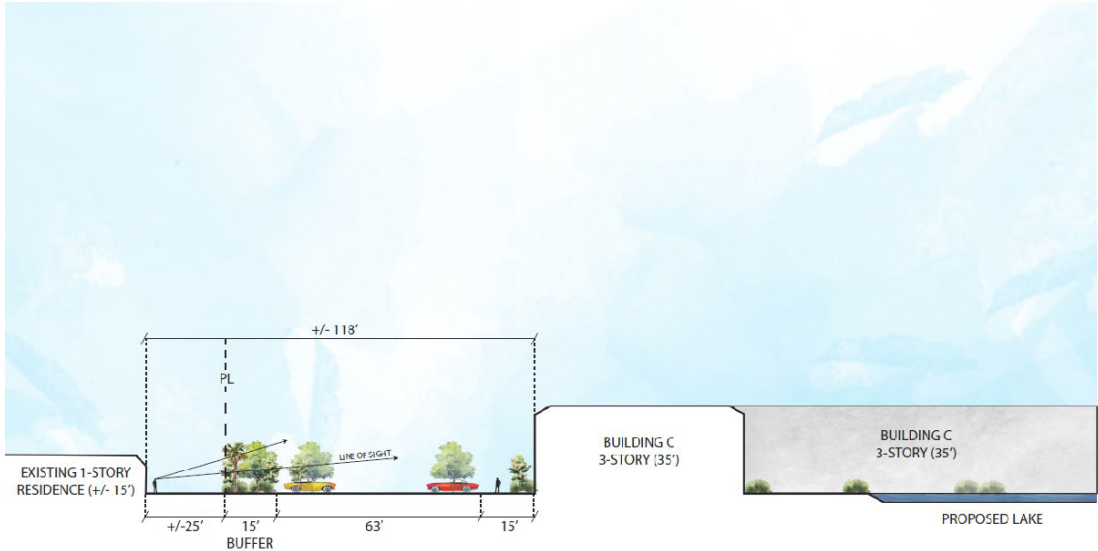
View of commercial uses across Hypoluxo Road to the south



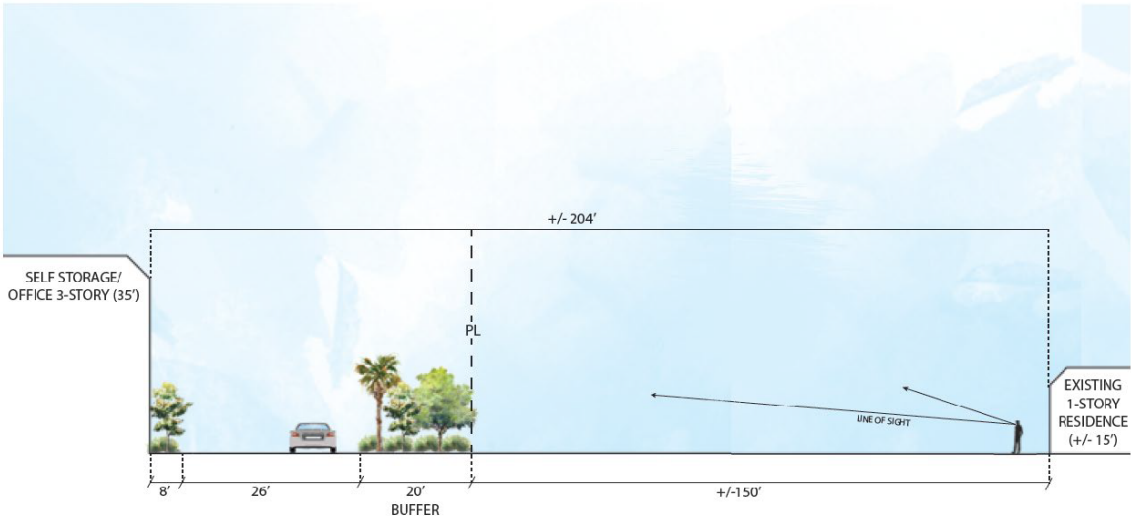
View of single family home to the east of the Property

Line of Sight Analysis

The following cross sections have been prepared showing approximate lines of sight from the adjacent properties to the north and east.



Cross section from existing single-family lot to the northeast of Property to the proposed 3 story multi-family building



Cross section from existing single-family lot to the east of the Property to the proposed 3 story self-storage building

Prevalent Theme

The Property is adjacent to other commercial properties with various architectural styles but non that are cohesive with Palm Beach County ULDC standards. The prevalent theme of the new architecture will be Spanish Revival stale and the commercial elements will complement the style of the multi-family residential element. All commercial buildings will have four sided architecture since all elevations will be visible from the public right-of-way and the residential on site and off site components to the north and east on and off the Property. The style will utilize multicolor Spanish tile roofs with minimal eaves, stucco exterior walls with smooth and heavy texture, wood brackets and dark metal railings, prominent arched entries, multi-pane windows and townner elements. The colors will be neutral grays and white as shown in the proposed elevation below.

