PALM BEACH COUNTY PLANNING, ZONING AND BUILDING DEPARTMENT ZONING DIVISION

Application No.:	ZV/ABN/DOA-2021-01341
Application Name:	Hagen Commercial MUPD
Control No./Name:	2008-00421 (Hagen Commercial MUPD)
Applicant:	William & Dorothy Mazzoni, Trustees
	Boynton Beach Marketplace, LLC
Owners:	William and Dorothy Mazzoni, Trustees
Agent:	Urban Design Studio
-	Joni Brinkman & Ailish Villalobos
Telephone No.:	(561) 366-1100
Project Manager:	Imene Haddad, Senior Site Planner

TITLE: a Type 2 Variance **REQUEST:** to relocate foundation planting **TITLE:** a Development Order Abandonment **REQUEST:** to abandon a Requested Use for a Type 1 Restaurant with Drive-through **TITLE:** a Development Order Amendment **REQUEST**: to modify the Site Plan; add square footage; add, delete and modify Uses; and, modify Conditions of Approval

APPLICATION SUMMARY: Proposed is a Type 2 Variance (ZV), a Development Order Abandonment (ABN), and a Development Order Amendment (DOA) for the Hagen Commercial MUPD. The site has been previously approved for a Multiple Use Planned Development (MUPD), but has not yet been constructed.

The Applicant is proposing a DOA to modify Buildings A, B, C and D and to remove Building E from the previously approved Site Plan. Building Modifications include expanding Retail Building A from 19,032 square feet (sq. ft.) to 40,000 sq. ft.(+ 20,962 sq. ft.); reducing Building B from 38,000 sq. ft. to 6,188 sq. ft.(- 31,812 sq. ft.) and replacing a Type 1 Restaurant with Drive-through with a Retail use; reducing Building C from 9,398 sq. ft. to 5,980 sq. ft. (-3,418 sq. ft.); and, expanding Building D from 9,398 sq. ft. to 17,031 sq. ft. (+ 7,633 sq. ft.). Overall, the total sq. ft. for the development will be 70,569 sq. ft. (+ 17,241 sq. ft.). In addition, the Applicant is requesting a Variance to relocate foundation plantings for Building D and a Development Order Abandonment to abandon a Requested Use for a Type I Restaurant with drive-through.

Overall, the Preliminary Site Plan (PSP) indicates four, one-story buildings, including 58,824 sq. ft. of Retail uses, two Type 1 Restaurants (6,400 sq. ft.) and one Type 2 Restaurant (3,980 sq. ft.). The PSP indicates 1,365 sq. ft. of outdoor seating and 346 parking spaces. Access to the site will remain unchanged, with one access point to Hagen Ranch Road and one access point to Boynton Beach Boulevard.

SITE DATA:

	North cost company of December December Decidence and
Location:	Northeast corner of Boynton Beach Boulevard and
	Hagen Ranch Road.
Property Control Numbers:	00-42-43-27-05-049-1030; 1040
Existing Future Land Use Designation:	Commercial Low, with an underlying MR-5 (CL/5)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Multiple Use Planned Development District (MUPD)
	Zoning District
Proposed Zoning District:	No Change
Total Acreage:	7.92 acres
Affected Acreage:	7.92 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	West Boynton Community Plan
CCRT Area:	N/A
Municipalities within 1 Mile:	N/A
Future Annexation Area:	N/A

RECOMMENDATION: Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibits C-1 and C-2.

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

PROJECT HISTORY: The subject site was first approved by the Board of County Commissioners (BCC) on May 28, 2009 for a rezoning from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District pursuant to Resolution R-2009-0898. On May 25, 2017, the BCC approved Application No. SV/DOA/R-2015-01464 for a Subdivision Variance to allow access to a major street, a Development Order Amendment to reconfigure Site Plan; delete square footage; add an access point; add uses; allow an Alternative MUPD Landscape Buffer; and modify and delete Conditions of Approval; and, a Requested Use to allow a Type I Restaurant with Drive-through persuant to Resolutions ZR-2017-0015, R-2017-0697 and R-2017-0698.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Medium Residential (MR-5) Zoning District: Residential Transitional Urban (RTU) Supporting: Residential (Palm Isles West, Control No. 1994-00018)

SOUTH (across Boynton Beach Blvd.):

FLU Designation: Commercial High, with an underlying MR-5 (CH/5) Zoning District: Multiple Use Planned Development (MUPD) Supporting: Commercial (Hagen Ranch Commerce Center MUPD, Control No. 1991-00047)

FLU Designation: Commercial High, with an underlying MR-5 (CH/5) Zoning District: Multiple Use Planned Development (MUPD) Supporting: Commercial (Boynton Self-Storage MUPD, Control No. 1990-00017)

EAST:

FLU Designation: Medium Residential (MR-5) Zoning District: Single-Family Residential (RS) Supporting: Residential (Palm Isles PUD, Control No. 1987-00092)

WEST (across Hagen Ranch Blvd.):

FLU Designation: Commercial Low-Office, with an underlying MR-5 (CL-O/5) Zoning District: Multiple Use Planned Development (MUPD) Supporting: Commercial (Hagen Ranch/Boynton Beach MUPD, Control No. 2006-00520)

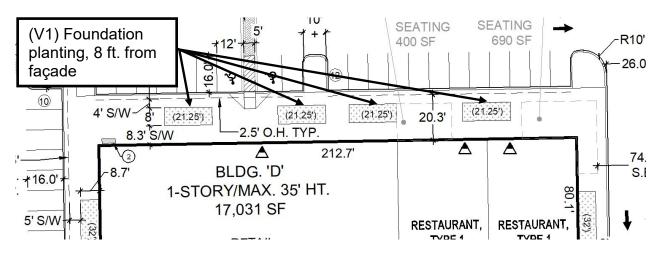
TYPE 2 VARIANCE SUMMARY:					
#	ULDC Article	REQUIRED	PROPOSED	VARIANCE	
V1	Table 7.C.3.B,	40% front	0% front façade	100% of required planting	
	Foundation Planting	façade	foundation planting for	for front façade of Building	
	and Dimensional	foundation	Buildings D, with	D is relocated to an	
	Requirements	planting	proximate relocation of	expanded side walk.	
			required plantings.		

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 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 that 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:

YES. This variance will allow for the relocation of 100% of foundation planting areas along the front façade of Building D. The Applicant is requesting the foundation planting areas be provided within close proximity of the building facades as oppose to along them as Code requires, and placed in such a way as to act as a barrier between parking and travel lanes and patrons, and allow for outdoor

seating area and weather protection. The Applicant states this variance will allow flexibility in locating dining areas in the future and also soften the architecture along the entry driveway and offers a more impactful design to accommodate the proposed restaurant outdoor dining area. The previously approved plan under application SV/DOA/R-2015-01464 was reviewed under ULDC supplement No. 22 on May 25, 2017. The plan shows foundation planting that is located within 30 feet of the building for Building D. The relocation was approved under and administrative waiver. The Code has since been amended to only allow a 50 percent relocation. A variance request is now required for the request though the PSP still shows the previously proposed canopy overhangs similarly to the prior approval that supported the shift as to not conflict with architectural features of the building.





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

YES. The ULDC requires foundation planting to be provided along the facades of non-residential buildings. This Variance request is due to the ULDC amendment longer allowing for this type of approval to be administrative. According to the Applicant's justification statement, the variance request are in response to the needs of the community and will only enhance the aesthetic of the plaza and shopping/dining experience.

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

YES. The variance requested is for the enhancement of the pedestrian realm within the development, which the ULDC and Comprehensive Plan promote. Other proposed planned developments would have similar opportunities to provide for unique pedestrian-oriented designs as is required by the Design Objectives of Planned Development Districts (PDDs) and MUPDs.

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

YES. As described above, the literal interpretation of the Code would require foundation planting along the facades of non-residential buildings. Foundation planting along the facades serves to soften the appearance of the architecture. However, it also puts the sidewalk and patrons between the buildings and vehicular use areas, emphasizing the vehicle and the building over the pedestrian. Placing the foundation planting within close proximity, 30 ft. or less, of the facade enhances safety and comfort of the pedestrian as planting areas will screen and act as a barrier between the outdoor dining, plazas, useable open space and other paths from vehicles and their headlights. Art. 3. E.1.A.1. [PDD] Purpose and Intent, encourages ingenuity and creativity in design and infill development, using flexible and innovative land development techniques.

The proposed design would meet this standard, however, literal interpretation of the Art. 7. C.3.B,Foundation Planting, would result in a separation of these spaces from the buildings they are meant to serve, and obscure from view a unique plaza entry feature, potentially detracting from the user experience, and thereby posing an unnecessary hardship. There are pedestrian connections to

the sidewalk along the perimeter of the development and the overall planting within the plaza will meet or exceed ULDC requirements.

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

YES. The variance requested is the minimum required to provide the proposed pedestrian-oriented design, which includes outdoor seating areas and other protected pedestrian areas. The Applicant indicated in the Justification Statement that allowing the relocation of required foundation planting for Building "D" will provide a better, more pedestrian friendly design and serve to enhance the proposed outdoor space and balance of the existing center. A code minimum redesign would not provide any additional public benefit.

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

YES. The granting of this variance is consistent with the intent of the Comprehensive Plan and ULDC. As stated above, the Code's stated purpose and intent of PDDs is to encourage ingenuity and imagination on the part of design and development professionals to create developments that promote sustainability, enhances the built environment, encourages economic growth and infill development using flexible and innovative land development techniques. The proposed variance will allow the Applicant to use creative solutions to meet the Design Objectives of the Code, without reducing the amount of landscape material the Code requires for foundation planting areas.

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

YES. The proposed amendment is not in conflict with any portion of this Code. The Variance requested will allow the Applicant to make reasonable use of the land while continuing to meet the purpose and intent of the Code. The purpose and intent of the MUPD district is to provide for the efficient use of land by the integration of multiple uses within a unified development. The PSP indicates a design that is horizontally integrated with and an efficient, continuous, pedestrian friendly layout in accordance with the Code.

FINDINGS:

<u>Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order</u> <u>Amendment:</u>

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order 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 use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.

• *Consistency with the Comprehensive Plan*: The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

• *Prior Land Use Amendments:* The site has been the subject of two previous Land Use amendments. The first amendment was Mazzoni East SCA-96-S-4 (Ord. 96-027) was adopted with no conditions, which amended the land use from Medium Residential 5 units per acre (MR-5) to Commercial Low Office with an underlying 5 units per acre (CL-O/5). A subsequent Land Use Amendment, Boynton/Hagen Ranch NE Commercial, SCA 2009-003 (Ord. 2009-012), was adopted

with no conditions, which amended the land use from CL-O/5 to Commercial Low with an underlying 5 units per acre (CL/5).

• Intensity: The maximum Floor Area Ratio (FAR) of 0.50 (w/PDD) is allowed for the Commercial Low (CL/5) Future Land Use Designation in the Urban Suburban Tier (345,304 surveyed square feet or 7.927 acres x .50 maximum FAR = 172,652 sq. ft. maximum). The request is 69,204 square feet, which equates to a FAR of approximately 0.20 (69,204 / 345,304 surveyed square feet or 7.927 acres = 0.20). The 69,204 square feet allocated toward the FAR calculation does not include 1,365 square feet of outdoor dining.

• Special Overlay District/ Neighborhood Plan/Planning Study Area: The request is located within the West Boynton Area Community Plan, which is administered by the Coalition of West Boynton Residents Association. The Coalition issued a recommendation for approval in a letter dated September 22, 2021.

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.

• Property Development Regulations: The proposed development is subject to Table 3.E.3.D, MUPD Property Development Regulations (PDR). The property meets Code requirements per Table 3.E.3.D, MUPD Property Development Regulations for minimum lot dimensions. The site exceeds the minimum lot size of 3-acres (7.92-acres provided), 200 ft. of width (513 ft. provided), and 200 ft. of depth (634 ft. provided). Further, as the subject site is a PDD, it has previously been established to meet the minimum frontage requirements outlined in Art. 3.E.1.C.2.a.1., Minimum Frontage.

• *Design Objectives and Performance Standards:* As the subject site zoned as an MUPD, the project is required to meet the Design Objectives and Performance Standards for a Planned Development District (per Art. 3.E.1.C) and Multiple Use Planned Development (per Art. 3.E.3.B). The Applicant has provided the necessary design features which includes: a continuous pedestrian system throughout the development connecting parking areas to the building; preservation of existing vegetation; screening of objectionable features; minimizing visual impacts; and, decorative paving to meet the intent of this section of the Code.

• *Landscaping and Buffering:* A 25-foot wide Type 3 Incompatibility buffer will continue to be provided along the north and east property lines as indicated on PSP-1 (see Figure 4). The Applicant intends to comply with a previously approved Condition of Approval that requires upgraded buffering along the north and east property lines to provide additional screening for the adjacent residential units, including a twenty-five (25) foot wide landscape buffer strip with no width reduction or easement encroachment.

The Applicant is requesting to delete Landscaping Conditions of Approval 2, 6 and 7. The previously approved conditions of approval 6 and 7 required a minimum of twenty-five (25) foot wide R-O-W buffers along Boynton Beach Boulevard and a fifteen (15) foot wide R-O-W buffer along Hagen Ranch Boulevard, with no width reduction or easement encroachments being permitted. The conditions also required additional landscaping materials within the buffers. Landscape Condition of approval 2 states "A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein".

Condition of approval 6 imposing a twenty-five (25) foot wide R-O-W buffer along Boynton Beach Boulevard was added at the May 28, 2009 BCC meeting pursuant to resolution R-2009-0898. The Condition of approval was proposed by Staff to comply with the Boynton Beach Turnpike Interchange Design Corridor (BBITC) Guidelines and Standards. As stated above, "The request is located within the West Boynton Area Community Plan, which is administered by the Coalition of West Boynton Residents Association. The Coalition issued a recommendation for approval in a letter dated September 22, 2021" (Figure 10). Section 2 Boynton Beach Turnpike Interchange Design Corridor (BBITC) Guidelines and Standards states that, "The landscape buffer along Boynton Beach Boulevard should be a minimum of 25 ft. in width and landscaped in accordance with the Palm Beach County guidelines." However, the guidelines also state that, "The intent is for the Guidelines to be flexible in their application so that they are a "guide" to development, and are not meant to be taken verbatim if that application deviates from the other codes. Deviations from the recommendations of these guidelines is permitted if appropriate justification can be provided to show that the intent of the provision is being met." In this case, the Applicant has shown that the intent of the provision has been met. Twenty (25) foot wide of open space still remain along Boynton Beach Boulevard almost in its entirety except where space is needed for sidewalk along the south side of Building D. In addition, landscaping will be provided to meet ULDC article 7.C.2.A, R-O-W Buffer Landscape Requirements which requires one Canopy tree per 25-linear feet and one Palm or Pine per 30 linear feet. These ULDC requirements exceed those of the Boynton Beach Turnpike Interchange Design Corridor (BBITC) Guidelines and Standards where the Guidelines state that "Live and Laurel Oaks shall be planted the entire length of frontage along Boynton Beach Boulevard within the back 15-foot of the buffer in two staggered rows. The spacing should be a maximum of 25-foot on center. Royal Palms shall be planted within the front 5-foot of the buffer, spaced 50-foot on center." The proposed buffering meets both Code requirements and the intent of Boynton Beach Turnpike Interchange Design Corridor (BBITC) Guidelines and staff is in support of this request.

By deleting landscape Condition of approval 7 requiring a (15) foot wide R-O-W buffer along Hagen Ranch Boulevard, with no width reduction or easement encroachments being permitted, the Applicant is proposing to meet code requirement by providing 20-foot wide R-O-W buffers along Hagen Ranch Road with a 5-foot easement overlap. The request will meet current code requirements.

The Applicant is also requesting to delete Landscaping Condition 2. The condition requires that a group of three (3) or more palms may not supersede the requirement for a canopy tree. The Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Staff supports the request for modifications to the Landscaping Conditions of Approval.

The Applicant is also requesting a Variance to relocate foundation plantings for Building D. Staff is in support of the request as disscussed above.

Outdoor Dining: A 1090 sq. ft. Outdoor Dining Area is proposed along the north side of Building D and a 275 sq. ft. Outdoor Dining Area is proposed on the south side of Building C. Pursuant to Art. 4. B.2.C.33.h, Outdoor Dining for Restaurants must comply with the principal structure setbacks. A 59 ft. front setback is proposed along Boynton Beach Boulevard, which exceeds the 25 ft. setback required, and a 74.2 ft. side setback from eastern lot line, which exceeds the 30 ft. required setback for the Outdoor Dining Area along the north side of Building D. For Outdoor Dining Area along the south side of Building C, a 99 ft. side setback from the eastern lot line is provided and 223 ft. rear set back to northern property line, exceeding code requirements.

• Architectural Review: This use will be required to comply with the Architectural Guidelines specified in Article 5.C, Design Standards. No Architectural elevations have been provided at this time. The Applicant has indicated they intend to obtain Architectural review approval at time of application for Building Permits for the proposed structures. The Applicant has requested to delete architectural condition 1 requiring that Architectural Elevations for the buildings be submitted for review and approval by the Zoning division. The Condition was previously added by Staff after the Applicant submitted Architectural Elevations for Staff review and approval. Staff stated "The Elevations dated March 9, 2017 have been reviewed and will be submitted at time of final approval by the DRO for final approval." Architectural Elevations to be provided at the time of permitting approval. Staff is in support of this request to delete the condition since the project is a project requiring a building permit approval and will be reviewed for compliance through the standard Building Permit Review Processes per 5.C.1.E of the ULDC.

• *Parking:* Parking for an MUPD allows a range of parking from four to six spaces per 1,000 sq. ft. of building area (282 – 423 spaces). The PSP indicates a total of 346 parking spaces. Therefore, the project is in compliance with the requirements for parking. The PSP also indicates three loading spaces which is required by Code. Two loading spaces east and west of building meet the minimum dimensions and location requirements and the loading space west of Building D is subject to Type I Waivers to locate the loading space within a drive isle through the Administrative Review Process.

• *Signage:* The Preliminary Master Sign Plan (PMSP), Figure 8, indicates three freestanding signs along Hagen Ranch Road and two freestanding signs along Boynton Beach. The PMSP also indicates wall signage for the Commercial structures. All proposed signage is consistent with Art. 8, Signage, as well as the Technical Manual Requirements outlined in Title 5, Signage.

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

The subject site was previously approved for a commercial development. It is located at the major intersection of Hagen Ranch Road and Boynton Beach Boulevard which is already developed with commercial developments at the other corners. To the north and east of the subject site are residential properties in Palm Isles West PUD, with Medium Residential 5 (MR-5) Future Land Use (FLU) designations. To south across from the 105-foot ultimate right-of-way for Boynton Beach Boulevard are commercial uses in the Boynton Beach Self-Storage MUPD, with Commercial High, with an underlying 5 units per acre (CH/5) and Commercial Low, with an underlying MR-5 (CL/5) Future Land Use (FLU) designations. To the west across from the 80-foot ultimate right-of-way for Hagen Ranch Road supports vacant property with current approval for Hagen Ranch Boynton Beach MUPD, with Future Land Use (FLU) designation of Commercial Low-Office, with an underlying MR-5 (CL-0/5).

The proposed modifications and increase in square footage is generally consistent with the uses and character of the area. The Site Plan indicates increased buffers on the north and east where adjacent to the residential properties as required per previously approved Landscape Conditions of approval 5. The site was previously approved for commercial uses and will provide services to the neighboring residential developments.

The more intense commercial uses are oriented away from residential, and closer to the major roads. The proposed larger retail use is proposed to front Hagen Ranch Road and the Type 1 restaurant uses will front Boynton Beach Boulevard. The Buffers that will screen them from view from the R-O-W are 20 ft. All the commercial uses are proposed at one-story and will not exceed the maximum 35 ft. height ULDC provision.

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

The request does not visually impact the surrounding uses as the modifications will enhance the site. The PSP continues to provide the indicated 25-foot wide Type 3 Incompatibility buffers along the north and east property lines where adjacent to the residential dwelling units, and 20 ft. R-O-W buffers along the south and west property lines. The proposed project does not visually impact surrounding uses as the modifications to the site include new landscaping, paving, new buildings and modern amenities which will enhance the undeveloped property that has remained vacant for several years.

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

VEGETATION PROTECTION: The property is cleared with the exception of several trees that shall be replaced 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.

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

The proposed request will remain consistent with the development pattern in the area. The Applicant proposes to provide additional retail square footage and parking to further accommodate the approved multi-use development, without exceeding maximum parking calculations. The subsequent modifications requesting increases to building square footage and modification to the location of the buildings. The Applicant's request to allow such modifications will remain a logical and orderly development pattern.

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

ENGINEERING COMMENTS:

The proposed 70,569 sq. ft. shopping center is expected to generate 2,675 net daily trips, 37 net AM peak hour trips, and 237 net PM peak hour trips. The build out of the project is expected to happen by 2024.

Some of the significantly impacted roadways and intersections have background deficiencies, without the project traffic. As per the State Proportionate Share legislation, the developer will not be responsible to make any improvements to those deficient roadways and intersections for project approval.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK) Segment: Hagen Ranch Rd from Gateway Blvd to Boynton Beach Blvd Existing count: Northbound=759, Southbound=402 Background growth: Northbound=179, Southbound=95 Project Trips: Northbound=57, Southbound=62 Total Traffic: Northbound=995, Southbound=559 Present laneage: 1 in each direction Assured laneage: 1 in each direction LOS "D" capacity: 880 per direction Projected level of service: Worse than LOS D in the northbound direction, but better than LOS D in the southbound direction.

Segment: Boynton Beach Blvd from Hagen Ranch Rd to Jog Rd Existing count: Eastbound=2153, Westbound=1775 Background growth: Eastbound=488, Westbound=432 Project Trips: Eastbound=37, Westbound=37 Total Traffic: Eastbound=2678, Westbound=2243 Present laneage: 3 in each direction Assured laneage: 3 in each direction LOS "D" capacity: 2680 per direction Projected level of service: LOS D or better in each direction

FIRE PROTECTION:

Staff has reviewed this application and have no additional comments.

SCHOOL IMPACTS:

Detailed analysis is not required for this non-residential application, as it will not generate any students.

PARKS AND RECREATION:

Non-residential application, therefore Park and Recreation Department ULDC standards do not apply.

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

The subject property is located at the northeast corner of Hagen Ranch Road and Boynton Beach Boulevard. This intersection is already developed with commercial uses on all other corners with this property still being vacant. The Applicant states in the Justification Statement that the continual change of development patterns in the area support the Applicant's request to allow a commercial center with uses that will support the surrounding residential communities. **CONCLUSION:** Staff has evaluated the standards listed under Article 2.B.2.B and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the requests. Staff has also determined that any of the potential impact and incompatibility issues will be adequately addressed subject to the recommended Conditions of Approval as indicated in Exhibits C-1 and C-2.

CONDITIONS OF APPROVAL

EXHIBIT C-1: Type 2 Variance - Concurrent

VARIANCE

1. The Development order for this concurrent variance shall be tied to the Time Limitations of the Development Order for ZV/ABN/DOA-2021-1341. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - 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. (BLDG PERMIT: BLDG - Zoning) (ONGOING: ZONING - Zoning)

COMPLIANCE

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

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2017-697, Control No.2008-00421, which currently states:

The approved Preliminary Site, Preliminary Regulating, Phasing and Master Sign Plans are dated March 9, 2017. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission.

Is hereby amended to read:

The approved Preliminary Site, Preliminary Regulating, and Master Sign Plans are dated November 22, 2021. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2017-697, Control No.2008-00421, which currently states:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2009-0898 (Control No. 2008-00421), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified.

Is hereby amended to read:

All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2017-0697 (Control No. 2008-00421), have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2017-697, Control No.2008-00421, which currently states:

At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the buildings shall be submitted for review and approval by the Zoning Division. Architectural Elevations shall comply with the standards indicated in Article 5.C of the Unified Land Development Code (ULDC) and shall be generally consistent with the Architectural Elevations dated March 9, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Plan, all applicable Conditions of Approval, and all ULDC requirements. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

2. Previous ARCHITECTURAL REVIEW Condition 3 of Resolution R-2017-697, Control No.2008-00421, which currently states:

Prior to Final Approval by the Development Review Officer (DRO), the site plan shall be revised to indicate the specific height of each building to be consistent with the approved Architectural Elevations. (DRO: ZONING - Zoning)

Is hereby deleted. [REASON: No longer Applicable]

ENGINEERING

1. The median opening on Boynton Beach Boulevard, approximately 680 feet east of the intersection at Hagen Ranch Road, shall be modified to prohibit u-turning vehicles from the eastbound lanes on Boynton Beach Boulevard.

a. The Property Owner shall apply to and obtain a permit from Florida Department of Transportation to modify the median opening to prohibit u-turning vehicles at this location prior to issuance of the first building permit. Appropriate signage prohibiting u-turns shall be provided. (BLDGPMT: MONITORING - Engineering)

b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING - Engineering) (Previous ENGINEERING Condition 1 of Resolution R-2017-697, Control No.2008-00421)

2. Previous ENGINEERING Condition 2 of Resolution R-2017-697, Control No.2008-00421, which currently states:

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

a. No Building Permits for the site may be issued after December 31, 2018. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

Is hereby amended to read:

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

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

3. Prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first, the Property Owner shall provide to Palm Beach County Right of Way Acquisition Section of Roadway Production Division by warranty deed additional right of way for the construction of a right turn lane on Hagen Ranch Road at both project entrances. This right of way shall be a minimum of minimum of twelve feet in width and a taper length of 50 feet, or as approved by the County Engineer. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance. This additional right of way shall be free of all encumbrances and encroachments and shall include Corner Clips where appropriate, as determined by the County Engineer. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. The Property Owner shall not record the required right of way or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2017-697, Control No.2008-00421)

4. Previous ENGINEERING Condition 4 of Resolution R-2017-697, Control No.2008-00421, which currently states:

The Property Owner shall construct a right turn lane south approach on Hagen Ranch Road at the project entrance. This construction shall be concurrent with the paving and drainage improvements

for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required by the Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

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

Is hereby amended to read:

The Property Owner shall construct a right turn lane south approach on Hagen Ranch Road at both project entrances. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required by the Palm Beach County for this construction shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

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

5. Previous ENGINEERING Condition 5 of Resolution R-2017-697, Control No.2008-00421, which currently states:

The Property Owner shall modify the median on Hagen Ranch Road to restrict left turns in to the site from southbound lanes on Hagen Ranch Road, permit only left turns out from the site, and include adequate space for only ONE left turning vehicle storage within the median, by increasing the width of the median, as approved by the County Engineer. Right in and right out access from Hagen Ranch Road shall be permitted. The proposed driveway location may be required to shift north and align with the driveway on the west side of Hagen Ranch Road to provide adequate sight distance for vehicles exiting both sites.

a. The Property Owner shall receive a right-of-way permit from Palm Beach County to construct a channelized median for left turns out from the site prior to issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

c. This condition shall be considered complete if a traffic signal is installed at this intersection location. (ONGOING: ENGINEERING - Engineering)

Is hereby amended to read:

The Property Owner shall modify the median on Hagen Ranch Road at the northern entrance to a raised directional median opening, as approved by the County Engineer.

a. The Property Owner shall receive a right-of-way permit from Palm Beach County prior to issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

c. This condition shall be considered complete if a traffic signal is installed at this intersection location. (ONGOING: ENGINEERING - Engineering)

6. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Boynton Beach Boulevard, 76 feet, measured from centerline of the proposed right of way on an alignment approved by the FDOT or County Engineer

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed, and one of the following: title report, attorney's opinion of title, title

commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 6 of Resolution R-2017-697, Control No.2008-00421)

7. Prior to the issuance of the first building permit, the Property Owner shall configure the property into a legal lot(s) of record in accordance with provisions of Article 11 of the Unified Land Development Code. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2017-697, Control No.2008-00421)

8. Previous ENGINEERING Condition 8 of Resolution R-2017-697, Control No.2008-00421, which currently states:

The Property Owner shall modify the east side of the northbound lane pavement to receive the southbound to northbound u-turns on Hagen Ranch Road at Boynton Beach Boulevard, as approved by the County Engineer. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

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

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

Is hereby deleted. [REASON: No longer required due to the modified site plan]

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

COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2017-697, Control No.2008-00421)

10. Landscape Within the Median of Hagen Ranch Road

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

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

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

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

d. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to the County's Only Trees Irrigation and Sod, (OTIS) program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Hagen Ranch Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 10 of Resolution R-2017-697, Control No.2008-00421)

11. Landscape Within the Median of Boynton Beach Boulevard

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

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan and shall be based on the project's front footage along Boynton Beach Boulevard. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 11 of Resolution R-2017-697, Control No.2008-00421)

12. Previous ENGINEERING Condition 12 of Resolution R-2017-697, Control No.2008-00421, which currently states:

No Building Permits shall be issued until the Property Owner makes a proportionate share payment of \$175,329.00 to add a second right turn lane on the north approach at the intersection of Boynton Beach Blvd and Hagen Ranch Rd. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in Condition 13. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer required to meet TPS in the revised traffic impact study report]

13. Previous ENGINEERING Condition 13 of Resolution R-2017-697, Control No.2008-00421, which currently states:

Pursuant s.163.3180(5)(h)2., F.S., proportionate share payments shall be based on the improvement cost at the time of payment. The parties hereto agree that the payment amounts set forth in this Agreement shall be subject to the following calculation to account for changes in road development costs that may occur between the effective date of this Agreement and the date each proportionate share payment is due.

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at http://data.bls.gov/timeseries/WPUIP2312301.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect. (ONGOING: ENGINEERING - Engineering)

Is hereby deleted. [REASON: Proportionate share payment is not required to meet TPS in the revised Traffic Impact Study report]

14. The Property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineer on Hagen Ranch Rd at the northern project entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way or easement acquisition.

The Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to request the monies to construct the traffic signal. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 14 of Resolution R-2017-697, Control No.2008-00421)

15. Previous ENGINEERING Condition 15 of Resolution R-2017-697, Control No.2008-00421, which currently states:

Prior to issuance of building permits for more than 40,000 SF, the Property Owner shall submit a traffic study to the Traffic Division to determine whether removal of the westbound right-turns overlap with southbound left-turns on Boynton Beach Blvd at Hagen Ranch Rd is warranted. If removal of the overlap is determined by the County Engineer, the Property Owner shall be responsible for any associated costs for this modification. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer required as per the revised Traffic Impact Study report]

16. The Property Owner shall construct a left turn lane north approach on Hagen Ranch Road at the project's north entrance.

Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the entire condition shall be considered satisfied. (BLDGPMT: MONITORING - Engineering)

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

ZONING - LANDSCAPING

1. Prior to the issuance of a building permit, the Property Owner shall submit a Landscape Plan and/or an Alternative Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (BLDGPMT: ZONING - Zoning)

2. Previous ZONING - LANDSCAPING Condition 2 of Resolution R-2017-697, Control No.2008-00421, which currently states:

A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPMT/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

3. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

a. clusters: staggered heights twelve (12) to eighteen (18) feet; and,

b. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (ONGOING: ZONING - Zoning)

4. Field adjustment of berm and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate traversing utility or drainage easements crossings and existing vegetation. (BLDGPMT: ZONING - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH AND EAST PROPERTY LINES (ABUTTING RESIDENTIAL)

5. In addition to the Code requirements, landscaping and buffering along the north and east property lines shall provide screening for the adjacent residential units and be upgraded to include:

a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;

b. Staggered sabal palms to provide screening for the adjacent residential units; and,

c. Within the east buffer only, a six (6) foot high wall shall be installed on top the plateau of a two (2) foot berm. (BLDGPMT/ONGOING: ZONING - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH PROPERTY LINE (FRONTAGE ON BOYNTON BEACH BOULEVARD)

6. Previous ZONING - LANDSCAPING Condition 6 of Resolution R-2017-697, Control No.2008-00421, which currently states:

Landscaping and buffering along the south property line shall be upgraded to include:

a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;

b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet;

c. one (1) native canopy tree for each twenty-five (25) linear feet of the property line; and

d. one (1) palm tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora 'Nora Grant' shall be planted in a bed at the base of each palm. (BLDGPMT/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: Requested by applicant]

ZONING - LANDSCAPING-LANDSCAPING AND BUFFERING ALONG THE WEST PROPERTY LINE (FRONTAGE ON HAGEN RANCH ROAD)

7. Previous ZONING - LANDSCAPING Condition 7 of Resolution R-2017-697, Control No.2008-00421, which currently states:

In addition to the Code requirements landscaping and buffering along the west property line shall be upgraded to include:

a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted:

b. one (1) native canopy tree for each twenty (20) linear feet of the property line; and,

c. one (1) palm or pine for each for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDGPMT/ONGOING: ZONING - Zoning)

Is hereby deleted. [REASON: No longer applicable]

SIGNS

1. Freestanding signs on Hagen Ranch Road and Boynton Beach Boulevard shall be limited as follows:

a. maximum sign height, measured from finished grade to highest point shall be eight (8) feet;

b. maximum sign face area per side - one hundred (100) square feet; and,

c. maximum number of signs per frontage - one (1). (BLDGPMT/ONGOING: ZONING - Zoning)

USE LIMITATIONS

1. Hours of operation for all non-residential uses, including deliveries, are limited to the hours of 6:00 AM to 11:00 PM daily. These restrictions shall not apply to stocking activities or any other activity that is internal to a building. (ONGOING: CODE ENF - Zoning)

2. Prior to the final site plan approval by the DRO officer, the site plan shall be revised to remove the restaurant, Type II requested use and replace with retail.

(DRO: ZONING - Zoning)

3. The following uses shall be prohibited on the subject site:

- a. Indoor Entertainment for Bingo Hall;
- b. Vehicle Sales and Rental; and
- c. Car Wash. (ONGOING: ZONING Zoning)

4. If an auto retail store is established, the Property Owner shall place signs in the parking lot stating the prohibition of on-site repair and maintenance of vehicles. (ONGOING: MONITORING - Zoning)

COMPLIANCE

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

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

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or

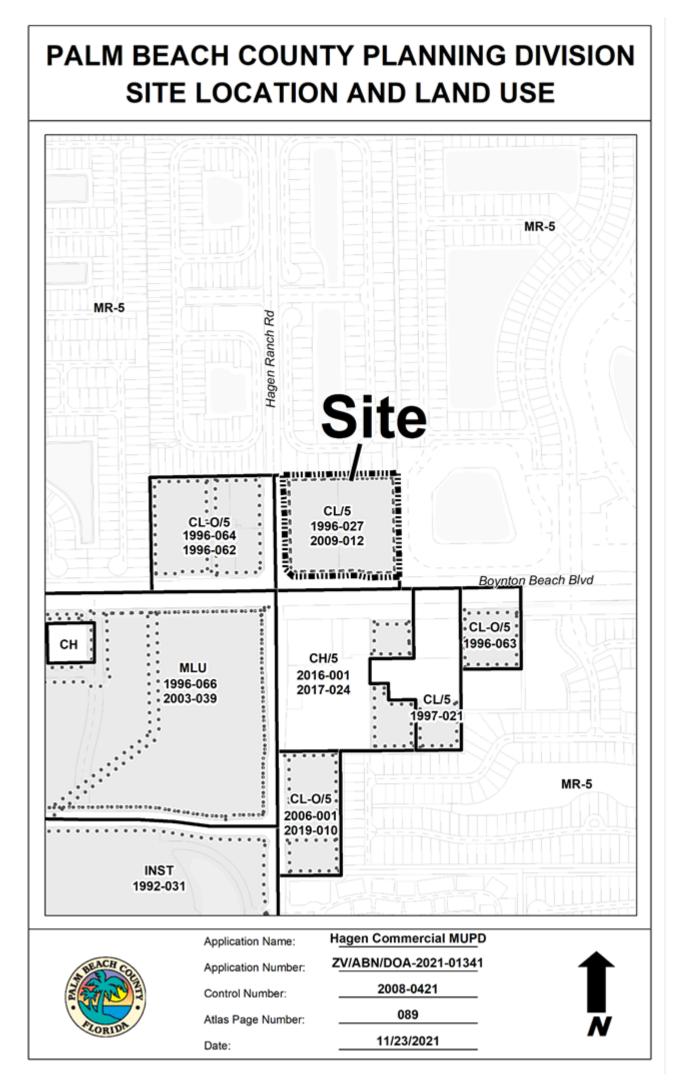
d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

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

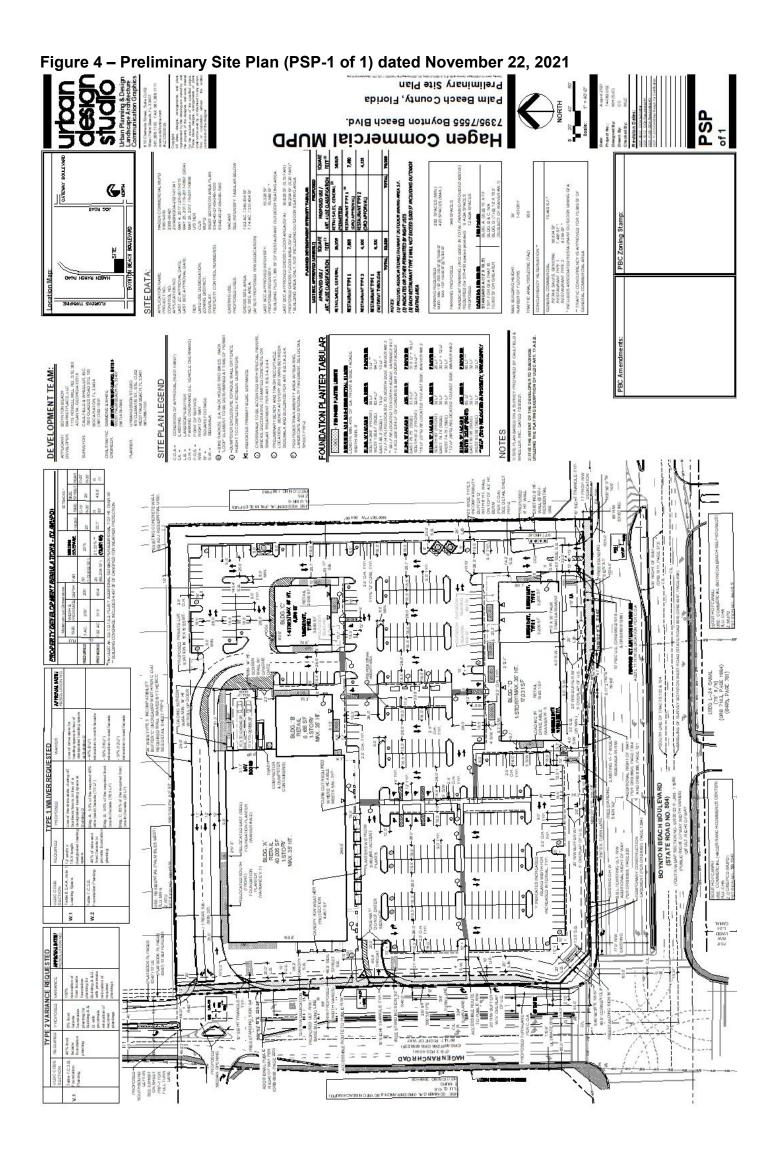
DISCLOSURE

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









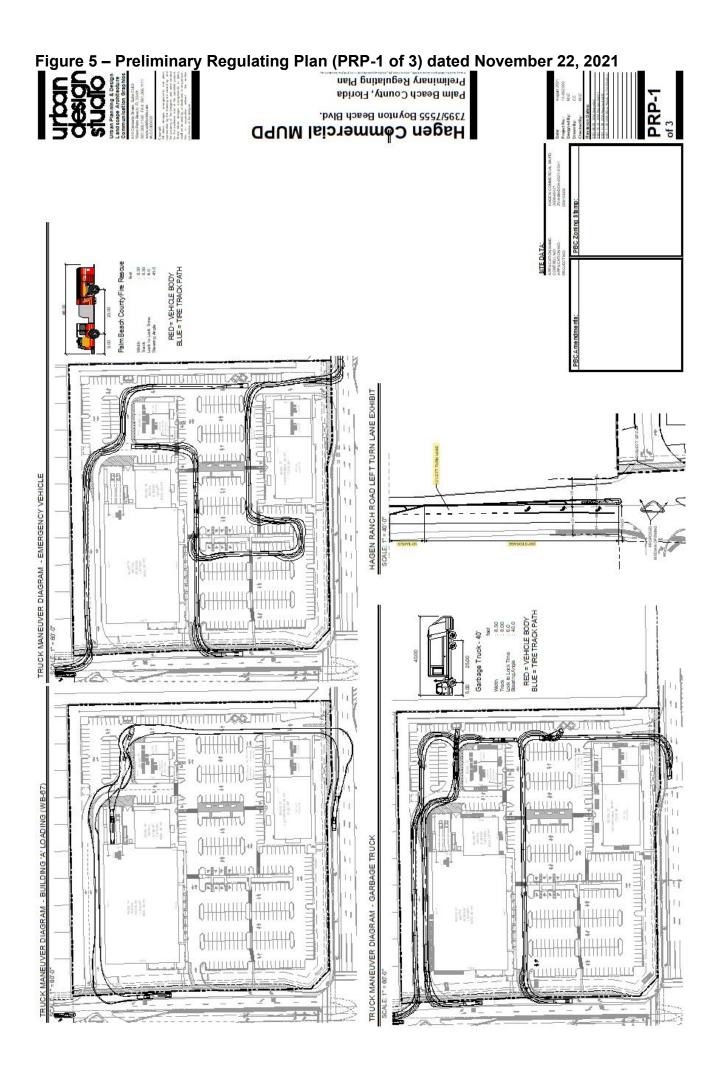
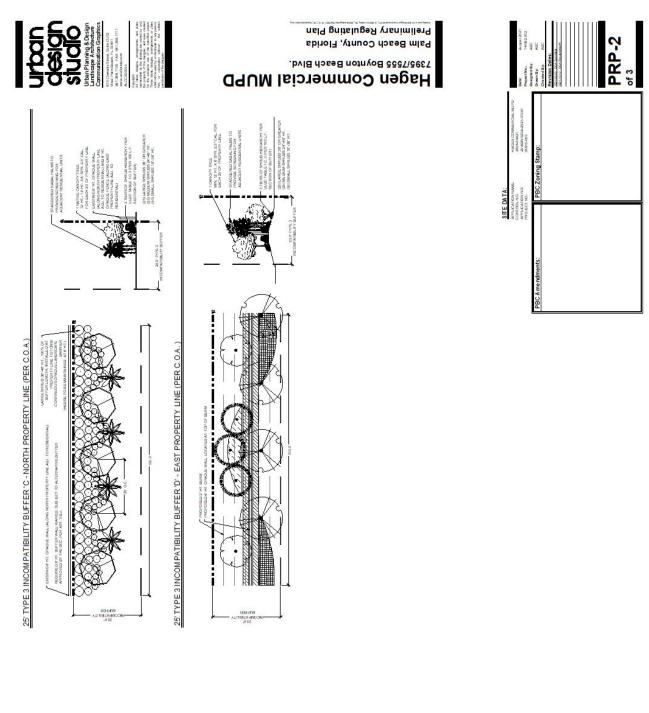
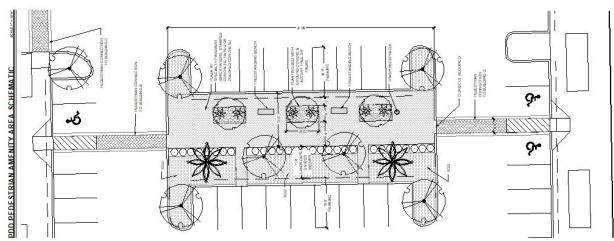
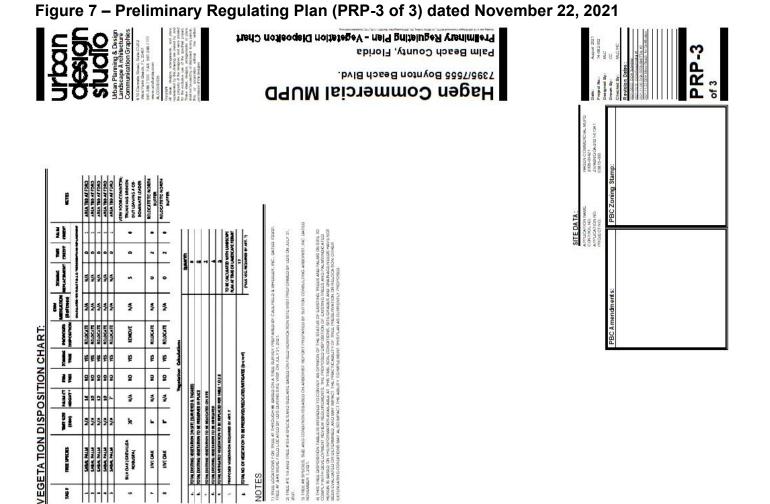


Figure 6 – Preliminary Regulating Plan (PRP-2 of 3) dated November 22, 2021







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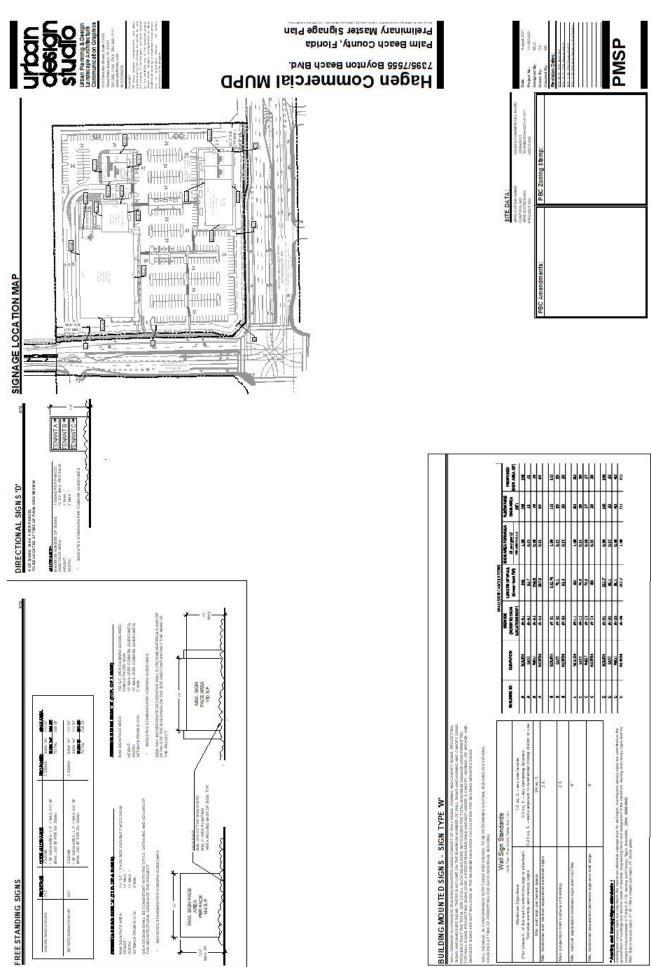
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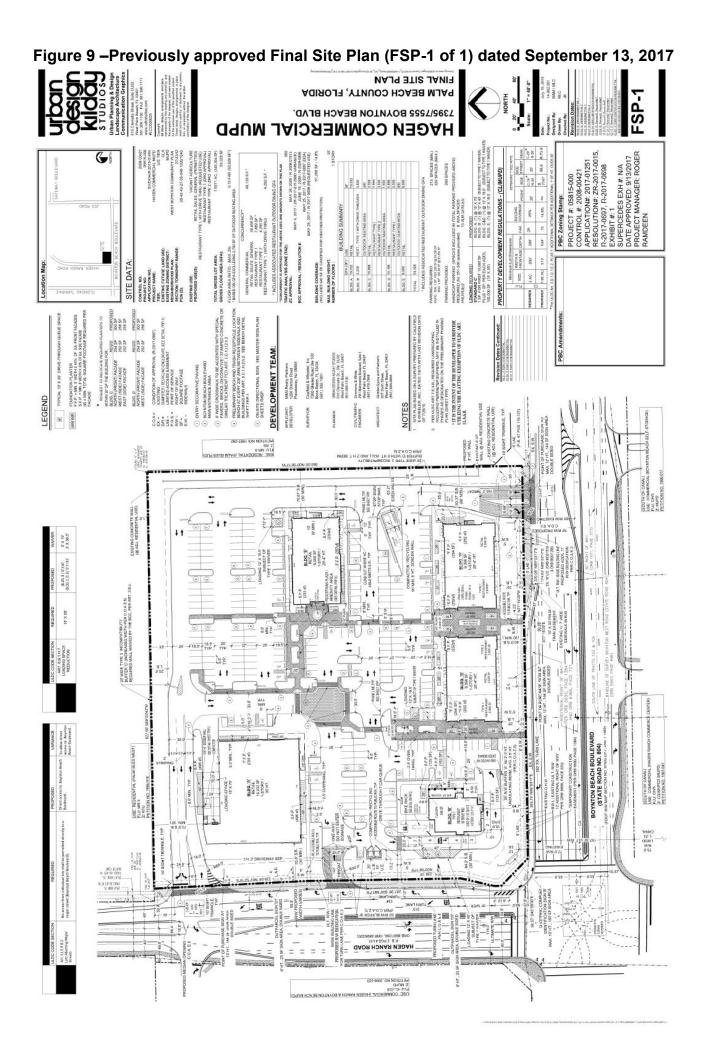
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PANACT -

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Figure 8 – Approved Preliminary Master Plan (PSMP-1 of 1) dated November 22, 2021





Zoning Commission Application No. ZV/ABN/DOA-2021-01341 Hagen Commercial MUPD

Figure 10 – Coalition of West Boynton Residents Association letter dated September 22, 2021



MANAGING GROWTH AND QUALITY OF LIFE IN GREATER WEST BOYNTON SINCE 1981 Over 110 Member Communities

OFFICERS Beth Rappaport President

September 22, 2021 Ken Tuma

Steve Wallace First Vice President

Barbara Roth Second Vice President

> Cheryl Dodes Secretary

Neil Ambrosio Treasurer

DIRECTORS Michael Chapnick Craig Ditman Victoria Morton Debbie Murphy Gerri Seinberg Linda Wilson

PAST PRESIDENTS Phil Barlage Myrna Rosoff Glen Harvie Stuart Caine Kenneth Lassiter Barbara Katz Sandra Greenberg Lewis Doctor Dagmar Brahs Eugene Sokoloff Paul Gellis Al Miller Philip Leslie Kenneth Sanden Dr. Richard Carrington

URBAN DESIGN STUDIO 610 Clematis Street, Suite CU02 West Palm Beach, FL 33401

Via Email: <u>ktuma@udsflorida.com</u>

Re: Hagen Commercial MUPD

County Application No. ZV/ABN/DOA-2021-01341

Dear Mr. Tuma,

I would like to inform you of the outcome of the votes taken for the above proposed project as follows:

August 31, 2021, Growth Management Committee recommended for approval 10-0.

September 13, 2021, Executive Board recommended for approval 9-0.

September 22, 2021, COBWRA Delegates recommended for approval 40-3.

Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

Kappapi BUT

BETH RAPPAPORT, President On behalf of the Coalition of Boynton West Residential Associations

cc: Imene Haddad, AICP <u>IHaddad@pbcgov.org</u> Palm Beach County Board of County Commissioners <u>BCC-AllCommissioners@pbcgov.org</u> Dagmar Brahs, COBWRA Growth Management Chair <u>nbrahs@gmail.com</u> Barbara Roth, COBWRA First VP, Growth Management V. Chair <u>rothcosys@comcast.net</u>

PO Box 740814, Boynton Beach, FL 33474-0814 • 561-572-9151 E-mail: info@cobwra.org • www.cobwra.org • www.facebook.com/COBWRA PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

1

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 <u>Micritim A. Miteriovi</u>, <u>7245722</u>, 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 []. With M. Mitzew e.g., president, partner trustee) of William Mazzoni Revocable Trust	I TAUGI [position -
and type of entity - e.g., ABC Corporation, XYZ Limited Partne ownership interest in real property legally described on the attac	ershipj that holds an ched Exhibit "A" (the
"Property"). The Property is the subject of an application for a amendment or Development Order approval with Palm Beach Court	

2. Affiant's address is:

9634 CAPTIVA CIRCLE BOUNTON BEACH, FL 33437

. 4 .

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

Disclosure of Beneficial Interest – Property form Page 1 of 4 Form # 9 Revised 12/27/2019 Web Format 2011 PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

 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.

(++))al William Mazzoni , Affiant

(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [Uphysical presence or [] online notarization, this <u>27</u> day of <u>JUY</u> <u>20</u> by <u>WILLI AM A MATEONI</u> [name of person acknowledging]. (Hershe is personally known to me or has produced ______ (type of identification) as identification and did did not take an oath (circle correct response).

MARK Penny (Name - type, stamp or print clearly)

My Commission Expires on: 8/4/2022

(Signature) NOTARY STAR OR MARK PERRY

MARK PERRY Commission # GG 220320 Expires August 24, 2022 Bonded Thru Troy Fain Insurance 800-386-7016

Disclosure of Beneficial Interest – Property form Form # 9 Page 2 of 4

Revised 12/27/2019 Web Format 2011

FORM # 9

EXHIBIT "A"

PROPERTY

TRACTS 103, 104, LESS THE SOUTH 30, O FEET THEREOF, AND THAT PORTION OF THE 30 FOOT ROAD RIGHT OF WAY LYING WEST OF TRACT 104, 105, 104, LESS THE SOUTH 30, O FEET THEREOF, AND THAT PORTION OF THE 30 FOOT ROAD RIGHT OF WAY LYING WEST RECORDED IN PLOT BOOK 2 PAGES 15 THRMS COMPANY OF THE PUBLIC RECORDS OF PALM RECORDING TO THE PLAT THEREOF WAY FOR BOYNTON BOOK 2 PAGES 15 THRM 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM RECORDS TO THE PLAT THE SOUTH OFFICIAL RECORDS BOOK 6356, PAGE 721, AND LESS THAT PORTION OF TRACTS 103 AND 104, DESCRIBED AS "PARCELS" A "AND "C", AS RECORDED IN OFFICIAL RECORDS BOOK 8898, PAGE 220.
BARCELA: PLAT BOOK 2 PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH FARMS COMPANY PLAT NO. 3, AS RECORDED IN DESCRIBED AS FOLLOWS:
COMMENCE AT THE SOUTHWEST CORNER OF TRACT 'S' OF PAIM ISLES, A P.U.D. AS RECORDED IN PLAT BOOK 67. PAGES 116 THRU 127, NOTHER OF THE SOUTHWEST CORNER OF TRACT S' OF PAIM ISLES, A P.U.D. AS RECORDED IN PLAT BOOK 67. PAGES 116 THRU 127, SOUTHER WAY IN SIGN OF THE WEST LINE OF SAD TRACT S' A DISTANCE OF 100 FOOT DE BERNE OF SUB'S AT THE NORTH RICHT OF WAY IN SIGN OF MEST UNE OF SAD TRACT S' A DISTANCE OF 144 63 FEET TO THE POINT OF BEGINNING, THENCE CONTINUES AP 03 17 W. ALONG SAD NORTHFIGHT OF WAY, UNE A DISTANCE OF 144 63 FEET TO THE POINT OF BEGINNING, THENCE CONTINUES AP 03 17 W. ALONG SAD NORTHFIGHT OF WAY, UNE A DISTANCE OF 144 63 FEET TO THE WEST INCOME OF SAD TRACT 104. THENCE NO 56 TO THE WORTH INCOME AD INTACC OF 31.31 FEET TO THE WEST INCOME OF 225.24 FEET TO A LINE 39.50 FEET AS OF AND THE OF SAD TRACT OF WAY, UNE A DISTANCE OF 31.31 FEET TO THE WEST INCOME OF 225.24 FEET TO A LINE 39.50 FEET AS OF AND PARALLE AD STANCE OF 31.31 FEET TO THE WEST INCOME OF 225.24 FEET TO A LINE 39.50 FEET AS OF AND PARALLE WITH THE SAD WEST INCOME OF 56.57 FEET TO ALINE 12.00 FEET NORTH OF AND PARALLEL UNE A DISTANCE OF 287.99 FEET. THENCE S.77 15 17 E., A DISTANCE OF 30.70 FEET TO THE POINT OF BEGINNING, TO 3ETHER WITH PARCEL C, DESCRIBED AS FOLLOWS.
PARCEL C: A STRIP OF LAND 30.00 FEET IN WIDTH FOR ROAD RIGHT OF WAY PURPOSES BEING A PORTION OF PALM BEACH FARMS, COMPANY PLATNOS AS RECORDED IN PLATE BOOK 2. PAGES 45 THRU 34. PALM BEACH COUNTY FUBLIC RECORDS STUATE IN SECTION 21, ACL OF THE 30.00 FEET NOAD FIGHT OF WAY, UNIT BETWEEN TRACTS 104 AND THS BLOCK 49, AS SHOWN ON THE PLAT OF PALM BEACH COUNTY. FLORIDA. LESS THE SOUTH 95.00 FEET THEREOF.

SAID LANDS SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

•

CONTAINING 345,304 SQUARE FEET/7.9271 ACRES, MORE OR LESS.

Disclosure of Beneficial Interest – Property form Form # 9 Page 3 of 4

Revised 12/27/2019 Web Format 2011 ÷

PALM BEACH COUNTY - ZONING DIVISION

FORM #9

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

WILLIAM A MAZZONI 9634 Captiva Circle, Boynton Beach, FL

Disclosure of Beneficial Interest – Property form Form # 9 Page 4 of 4

Revised 12/27/2019 Web Format 2011

HAGEN COMMERCIAL MUPD JUSTIFICATION STATEMENT

Request(s): Development Order Amendment (DOA) to Reconfigure the Site Plan, amend Regulating Plan & Master Sign Plan, modify uses, add square footage and modification of Conditions of Approval; Development Order Abandonment; Type 1 Waivers for relocation of Communication Graphics foundation planting and loading space (alternative design); and a Concurrent Type 2 Variance for the relocation of foundation planting. Control Number: 2008-00421

Application Number: ZV/ABN/DOA-2021-01341 Submittal: August 2, 2021 Resubmittal: October 12, 2021



Urban Planning and Design Landscape Architecture

OVERVIEW OF REQUESTS & PROPERTY INTRODUCTION

On behalf of Boynton Beach Marketplace, LLC ("Applicant"), Urban Design Studio has prepared and hereby respectfully submits the requests listed below for the Hagen Commercial MUPD. The subject 7.92-acre property (hereinafter referred to as the "subject property"), consists of two (2) property control numbers (PCN's 00-42-43-27-05-049-1030/1040), is located in unincorporated Palm Beach County ("PBC"), and is located on the northeast corner of the intersection of Boynton Beach Boulevard and Hagen Ranch Road.

The subject property is situated in the Urban/Suburban Tier and is within the County's Urban Service Area. It is also located within the boundaries of the West Boynton Area Community Plan ("WBACP") and the Boynton Beach Turnpike Interchange Corridor Design Guidelines and Standards ("BBTIC"). The subject property currently has a Future Land Use Atlas ("FLUA") designation of Commercial Low with an underlying Medium Residential, up to five (5) dwelling units per acre ("CL/5") and is in the Multiple Use Planned Development ("MUPD") Zoning District.

The subject property is vacant with a current approval for a 53,328 square foot commercial shopping center with retail, Type 1 restaurant with drive-through, Type 1 restaurants (without drive-through) and Type 2 restaurant uses (including associated outdoor dining areas) along with an alternative landscape buffer for the north and east property lines that allows for the elimination of the required wall; and Subdivision Variance approval to allow access to a major street.

The Applicant proposes to redevelop the site with a 69,204 gross square foot commercial center with retail, Type 1 restaurant (without drive-through) and Type 2 restaurant uses.

Outdoor dining areas are also proposed for each of the restaurant uses. The project provides for a total of 70,569 square feet including the associated restaurant outdoor dining areas. The development will continue to provide the alternative landscape buffer, as approved, for the north and east property lines and

610 Clematis Street Suite CU02 West Palm Beach, FL 33401 561.366.1100 561.366.1111 fax www.udkstudios.com LCC000035

Hagen Commercial MUPD Justification Statement Application No. ZV/ABN/DOA-2021-01341

access off of a major street. In order to achieve this proposal, the Applicant is requesting approval of the following from the PBC Board of County Commissioners ("BCC"):

- Development Order Amendment (DOA) to:
 - Reconfigure the Site Plan, Amend Regulating Plan & Master Sign Plan;
 - Modify/Delete Uses;
 - Add square footage;
 - Modification of Conditions from Resolution No. R-20017-0697.
- Development Order Abandonment (ABN) of Resolution No. R-2017-0698 which allowed a Type 1 Restaurant with drive-through.

Furthermore, the applicant is requesting concurrent approval of the following from the PBC Zoning Commission ("ZC"):

 Type 2 Variance approval for relocation of 100% of the front façade foundation planting, with proximate relocation of required plantings for Buildings "A" and "D".

Finally, the applicant is requesting approval of the following from the PBC Development Review Officer (DRO):

- Use approval for two (2) Type 1 Restaurants (without drive-through's);
- Use approval for one (1) Type 2 Restaurant;
- Type I Waiver request to allow for an alternative design option (use of the drive aisle, during off business hours, in lieu of a designated loading space) for the required loading zone (Building "D"); and
- Type I Waiver request to allow for relocation of required side and front foundation plantings (Building "A", and "B/C" respectively).

APPROVAL HISTORY

There were previous public hearing approvals granted by the BCC on the subject property. On August 26, 1996 the BCC, through Ordinance No. 1996-027, amended the FLUA designation of the 7.93-acre parcel from Medium Residential, up to 5 dwelling units per acre ("MR-5") to Commercial Low Office with an underlying Medium Residential, up to 5 dwelling units per acre (CL-O/5). Note that there were no conditions imposed through Ordinance No. 1996-027.

On May 28, 2009 the BCC, through Ordinance No. 2009-012, amended the FLUA designation of the 7.93-acre parcel from CL-O/5 to CL/5. Note that there were no conditions imposed through Ordinance No. 2009-012.

On May 28, 2009 the BCC, through Resolution No. R-2009-0898, approved an Official Zoning Map Amendment (rezoning) application (Application No. PDD/R-2008-01913) which rezoned the 7.93-acre subject property from the Agricultural Residential ("AR") Zoning District to the

West Palm Beach Office: 610 Clematis Street Suite CU-02 West Palm Beach, FL 33401 P. 561-366-1100 Boynton Beach Office: 508 E. Boynton Beach Blvd. Boynton Beach, FL 33435 P. 561-736-8838 www.udsflorida.com LA0001739

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Hagen Commercial MUPD Justification Statement Application No. ZV/ABN/DOA-2021-01341

MUPD Zoning District. Note that there were conditions imposed through Resolution No. R-2009-0898. No application was filed for final site plan approval following the approval by the BCC.

On May 4, 2017, the ZC, through Resolution No. ZR-2017-015, approved a Subdivision Variance application (Application No. SV/DOA/R-2015-01464) to allow access to a major street.

On May 25, 2017 the BCC, through Resolution No. R-2017-0697, approved a Development Order Amendment application (Application No. SV/DOA/R-2015-01464) to reconfigure the Site Plan, delete square footage, add an access point, add uses; allow an Alternative MUPD Landscape Buffer, and modify and delete Conditions of Approval and a Requested Use application (Application No. SV/DOA/R-2015-01464), through Resolution No. R-2017-0698, to allow a Type 1 Restaurant with drive-through. Conditions were imposed through both Resolution No. R-2017-0697 and R-2017-0698 and a Final Site Plan application was filed and subsequently approved by the DRO following the approval by the BCC. The approval remains valid today, however, unbuilt.

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

Control No.	Description	Action	Date	Resolution/ Ordinance No.
N/A	FLUA Amendment from MR-5 to CL-O/5	Approved	August 26, 1996	Ordinance No. 1996-027
N/A	FLUA Amendment from CL-O/5 to CL/5	Approved	May 28, 2009	Ordinance No. 2009-012
2008-00421	Official Zoning Map Amendment (Rezoning) from AR to MUPD	Approved	May 28, 2009	Resolution No. R-2009-0898
2008-00421	Subdivision Variance to allow access to a major street	Approved	May 4, 2017	Resolution No. ZR-2017-015
2008-00421	DOA to reconfigure the Site Plan, delete SF, add an access point, add uses; allow an Alternative MUPD Landscape Buffer,	Approved	May 25, 2017	Resolution No. R-2017-0697

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	and modify and delete Conditions			
2008-00421	Requested Use to allow a Type 1 Restaurant with drive-through	Approved	May 25, 2017	Resolution No. R-2017-0698

LEGAL LOT OF RECORD

The agent for the Applicant researched previously recorded warranty deeds and it would appear that the property did not exist in its current configuration prior to February 5, 1973. As such, the Applicant will be required to process a boundary plat application, in accordance with ULDC Article 11, following Final Site Plan approval, which would also be required as the project is a Planned Development District. A note has been included on the site plan that would allow the developer to subdivide in the future utilizing the platting exemption in Art. 11.A.6.B. should they elect to do so.

SURROUNDING USES

Below is a description of the uses on the adjacent properties (or those on the other side of abutting R-O-W's) to the north, south, east and west of the overall property.

- North: To the north of the subject property is one (1) property (details below):
 - PCN 00-42-45-21-08-007-0000: Directly to the north of the subject property is a portion of the 5' wide perimeter buffer of the Palm Isles West development followed by the Palm Isles West residential community. This property has a FLUA designation of MR-5 and is within the RTU Zoning District. The property is approved at 3.85 gross du per acre (Control No. 94-18).
- South: To the south of the subject property, across Boynton Beach Boulevard (a rightof-way classified as an Urban Principal Arterial with an ultimate width of 120'), and the LWDD L-24 Canal (with a right-of-way width of 75') are four (4) parcels that are part of two (2) developments (details below – note that PCN's within the same development have been grouped together):
 - PCN's 00-42-45-28-07-001-0000, 00-42-45-28-07-002-0000 &00-42-45-28-07-004-0000: These three (3) parcels are part of a 7.48-acre commercial shopping center. This property has a FLUA designation of designation CH/5 and is within the CG/SE/PCD (MUPD) Zoning District. This center, known as the Hagen Ranch Commerce Center (Control No. 91-47) was approved for an FAR of 0.14; and
 - PCN 00-42-45-28-06-001-0010/0020/0030: These three (3) parcels are part of a 6.32-acre commercial center. This property has a split FLUA designation of designation CL/5 and CH/5 and is within the MUPD Zoning District. This center,

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> known as the Boynton Beach Boulevard Self Storage MUPD (Control No. 90-17) was approved for an FAR of 0.40 and 0.07.

- East: To the east of the subject property are a variety of PCN's within a Planned Unit Development (details below):
 - Various PCN's: Directly to the east of the subject property is Pod E of the Palm Isles P.U.D. This property has a FLUA designation of MR-5 and is within the RS Zoning District. This property is a part of a 992-unit residential community (Control No. 87-92) known as Palm Isles PUD that straddles Hagen Ranch Road which was constructed at 3.71 gross du per acre (note that Pod E was constructed at 5.47 net du per acre).
- West: To the west of the subject property, across Hagen Ranch Road (a right-of-way depicted on the Thoroughfare Identification Map with an ultimate width of 80'), are two (2) parcels that are part of the same development (details below):
 - PCN's 00-42-45-21-16-001-0010/0030: These two (2) parcels are part of a 3.7acre commercial center. This property has a FLUA designation of designation CL-O/5 and is within the MUPD Zoning District. This center, known as the Hagen Ranch & Boynton Beach MUPD (Control No. 2006-520) was approved for an FAR of 0.15

SITE DESIGN

Access to the 7.92-acre property was previously approved with one access point off of Boynton Beach Boulevard and two access points off of Hagen Ranch Road. The proposed application has no impact on the number of access points provided and continues to provide access from the south via one access point (ingress and egress) to Boynton Beach Boulevard and from the west via two access points (ingress and egress) to Hagen Ranch Road with a proposed reconfiguration of the divider median within Hagen Ranch Road at the northern most driveway and striping to allow for right in/right out access at the southern access point. The project Traffic Engineer has had discussions with County Engineering in regard to the design of the northern access and the proposed design has been based on input received from the County and similar constructed medians on Lyons Road and the plan is now being submitted for further review. The previously described access points will provide access to the proposed 346-space (including 12 spaces for accessible parking) parking lot, loading spaces and dumpsters.

The site design also incorporates a right-of-way dedication of 11' for the R-O-W of Boynton Beach Boulevard (as required by Engineering Condition 5 of Resolution No. R-2017-0697) along the south property line and a right-of-way dedication of 12' for the R-O-W of Hagen Ranch Road (as required by Engineering Condition 4 of Resolution No. R-2017-0697) along the west property line to accommodate a new right-hand turn lane into the subject property.

The proposed commercial center will accommodate the following uses and total square footages within four buildings:

- Retail: 58,824 sf
- Restaurant, Type 1 (without drive-thru): 7,490 sf (including outdoor dining GFA)
- Restaurant, Type 2: 4,255 sf (including outdoor dining GFA)

The prior approved Restaurant, Type 1 with drive-through has been removed from the plan and will be abandoned through a Development Order Abandonment of Resolution R-2017-0698, as well as all conditions associated with that use approval.

The subject property, with a CL future land use designation, is allowed a maximum floor-arearatio ("FAR") of 0.50 which yields a total of 172,652 square feet. The proposed intensity/gross floor area ("GFA") with this application is 69,204 square feet or 0.20 FAR. Based on prior discussions with the Planning Division, it was determined that restaurant outdoor dining area is not to be included in the proposed intensity (GFA/FAR) line item; as FAR should only be building area, of which outdoor seating is not included. As such, we have prepared the below GFA summary table which is formatted to provide the GFA building area in one column which is the FAR intensity and then a second column with the breakdown of square footage of uses, which is used for concurrency and parking calculations:

+

BCC APPROVED (UNBUILT)				PROPOSED			
BLDG.	GFA BLDG. AREA (SF)*	ART. 4 USE CLASSIFICATION	SQUARE FEET *	BLDG.	GFA BLDG. AREA (SF)	ART. 4 USE CLASSIFICATION	SQUARE FEET *
A	19,032	RETAIL	19,032	A	40,005	RETAIL	40,005
В	4,200	RESTAURANT TYPE 1 W/ DRIVE THRU OUTDOOR DINING	3,800	В	6,188	RETAIL	6,188
С	10,898	RETAIL RESTAURANT TYPE 1 RESTAURANT TYPE 2 OUTDOOR DINING	3,029 2,869 3,500 1,500	с	5,980	RETAIL RESTAURANT TYPE 2 OUTDOOR SEATING	2,000 3,980 275
D	10,198	RETAIL RESTAURANT TYPE 1 OUTDOOR DINING	5,898 3,500 800	D	17,031	31 RETAIL RESTAURANT TYPE 1 OUTDOOR DINING	10,631 6,400 1,090
Е	9,000	RETAIL	9,000				
TOTAL	53,328	TOTAL	53,328	TOTAL	69,204	TOTAL	70,569

*INCLUDES ASSOCIATED RESTAURANT OUTDOOR DINING GFA

The overall design of the proposed commercial center is intended to facilitate pedestrian activity and connection among the various uses. Building "A" includes 40,005 square feet of retail use which is anticipated for a high-end grocery tenant. The building features a 4,457 square foot canopy located along a portion of the west façade and the entire front façade that

will provide weather and shade protection. As such, a Type 2 Variance is requested for a relocation of front façade foundation plantings, which will be addressed further in the report. Building "B" is located at the end cap of Building "A" and is proposed for 6,188 square feet of retail use. Building's "C" and "D" will include a mix of retail and restaurant uses with outdoor seating. A Type 1 Waiver is being requested for relocation of a portion of foundation plantings for Building's "A", "B" and "C" along with an alternative loading space at Building "D". Crosswalks, that will be accented with special pavers, bricks, decorative/stamped concrete or similar treatment, are provided throughout the site along with benches and trash receptacles, with a bench at every 200' (min) between sidewalk and buildings per Article 6.B3.A.2.d.4. There is a pedestrian amenity area with seating, landscape and specialty pavement area located centrally within the site between Building "B" and "D" in accordance with PDD requirements and the proposed development plan meets bicycle parking requirements per Article 5 with bicycle racks provided at Building "A" and Building "D".

PERIMETER LANDSCAPE

Below is a description of the perimeter landscape that the Applicant is proposing to buffer the subject property from adjacent properties to the north, south, east and west.

- North: Since the proposed commercial use is adjacent to residential use (Palm Isles West, Control No. 94-18), a 15' Type 2 Incompatibility landscape buffer is required per ULDC Article 7.C.2.3.C Landscape Buffers. The width of this landscape buffer was increased to 25' per Condition of Approval (COA.Z.5) "Landscaping Landscaping Along the North and East Property Lines (Abutting Residential)", in accordance with Section 7.C of the BBTIC Design Guidelines and Standards, and an Alternative Landscape Buffer was also approved which waived the wall requirement within the landscape buffer as a wall currently exists along the southern property line of the Palms Isles West development. The Applicant does not propose any changes to this condition. As confirmed with Zoning Staff at the pre-application meeting for this application, the prior alternative landscape buffer, with an existing concrete wall located on the adjacent residential use is provided along the north property line and the plan notes the prior BCC approval of same.
- South: Since this portion of the property abuts the ROW of Boynton Beach Boulevard that has a 157' Ultimate ROW width, a 20' ROW landscape buffer is required per ULDC Article 7.C.2.A. The width of this landscape buffer is currently approved per Condition of Approval (COA.Z.6) for an increased 25' landscape buffer strip with easement encroachment prohibited. The Applicant proposes deletion to this Condition and

> provides for a 20' landscape buffer with 5' easement overlap, which is in compliance with current ULDC requirements.

- East: Since the proposed commercial use is adjacent to residential use (Palm Isles West, Control No. 87-92), a 20' Type 3 Incompatibility landscape buffer is required for the MUPD. The width of this landscape buffer was increased to 25' per Condition of Approval (COA.Z.5) "Landscaping Landscaping Along the North and East Property Lines (Abutting Residential)", in accordance with Section 7.C of the BBTIC Design Guidelines and Standards, and an Alternative Landscape Buffer was also approved which waived the wall requirement location within the landscape buffer as a fence currently exists along the western property line of the Palms Isles West development. The Applicant does not propose any changes to this condition. As confirmed with Zoning Staff at the pre-application meeting for this application, the prior alternative landscape buffer design, as approved per Condition of Approval (COA.Z.5) will continue forward as we are not changing the design. As such a 25'-wide Type 3 Incompatibility buffer, with a 6' high wall and 2' high berm is provided along the east property line.
- West: Since this portion of the property abuts the ROW of Hagen Ranch Road that has an Ultimate ROW width of 115', a 20' ROW landscape buffer is required per ULDC Article 7.C.2.A. The width of this landscape buffer is currently approved per Condition of Approval (COA.Z.7) for a 20' landscape buffer strip with easement encroachment prohibited. The Applicant proposes a deletion to this Condition and provides for a 20' landscape buffer with 5' easement overlap, which is in compliance with current ULDC requirements.

Landscape buffer details for the north and east property lines, as previously approved, are provided with this application on Regulating Plan sheet PRP-2. A preliminary landscape plan is being prepared for the proposed development which will be provided at time of permitting.

MODIFICATION OF CONDITIONS

Resolution R-2017-0698: The proposed Development Order Abandonment application to abandon Resolution R-2017-0698 will all delete conditions of approval; the proposed development associated with this approval for a Restaurant, Type 1 with drive-through was never constructed and is not part of the current application/development plan.

Resolution ZR-2017-015: Conditions of Approval not applicable to Resolution ZR-2017-0615 for Subdivision Variance approval.

Resolution R-2017-0697: This application includes a request to modify or delete the following Conditions of Approval, as follows:

ARCHITECTURAL REVIEW

- At time of submittal for Final Approval by the Development Review Officer (DRO), the Architectural Elevations for the buildings shall be submitted for review and approval by the Zoning Division. Architectural elevations shall comply with the standards indicated in Article 5.C of the ULDC and shall be generally consistent with the Architectural Elevations dated March 9, 2017. Development shall be consistent with the approved Architectural Elevations, the DRO approved Final Site Plan, all applicable Conditions of Approval and all ULDC Requirements. (DRO: ZONING Zoning).
 - JUSTIFICATION FOR MODIFICATION: Architectural Elevations to be provided at time of permitting approval, per ULDC allowance.
- Prior to Final Approval by the DRO, the site plan shall be revised to indicate the specific height of each building to be consistent with the approved Architectural Elevations. (DRO: ZONING Zoning).
 - JUSTIFICATION FOR MODIFICATION: Architectural Elevations to be provided at time of permitting approval, per ULDC allowance. Building height to be determined at that time. However, the maximum building height is proposed as allowed by code and all building are in compliance with code setbacks and indicated as one story.

ENGINEERING

1.The median opening on Boynton Beach Boulevard, approximately 680 feet east of the intersection of Hagen Ranch Road, shall be modified to prohibit u turning of vehicles from the eastbound lanes on Boynton Beach Blvd.

a. The property Owner shall apply to and obtain a permit from FDOT to modify the median opening to prohibit u turning vehicles at this location prior to the issuance for the first building permit. Appropriate signage prohibiting U turns shall be provided (BLDGPMG: MONITORING — Engineering)

b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMG: MONITORING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program. Additionally, input from the project traffic engineer is that the implementation of the condition could create issues when the funeral home to the south has a procession existing the facility and heading west to State Road 7 to the VA Cemetery. Request to delete condition.

5. The Property Owner shall modify the median on Hagen Ranch Road to restrict left turns to the site from southbound lanes on Hagen Ranch Road, permit only left turns out from the site, and include adequate space for only ONE left turning vehicle storage within the median, by

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increasing the width of the median, as approved by the County Engineer. Right in and rightout access from Hagen Ranch Road shall be permitted. The proposed drive location may be required to shift north and alight with the driveway on the west side of Hagen Ranch Road to provide adequate sight distance for vehicles exiting both sites.

a. The Property Owner shall receive a right of way permit from Palm Beach County to construct a channelized median for left turns out from the site prior to issuance of the first building permit. (BLDGPMT: MONITORING Engineering) b. Permitted modifications shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPMT/CO: MONITORING Engineering) c. This condition shall be considered complete if a traffic signal is installed at this intersection location. (ONGOING: ENGINEERING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program and coordination between the project engineer and Palm Beach County Engineering. Request to delete condition.

8. The Property Owner shall modify the east side of the northbound lane pavement to receive the southbound to northbound U turns on Hagen Ranch Road at Boynton Beach Boulevard, as approved by the County Engineer. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right of way. a. Permits required from Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING Engineering) b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy-(BLDGPMT/CO: MONITORING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program. Request to delete condition.

9. Prior to the issuance of the first building permit, the Property Owner shall provide to PBC sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Hagen Ranch Road and Boynton Beach Boulevard along the property frontage; and a maximum of an additional 800 feet of each of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and when necessary, compensating storage capacity within the project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of PBC, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the

ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25 year, 3 day storm and the elevation for the 3 year, 1 day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of PBC which at is discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT: MONITORING Engineering).

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed. This is a nonresidential project located at the intersection of two major roadways already built out to their ultimate section. Any pavement modifications as proposed would have insignificant impact on the existing drainage associated with the roadways. Request to delete condition.

12. No building permits shall be issued until the Property Owner makes a proportionate share payment of \$175,329.00 to add a second right turn lane on the north approach at the intersection of Boynton Beach Blvd and Hagen Ranch Rd. Note that while this proportionate share payment is based on proportionate closet of a specific roadway improvement, the County in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of the payment by the escalator calculation set forth in Condition 13. Any road impact fees paid by the Developer on this project prior to this proportionate share payment will be applied as a credit toward the proportionate share payment. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPMT: MONITORING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program and that proportionate share is no longer required. Request to delete condition.

13. Pursuance s.163.3180(5)(h)2., F.S., proportionate share payments shall be based on the improvement cost at the time of payment. The parties hereto agree that the payment amounts set forth in this Agreement shall be subject to the following calculation to account for changes in road development costs that may occur between the effective date of this Agreement and the date of each proportionate share payment is due.....If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United

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States Department of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect. (ONGOING: ENGINEERING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program and that proportionate share is no longer required. Request to delete condition.

14. The Property Owner shall fund the cost of signal installation, if warranted, as determined by the County Engineering on Hagen Ranch Road at the northern project entrance. Signalization shall be a mast arm structure installation. The cost of signalization shall also include all design costs and any required utility relocation and right of way o easement acquisition. The Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at the intersection. The Traffic Division shall have 24 months from receipt of this notice to request the monies to construct the traffic signal. (ONGOING: ENGINEERING Engineering)

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program. Request to delete condition.

15. Prior to the issuance of building permits for more than 40,000 SF, the Property Owner shall submit a traffic study to the Traffic Division to determine whether removal of the westbound right turns overlap with southbound left turns on Boynton Beach Blvd and Hagen Ranch Rd is warranted. If removal of the overlap is determined by the County Engineer, the Property Owner shall be responsible for any associated costs for this modification. (BLDGPMT: MONITORING — Engineering).

 JUSTIFICATION FOR MODIFICATION: Condition to be reassessed based on new proposed development program. Request to delete condition.

ZONING - LANDSCAPING

2. A group of three (3) or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDGPMT/ONGOING: ZONING Zoning)

 JUSTIFICATION FOR MODIFICATION: Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Request to delete condition.

ZONING – LANDSCAPING – LANDSCAPING AND BUFFERING ALONG THE SOUTH PROPERTY LINE (FRONTAGE ON BOYNTON BEACH BOULEVARD) 6. Landscaping and buffering along the south property line shall be upgraded to include:

a. a minimum twenty five (25) twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
b. a minimum two (2) or three (3) foot high undulating berm with an average height of two and one half (2.5) feet;
c. one (1) native canopy tree for each twenty five (25) linear feet of the property line; and
d. one (1) palm for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. Ixora "Nora Grant" shall be planted in a bed at the base of each palm. (BLDGPMT: ONGOING: ZONING Zoning)

 JUSTIFICATION FOR MODIFICATION: With Boynton Beach Boulevard having an ultimate right-of-way width of 157', the minimum buffer required by the ULDC is 20' in width with an allowable 5' easement overlap. The buffer will be planted in accordance with ULDC and coordination with COBWRA will also take place in this regard. Request to delete condition.

ZONING – LANDSCAPING – LANDSCAPING AND BUFFERING ALONG THE WEST PROPERTY LINE (FRONTAGE ON HAGEN RANCH ROAD) 7. In addition to the code requirements landscaping and buffering along the west property line shall be upgraded to include: a. a minimum twenty (20) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted: b. one (1) native canopy tree for each twenty (20) linear feet of the property line; and, c. one (1) palm or pine for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters. (BLDG PERMIT: LANDCAPE Zoning)

 JUSTIFICATION FOR MODIFICATION: With Hagen Ranch Road having an ultimate right-of-way width of 115', the minimum buffer required by the ULDC is 20' in width with an allowable 5' easement overlap. The buffer will be planted in accordance with ULDC and coordination with COBWRA will also take place in this regard. Request to delete condition.

COMPLIANCE WITH WEST BOYNTON AREA COMMUNITY PLAN (WBACP)

The subject site is located within the boundaries of the Coalition of Boynton West Residential Associations ("COBWRA") planning area and as such, the project was presented to the Growth Management Committee and Board on 08/31/2021 with favorable recommendation of the project. County Staff will receive a letter from the COBWRA President with their findings. While compliance with an applicable neighborhood plan is no longer a ULDC requirement please see below an assessment of compliance with certain aspects of the plan.

 Recommendation 21: Create a 'proper balance' of land uses within the plan area that encourage continued residential, commercial and employment-based development,

managed within a framework where excesses in each category are avoided. ('Proper balance' means that commercial uses would be primarily confined to aggregated nodes at intersections that non-residential uses would avoid strip development patterns along major and minor arterials, and the ratio of non-residential to residential uses would correspond to the overall residential population so as to achieve a desirable (not overbuilt) market for goods, services and jobs.)

- Compliance Statement: The subject property is located at the aggregated node of Boynton Beach Boulevard and Hagen Ranch Road, which already has a commercial land use designation and, therefore, the proposed non-residential development on the subject property is in compliance with this recommendation.
- Recommendation 25: Discourage any approvals of regional-retail/commercial centers that exceed 300,000 square feet. Exceptions should be evaluated that are located immediately east of any interchanges of Florida's Turnpike or for projects that incorporated significant employment opportunities.
- Recommendation 26: Consider prohibiting any collective commercial/retail nodes or aggregations (non-piece-meal or incremental development) that exceed 200,000 square feet west of Jog Road to further current comprehensive plan objectives to redirect growth eastward and to discourage new centers that would conflict with the regional commercial role assigned to the Boynton Beach Mall. Although this recommendation does not promote the construction of coalesced smaller commercial/retail centers, the aforementioned thresholds should reflect the combined totals of both existing and proposed development. (Clarification: collective commercial nodes aggregated on both sides of Jog Road and other major intersections would be defined as the same as those nodes east of Jog Road.)
 - Compliance Statement (Recommendations 25 and 26): The project is in compliance as it is less than 300,000 square feet in total and also will not have a conflict with the regional role of the Boynton Beach Mall. The prior application which was approved was also in compliance and this proposal remains in compliance with the increase in square footage of 15,876 as follows:
 - 0
 - Excluding the New Albany MLU (Control No. 98-073) since it is a project that combines residential and non-residential uses (Recommendation 27) and provides a mixed use/economic activity area (Recommendation 28) and is therefore excluded from the 200,000 square foot cap, the total square footage of commercial/retail uses at the intersection of Boynton Beach Boulevard and Hagen Ranch Road would be as follows:
 - Hagen Ranch Commerce Center (SE corner) (Control No. 91-47): 56,533 square feet

- Hagen Ranch & Boynton Beach MUPD (NW corner) (Control No. 2006-520): 23,798 square feet
- Subject Property: 53,328 square feet
- Total (excluding New Albany MLU): 133,659 square feet
- Recommendation 42: Encourage new commercial development to provide a complete network of pedestrian sidewalks or pathways in parking areas leading to buildings as well as mass transit opportunities.
 - Compliance Statement: The proposed pedestrian circulation is in compliance with this recommendation and with ULDC Art. 3.E.3.B.2.b, Non-vehicular Circulation, that requires that properties within the MUPD Zoning District shall be designed to provide for pedestrian and bicycle-oriented circulation system throughout the development. Pathways are delineated to all building entrances from both Boynton Beach Blvd. and Hagen Ranch and pedestrian amenities provided.

PLANNED DEVELOPMENT DISTRICT'S OBJECTIVES & STANDARDS

Article 3.E.1.C defines the design objectives and performance standards required for Planned Development District's (PDD's) and those are addressed below.

1. Design Objectives

Planned developments shall comply with the following objectives:

 Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design;

RESPONSE: The subject property has 634' feet of width/frontage (minimum code is 300') and 513' of depth (minimum code is 300').

b. Provide a continuous, non-vehicular circulation system which connects uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD;

RESPONSE: There are pedestrian paths that circulate through the entire project that connects uses, public entrances to buildings, open space, etc.

 Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses;

> RESPONSE: The pathways and parking areas have been designed to encourage pedestrian circulation between uses.

 Preserve existing native vegetation and other natural/historic features to the greatest possible extent;

RESPONSE: The majority of subject property was previously cleared of native vegetation. A vegetation disposition plan is provided on sheet PRP-2 which addresses any existing

vegetation that may need to be relocation, removed or preserved.

 Screen objectionable features (e.g., mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound;

RESPONSE: The loading/delivery areas are located/configured/screened in a manner that is consistent with the objectives of the ULDC. Additionally, there are walls along the north and east property lines next to residential uses that will add screening and will mitigate sound.

f. Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs and other primary elements to minimize the potential for any adverse impact on adjacent properties; and

RESPONSE: The design of the subject property locates the buildings as far as possible from the residential properties to the north and east while still provide convenient parking. Furthermore, the retention of the 25' wide buffers along the north and east property lines will mitigate any potential adverse impacts.

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

RESPONSE: The applicant is utilizing the minimum/maximum parking ranges allowed by the MUPD district, as well as the shared parking required.

- h. For PDD only, a minimum of one pedestrian amenity for each 100,000 square feet of GFA or fraction thereof shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to:
 - 1) public art;
 - clock tower;
 - water feature/fountain;
 - 4) outdoor patio, courtyard or plaza; and
 - tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e., restaurant) or outdoor furniture.

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Hagen Commercial MUPD

> RESPONSE: The proposed overall development plan consists of a total of 70,569 square feet (including restaurant outdoor seating). There is a pedestrian amenity area with seating, landscape and specialty pavement area located centrally within the site between Building "B" and "D".

2. Performance Standards

Planned development shall comply with the following standards:

a. Access and Circulation

- 1) Minimum Frontage
 - PDDs shall have a minimum of 200 linear feet of frontage along an arterial or collector street unless stated otherwise herein;

RESPONSE: The subject property has 634' of frontage along Boynton Beach Boulevard, a roadway defined as an Urban Principal Arterial, and 513' of frontage along Hagen Ranch Road, a roadway defined as an Urban Collector.

sub-sections that were not applicable have been left out for brevity purposes)

PDDs shall have legal access on an arterial or collector street;

RESPONSE: Access to the 7.92-acre property will be provided to the site via three access points; with one access point on Boynton Beach Boulevard (a ROW with an ultimate width of 120 feet and defined as an Urban Principal Arterial) and two access points on Hagen Ranch Road (a ROW with an ultimate width of 115 feet and defined as an Urban Collector).

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

RESPONSE: A right-hand turn lane is being provided to the south entrance off of Hagen Ranch Road and left exit movements are prohibited by the design. A 153.1' throat distance at the entry into the development from Boynton Beach Blvd. serves to provide adequate storage for vehicles entering the site. The median design at the north Hagen Ranch Road ingress/egress point has been discussed with engineering and the design is functioning adequately at another intersection on Lyons Road. As such, the applicant is of the opinion that the design minimizes hazards.

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

RESPONSE: The enclosed Traffic Impact Statement prepared by Simmons & White accounts for the necessary traffic improvements.

... (sub-sections that were not applicable have been left out for brevity purposes)

f. Mass Transit

All nonresidential PDDs over five acres and 50,000 square feet, and all PUDs over 50 units, shall comply with the following, unless waived by the DRO:

 The location of a Bus Stop, Boarding and Alighting Area shall be shown on the master plan and/or final site plan prior to approval by the DRO, unless written conflicts that one is not required. The purpose of this easement is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran;

RESPONSE: A 10' X 30' Bus Stop, Boarding and Alighting Area adjacent to the right-of-way of Boynton Beach Boulevard is provided on the plan.

2) Prior to the issuance of the first building permit, the property owner shall convey to PBC an easement for a Bus Stop, Boarding and Alighting Area, in a location and manner approved by Palm Tran. As an alternative, prior to Technical Compliance of the first plat, the property owner shall record an easement for a Bus Stop, Boarding and Alighting Area in a manner and form approved by Palm Tran. The property owner shall construct continuous paved pedestrian and bicycle access compliant with the Americans with Disabilities Act (ADA) to and through the Bus Stop Boarding and Alighting Area; and

RESPONSE: The applicant proposes to convey the easement prior to the issuance of the first building permit.

sub-sections that were not applicable have been left out for brevity purposes)

g. Utilities

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

RESPONSE: The proposed design includes 10' utility easements along the property's frontage on both Boynton Beach Boulevard and Hagen Ranch Road and shall be installed in an acceptable manner.

h. Parking

sub-sections that were not applicable have been left out for brevity purposes)

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2) Nonresidential Uses

Nonresidential uses located within a PDD may apply the parking standards indicated in Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements or the minimum/maximum parking standards below. The site plan shall clearly indicate which parking standards are being utilized for the entire site. [Ord. 2009-040]

a) Minimum/Maximum Parking Standards

- (1) Minimum: one space per 250 square feet of GFA (4/1000).
- (2) Maximum: one space per 166.66 square feet of GFA (6/1000)

RESPONSE: The applicant is utilizing the minimum/maximum parking ranges thereby utilizing the principle of shared parking which requires a minimum of 282 and 423 maximum parking spaces for the 70,569 square foot development. 346 parking spaces are provided in compliance. Please see the site data table on the Preliminary Site Plan for the calculations.

3) Design

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

RESPONSE: The parking areas have been designed to be open to the public and are connected via safe and efficient drive aisles.

4) Cross Access

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

RESPONSE: The adjacent properties to the north and east support gated residential communities and, as such, cross access is neither feasible or practical.

5) Location-Non-residential PDDs

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

RESPONSE: A minimum of 282 spaces are required which would equate to 28 spaces to meet this requirement an is calculated on a development wide basis. A minimum of 10% of the required parking is located at the rear or side of the proposed buildings similar to the current approved site plan for this site.

6) Distance

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

RESPONSE: The continued design of the subject property locates the buildings as far as possible from the residential properties to the north and east while still provide convenient parking. Furthermore, the retention of the 25' wide buffers along the north and east property lines will mitigate any potential adverse impacts.

d. Provide interconnection between uses in and adjacent to the project;

RESPONSE: The parking areas have been designed to be open to the public and are connected via safe and efficient drive aisles. The adjacent properties to the north and east support gated residential communities and, as such, cross access is neither feasible or practical.

e. Allow for landscape design that enhances the appearance of the project; and,

RESPONSE: As detailed above, the north and east landscape buffers (adjacent to residential) remain as previously approved with increased landscape buffers that meet the requirements of ULDC Article 7, previous conditions of approval and BBTIC Design Guidelines and Standards for Future Development with the exception of the approved alternative landscape buffer to remove the required wall in the buffers along the north and east property lines. The 20' landscape buffers proposed along the right-of-ways of Boynton Beach Boulevard and Hagen Ranch Road are in compliance with ULDC Article 7 and will continue to allow for a landscape design that enhances the appearance of the project.

2. Performance Standards

A MUPD shall comply with the following standards:

a. Non-vehicular Circulation

A MUPD shall be designed to provide for pedestrian and bicycle-oriented circulation system throughout the development.

1) Sidewalks

Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment.

RESPONSE: The pathways and parking areas have been designed to encourage pedestrian circulation between uses and bike racks are provided throughout the stie. Furthermore, where sidewalks cross vehicular use areas they will be constructed of pavers, brick, decorative concrete, or similar pavement treatment.

b. Landscape Buffers

A Type 3 incompatibility buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process.

RESPONSE: As confirmed with Zoning Staff, the prior alternative landscape buffer design, as approved per Condition of Approval (COA.Z.5) for the north and east property lines (abutting residential) will continue forward as we are not changing the design. As such a 25-wide Type 3 Incompatibility buffer, with an existing concrete wall located on the adjacent residential use, is provided along the north property line and a 25-wide Type 3 Incompatibility buffer with 6-foot wall and 2-foot berm is provided along the east property line.

c. Cross Access

Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between a MUPD and adjacent land with a non-residential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.

RESPONSE: The adjacent properties to the north and east support gated residential communities and, as such, cross access is neither feasible or practical.

d. Parking

Off street parking areas shall comply with Article 6, Parking, Loading and Circulation, Article 7, Landscaping, and the following:

1) Parking Areas

- a) Groundcover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all terminal islands and divider medians.
- b) Where pedestrian access ways cross terminal islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment.

2) Loading Area Screening

Internally oriented loading areas shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall.

RESPONSE: The parking areas will comply with all of the above.

(sub-sections that were not applicable have been left out for brevity purposes)

DEVELOPMENT ORDER AMENDMENT (DOA) REQUEST & STANDARDS

As stated previously the applicant is requesting the approval of a DOA application for the following:

Reconfigure Site Plan, amend Regulating Plan and Master Sign Plan;

- Modify uses;
- Add square footage; and
- Modification of conditions from Resolution No. R-2017-0697.

Per ULDC Article 2.B.7.B, Standards for Conditional Uses, Requested Uses and Development Order Amendments, the proposed DOA request will meet the seven (7) standards listed as follows:

A. Consistency with the Plan: The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.

RESPONSE: The subject site has a CL/5 FLUA designation. Per ULDC Article 3, FLU Designation and Corresponding Planned Development Districts, the MUPD Zoning District corresponds with the CL FLUA designation.

Policy 1.2-a of the Comprehensive Plan calls for allowing services and facilities consistent with the needs of urban and suburban development both of which will be accomplished by allowing the proposed commercial center on the subject property.

The allowance of a reconfigured commercial center on the subject property does not change the subject property's consistency with existing policies and, as such, the proposed requests are consistent with the purposes, goals, objectives and policies of the Comprehensive Plan. Additionally, the square footage proposed is well below the 0.50 FAR allowed in the CL land use category at the proposed FAR of 0.20.

B. Consistency with the Code: The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.

RESPONSE: Except for the deviations being requested through the concurrent Type 2 Variance for relocation of foundation plantings and Type I Waivers (loading space design and relocation of foundation plantings), the proposed site design, as described above, meets all other applicable standards and provisions of the ULDC for use, layout, function and general development characteristics as well as the supplementary use standards.

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

RESPONSE: The site is currently approved for a commercial center and this application proposes a reconfiguration of the Site Plan. While a commercial center is defined as an

incompatible use to the neighboring residential properties this incompatibility was and will continue to be addressed and mitigated by the proposed site design including, but not limited to, perimeter landscape buffers, building locations, screening of loading/mechanical areas, etc.

D. Effect of the Natural Environmental: 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.

RESPONSE: The subject property was previously cleared of any native vegetation. As such, the proposed development will not have any negative impacts on the natural functioning of the environment.

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

RESPONSE: The number of residential units added to the west Boynton area increased from 1995 to 2009 and that increase continues today with the continual development in the Agricultural Reserve. Due to the limited number of commercial opportunities in the Agricultural Reserve and the proximity of this parcel to the Ag Reserve to the west, the approval of the application will support current development patterns in the area and provide goods and services lacking in the area. The subject property has current approvals for a commercial shopping center with a Type 1 Restaurant with drive-through. This application proposes a modification to the development order and an abandonment of the Type 1 Restaurant with drive-through use which remains consistent with the development patterns of the surrounding area.

F. Adequate Public Facilities: The extent to which the proposed use complies with Art. 2.F, Concurrency.

RESPONSE: Included with this application are the following documents related to the impact of the proposed project on public facilities:

- a. Drainage: Please see Drainage Statement prepared by Simmons & White in which the details of the proposed drainage system are provided.
- b. Traffic: Please see Traffic Statement prepared by Simmons & White in which the conclusion states that "the proposed project is in compliance with Palm Beach County Traffic Performance Standards."
- c. Water/Wastewater: Please see the water service availability letter prepared by the Palm Beach County Water Utilities Department.

G. Changed Conditions or Circumstances: There are demonstrated changed conditions or circumstances that necessitate a modification.

RESPONSE: As stated in the response to criteria E above, the continual change of development patterns from 1995 to today support the applicant's request to allow a commercial center with uses that will support the surrounding residential communities. This justification was accepted with the approval request for the site plan in place now, and the uses proposed, with the exception of the abandonment of the drive-thru are consistent with those proposed at the time for a center of this size.

SUPPLEMENTARY REGULATIONS

Proposed within the development plan is 58,824 square feet of retail use which is permitted by right, with a CL future land use designation in the MUPD zoning district, and will comply with the supplementary regulations found in ULDC Article 4.B.2.C.35.

Proposed within the development plan are two (2) Restaurant, Type 1 uses with outdoor seating areas located in Building "D" and one (1) Restaurant, Type 2 use with outdoor seating areas located in Building "C". The proposed Restaurant, Type 1 uses will comply with the supplementary regulations found in ULDC Art. 4.B.2.C.33 and provide a GFA less than 5,000 square feet, including outdoor dining area, which is approved by the DRO. The proposed Restaurant, Type 2 use will comply with the supplementary regulations found in ULDC Art. 4.B.2.C.34 and provide a GFA less than 5,000 square feet, including outdoor dining area, which is approved by the DRO.

ARCHITECTURAL REVIEW

The Applicant has chosen the Type 4 Architectural Review process in which the required architectural plans will be reviewed at time of Building Permit Approval.

TYPE 2 (CONCURRENT) VARIANCE

Per Article 7, Table 7.C.3., the buildings within the proposed development plan require 40% of the side and front façade to be planted with foundation planting. As stated previously, the Applicant is requesting the approval of the following concurrent Type 2 Variance for a relocation of 100% of the front façade foundation planting for Building "A" and "D" and must address each standard per Article 2.B.7.E.6, as outlined below:

	TYPE 2 VARIANCE			
8	ULDC CODE SECTION	REQUIRED	PROPOSED	VARIANCE

V.1	Table 7.C.3.B Foundation Planting	40% front facade foundation planting	0% front façade foundation planting for Building A & D, with proximate relocation of required plantings	100% relocation of front façade foundation planting for Building A & D, with proximate relocation of required plantings
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Building "A" includes 40,005 square feet of retail space with the front façade oriented to the south and the side façade to the west (along Hagen Ranch Road). The proposed tenant of Building "A" is a high-end grocery store. Provided on the plan along a portion of the side (west) façade and the entire front façade is a 4,457 square foot canopy that offers shade and weather protection for an enhanced pedestrian experience and will also include planters' w/ shrubs and seating areas along the frontage. With the use of the canopy, it would be difficult to provide the plant material (trees) that are required per ULDC Article 7 foundation planting. As such, we are proposing to relocate 100% of the required front façade foundation planting to the rear of the building. Providing the foundation planting in this location will soften the architecture along the entry driveway and provide additional visual buffering of the building from residential community to the north, while also providing shade and weather protection for patrons in front of the building and meeting the requirements for the required amount of planting area. This equates to the required 99 LF.

Building "D" includes 10,632 square feet of retail and Restaurant, Type 1 uses with the front façade oriented to the north (inward to the site) and the rear façade adjacent to Boynton Beach Boulevard. Provided on the development plan are planter cutouts along the front façade of Building "D". The planter cutouts are located approximately 8.3' away from the building and thus we are requesting this variance for 100% "relocation" of front façade foundation planting. Each cutout meets minimum planting width and the design does provide for the full 40% of front foundation planting meeting the total area requirement. The use of planter cutouts, in lieu of foundation plantings directly against the building wall will offer a more impactful design and accommodates for the proposed restaurant outdoor dining areas.

 a) Special conditions and circumstances existing 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;

Response: <u>A special circumstance</u> exists in that the proposed user for Building "A" has requirements for design that include the benefit of providing weather protection in front of the building which is beneficial to the public. In regard to Building "D", the special circumstance involves a desire from the community, as reflected on the current approved design, to place the building closer to Boynton Beach Blvd. with the 'front' of the building sited internal to the site and a desire to create outdoor area. As the users of this building have not been defined, it is difficult to commit to location of outdoor dining. This variance will allow for flexibility in locating dining areas in the future and also the ability for weather protection closer to the building if desired. As referenced above, given the orientation of the buildings, granting approval of this variance for

relocation of foundation planting will soften the architecture along the entry driveway and provide additional visual buffering of the building from residential community to the north of Building "A" and use of planter cutouts at Building "D" offers a more impactful design and accommodates for the proposed restaurant outdoor dining areas.

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

Response: The special circumstances are not a result of the action of the applicant, but more a result of innovative design and the desire to provide the most benefit to the public. Similar variances have been granted to take into account weather protection and outdoor dining area flexibility in the past (i.e., Lakeside Center Control 1986-00150) It is the Applicant's intent to reconfigure the plan to provide a shopping center that meets the needs of the surrounding community. The subject property will be fully landscaped around the perimeter and granting this variance for a relocation in foundation planting for Building "A" and "D" will only enhance the aesthetic of the plaza and shopping/dining experience.

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;

Response: Granting these variances will allow the Applicant to pursue the proposed reconfigurations to the approved shopping center to provide additional services and goods to the residents of the area, while not conferring a special privilege to the property owner. This Variance request will not negatively affect any adjacent properties, as the variance request will still will provide adequate planting areas. No special privilege is being provided via the granting of the variance as the variance approval process is available to all and individual requests may be approved by the Zoning Commission based on project specific criteria.

 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;

Response: A literal interpretation and enforcement of the terms and provisions of the ULDC would result in undue hardship as the design required would impact the goal of providing a more weather protection and flexibility of future design of outdoor dining areas. The proposed location provides for a greater impact to not only the pedestrians patronizing the shopping center, but also the patrons arriving by car and pedestrian traffic to visit other establishments in the center. The intent of the code of providing adequate green space is met as the foundation area planting areas provided meets the overall code requirement for the front facades of both Building "A" and "D"

 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 this variance is the minimum variance that will allow the property owner to make reasonable use of the land. Allowing the relocation of required foundation planting at Building "A" and "D" will provide a better, more pedestrian friendly design and serve to enhance the proposed outdoor space and the balance of the existing center. A code minimum redesign would not provide any additional public benefit.

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

Response: The granting of the variance will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and this code, as the foundation planting area being proposed meets the intent of the Plan and the Code.

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

Response: The requested variance for a relocation in foundation planting at Building "A" and "D" will not be injurious to the area involved or detrimental to the public welfare.

Type I Waiver Requests & Standards

The Applicant is requesting the approval of the Type I Waivers specified in the table below. This request is being included in the justification so that the Final Site Plan may be processed as an "Off the Board" application through the expedited process.

	TYPE 1 WAIVER						
	ULDC CODE SECTION	REQUIRED	PROPOSED	WAIVER			
W.1	Table 6.E.4.A (note 1) Loading Space	12' width x 18.5' length designated loading space	Use of the drive aisle, during off business hours, in lieu of a designated loading space at Building D	Use of drive aisle for loading space in lieu of designated loading space at Building D			
			Bldg. A: 53% of the required side (east) façade (10 LF)	- 47% (9 LF) relocation to north façade			
W.2	Table 7.C.3.B Foundation Planting	40% of side and front facade to provide foundation planting	Bidg. B: 50% of the required front (south) façade (16.5 LF)	- 50% (16 LF) relocation to east façade			
			Bldg. C: 63% of the required front (south) façade (20 LF)	- 37% (12 LF) relocation to east façade			

Per Article 2.C.5.F.3, when considering a Type 1 Waiver, the DRO shall consider the following Standards:

a) The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the Zoning district or Overlay:

RESPONSE: W.1 – Per ULDC Article 6.E.3.c Alternative Design Options, parking spaces and the drive-aisle may be used in lieu of providing a designated loading space during non-business hours and shall be prohibited during the hours of operation. As indicated on the Preliminary Site Plan, a loading zone is proposed within the drive aisle to the west of Building "D". A concrete walkway has been provided immediately south of the proposed loading area which will allow direct access to the rear (or front) doors of the building without any curb obstruction. Signage will also be added that prohibits the use of the loading zone during business hours. As such, this design does not create any additional conflict.

W.2 - Per Article 7, Table 7.C.3., the buildings within the proposed development plan require 40% of the side and front façade to be planted with foundation planting. In accordance with Table 7.B.4.A, a Type 1 Waiver can be granted to allow a 50% relocation of required foundation planting to be relocated to another façade of the same building providing that the minimum planting width is met and the overall total square feet for the foundation planting meets or exceeds the required foundation planting. The

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proposed relocation of 9 linear feet ("LF") of side foundation planting from the east to the north façade of Building "A"; the proposed relocation of 16 LF of front foundation planting from the south to the east façade of Building "B"; and the proposed relocation of 20 LF of the front foundation planting from the south to the east façade of Building "C" are in compliance with all criteria and do not create any additional conflict with code. These relocations will allow for a more innovative design for pedestrian walkways, canopies and outdoor seating areas.

b) The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and

RESPONSE: W.1 - The type of vehicles that will be delivering goods for Building "D" will be box style trucks/loading vans, all of which are 12 feet or less in width and 18.5 feet or less in length. As such, there will be enough maneuverability for the trucks entering and leaving the subject property. Additionally, use of the loading zone will be limited to use during non-business hours with greater parking space availability in the surrounding area. The use of the drive-aisle associated with the waiver will not be detrimental to the overall project.

W.2 - See response to a) W-2 above.

c) The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.

RESPONSE: W.1 – The proposed location of the loading space for Building "D" is located on the west side of Building "D" which is internal to the site and would not adversely impact any adjacent properties. The proposed loading space will be accessible during non-business hours only and screened by the right-of-way landscape buffers along the perimeters of Boynton Beach Boulevard and Hagen Ranch Road.

W.2 – Based on the proposed building locations/orientation, relocation of the portions of the side façade at Building "A" and front façade at Building "B" and "C" will not adversely impact adjacent properties.

ABANDONMENT STANDARDS

Pursuant to Art. 2.C.5.G.6. the standards for the request abandonment of Resolution R-2017-0698 for a Requested Use for a Type 1 Restaurant with Drive Through and all associated conditions, please see the standards for this request addressed below:

Consistency with the Plan The proposed abandonment is consistent with the Plan.
[Ord. 2019-034]

Response: The abandonment of the Type 1 Restaurant use with Drive Through is not inconsistent with the Plan.

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 non-conformities. [Ord. 2019-034]

Response: The abandonment of the Type 1 Restaurant use with Drive Through is not in conflict with any portion of the code and has not been implemented. Nor will it create any non—conformities as the prior site plan have not yet been constructed.

c. Adequate Public Facilities The proposed abandonment of the DO shall not impact the approved requirements of Art. 2.F, Concurrency (Adequate 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). Standards). [Ord. 2019-034

Response: The development order has not been implemented and as this request is in conjunction with a development order amendment, the new site plan/development order will be in compliance with the concurrency requirements.

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. [Ord. 2019-034

Response: The development order has not been implemented and as this request is in conjunction with a development order amendment to redesign the site, the abandonment is necessary as the use is no longer proposed. It will not impact any other Dos and there is no reliance on other parties.

CONCLUSION

On behalf of the Applicant, Boynton Beach Marketplace, LLC, Urban Design Studios respectfully requests favorable review and consideration of the applications listed above for the Hagen Commercial MUPD project. Should you have any questions during the review process, we can be reached at (561) 366-1100 or via email at ibrinkman@udsflorida.com and avvialing avvialing avvialing avvialing the review of the state of t

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