

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

Application No.: ABN/ZV/Z-2020-01856
Application Name: PMH 1713 Quail, LLC
Control No./Name: 2001-00039 (PMH 1713 Quail LLC)
Applicant: Opportunity Inc. Of Palm Beach County
AMBR, Medical Holdings, LLC - Eric Rogers
Owners: Opportunity Inc Of Palm Beach County
Agent: Schmidt Nichols - Josh Nichols
Telephone No.: (561) 684-6141
Project Manager: Timothy Haynes, Senior Site Planner

TITLE: a Development Order Abandonment **REQUEST:** to abandon a Class B Conditional Use for a General Daycare. **TITLE:** a Type 2 Variance **REQUEST:** to allow a reduction of the front and rear setback, the dumpster setback; and, the terminal landscape island width. **TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Residential High (RH) Zoning District to the General Commercial (CG) Zoning District.

APPLICATION SUMMARY: Proposed is a Development Order Abandonment, Type 2 Variance, and an Official Zoning Map Amendment for the PMH 1713 Quail LLC development. The site is currently approved as a Daycare.

The Applicant is proposing to rezone the subject site from RH to CG to allow for the existing 7,900 square foot (sq. ft.) building to be redeveloped for Medical Offices. No changes are proposed to the footprint of the existing structure. In addition to the request for rezoning, 4 new variance requests are required to maintain existing site conditions, including: a reduction in the minimum front setback for the building from 50 ft. to 11 ft. (-39 ft.); a reduction in the minimum rear setback for the building from 25 ft. to 22 ft. (-3 ft.); a reduction in the minimum setback for a dumpster from 25 ft. to 24 ft. (-1 ft.); and, a reduction in the width of a terminal landscape island from 8 ft. to 4 ft. (- 4 ft.).

The Applicant has received two subsequent standalone variances for a reduction of the minimum lot depth required for the CG Zoning District from 200 feet to 165 feet and a reduction in the number of parking spaces from 40 to 25 (Resolution ZR-2021-0011). As part of the requests, the Applicant is seeking a Development Order Abandonment to abandon a Class B Conditional Use that previously granted the Daycare use.

The Preliminary Site Plan indicates the proposed Medical Office with 25 parking spaces with no change to the one access point from Quail Drive.

SITE DATA:

Location:	Southwest corner of Quail Drive and Westgate Avenue
Property Control Number(s)	00-42-43-25-00-000-1650
Existing Future Land Use Designation:	High Residential (HR-18)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Residential High (RH) Zoning District
Proposed Zoning District:	General Commercial (CG) Zoning District
Total Acreage:	1.01-acres
Affected Acreage:	1.01-acres
Tier:	Urban/Suburban
Overlay District:	Westgate/Belvedere Homes Overlay
Neighborhood Plan:	N/A
CCRT Area:	Westgate
Municipalities within 1 Mile:	Haverhill, West Palm Beach
Future Annexation Area:	West Palm Beach

RECOMMENDATION: Staff recommends approval of the requests subject to a Conditional Overlay Zone and the Conditions of Approval as indicated in Exhibit C-1 and C-2.

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

PROJECT HISTORY: The subject site has 2 public hearing approval. On October 5, 2001, the Zoning Commission approved for a Class B Conditional Use to allow a General Daycare use in the Residential High Density (RH) Zoning District (Resolution No. ZR-2001-007). On March 4, 2021, the site received Zoning Commission approval of two standalone variances requested for a reduction of the minimum lot depth required for the CG Zoning District from 200 feet to 165 feet (-35); and, a reduction in the number of parking spaces from 40 to 25 (-15) under Resolution ZR-2021-0011.

SURROUNDING LAND USES:

NORTH (Across Westgate Avenue):
FLU Designation: Commercial High, with an underlying HR-8 (CH/8)
Zoning District: General Commercial (CG)
Supporting: Commercial (Indian Road Office Commercial, Control No. 2003-00047)

SOUTHEAST (Across Quail Lake Drive):
FLU Designation: High Residential (HR-18)
Zoning District: Multi-Family Residential (Medium Density) (RM)
Supporting: Palm Beach County Drainage Retention (Lake)

EAST (Across Quail Lake Drive):
FLU Designation: Commercial High, with an underlying HR-8 (CH/8)
Zoning District: Multiple Use Planned Development (MUPD)
Supporting: Commercial (Urbanek Properties, Control No. 2001-00030)

WEST:
FLU Designation: High Residential (HR-18)
Zoning District: Multi-Family Residential (Medium Density) (RM)
Supporting: Residential (Westgate Apartments, Control No. 2007-00233)

TYPE II VARIANCE SUMMARY:

#	ULDC Article	Required	Proposed	Variance
V.1	Table 3.D.1.A Property Development Regulations (Front Setback for CG)	50 ft. front setback	11 ft.	-39 ft.
V.2	Art.5.B.1.A.8.c Dumpsters - Setback	25 ft. setback from all property lines	24' setback from western property line	-1 ft.
V.3	Table 7.C.4.A Landscape Island and Divider Median – Planting and Dimensional Requirements	8 ft. width	4 ft. width(adjacent to existing dumpster), 6' width (project entrance)	-4 ft.
V.4	Table 3.B.14.F WCRAO Property Devlopment Regulations – Rear Setback	25 ft.	22 ft.	-3 ft.

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 – V.4 YES. Special conditions and circumstances exist which are peculiar to the subject site and are not applicable to other lands, structures, or buildings in the same zoning district. The proposed Medical Office use is subject only to administrative approval but the existing site conditions necessitate the variances. As it stands, the subject site has been constructed in the approved configuration from the 2001 approval under application number CB-2001-00039. The Applicant does not seek to make any site alterations but rather desires to maintain the existing site elements to be utilized in conjunction with the proposed medical office. All existing buildings, structures, and site elements including the principal structure, dumpster and landscape island are pre-existing in their configuration as part of the prior approval in the existing RH zoning district. These existing conditions are not shared with other parcels within the same district as these were conforming elements under a different zoning designation.

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

V.1 – V.4 YES. As stated previously, the lot layout was approved by the Zoning Commission back in 2001. The Applicant proposes no changes to these existing elements, nor is there any proposal to further nonconformities. The current site plan layout prevents the further expansion and adequate use of the property without substantial modifications and limits any further potential redevelopment. The Applicant desires to utilize existing elements to support the proposed medical office use. These conditions are pre-existing and do not result in any actions 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 – V.4 YES. 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. The existing site layout allowed permitted functional development and use of the site under the RH zoning district. However, the existing lot configuration and existing structures prevents building and other site element alterations to be done to meet minim PDR standards in the CG zoning 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:*

V.1 – V.4 YES. 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. In order to meet the Property Development Regulations (PDR) standards of the Unified Land Development Code, the site would have to undergo a significant redevelopment which would not be feasible. Literal interpretation of the code would not allow the Applicant enjoy the benefits of the development that are enjoyment by other parcels because of the site restraints of existing structures and layout. Typical parcels within the same district are able to develop a site within the same district meeting the PDR requirements of the code. However, the existing configuration and layout prevents further construction of the parcel. The enforcement of the code would not allow the Applicant to safely use the property as desired unique existing circumstances of the site development.

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 – V.4 YES. Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure. As stated previously, the Applicant is not requesting any new site design modifications requiring additional significant variances. The variance requests seek to maintain existing site conditions which will best serve the site. The variances for the front and rear structure setback, dumpster setback, and landscape island width are the minimum variance proposed to retain these elements are they are currently existing. The variances mainly consist of a one foot to four foot variance with the exception of the front building setback. The variance for the front setback is needed based on the existing building placement and unique configuration of the lot which does not allow additional space to modify the building to meet the minimum PDR requirement.

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

V.1 – V.4 YES. Granting the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code. Granting the Variance requests will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. As stated previously, the site is proposed to rezone to CG, Commercial General and will maintain the HR-18, Future Land Use designation. The Applicant proposes a medical office, which is permitted by right through an administrative approval in the CG Zoning district and will serve community accordance with the requirements of the CG zoning category. The subject site will provide a community medical use to that will expand upon the goods and services currently provided along this predominately commercial corridor along Westgate Avenue.

Specifically, the subject site will contain the proposed medical office use in close proximity to the residents in need of this services. In addition, the request and Preliminary Site Plan similar CG commercial use which is found along Westgate Avenue and will maintain all existing elements including buffering that was utilized to keep the site in consistency with the code and surrounding land uses. Approval of the variances will remain consistent with the Future Land Use designation of the site. The variance requests are minimal to allow the full functionality and utilization of the site. Approval of the variance requests is a crucial component of the overall proposal, which is consistent with the County’s Comprehensive Plan and the ULDC.

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

V.1 – V.4 YES. Granting the variance Requests will not be injurious to the area involved or otherwise detrimental to the public welfare. The variance requests simply seeks relief to accommodate the proposed use change to aid the property in functioning with the existing site design layout. No physical modifications are being proposed to the site whatsoever. Approval of the variance requests will remain as consistent as the original form at the time initial approval and will not be injurious to the surrounding area or the public welfare. The proposal is consistent and compatible with the surrounding land uses as there are no proposed physical changes that would have adverse impacts. The proposed redevelopment is generally consistent with the surrounding land uses along this segment of Westgate Avenue, which consists of a mix of Commercial, Office/Warehouse, Institutional and higher density residential uses. As such, granting the Variance Requests will not be injurious to the area involved or otherwise detrimental to the public welfare.

FINDINGS:

Official Zoning Map Amendment (Rezoning) to a Standard District: When considering a Development Order application for a rezoning to a Standard Zoning District with or without a Conditional Overlay Zone (COZ), the BCC and ZC shall consider Standards a through g listed under Article 2.B.7.B.2, Standards. The Standards and Staff Analyses are indicated below. An amendment that fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

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

PLANNING DIVISION COMMENTS:

- *Consistency with the Comprehensive Plan:* The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
- *Relevant Comprehensive Plan Policies:* The subject site is located within the Westgate Belvedere Homes CRA Overlay (WCRAO) found in Sub-Objective 1.2.3 (FLUE, p. 18), and currently has the High Residential, 18 units per acre (HR-18) Future Land Use designation. The purpose of the sub-objective is to promote and encourage development and redevelopment consistent with the plan for the Westgate area. The site has a prior approval for a daycare, which is classified as an Institutional use, and per FLUE Policy 2.2.8-a, is permitted within all Future Land Use designations. The current request for a medical office is classified as a commercial use that requires a rezoning to a consistent commercial zoning district. FLUE Policy 1.2.3-c provides a redevelopment incentive within the WCRAO, permitting an increase of 20% of the commercial acreage within the through the

rezoning process to a Commercial zoning district without a FLUA amendment. Approximately 403.41 acres were commercial on the 1989 FLUA (20% is 80.68 acres). As of April 2021, no sites that have utilized Policy 1.2.3-c (since 1989 the County has adopted Commercial future land use designations for many of the parcels within the WCRAO). Therefore, up to 80.68 acres of residential or industrial zoning may be rezoned to commercial without a corresponding commercial future land use designation. Staff determined that this project is eligible to use this incentive. Therefore, the HR-18 future land use designation is consistent with the proposed CG zoning district.

- *Intensity:* The application also does not propose any additions or changes to the existing building. The maximum Floor Area Ratio (FAR) of .45 is allowed for a non-residential project with a HR-18 FLU designation in the Urban Suburban Tier (43,939 surveyed square feet or 1.01 acre x .45 maximum FAR = 19,772.55 square feet maximum). The previously approved 7,900 square feet equates to a FAR of approximately 0.18 (7,900 / 43,939 surveyed square feet or 1.01 acre = 0.18).
- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The request is located within the Urban Redevelopment Area (URA) and the Westgate Community Redevelopment Area (WCRA). The WCRA issued a letter November 2, 2020 with a recommendation of approval for the rezoning. The WCRA letter provides no further conditions or comments. Also, the allowance of a commercial project within a residential FLU is as discussed above.

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.*

The subject site is currently zoned Multifamily Residential High Density (RH) which corresponds to the Residential Multifamily (RM) zoning district and is consistent with the current FLU designation of HR-18. As previously stated in standard a. Consistency with the Plan, it has been determined that the proposed rezoning to Commercial General (CG) does not required an amendment to the Future Land Use Atlas because the site does not exceed the percentage threshold per Policy 1.2.3.-c: 20% Bonus Commercial Increase of the Comprehensive Plan.

- *Conditional Overlay Zone (COZ):* The Applicant has presented a site plan as part of the subsequent variance request indicating the development proposal. Zoning Staff is recommending a COZ as part of the rezoning request. The COZ is to ensure adequate site visibility and conformance with traffic performance standards as well as provide sufficient landscape buffering between the subject site’s new commercial use and the residential land use to the west.

Per Art.3.B.3.C. COZ, Conditional Overlay Zone, the BCC shall find one or more of the following reasons for the COZ district:

1. potential impact to surrounding land uses requires mitigation;
2. compatibility will be furthered between the requested zoning district and adjacent zones if uses and property development regulations (PDRs) are modified; and/or,
3. intensity limits reflect available capacity of public facilities.

Staff has determined, that there are potential impacts of the proposed rezoning and requested medical office use on the surrounding land uses as it relates to site access and traffic flow of the site which requires mitigation. Further, compatibility with the adjacent property to the west also requires mitigation due to the reduced buffer width. As such, Staff has recommended approval of the rezoning request subject to the Conditions of Approval in Exhibit C-2.

- *Nonconformities:* The site has previous Variance approvals along with existing nonconformities. The 5 foot Incompatibility Buffer along the west property line was approved under Variance BA-2001-083 and will remain unchanged. A 20 foot Utility Easement overlaps this 5 foot landscape buffer 100% which is also indicated on the previously approved Site Plan as seen in Figure 6. The R-O-W buffer on the eastern property line also received approval for a 5 foot reduction as approved under Resolution BA-2001-083. The existing 5 feet of foundation planting was approved as part of the prior Development Order for the site under an older Unified Land Development Code (ULDC) supplement.
- *Property Development Regulations (PDRs):* The subject site is a corner lot, fronting both Westgate Avenue and Quail Drive. The subject site is subject to the CG PDR regulations of Table

3.D.1.A – Property Development Regulations of the ULDC as well as the Urban Highway (UH) PDRs of Table 3.B.14.F – WCRAO Non-Residential and Mixed Use Sub-area PDRs as well as it pertains to the side and rear setbacks, stories, and building height. The proposed development meets the minimum frontage and access required for the Community Commercial Zoning District. In addition, the property meets Code requirements for minimum lot dimensions of 1-acre size, 100 ft. of width and frontage, as the site is a 1.01 acre lot, has 370.3 ft. of width and frontage. The site did receive variance approval for the lot depth, as previously stated which was approved under Resolution R-2021-011 to allow 145 ft. of depth where 200 ft. is required. The building does meet the side setbacks. The Applicant has requested variances for the front and rear building setback as part of the application.

- *Parking:* Per Table 6.B.1.B – Minimum Parking and Loading Requirements of the ULDC, 40 parking spaces are required for a medical office use. However, the Applicant has received Type 2 Variance approval for a reduction of 15 standard parking spaces. 25 stand parking spaces are proposed along with 1 handicap space and 1 bicycle space as indicated on the PSP.
- *Landscape/Buffering:* A 15 ft. R-O-W buffer will be provided along Westgate Avenue, in accordance with ULDC Table. 7.C.2.A, Width of RO-W Buffer. Within the 15 ft. R-O-W buffer is a 5 foot Utility Easement with a 5 foot overlap. There is a 15 foot R-O-W buffer provided on the northern half of the subject site along Quail Drive on the eastern property line and a 10 foot R-O-W buffer on the southern portion on the same side which received approval for a 5 foot buffer reduction to allow 10 feet. As stated previously, a 5 foot Incompatibility Buffer is provided along the western property line which received variance approval under BA2001083. An 8 foot Compatibility buffer is provided along the southern property line adjacent to the lake which ranges from 8 to 16 feet.

In addition to Landscape Buffers, Foundation Plantings exist along the north, east and west sides of the structure. The foundation planting on the east side of the building provides additional landscaping along Quail Drive. All vegetation on site is pre-existing and will remain unchanged.

- *Signs:* There is no proposed signage associated with this application and no further analysis is required.
- *Variance:* As mentioned in the nonconformities section, the subject site has had several previously approved variance request for site elements including buffer widths on the east and west property lines, foundation planting, lot depth and parking, which will remain unchanged. A list of all approved variances may be seen on the Preliminary Site Plan (PSP) in Figure 4.

This application includes four (4) concurrent Type 2 Variance Requests for a front a rear building setback reduction, a dumpster setback reduction, and a reduction in the terminal landscape island widths for two (2) landscape islands.

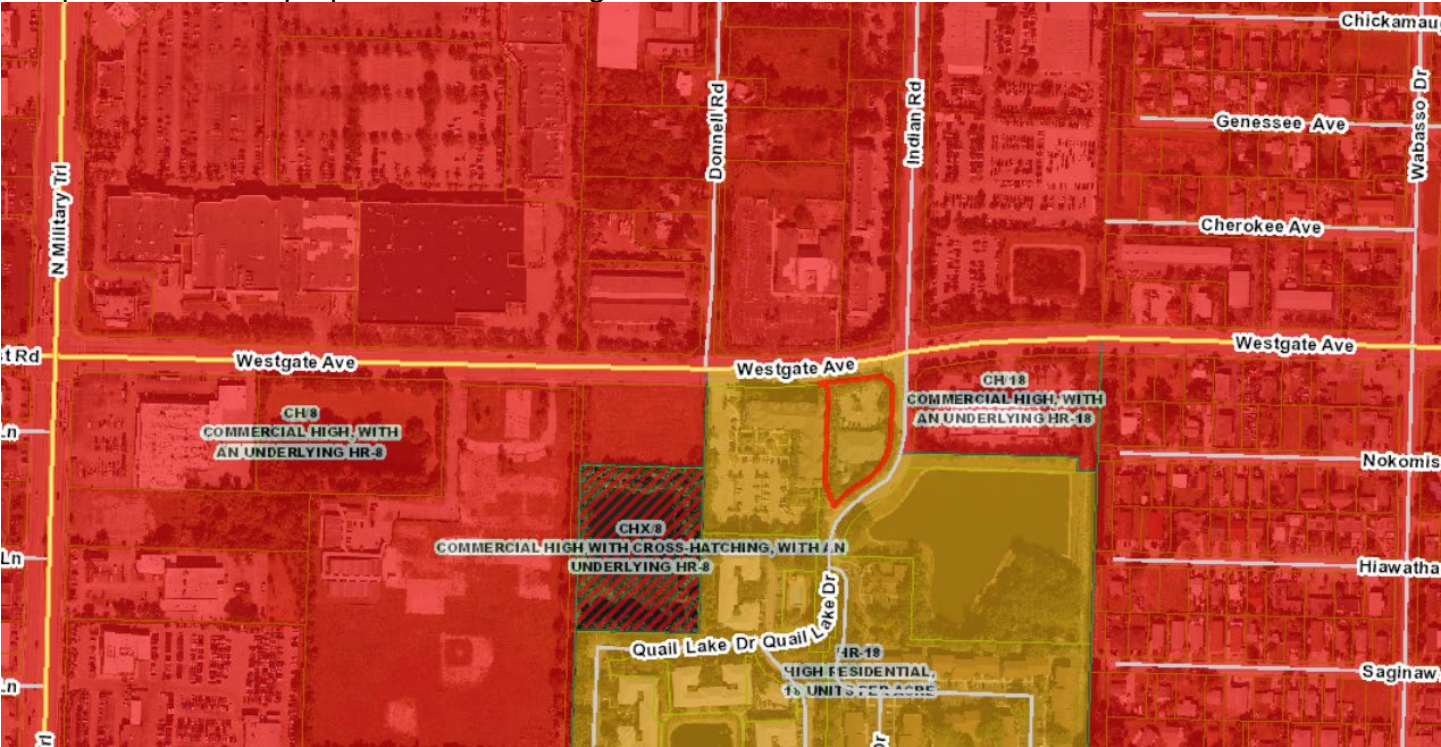
c. Compatibility with Surrounding Uses - *The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.*

The subject site is within a commercial corridor along Westgate Avenue and would therefore be compatible with the surrounding uses. To the north of the site is parcel with a Commercial High FLU designation and a CG district which currently supports two separate general office buildings (Indian Road Office Commercial, Control No. 2003-00047). Directly southeast of the site is a lake which serves as a drainage retention area (Palm Beach County Drainage Retention Lake).

To the east of the site is a commercial building within the Multiple Use Planned Development (MUPD) and a Commercial High with an Underlying HR-18 FLU, supporting a commercial building (Urbanek Properties, Control No. 2001-00030). West of subject site is a multifamily residential structure within the RM zoning district.

It is important to note the surrounding area contains a commercial FLU with underlying residential as seen below. Much of the properties within the corridor have utilizes the commercial land use designation to work in conjunction with the neighboring residential uses. The surrounding zoning

designations of the areas consist primarily of CG, CN, or MUPD which will remain consistent and compatible with the proposed CG rezoning and medical office use.



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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: There is an existing day care facility on the site.

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

IRRIGATION CONSERVATION CONCERNS AND SURFACE WATER: All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

ENVIRONMENTAL IMPACTS: There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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

The surrounding area consist of a commercial zoning designation along Westgate Avenue. The request to rezone the subject parcel to a similar commercial zoning district along with the proposed commercial office use will result in a development pattern that is logical, orderly, and timely with the adjacent properties within the WCRAO and surround land uses.

Further, the existing structure and site components will continue to fit into the architecture and character of the community and will significantly limit adverse impacts.

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

ENGINEERING COMMENTS:

The proposed conversion of an existing day care facility to a medical office is expected to generate 51 additional net daily trips, a reduction of 17 net AM peak hour trips, and a reduction of 14 net PM peak hour trips. The build out of the project is expected to happen by 2025.

There are no improvements necessary to meet Traffic Performance Standards, since the project will generate fewer peak hour trips when compared to that of the existing development.

The Property Owner shall configure the property into a legal lot of record prior to October 30, 2022.

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:
Staff has reviewed this application and have no comment.

PARKS AND RECREATION:
This is a non-residential application and Park and Recreation Department ULDC standards do not apply.

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

The Applicant’s justification statement indicates the changed condition and circumstance of the site consist of the requested modification of use from the existing 96-student daycare to the medical office. The medical office use within the newly proposed CG zoning district is permitted by right and no additional modifications are being proposed to the site. The Applicant desires to implement a use that best serves the property that can function in the existing site layout. The existing structures and site elements limit opportunity to reasonably modify the site without making signification alterations to existing structures. As such, the proposed changes necessitate the amendments provided.

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 Exhibit C-1 and C-2.

CONDITIONS OF APPROVAL

EXHIBIT C – 1: Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Site Plan is dated June 14, 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. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for ABN/ZV/Z-2020-01856. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

2. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPMT/ONGOING: BUILDING DIVISION - 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 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 – 2: Official Zoning Map Amendment

ALL PETITIONS

1. The approved Site Plan is dated June 14, 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)

ENGINEERING

1. Prior to October 30, 2022, the Property Owner shall configure the property into a legal lot of record in accordance with provisions of Article 11 of the Unified Land Development Code or as otherwise approved by the County Engineer. (DATE: MONITORING - Engineering)

2. The Property Owner shall improve the sight visibility for the existing driveway on Quail Drive, as approved by the County Engineer. Any and all costs associated with these improvements shall be paid for by the Property Owner.

a. Approval for the sight visibility measures shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

3. 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)

SITE DESIGN

1. Landscaping along the west property line shall include:

a. One (1) booted Sabal palm planted for each ten (10) linear feet of the property line;

b. One (1) large/medium shrub for each four (4) linear feet of the property line. Shrubs shall be a minimum height of thirty (30) inches at installation and to be maintained at a minimum height of seventy-two (72) inches in height. (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) (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

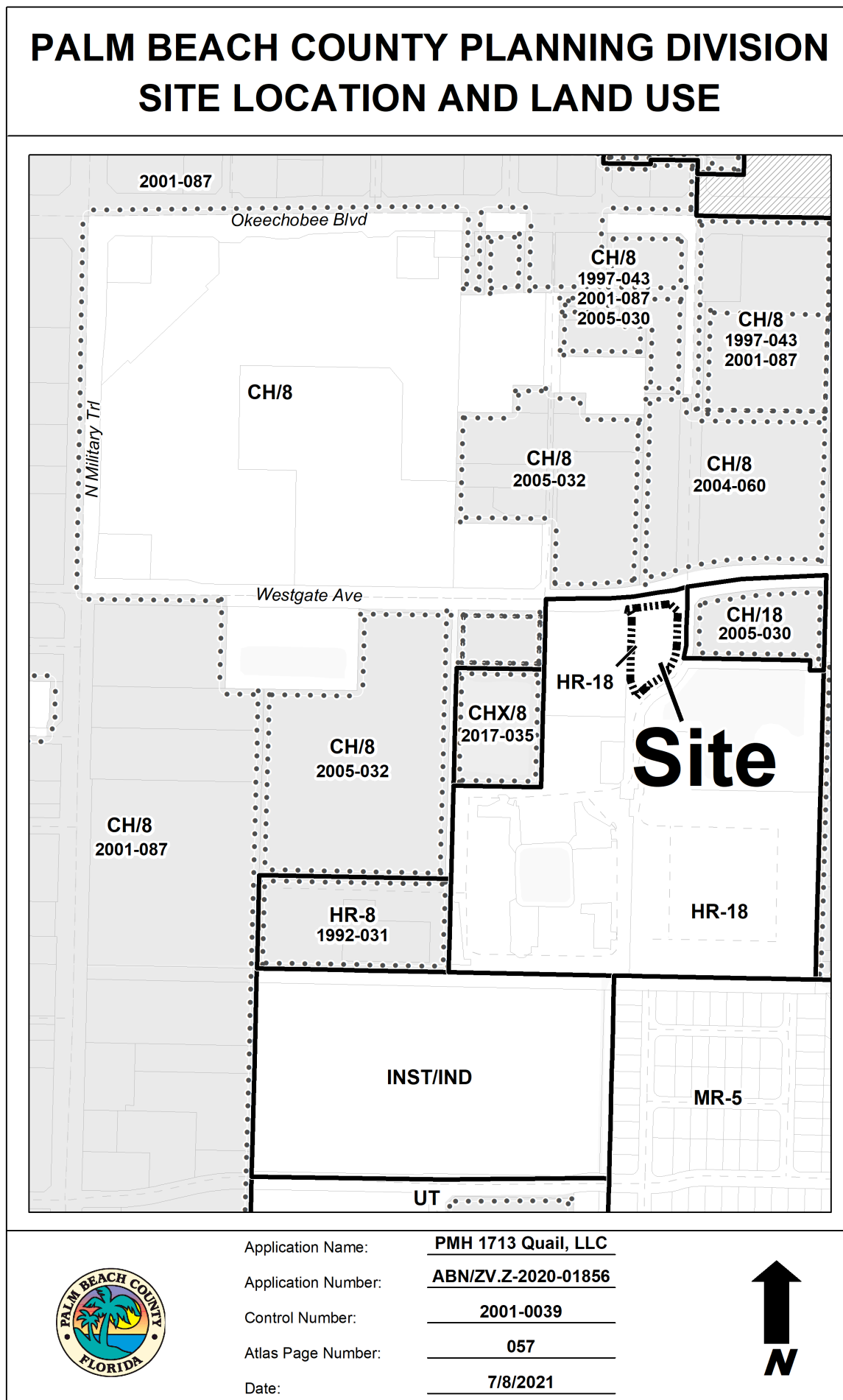


Figure 2 - Zoning Map

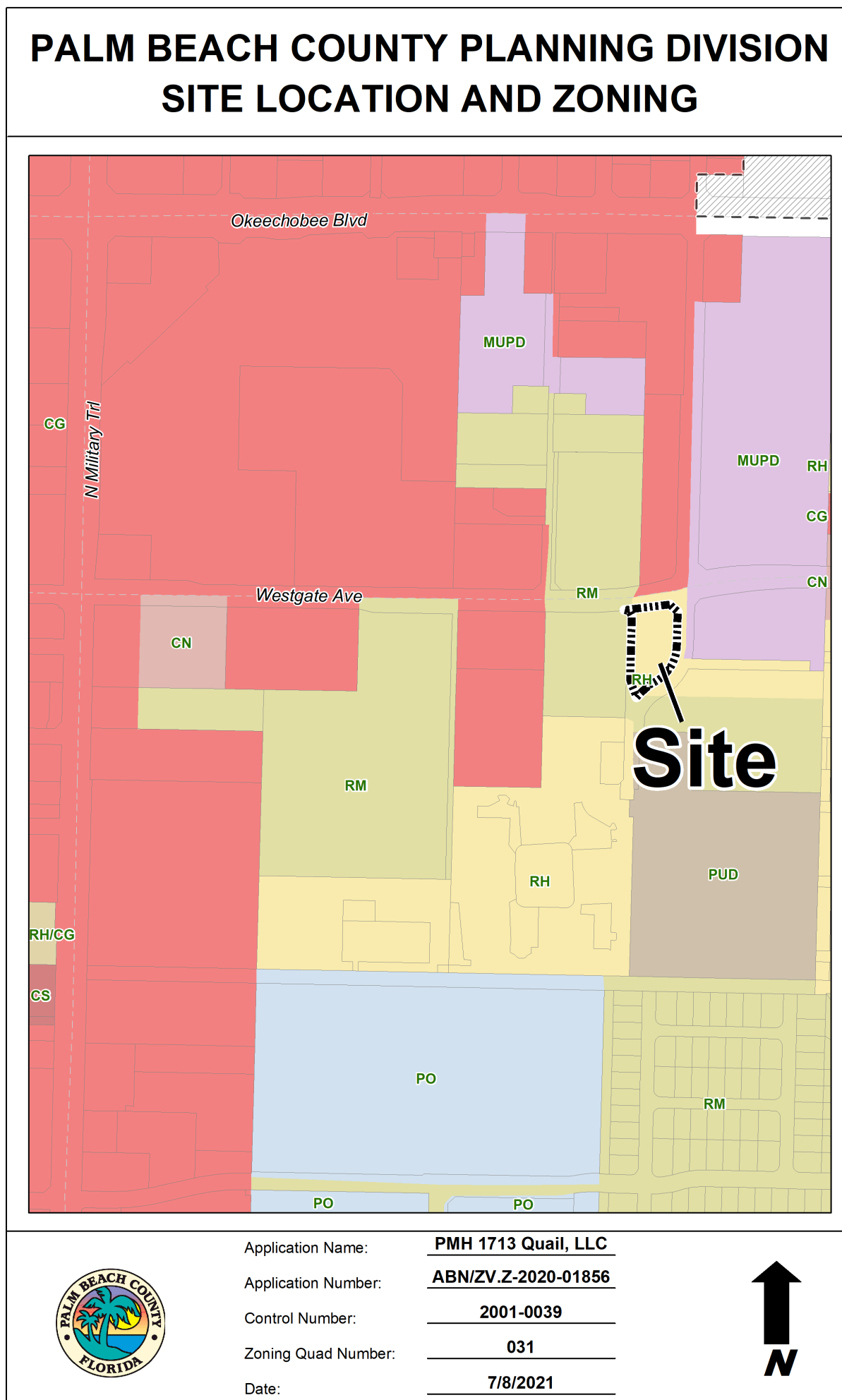
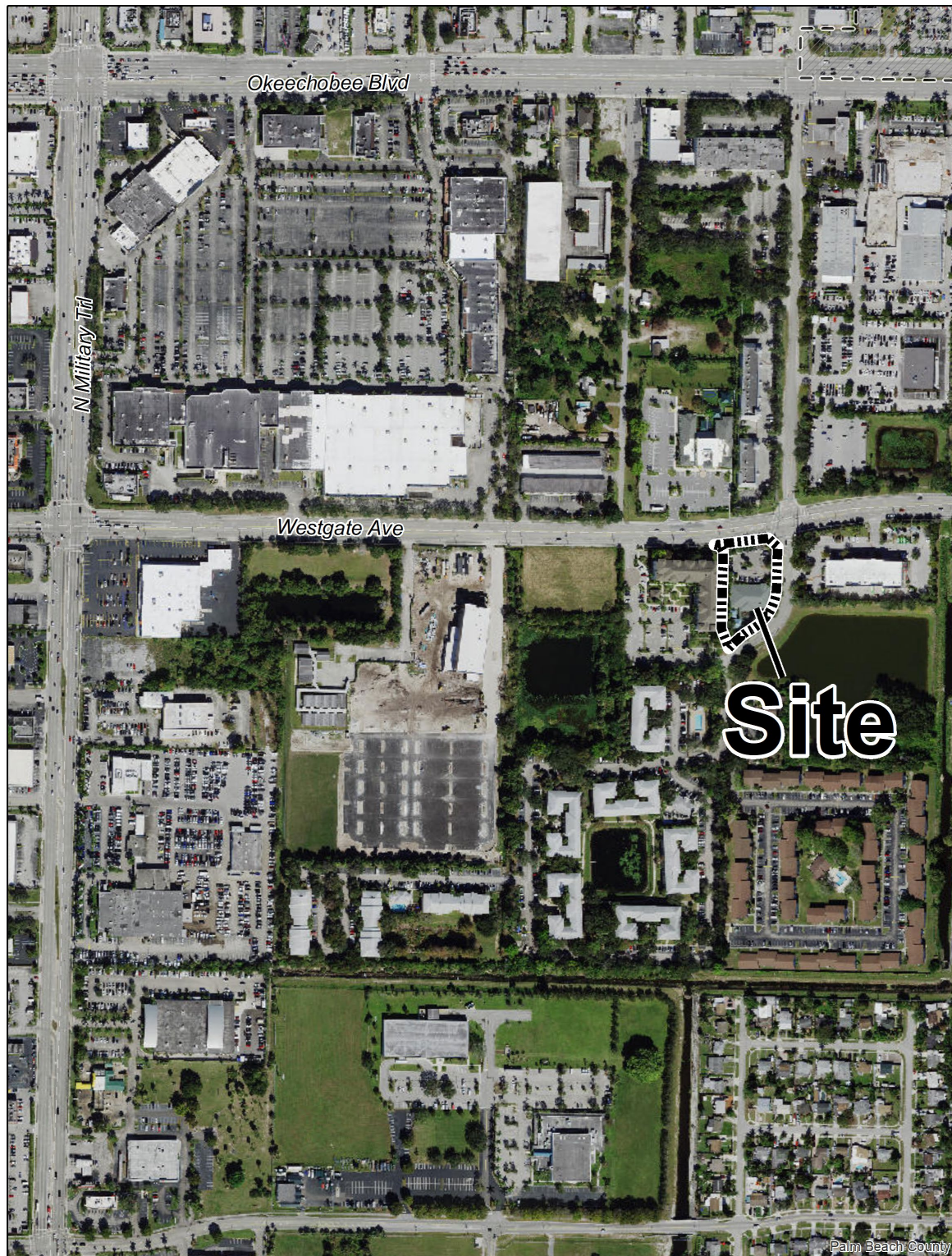


Figure 3 - Aerial

PALM BEACH COUNTY PLANNING DIVISION

SITE LOCATION



Application Name:	<u>PMH 1713 Quail, LLC</u>
Application Number:	<u>ABN/ZV.Z-2020-01856</u>
Control Number:	<u>2001-0039</u>
Atlas Page Number:	<u>057</u>
Date:	<u>7/8/2021</u>



Zoning Commission
Application No. ABN/ZV/Z-2020-01856
PMH 1713 Quail, LLC



Zoning Commission
Application No. ABN/ZV/Z-2020-01856
PMH 1713 Quail, LLC

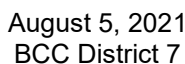


Exhibit D – Disclosure of Ownership

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 Eric Rogers, 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 [x] AMBR _____ [position—e.g., president, partner, trustee] of Palm Medical Holdings, 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: 3107 Stirling Rd #102
Fort Lauderdale, FL 33312

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.

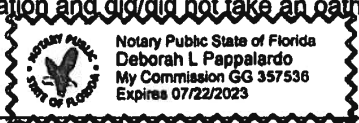


Eric Rogers, Affiant
(Print Affiant Name)

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 5th day of October, 2020 by Eric Rogers (name of person acknowledging). He/she is personally known to me or has produced FL DL: RA62-201-83415-0 (type of identification) as identification and did/did not take an oath (circle correct response).



(Name - type, stamp or print clearly)



(Signature)

My Commission Expires on: _____

NOTARY'S SEAL OR STAMP

EXHIBIT “A”
PROPERTY

Commence at the Northeast corner of Section 25, Township 43 South, Range 42 East; thence South 01 degree 33 minutes 35 seconds West, along the East line of said Section 25, a distance of 1292.19 feet to a point on the South right-of-way line of Westgate Avenue, as shown on Road Plat Book 2, Page 205 of said Public Records of Palm Beach County, Florida and further amended in Official Records Book 9484, Page 622 of said Public Records; thence North 88 degree 51 minutes 13 seconds West, along said South right-of-way line, a distance of 6.57 feet to a point on a curve concave to the South with a central angle of 12 degrees 54 minutes 49 seconds and a radius of 2059.93 feet; thence West along the arc of said curve, a distance of 464.28 feet to a point of reverse curvature of a curve concave to the North with a central angle of 02 degrees 38 minutes 24 seconds and a radius of 2140.00 feet; thence West along the arc of said curve, a distance of 98.61 feet to a point on the West right-of-way line of Quail Drive, as described in Official Records Book 10601 Page 858 of said Public Records, being the Point of Beginning; thence South 48 degrees 48 minutes 03 seconds East, along said West right-of-way line, a distance of 38.48 feet; thence South 01 degree 31 minutes 32 seconds West, along said West right-of-way line, a distance of 124.93 feet to a point on a curve concave to the Northwest a central angle of 60 degrees 01 minute 23 seconds and a radius of 150.00 feet; thence South and Southwest along the arc of said curve, a distance of 157.14 feet to a point of reverse curvature of a curve, to the Southeast having a central angle of 24 degrees 04 minutes 21 seconds and a radius of 210.00 feet; thence Southwest along the arc of said curve, a distance of 88.23 feet; thence North 20 degrees 59 minutes 13 seconds West, a distance of 65.28 feet; thence North 01 degree 31 minutes 32 seconds East, a distance of 228.67 feet to a point on a curve concave to the Southwest having a central angle of 96 degrees 14 minutes 02 seconds and a radius of 25.00 feet; thence Northwest along the arc of said curve, a distance of 41.99 feet to a point on the South right-of-way line of Westgate Avenue and a point on a non-tangent curve concave to the North having a radius of 2140.00 feet, a central angle of 04 degrees 25 minutes 08 seconds and whose radial at said point bears North 04 degrees 42 minutes 30 seconds West; thence East along said curve and said South right-of-way line, a distance of 165.04 feet to the point of Beginning.

LESS AND EXCEPT RIGHT OF WAY OF Quail Drive as laid out and in use

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

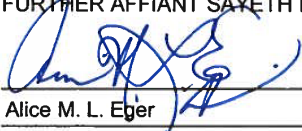
STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Alice Eger, 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 [x] Director Opportunity Inc. of Palm Beach County [position - e.g., president, partner, trustee] of Opportunity Inc. of Palm Beach County [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: 4 Selby Lane
Palm Beach Gardens, FL 33418
- 3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
- 4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
- 5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
- 6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

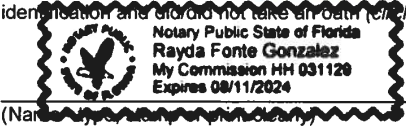


Alice M. L. Eger, Affiant
(Print Affiant Name)

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 12 day of October, 202020 by Thayda Font (name of person acknowledging). He/she is personally known to me or has produced Driver License (type of identification) as identification and did not take an oath (circle correct response).





(Signature)

My Commission Expires on: 8/11/2024

NOTARY'S SEAL OR STAMP

EXHIBIT “A”

PROPERTY

Commence at the Northeast corner of Section 25, Township 43 South, Range 42 East; thence South 01 degree 33 minutes 35 seconds West, along the East line of said Section 25, a distance of 1292.19 feet to a point on the South right-of-way line of Westgate Avenue, as shown on Road Plat Book 2, Page 205 of said Public Records of Palm Beach County, Florida and further amended in Official Records Book 9484, Page 622 of said Public Records; thence North 88 degree 51 minutes 13 seconds West, along said South right-of-way line, a distance of 6.57 feet to a point on a curve concave to the South with a central angle of 12 degrees 54 minutes 49 seconds and a radius of 2059.93 feet; thence West along the arc of said curve, a distance of 464.28 feet to a point of reverse curvature of a curve concave to the North with a central angle of 02 degrees 38 minutes 24 seconds and a radius of 2140.00 feet; thence West along the arc of said curve, a distance of 98.61 feet to a point on the West right-of-way line of Quail Drive, as described in Official Records Book 10601 Page 858 of said Public Records, being the Point of Beginning; thence South 48 degrees 48 minutes 03 seconds East, along said West right-of-way line, a distance of 38.48 feet; thence South 01 degree 31 minutes 32 seconds West, along said West right-of-way line, a distance of 124.93 feet to a point on a curve concave to the Northwest a central angle of 60 degrees 01 minute 23 seconds and a radius of 150.00 feet; thence South and Southwest along the arc of said curve, a distance of 157.14 feet to a point of reverse curvature of a curve, to the Southeast having a central angle of 24 degrees 04 minutes 21 seconds and a radius of 210.00 feet; thence Southwest along the arc of said curve, a distance of 88.23 feet; thence North 20 degrees 59 minutes 13 seconds West, a distance of 65.28 feet; thence North 01 degree 31 minutes 32 seconds East, a distance of 228.67 feet to a point on a curve concave to the Southwest having a central angle of 96 degrees 14 minutes 02 seconds and a radius of 25.00 feet; thence Northwest along the arc of said curve, a distance of 41.99 feet to a point on the South right-of-way line of Westgate Avenue and a point on a non-tangent curve concave to the North having a radius of 2140.00 feet, a central angle of 04 degrees 25 minutes 08 seconds and whose radial at said point bears North 04 degrees 42 minutes 30 seconds West; thence East along said curve and said South right-of-way line, a distance of 165.04 feet to the point of Beginning.

LESS AND EXCEPT RIGHT OF WAY OF Quail Drive as laid out and in use

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
Not for profit Corporation. No "Owners"	

Exhibit E – Applicant’s Justification Statement dated June 28, 2021



Justification Statement
PMH 1713 Quail, LLC
Palm Beach County (PBC)
Type II Variance (Concurrent)
Rezoning Application,
and Development Order Abandonment Application
Original Submittal: November 2, 2020
Insufficiency Resubmittal: December 7, 2020
Resubmittal: April 12, 2021
Resubmittal: May 10, 2021
Resubmittal: June 28, 2021

Request

On behalf of the applicant, Palm Medical Holdings, LLC (Applicant”), Schmidt Nichols respectfully requests your consideration of these applications for a Rezoning, Type II Variance, and Development Order Abandonment for the project formerly known/approved as Opportunity Inc. Daycare. As part of this application, the property owner is requesting a Control Name Change Request from the current Control Name, Opportunity Inc. Daycare (Control No. 2001-00039) to the proposed control name, PMH 1713 Quail, LLC. The 1.01-acre subject property is (PCN: 00-42-43-25-00-000-1650) is located on the southwest corner of Quail Drive and Westgate Avenue in unincorporated Palm Beach County (“subject property”). The site is currently developed with an existing 7,900 s.f. daycare. Proposed site development consists of converting the existing 96 student daycare to a medical office with a project build-out of 2025. Site access is not proposed to change and is existing via a full access driveway connection to Quail Drive.

Currently the subject property supports a Future Land Use Atlas (FLUA) designation of High Residential, 18 Units Per Acre (HR-18) and lies within the Urban/Suburban (U/S) Tier according to the Growth Management Tier System Maps outlined in the Comprehensive Plan Future Land Use Element. The subject parcel is currently within the Residential High (RH) Zoning District. The subject property is also located within the Westgate Community Redevelopment Area Overlay, more specifically the Urban Highway (UH) sub-area. This overlay allows for existing commercially developed corridors with little or no changes proposed to current Zoning PDRs or use regulations, hence the proposed site development from the existing daycare to a medical office.

The Applicant requests consideration of the following:

Request 1: Rezoning Application from Residential High (RH) to Commercial General (CG) District on 1.01 acres (Refer to discussion on comprehensive plan consistency below).

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Request 2: Type II Variance Request

- 1. To allow a variance for a 39' front setback reduction of the minimum front setback
- 2. To allow a variance for a 1' reduction of the minimum 25' dumpster setback from the western property line
- 3. To allow a variance for a 4' width reduction in the minimum terminal landscape island width adjacent to the existing dumpster and a 2' width reduction along the project entrance
- 4. To allow a variance for a 3' rear setback reduction of the minimum rear setback

Request 3: Development Order Abandonment (ABN) of Resolution No. ZR 2001-007 which allowed a Class B Conditional Use for a Daycare, General in the RH Zoning District

- Concurrent Application:
 - **Standalone Type II Variance Request** to allow a variance for a 15-parking space reduction to reduce the required parking from 40 spaces to 25 spaces and to allow a variance for a 35' depth reduction of the minimum lot depth that has been approved by the Zoning Commission on May 4, 2021

Pursuant to ULDC Section 3.B.14.D.2.A.2, “any request to rezone lots to a commercial district or PDD that were not designated commercial on the FLUA as of the Plan’s August 31, 1989 adoption shall not require a FLUA amendment, in accordance with Policy 1.2.3-c of the Plan...” The referenced code section subsequently requires the proposal to meet three criteria standards, which the project shall comply with to obtain approval. The applicant received a recommendation of approval from the WCRA in accordance with Art. 3.B.14.D.1, WCRA Recommendation as part of this application request. The applicant has utilized Comprehensive Plan Policy 1.2.3-c and ULDC Section 3.B.14.D.2.A.2, which states the proposed rezoning is consistent with the current HR-18 FLU designation. The County’s Planning staff has confirmed a staff initiated FLUA amendment will not be necessary to add the CH FLU designation to the current HR-18 FLU designation as the subject site passes the indicated 20% threshold per Comprehensive Plan Policy 1.2.3-c.

The subject property is located within the Countywide Community Revitalization Area (CCRT - Westgate) Overlay, Revitalization and Redevelopment Infill Overlay (RRIO), and Westgate/Belvedere Homes Community Redevelopment Area Overlay (WCRA: UH Sub-Area).

Below is a summary of surrounding properties:

Adjacent Lands	Uses	FLU	Zoning
----------------	------	-----	--------

Subject Property (Proposed)	Medical Office	*HR-18	CG
North	General Daycare	CH/8	CG, RM
South	Lake & Multifamily Residential	HR-18	RM & PUD
East	Office/Warehouse	CH/18, HR-18	MUPD, RH, RM
West	Multifamily	HR-18	RM

*County’s Planning staff has confirmed a staff initiated FLUA amendment will not be necessary to add the CH FLU designation to the current HR-18 FLU designation as the subject site passes the indicated 20% threshold per Comprehensive Plan Policy 1.2.3-c.

Consistency with County Overlays, Plans, and Studies

The proposed redevelopment is located within boundaries of the Countywide Community Revitalization Area (CCRT - Westgate) Overlay, Revitalization and Redevelopment Infill Overlay (RRIO), and Westgate/Belvedere Homes Community Redevelopment Area (WCRA) Overlay. Based on previous approvals and the proposed dynamics of the site, the proposal is consistent with each of the overlays. The overlays applicable to the property include:

Neighborhood Plans and Studies – FLUE Policy 4.1-c states “The County shall consider the objectives and recommendations of all Community and Neighborhood Plans, including Planning Area Special Studies, recognized by the Board of County Commissioners, prior to the extension of utilities or services, approval of a land use amendment, or issuance of a development order for a rezoning, conditional use or Development Review Officer approval.”

Revitalization, Redevelopment, and Infill Overlay (RRIO): The goal of the RRIO is to establish incentives and make resources available, when feasible, to encourage revitalization, redevelopment, and infill in areas identified as a RRIO that are in need of assistance. Furthermore, the goal of the RRIO is for the County to work closely with residents, businesses, property owners, governmental agencies, and stakeholders to advance concepts and strategies that guide future revitalization, redevelopment, and infill activities in these areas. As part of this proposed application, the applicant is encouraging revitalization, redevelopment, and infill through the proposed site development of converting the existing 96 student daycare to a medical office.





Countywide Community Revitalization Team (CCRT) Area: The property is located within the CCRT Westgate Area. The Office of Community Revitalization (OCR) serves as the CCRT neighborhood liaison office for Palm Beach County. The applicant has had multiple meetings with Denise Pennell, Senior Planner, from the Palm Beach

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County Westgate CRA (WCRA) regarding this proposed project and has received a recommendation of approval from the WCRA Board.

History

- **October 5, 2001** – The subject property was approved by the Zoning Commission for a Class B Conditional Use to allow a daycare, general in the Residential High (RH) Zoning District (see Resolution No. ZR-2001-0007).
- **March 4, 2021** - The subject property was approved by the Zoning Commission for a Standalone Type 2 Variance request for a 15-parking space reduction to reduce the required parking from 40 spaces to 25 spaces and to allow a variance for a 35' depth reduction of the minimum lot depth

APPROVED VARIANCES					
	ULDC ARTICLE	REQUIRED	PROPOSED	VARIANCE	APPROVAL DATE/RESOLUTION NO.
	Art.3.D.1.A	200 feet	165 feet	-35 feet	03/04/2021/ZR-2021-0111
	Lot Depth				
	Table 6.B	40 Spaces (1 space per 200 sq. ft.)	25 Spaces	-15 Spaces	03/04/2021/ZR-2021-0111
	Minimum Off-Street Parking & Loading Standards				
	Table 7.C.2.C.3	15' Type II Incompatibility Landscape Buffer (West Property Line)	5' Incompatibility Landscape Buffer (West Property Line)	To allow a Type 2 Variance for a 10' reduction of the minimum width of a Type II Incompatibility Landscape Buffer along the west property line	12/12/2001/BA2001083
	Incompatibility Buffer Landscape Requirements				
	Table 7.C.2.A	15' R-O-W Landscape Buffer (East Property Line)	10' R-O-W Landscape Buffer (East Property Line)	To allow a Type 2 Variance for a 5' reduction of the minimum width of the R-O-W Landscape Buffer along the east property line	12/12/2001/BA2001083
	Width of R-O-W Buffer				

Request 1: Rezoning Request Standards:

Pursuant to Article 2.B.7.A.2, when considering an application for rezoning to a Standard Zoning District with or without a COZ, the BCC and ZC shall utilize Standards a through g indicated below. An amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. The applicant is requesting to rezone approximately 1.01 acres of land from the Residential High (RH) Zoning District to the Commercial General (CG) District.

A. Consistency with the Plan – The proposed amendment is consistent with the Plan.

Response: The proposed use 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. The subject property is located within the Urban/Suburban Tier with frontage along both Quail Drive and

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Westgate Avenue., an Urban Principal Arterial roadway as identified by Map TE 3.1, Functional Classification of Roads. **Objective 1.2** of the Comprehensive Plan Future Land Use Element (“FLUE”) states: “this tier [Urban/Suburban] is expected to accommodate the bulk of the population and its need for...goods and services...”

The current FLU designation of the site is HR-18 (High Residential, 18 du's per acre) which does not typically support commercial zoning or uses, and would require a FLU amendment prior to any consideration of a new commercial use. However, a WCRAO provision to allow a rezoning to a commercial zoning district without a FLUA amendment is being utilized on this project to streamline the approvals process. However, as previously noted, pursuant to ULDC Section 3.B.14.D.2.A.2, “any request to rezone lots to a commercial district or PDD that were not designated commercial on the FLUA as of the Plan’s August 31, 1989 adoption shall not require a FLUA amendment, in accordance with Policy 1.2.3-c of the Plan...” The code section subsequently requires the proposal to meet three criteria standards: 1) the rezoning advances the purpose and intent of the WCRA Plan, and does not have an adverse impact on surrounding uses; 2) the rezoning must not cause the total amount of acreage in the WCRAO shown as commercial on the FLU as of the August 31, 1989 adoption of the Plan to be increased by more than 20 percent; and 3) the applicant receives a recommendation of approval from the WCRA., which the project shall comply with to obtain approval. The applicant received a recommendation for approval from the WCRA in accordance with Art. 3.B.14.D.1, WCRA Recommendation as part of this application request. The County’s Planning staff has confirmed a staff initiated FLUA amendment will not be necessary to add the CH FLU designation to the current HR-18 FLU designation as the subject site passes the indicated 20% threshold per Comprehensive Plan Policy 1.2.3-c.

The subject property is also located within the Countywide Community Revitalization Area (CCRT - Westgate) Overlay, Revitalization and Redevelopment Infill Overlay (RRIO), and Westgate/Belvedere Homes Community Redevelopment Area Overlay (WCRA: UH Sub-Area). The proposed Medical Office Use fits well within the area it is being proposed, is consistent with the surrounding properties and the Comprehensive Plan, and is a desired use along Westgate Avenue. The project directly impacts redevelopment potential along Westgate Avenue. An outpatient surgical center provides an essential service to the surrounding area and is complimented by recent infill redevelopment activity such as the Museo Vault fine art storage facility to the west. Given the location of the site on Westgate Avenue, additional daytime activity expands opportunities to capture passer-by attention along the CRA’s principal redevelopment corridor.

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

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Response:

Article 2: ULDC Article 2.B.7.A.2. Provides the standards for applications requesting rezoning. The responses below relate to the zoning request.

Article 3: Overlays and Zoning Districts – Pursuant to ULDC Article 3 and the proposed zoning designation of CG, the following code provisions have been analyzed:

The subject property is located within the Countywide Community Revitalization Area (CCRT - Westgate) Overlay, Revitalization and Redevelopment Infill Overlay (RRIO), and Westgate/Belvedere Homes Community Redevelopment Area Overlay (WCRA: UH Sub-Area). The subject property is currently located within the RH zoning district, but is requesting a rezoning to the CG zoning district. The proposed site plan meets all the property development regulations for the CG zoning district and WCRAO (UH sub-area) overlay as outlined on the accompanying preliminary site plan (PSP) with the exception of the minimum lot depth, front build-to line setback, and rear setback.

The proposed redevelopment meets the intent of ULDC Table 3.D.1.A, CG Property Development Regulations, and Table 3.B.14., WCRAO Property Development Regulations, in that the site plan:

- Meets the minimum lot size of 1 acre (1.01 acres provided), minimum width and frontage of 100 feet (370.30 feet of frontage on Quail Dr.), and minimum depth of 200 feet (165 feet of depth provided – see approved Standalone Type 2 Variance on page 4 that runs in parallel with this application) for CG zoning district;
- Does not exceed the maximum building coverage of 45% for CG (18% building coverage provided);
- Does not exceed the maximum FAR of .85 for CG (.18 FAR provided);
- Meets the minimum CG & WCRAO setbacks:
 - Front Build-To Line: 50 feet (11 feet provided)
 - See proposed Type 2 Variance chart on page 10
 - Side Street Build-To Line: 20 feet (126 feet provided)
 - Side Interior: 15 feet (71 feet provided); and
 - Rear: 25 feet (22 feet provided)
 - See proposed Type 2 Variance chart on page 10

Article 4: Use Regulations:

a. Definition

An establishment where patients, who are not lodged overnight, are admitted for examination, elective surgical care, immediate but not emergent care or treatment by persons practicing any form of healing or health-building services

whether such persons be medical doctors, chiropractors, osteopaths, podiatrists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida.

Response: Complies.

b. Typical Uses

A Medical or Dental Office may include, but is not limited to, an Ambulatory Surgical Center or urgent care center.

Response: Not applicable. The proposed site development consists of converting the existing 96 student daycare to a medical office.

c. INST FLU Designation

A Medical or Dental Office may be allowed subject to DRO approval, within the boundaries of the following five Site Specific FLUA amendments:

- 1) SCA 2005-027, Linton/Jog Institutional, Ord. No. 2006-005;
- 2) SCA 2008-015, Jog/Joe DeLong Institutional, Ord. No. 2008-005
- 3) SCA 2009-002, Atlantic/Sims Medical Office, Ord. No. 2009-008;
- 4) LGA 2010-014, Suess Institutional (Southern & Seminole Pratt and Whitney), Ord. No. 2010- 031; an
- 5) LGA 2012-002, AGR Boynton Beach Institutional, Ord. No. 2012-017.

Response: Not applicable. The subject site has a current HR-18 FLU Designation.

d. Zoning Districts – CN, CLO, and CH

Permitted by Right when not exceeding 3,000 square feet of GFA.

Response: Not applicable. The subject site is rezoning from the current RH Zoning District to the proposed CG District.

Article 5: Supplemental Regulations:

Article 5.c: The proposed rezoning is consistent with Article 5 Supplementary Use Standards. The Article 5.c architectural elevations will be reviewed and approved at time of building permit.

Article 6: Parking

Multifamily uses are required to provide parking at a ratio of 1 parking space per 200 sq. ft. The proposed site plan indicates 25 required parking spaces.

Parking Required: 40 Spaces

Proposed Parking: 25 Spaces (See Approved Standalone Type 2 Parking Reduction Variance on page 4 that runs in parallel with this application)

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Handicap Spaces Required: 1 Spaces
Handicap Spaces Provided: 1 Spaces
Bicycle Spaces Required: 1 Spaces
Bicycle Spaces Provided: 1 Spaces

Article 7: The proposed Rezoning is consistent with Article 7 Landscaping, specifically the following:

The proposed redevelopment meets the standards listed in ULDC Art.7, Landscaping, as follows:

- Per ULDC Table 7.C.2.C.3, Incompatibility Buffer Landscape Requirements, the project will provide a minimum 5-footwide Incompatibility landscape buffer along the west property line
 - See Board of Adjustments vested Type 2 Variance #2001083 chart on page 4
- Per ULDC Table 7.C.2.A, R-O-W Buffer Landscape Requirements, the project will provide a 15' right-of-way landscape buffer along Westgate Avenue and Quail Drive.
- Per ULDC Table 7.C.2.A, R-O-W Buffer Landscape Requirements, the project will provide a 10' right-of-way landscape buffer along the southeastern corner of Quail Drive.
 - See Board of Adjustments vested Type 2 Variance #2001083 chart on page 4

Article 8: The proposed Rezoning is consistent with Article 8 Signage, specifically the following:

Per ULDC Table 8.G.2.C, Entrance Sign Standards, the project currently has a previously approved sign along Westgate Avenue along the north property line. No additional signs are proposed as part of this application.

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

Response: The proposed use 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 Medical Office use will provide a good transition from the surrounding properties. The site is surrounded by properties supported by an HR-18 FLU designation and zoned RM (Multifamily Residential) to the south (Mallards Landing MF retention lake), east (Midpoint Commerce Center – office/warehouse,) and west (Westgate Plaza MF).

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

Response: 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. The subject property is well suited for the proposed use as the site is currently developed. The applicant is preserving all of the existing natural vegetation through this application request. The subject property does not contain any wetlands or wildlife habitat.

E. Development Patterns – The proposed amendment will result in a logical, orderly, and timely development pattern.

Response: The proposed rezoning and development of the subject property follows a logical, orderly and timely development that will be consistent with the Comprehensive Plan and ULDC. The proposed use is consistent and compatible with the surrounding land uses as there are no proposed physical changes that would have adverse impacts. The proposed redevelopment is generally consistent with the surrounding land uses along this segment of Westgate Avenue, which consists of a mix of Commercial, Office/Warehouse, Institutional and higher density residential uses.

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

Response: There would not be adverse impacts on public facilities related to the proposed Rezoning.

Traffic: The proposed project meets the County's Traffic Performance Standards. The proposed redevelopment has been estimated to generate an increase of 51 daily trips, a decrease of 17 A.M. peak hour trips, and a decrease of 14 PM peak hour trips from the vested development at project build out in 2025. See Traffic Generation Statement prepared by Simmons & White for further information regarding the traffic associated with the proposed development.

Mass Transit: Palm Tran Route #33 is the closest bus route with the closest bus stop at Westgate Avenue on Indian Road, which is 0.3 miles from the subject site.





Potable Water & Wastewater: Water and sewer is currently services a portion of the subject property.

Drainage: The Applicant has demonstrated legal positive outfall to Westgate Avenue. Legal, positive outfall is available via the existing outfall into the Westgate Avenue drainage system which flows to the L-2 Canal and eventually south to the C-51 Canal. Ultimate discharge is to the intracoastal waterway from the C-51 Canal via the SFWMD S-155 control structure. The property is located within the SFWMD C-51 Basin. Per the SFWMD June 2015 C-51 Basin Rule Re-Evaluation, the maximum allowable discharge is thirty-five (35) cubic feet per second per square mile (CSM) for the 10 year, 3day design storm and the minimum required finished floor elevation is 13.5 NGVD '29 / 12.0 NAVD '88. The existing building elevation is 16.60 no existing elevations below 15.40 NGVD '29, therefore, there are no grading impacts to flood plain storage. The site will be designed to comply with the allowable discharge criteria, minimum finished floor elevation and compensating storage requirements. See Drainage Statement prepared by CDI Civil Design, Inc.

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

Response: The changed conditions or circumstances consist of the proposed change of use from the existing 96- student daycare to the medical office. The change from a daycare to medical office is a permitted use by right. No changes are proposed to the existing building or parking lot configuration. Furthermore, constructing an additional parking lot south of the existing building was explored to meet County Code requirements. However, due to the curvature of Quail Drive, a driveway at this location would not be able to maintain an adequate safe sight distance per FDOT Greenbook standards.

Request 2: Type II Variance Request:

TYPE 2 ZONING VARIANCE					
TYPE 2 ZONING VARIANCE REQUEST (CONCURRENT)					
	ULDC CODE	REQUIRED	PROVIDED	VARIANCE	APPROVAL DATE/RESOLUTION NO.
	Table 3.D.1.A CG Property Development Regulations - Front Setback	50'	11'	To allow a Type 2 Variance for a 39' front setback reduction of the minimum front setback	TBD
	Art 5.B.1.A.8 Dumpster - Setback	25' setback from all property lines	24' setback from western property line	To allow a Type 2 Variance for a 1' reduction of the minimum 25' dumpster setback from the western property line	TBD
	Table 7.C.4.A Landscape Island and Divider Median - Planting and Dimensional Requirements	8' width	4' width (adjacent to existing dumpster), 6' width (project entrance)	To allow a Type 2 Variance for a 4 foot width reduction in the minimum terminal landscape island width adjacent to the existing dumpster and a 2' width reduction along the project entrance	TBD
	Table 3.B.14.F WCRAO Property Development Regulations - Rear Setback	25'	22'	To allow a Type 2 Variance for a 3' rear setback reduction of the minimum rear setback	TBD

Per Unified Land Development Code (ULDC) Art.2. B.7.E.6, Standards for Zoning or

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Subdivision 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 or subdivision variance:

VIII. VARIANCE INFORMATION:

The Seven Standards below are one of the factors Staff uses in formulating their recommendations and opinions. Address each standard completely and attach additional information or documentation as necessary.

TYPE II VARIANCE SEVEN (7) STANDARDS
<p>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 ZONING DISTRICT:</p> <p>RESPONSE: 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.</p> <p>Furthermore,</p> <p>V5- V8: Special conditions and circumstances exist which are peculiar to the subject site and are not applicable to other lands, structures, or buildings in the same zoning district. The Applicant is requesting a rezoning to the Commercial General (CG) to allow for redevelopment of the existing General Daycare, to Medical Office. The proposed Medical Office use is subject only to administrative approval. On March 4, 2021, the subject property was approved by the Zoning Commission for a concurrent Standalone Type 2 Variance request for a 15-parking space reduction to reduce the required parking from 40 spaces to 25 spaces and to allow a variance for a 35' depth reduction of the minimum lot depth. However, the parcel has a unique lot configuration, and while it abuts Westgate Avenue, has frontage on/from Quail Lake Drive. The odd configuration directly impacts the required lot depth of the parcel. The parcel has 370.30 ft. of frontage along Quail Drive. However, the lot depth is only 165 ft., which does not meet the minimum required 200 ft. lot depth required for the proposed CG Zoning District. The impacts of the existing lot configuration directly impact the lot depth and pose a special circumstance which is unique to the other surrounding parcels in the area.</p> <p>The existing parking layout also poses a special condition and circumstance peculiar to the subject site. The parking lot is unable to be reconfigured on site as there is no place to adequately provide additional parking spaces. The Applicant notes that due to the lot configuration and curvature of Quail Drive, efforts to</p>

provide additional parking to the south of the existing building cannot be accomplished, as a driveway would not be able to maintain an adequate safe sight distance per FDOT standards as shown in the provided line-of-sight distance exhibits. The first exhibit depicts an additional parking lot south of the existing building with the proposed driveway pushed at the southernmost portion of the lot and the second exhibit depicts an additional parking lot south of the existing building with the proposed driveway pushed as far north as possible. The exhibits show how the curvature of the lot on the eastside blocks the line of site with the building and vegetation as the only places to possible install parking and access and inadvertently setback behind not too far beyond the existing structure.

B. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

RESPONSE: There are special circumstances and conditions that apply that are not a result of actions by the applicant.

Furthermore,

V5- V8: Special circumstances and conditions exist that do not result from the actions of the Applicant. The existing lot configuration and parking layout were approved by the Zoning Commission back in 2001. The current site plan layout prevents the further expansion and adequate use of the property and limits any further potential redevelopment. The narrowing lot tapers down to the south, hindering consistent land availability for development throughout the parcel. The Applicant is required to apply for these variances to continue processing the subsequent requests due to the existing unique site conditions. The Applicant has explored options to potentially add parking and is unable to do so based on the close proximity of the building in relation with the adjoining right-of-way and lot curvature which puts the site distance and access points behind the structure with obstructed view.

C. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

RESPONSE: Granting the variance will not confer any special privilege upon the applicant denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same zoning district.

Furthermore,

V5-V8: 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 stated in the previous standards, the irregular lot configuration and existing site conditions limits adequate use of the site and prevents the appropriate use of the parcel in way that is similarly benefited by the surrounding area within the same zoning district. The parcel is not able to add the additional parking required for the CG Zoning District because the lot design and site dynamics do not allow it in a safe way to adequately serve those utilizing the site. The Applicant only desires to maintain the subject parcel with same configuration as existing and does not proposed development modifications not meeting code requirements, but rather proposes to maintain the existing site elements to maintain consistency with the surrounding area and minimize nonconformities.

D. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

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

Furthermore,

V5-V8: 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. In order to meet the Property Development Regulations (PDR) standards of the Unified Land Development Code, the site would have to undergo a significant redevelopment which would not be feasible. Literal interpretation of the code would not allow the Applicant enjoy the benefits of the development that are enjoyment by other parcels. Typical parcels within the same district are able to enjoy safe parking facilities, expand and modify development as needed while meeting the PDR requirements of the code. However, the irregularities of the subject site prevent the benefit of maintaining safe vehicular access and further construction of the parcel. The enforcement of the code would not allow the Applicant to safely use the property as desired unique existing circumstances of the site development.

E. GRANTING THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

RESPONSE: Granting these variances are the minimum needed for the

<p>reasonable use of the property.</p> <p>Furthermore,</p> <p>V5-V8: Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure. As stated previously, the Applicant is not requesting any new site design modifications requiring additional significant variances. The variance requests seek to maintain existing site conditions which will best serve the site. The lot depth variance is not to alter the structure or setback.</p> <p>The Justification Statement notes that a reduced parking statement provided by the Applicant, which indicates that based on data from the ITE Parking Generation Manual, the actual peak demand for the site based on the proposed medical office use is 21 parking spaces. There are 25 existing spaces on site. Based on the parking demand study provided, the exiting parking spaces located on site not only serve the proposed medical office use, but creates a surplus of 4 spaces. The variance to maintain the existing number of parking on would allow sufficient parking on site needed to service the proposed use.</p>
<p>F. GRANTING THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:</p> <p>RESPONSE: Granting of the requested variances will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.</p> <p>Furthermore,</p> <p>V5-V8: Granting the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code. Granting the Variance requests will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and the ULDC. As stated previously, the site is proposed to rezone to CG, Commercial General and will maintain the HR-18, Future Land Use designation. The Applicant proposes a medical office, which is permitted by right through an administrative approval in the CG Zoning district and will serve community accordane with the requirements of the CG zoning category. The subject site will provide a community medical use to that will expand upon the goods and services currently provided along this predominately commercial corridor along Westgate Avenue.</p> <p>Specifically, the subject site will contain the proposed medical office use in close proximity to the residents in need of this services. In addition, the request and Preliminary Site Plan similar CG commercial use which is found along Westgate Avenue and will maintain all existing elements including buffering that was</p>

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utilized to keep the site in consistency with the code and surrounding land uses. Approval of the variances will remain consistent with the Future Land Use designation of the site. The variance requests are minimal to allow the full functionality and utilization of the site. Approval of the variance requests is a crucial component of the overall proposal, which is consistent with the County's Comprehensive Plan and the ULDC.

G. GRANTING THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

RESPONSE: Granting of the requested variances will clearly not be injurious to the area involved or otherwise detrimental to the public welfare.

Furthermore,

V5-V8: Granting the variance Requests will not be injurious to the area involved or otherwise detrimental to the public welfare. The variance requests simply seeks relief to accommodate the proposed use change to aid the property in functioning with the existing site design layout. No physical modifications are being proposed to the site whatsoever. Approval of the variance requests will remain as consistent as the original form at the time initial approval and will not be injurious to the surrounding area or the public welfare. The proposal is consistent and compatible with the surrounding land uses as there are no proposed physical changes that would have adverse impacts. The proposed redevelopment is generally consistent with the surrounding land uses along this segment of Westgate Avenue, which consists of a mix of Commercial, Office/Warehouse, Institutional and higher density residential uses. As such, granting the Variance Requests will not be injurious to the area involved or otherwise detrimental to the public welfare.

The site pre-dates many of the current codes and the applicant is proposing to maintain the existing building and bring the site up to current code to the greatest extent possible, but the existing 20' PBCUE along the west property line currently has an 100% encroachment into the previously approved 5' landscape buffer and the existing building currently has 5 feet of foundation planting along the front and sides of the building, so this has been added as a non-conformity chart item as indicated below.

EXISTING NONCONFORMITY CHART				
	ULDC CODE	REQUIRED	PROVIDED	NONCONFORMITY
1	Art.7.C.5.A	5' max overlap of easement encroachment into the required landscape buffer	100% encroachment of 20' PBCUE into previously approved 5' landscape buffer	Allow an 100% encroachment of 20' PBCUE into previously approved 5' landscape buffer
	Overlap in Landscape Buffers and On-Site Parking Areas			
2	Table 7.C.3.B	8' Foundation Planting (40 percent of façade)	5' Foundation Planting (40 percent of façade)	Allow for 5 feet of foundation planting along the front and sides of the existing building
	Foundation Planting and Dimensional Requirements			

Request 3: Development Order Abandonment Request:

Pursuant to ULDC Article 2.B.7.F.6 When considering an ABN application, the BCC and ZC shall consider the standards indicated below. The applicant is requesting a Development Order Abandonment (ABN) of Resolution No. ZR 2001-007 which allowed a Class B Conditional Use for a Daycare, General in the RH Zoning District.

a) Consistency with the Plan - The proposed abandonment is consistent with the Plan.

Response: The proposed abandonment is consistent with the Plan. All conditions of approval contained within Resolution No. ZR-2001-0007 are proposed to be deleted. The current user listed the subject site for sale and relocated their daycare operations to the 226-student daycare facility (Opportunity Early Childhood Education & Family Center Opportunity Inc.) on the north side of Westgate Avenue. The contract purchaser, Palm Medical Holdings, LLC, no longer intends to continue daycare operations at the subject site and instead plans to solely repurpose the existing building to a medical office use, which is a permitted by right use in the proposed CG Zoning District, so the applicant is proposing to abandon the previously approved daycare development order.

When the project was originally approved in 2001 as a Class B Conditional Use by the Zoning Commission, the WCRA Zoning Overlay, as it exists today was not yet incorporated into the ULDC. The UH Sub-area of the WCRAO was intended to support the existing commercially developed corridors of Okeechobee Blvd. and N. Military Trail, so the applicant feels the proposed change of use will directly impact redevelopment potential along Westgate Avenue.

b) Consistency with the Code - The proposed abandonment, is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. The abandonment of a DO does not create any new nonconformities.

Response: The proposed abandonment of all conditions of approval contained within Resolution No. ZR-2001-0007 is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. The abandonment of a DO will not create any new nonconformities. There are no other parties which have ownership interest or other uses which are approved on the property.

c) Adequate Public Facilities - The proposed abandonment of the DO shall not impact the approved requirements of Art. 2.F, Concurrency (Adequate

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Public Facility Standards). When a non-implemented DO is abandoned, all concurrency affiliated with the DO is no longer valid. For implemented DOs, concurrency for the remainder of the non-affected area shall remain. Concurrency for any new uses on the subject property shall be subject to the requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards).

Response: The proposed abandonment of all conditions of approval contained within Resolution No. ZR-2001-0007 will not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). The current user listed the subject site for sale and relocated their daycare operations to the 226-student daycare facility (Opportunity Early Childhood Education & Family Center Opportunity Inc.) on the north side of Westgate Avenue. The contract purchaser, Palm Medical Holdings, LLC, no longer intends to continue daycare operations at the subject site and instead plans to solely repurpose the existing building to a medical office use, which is a permitted by right use in the proposed CG Zoning District, so the applicant is proposing to abandon the previously approved daycare development order.

When the project was originally approved in 2001 as a Class B Conditional Use by the Zoning Commission, the WCRA Zoning Overlay, as it exists today was not yet incorporated into the ULDC. The UH Sub-area of the WCRAO was intended to support the existing commercially developed corridors of Okeechobee Blvd. and N. Military Trail, so the applicant feels the proposed change of use will directly impact redevelopment potential along Westgate Avenue.

- d) Changed Conditions or Circumstances - There are demonstrated changed site conditions or circumstances provided by the Applicant’s Justification Statement that necessitate the abandonment. Abandonment of the resolution approving the DO will not impact other DOs approved on the same site. There is no reliance by other parties for additional performances, or tasks to be implemented, that were required in the original DO**

Response: All conditions of approval contained within Resolution No. ZR-2001-0007 are proposed to be deleted. The changed conditions or circumstances consist of the proposed change of use from the existing 96- student daycare to the medical office. The change from a daycare to medical office is a permitted use by right. No changes are proposed to the existing building or parking lot configuration.

On behalf of the applicant, Palm Medical Holdings, LLC (Applicant”), Schmidt Nichols respectfully requests your approval of these Rezoning, Type II Variance, and Development Order Abandonment applications for PMH 1713 Quail, LLC.