

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

**Application No.:** ZV-2021-01547  
**Application Name:** Okeechobee Commerce Park  
**Control No./Name:** 1994-00038 (Okeechobee Commerce Park)  
**Applicant(s):** 2154 Zip Code Property LLC  
**Owner(s):** 2154 Zip Code Property LLC  
**Agent(s):** Schmidt Nichols - Josh Nichols and Cameron Ennis  
**Telephone No.:** (561) 684-6141  
**Project Manager:** Brenya Martinez, Site Planner II

**TITLE:** a Type 2 Variance **REQUEST:** to reduce the lot frontage (Multiple Use Planned Development Zoning District)

**APPLICATION SUMMARY:** The Applicant is requesting a Type 2 Variance to reduce the minimum lot frontage from 300 feet (ft.) to 234 ft., in order to rezone the property in a subsequent application (PDD/ZV-2021-01531) from the General Commercial (CG) to the Multiple Use Planned Development District (MUPD). A decision must be rendered on this request prior to the next application being heard by the Board.

The proposed Preliminary Site Plan (PSP) will redevelop the existing commercial development to allow subdivision of lots and the addition of square footage.

**SITE DATA:**

Location:	East side of North Military Trail, approximately 0.1 miles north of Okeechobee Boulevard
Property Control Number(s)	00-42-43-24-11-000-0060
Existing Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Existing Zoning District:	General Commercial District (CG)
Proposed Zoning District:	MUPD
Acreage:	8.12 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Haverhill, West Palm Beach
Future Annexation Area	West Palm Beach
Commission District	District 7, Commissioner Mack Bernard

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

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

**PROJECT HISTORY:** The development has been approved since the 1960’s, with a United States Postal Service use in the northern most structure, and other commercial uses within the southern building through the building permit process. The site received a Class B Conditional Use approval on August 4, 1994 (ZR-1994-0005) to allow an enclosed Gun Club. In addition, the site was subject to a special permit approval to allow an Adult Entertainment on August 26, 1992 (SPAE-1992-00119). Although the use is not allowed within the MUPD Zoning District, the use may remain as a valid non-conforming use within the proposed district.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
Zoning District: General Commercial District (CG)  
Supporting: Commercial (Howell Douglas National Self Storage , Control No 1981-00101)

**SOUTH:**

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
Zoning District: General Commercial District (CG)  
Supporting: Commercial (Boston Chicken , Control No 1995-00013)

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)

Zoning District: General Commercial District (CG)  
Supporting: Commercial (Stephen E. Fisher , Control No 1981-00146)

**EAST:**  
FLU Designation: Industrial (IND)  
Zoning District: Planned Industrial Park Development/Light Industrial District (PIPD/IL)  
Supporting: Industrial (Westfield Commerce Park , Control No 1981-00087)

**WEST:**  
FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
Zoning District: General Commercial District (CG)  
Supporting: Commercial (Auto One , Control No 1978-00297)

**WEST: (Across Military Trail)**  
FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
Zoning District: General Commercial District (CG)  
Supporting: Commercial (CVS Store , Control No 1976-00138)

TYPE 2 VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
3.E.3.D MUPD Property Development Regulations	Minimum 300 feet of frontage	234.6 feet of frontage	-65.4 foot reduction of frontage

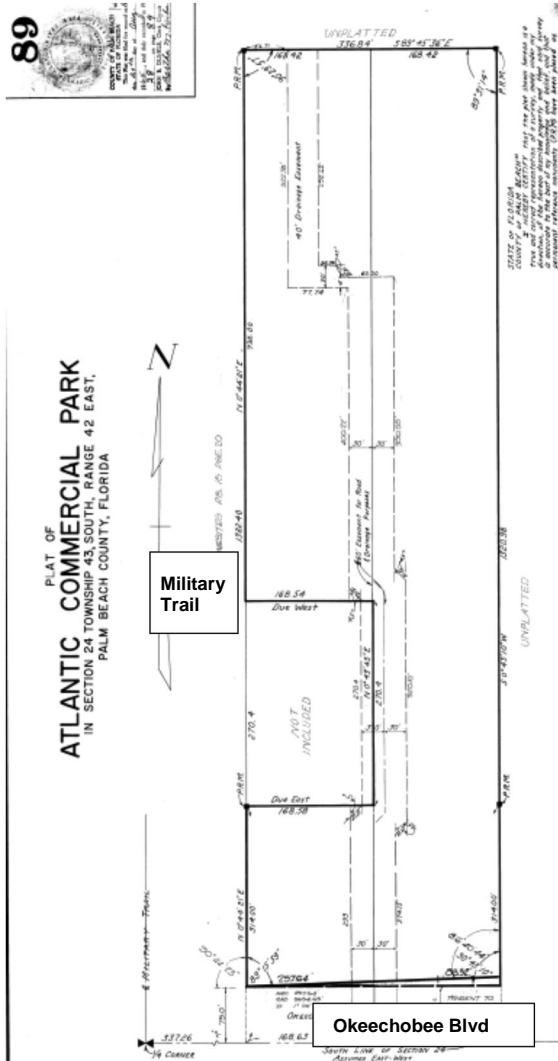
FINDINGS:

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:**

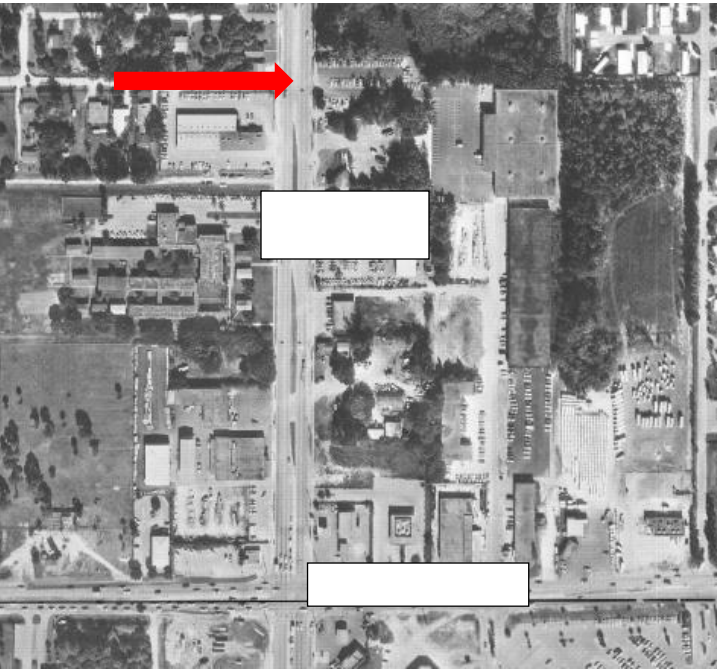
**YES.** The subject site supports General Commercial uses in the CG zoning district that have been developed since the 1960s. A portion of the site was platted in 1965 under the Atlantic Commercial Park plat (Plat Book 28 page 89). Other areas proposed to be added to the development are part of Suburban Homesites (Plat book 18 page 20) platted in July of 1937. The Atlantic Commercial Park plat had access and frontage directly on Okeechobee Road, via Zip Code Place access easement.

Figure 1 Aerial Feb 20, 1965



Additional access to the development appears to have been created in around 1975-76,—although there is no record for a replat to either the Atlantic Commercial or Suburban Homesites.

Figure 2 Aerial November 14, 1976



The site over time was developed in accordance with an old subdivision with an access easement one way in and one way out. However through subsequent modifications, Property Owners have added land area to the west in order to accommodate additional access and cross access to Military Trail.

The ULDC requires projects that exceed threshold requirements (50,000 sq. ft.) to be a Planned Development. However if they cannot meet the access and dimension requirements of a PDD, i.e. 300 feet of frontage, they could be approved as a Class A Conditional Use. Therefore, if the development is not approved as a Planned Development District (PDD), they are not allowed to use the subdivision exemptions pursuant to Article 11. The proposed request to reduce frontage will allow the development to be rezoned to MUPD. The Planned Development will be required to plat, and replat the residual parcels that were once part of the plats previously referenced. With the addition of +/-

0.83-acre parcel to the existing development (8.12-acres total), it will allow more frontage for the existing development towards Military Trail. Allowance of the variance for frontage does not eliminate the use as a commercial plaza, but allows for the development to be united under a Property Owners Association, with cross drainage, access, parking and unified Architecture. The special circumstances exist due to the age of the development, the request to redevelop and the differences in frontage requirements of the ULDC vs provided on site.

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

**YES.** The subject site had previous plats from 1937 and 1965, respectively prior to the County’s 1973-004 Subdivision and Platting Regulation ordinance. Land has been acquired and removed over time without approval through the subdivision procedures. The requirements of the ULDC per Article 3 Table 3.E.3.D-MUPD Property Development Regulations requiring a minimum of 300 feet frontage/width and the requirements of Article 11 Subdivision, Platting and Required improvements applicable to PDDs as mentioned under standard a. above, are not a result of the actions of the Applicant. Though they are adding additional land area, it is the intent to create a unified development and replat. Redevelopment of the lot will allow for cross access, drainage parking and unified control that is more compliant with the current regulations. Therefore, the special site conditions do not result from the actions of the Applicant.

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

**YES.** The granting of the Type 2 Variance Request to reduce lot frontage would allow the Applicant to continue with the subsequent Zoning application to rezone the parcels to the MUPD Zoning District, creating a unified development with the allowances to use the subdivision exemptions of Article 11. Denial of the variance would require another variance to Article 11 relating to the subdivision of land. Granting this variance is not creating a special privilege, but will allow an existing development with a unified control, and redevelop this older shopping plaza.

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

**YES.** If the Applicant were held to a strict enforcement of the terms and provisions of this Code, it would require the Applicant to seek an additional variance to Article 11, which could limit or prohibit redevelopment of the site, while the use remains as a commercial plaza approved under prior land development regulations. Allowance of the variance reduces nonconformities and would legalize, through the subdivision process, subdivisions that have occurred over time.

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

**YES.** Granting the variance to reduce the frontage by approximately 65 feet, (total 234.6 ft) is the minimum variance necessary that allows additional access points to the site, while creating a unified control over the proposed planned development.

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

**YES.** Granting the variance is consistent with the Goals and Objectives of a Planned Development. The ULDC has allowances to process the request for the commercial center as a unified development, but conflicts with restrictions in the Subdivision regulations. The Type 2 Variance request will allow for redevelopment to occur, while also rectifying the subdivision that has occurred outside the procedures established in the Code. The subject site is located in the Revitalization and Redevelopment Infill Overlay (RRIO) and allowance of the variance will assist with redevelopment and further the objectives to promote redevelopment and protect and maintain these existing communities.

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

**YES.** Granting this variance will not be injurious to the area or detrimental to the public welfare. The site is located within the RRIO, and will allow to reconfigure the lot and rezoning to the MUPD, while promoting redevelopment and creating a unified control for this development.

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**CONCLUSION:** Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the request, subject to the Conditions of Approval in Exhibit C.

## CONDITIONS OF APPROVAL

### EXHIBIT C: Type 2 Variance - Standalone

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 28, 2022. Modifications to this Development Order inconsistent with the Conditions of Approval, or modifications to the lot frontage that go beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (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. (BLDGPM: BUILDING DIVISION – Zoning)
3. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD-2021-01531. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

#### COMPLIANCE

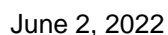
1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Zoning Commission for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:
  - a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
  - b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
  - c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions 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

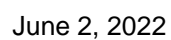
1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.

Zoning Commission  
Application No. ZV-2021-01547





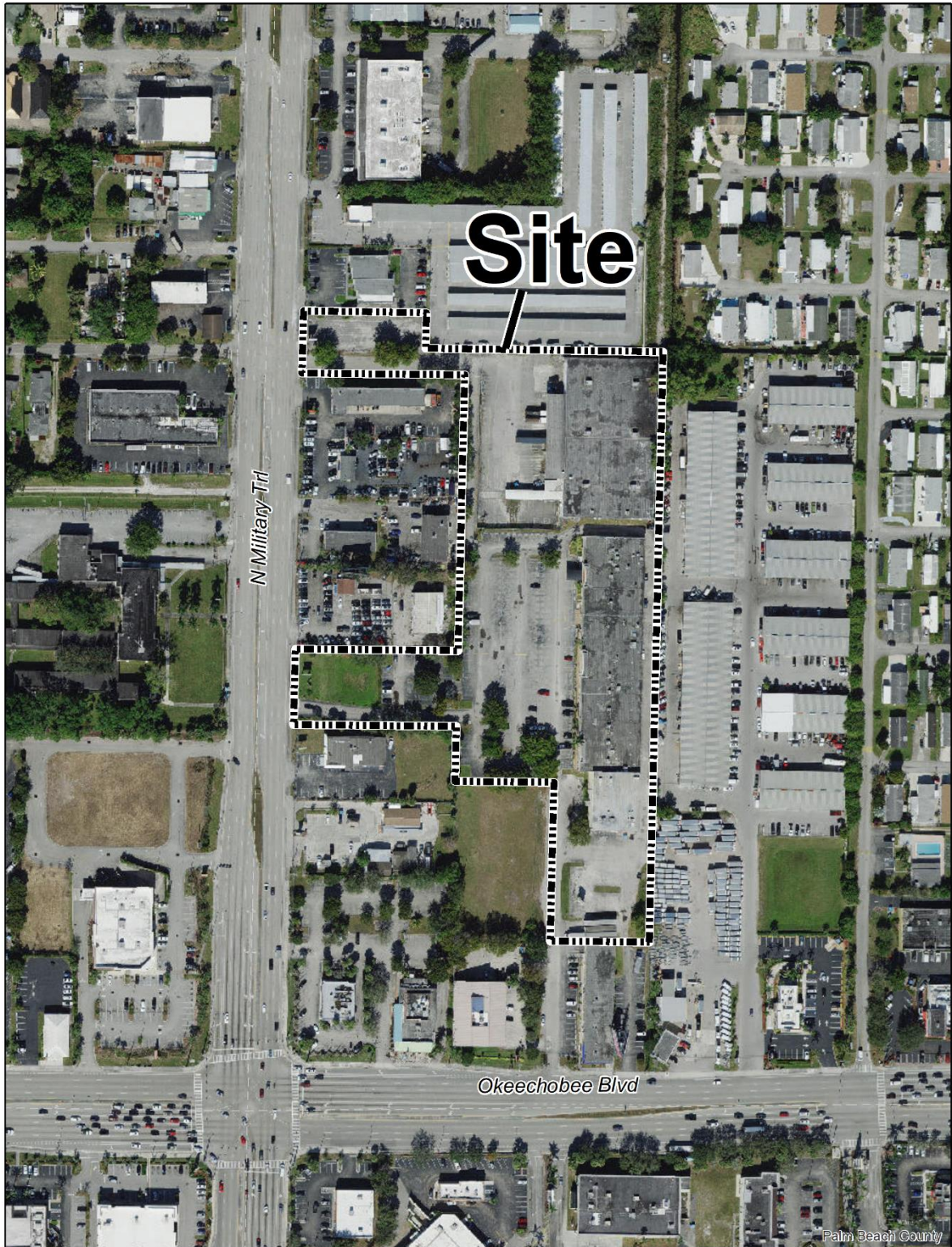
Zoning Commission  
Application No. ZV-2021-01547



### Figure 3 - Aerial

# PALM BEACH COUNTY PLANNING DIVISION

## SITE LOCATION



Application Name:	<u>Okeechobee Commerce Park</u>
Application Number:	<u>ZV-2021-01547</u>
Control Number:	<u>1994-00038</u>
Atlas Page Number:	<u>057</u>
Date:	<u>4/25/2022</u>

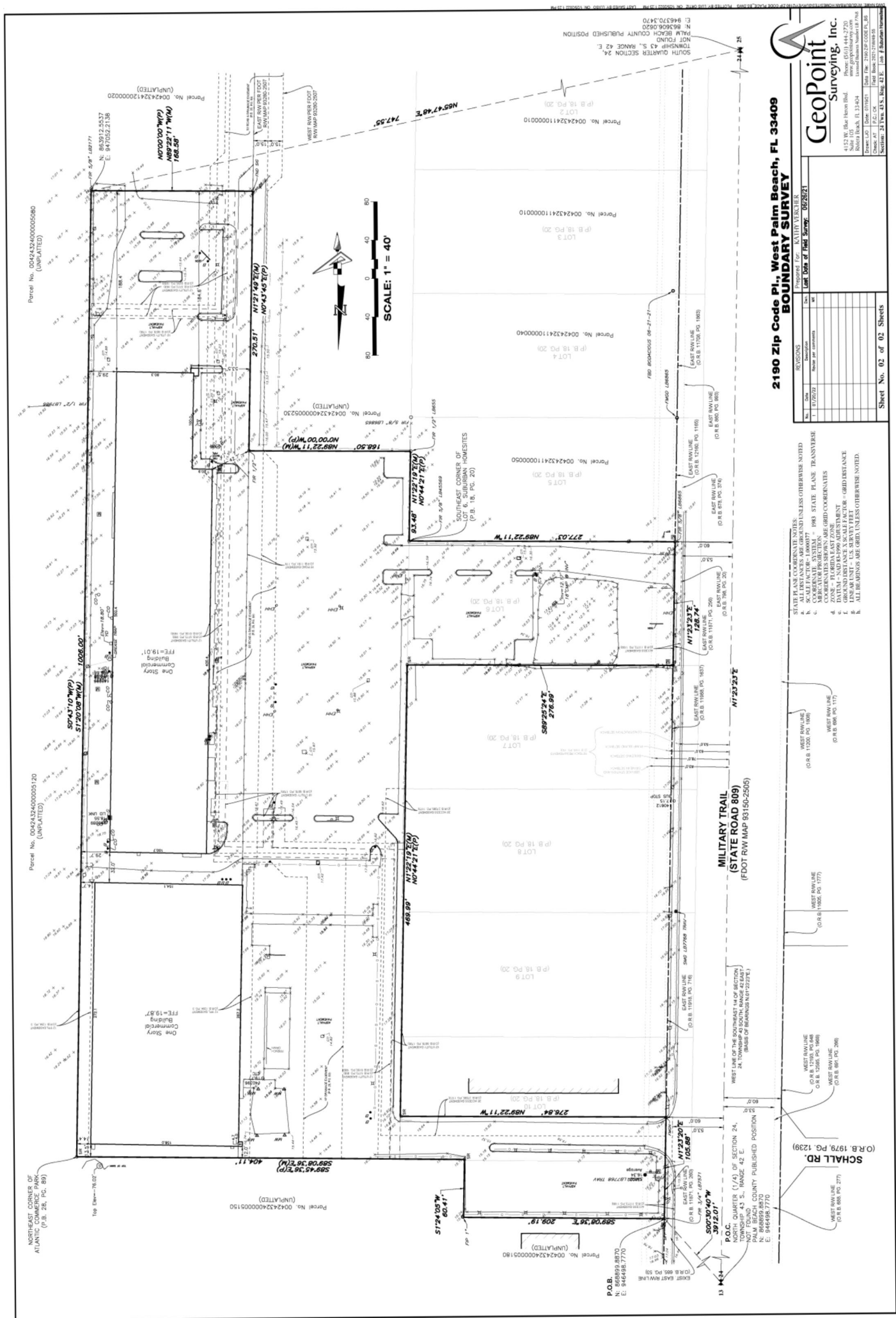




Zoning Commission  
Application No. ZV-2021-01547



**Figure 5 – Survey dated June 26, 2021**



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 Kathy Vercher, 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 ☒ MGR \_\_\_\_\_ *[position - e.g., president, partner, trustee]* of 2154 Zip Code Property, LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]* that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 1875 Tandem Way, Norco, CA 92860  
\_\_\_\_\_  
\_\_\_\_\_
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.



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

FURTHER AFFIANT SAYETH NAUGHT.


  
Kathy Vercher, Affiant  
 (Print Affiant Name)

## NOTARY PUBLIC INFORMATION:

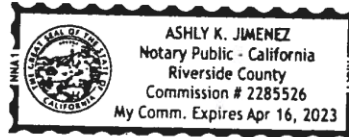
STATE OF FLORIDA  
 COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 2nd day of November, 2021 by Kathy Vercher (name of person acknowledging). He/she is personally known to me or has produced Drivers License (type of identification) as identification and did/did not take an oath (circle correct response).

Ashly K. Jimenez  
 (Name - type, stamp or print clearly)

, Notary Public  
 (Signature)

My Commission Expires on: April 16, 2023





**EXHIBIT "A"****PROPERTY**

LOT 6, LESS THE WEST 20 FEET OF SAID LOT, OF SUBURBAN HOMESITES, ACCORDING TO THE PLAT THEREOF, AS

RECORDED IN PLAT BOOK 18, PAGE 20, IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

TOGETHER WITH:

ALL OF ATLANTIC COMMERCIAL PARK, LYING IN SECTION 24 TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM

BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 28, PAGE 89, PALM BEACH COUNTY PUBLIC RECORDS,

ALSO TWO (2) PARCELS FOR ACCESS TO MILITARY TRAIL AS FOLLOWS:

PARCEL A:

LOT 10, LESS THE WEST 20 FEET AND LESS THE SOUTH 83 FEET, SUBURBAN HOMESITES, ACCORDING TO THE

PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH

COUNTY, FLORIDA, RECORDED IN PLAT BOOK 18 PAGE 20.

PARCEL B:

THE SOUTH 60 FEET OF THE WEST 270 FEET OF THE SOUTHWEST QUARTER (S.W. 1/4) OF THE NORTHWEST

QUARTER (N.W. 1/4) OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42

EAST, LESS THE WEST 50 FEET THEREOF PALM BEACH COUNTY, FLORIDA.

EXCEPTING THEREFROM THE FOUR (4) PARCELS DESCRIBED AS FOLLOWS:

PARCEL 1:

THE SOUTH 314 FEET OF THE EAST HALF (E 1/2) OF THE EAST HALF (E 1/2) OF THE WEST HALF (W 1/2) OF THE

SOUTHWEST QUARTER (S.W. 1/4) OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION 24, TOWNSHIP 43 SOUTHRANGE

42 EAST, PALM BEACH COUNTY, FLORIDA, LESS OKEECHOBEE ROAD, RIGHT-OF-WAY.

PARCEL 2:

A PARCEL OF LAND LYING IN ATLANTIC COMMERCIAL PARK, PALM BEACH COUNTY, FLORIDA, ACCORDING TO

THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGE 89, PUBLIC RECORDS OF PALM BEACH COUNTY,

FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION, OF THE SOUTH LINE OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42

EAST, WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID ATLANTIC COMMERCIAL PARK; THENCE

ON AN ASSUMED BEARING OF NORTH 0° 44' 21" EAST, ALONG SAID EXTENSION, A DISTANCE OF 75 FEET TO THE

NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD (BLVD) AND THE POINT OF BEGINNING; THENCE

CONTINUE NORTH 0° 44' 21" EAST, ALONG THE WEST LINE OF SAID ATLANTIC COMMERCIAL PARK, A DISTANCE

OF 239 FEET; THEN DUE EAST, A DISTANCE OF 168.58 FEET; THENCE SOUTH 0° 43' 45" WEST, A DISTANCE OF 236.42

FEET TO A POINT IN THE NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD (BLVD) SAID RIGHT-OF-WAY LINE

BEING A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 5654.65 FEET; THENCE WESTERLY ALONG

THE ARC OF SAID CURVE AND THROUGH AN ANGLE OF 01° 42' 32" A DISTANCE OF 168.67 FEET TO THE POINT OF

BEGINNING.

PARCEL 3:

THE EAST 2.134 METERS (7.00 FEET) OF THE WEST 8.230 METERS (27.00 FEET) OF LOT 6

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	
2154 Zip Code Property, LLC	2190 Zip Code Place, West Palm Beach, FL 33409	100%



**Justification Statement  
Okeechobee Commerce Park  
Palm Beach County (PBC)  
Type II Variance (Standalone) Application  
Original Submittal: September 7, 2021**

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**Request**

On behalf of the applicant, 2154 Zip Code Property, LLC (“Applicant”), Schmidt Nichols respectfully requests your consideration of this application for a Standalone Type II Variance application for the project known as Okeechobee Commerce Park. The 8.12-acre subject property is (PCN: 00-42-43-24-11-000-0060) is located on the east side of Military Trail approximately 650’ north of the intersection of Military Trail and Okeechobee Boulevard in unincorporated Palm Beach County (“subject property”). The site is currently developed with an existing 47,461 s.f. building consisting of 6,580 s.f. of Adult Entertainment use, 25,381 s.f. of Retail, and a 15,500 s.f., 35 position indoor Shooting Range.

Currently the subject property supports a Future Land Use Atlas (FLUA) designation of Commercial High, with underlying High Residential, 8 Units Per Acre (CH/8) and lies within the Urban/Suburban (U/S) Tier according to the Growth Management Tier System Maps outlined in the Comprehensive Plan Future Land Use Element. The subject parcel is currently within the General Commercial (CG) Zoning District. The applicant proposes to follow up this application with a Planned Development Rezoning request to rezone the subject site from the CG district to the Multiple Use Planned Development (MUPD) district. As a result of this rezoning, Article 3 of Palm Beach County’s Unified Land Development Code requires a minimum frontage length of 300’. However, existing site conditions allow for only 234.6’ of frontage resulting in the subject variance request.

Below is a summary of surrounding properties:

Adjacent Lands	Uses	FLU	Zoning
Subject Property (Proposed)	Retail, Warehouse, Adult Entertainment	CH/8	MUPD (CG Existing)
North	Commercial; Warehouse	CH/8	CG
South	Commercial; Vacant	CH/8	CG
East	Industrial; Commercial	IND; CH/8	IL; CG

1551 N FLAGLER DR, STE 102, WEST PALM BEACH, FL 33401 ■ T: 561.684-6141 | E: WWW.SNLANDPLAN.COM

West	Commercial	CH/8	CG
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History

The subject site is currently built out more than 80% of its approved plan of record. Existing buildings were constructed in 1956, 1965, and an addition was added in 1988.


Below is a summary of zoning approvals for the subject site:

- **August 26, 1992** – Adult Entertainment Special Permit issued for Spearmint Rhino with conditions.
- **August 4, 1994** – Class B Conditional Use Approval for Enclosed Gun Club use per Zoning Resolution: ZR-1994-0005.

Requests

The Applicant requests consideration of the following:

**Request 1: Standalone Type II Variance Request** to allow a variance for a reduction of the minimum frontage for MUPD zoned parcels by 65.4’.

Proposed Type 2 Variance Chart					
	ULDC Section/Description	Required	Provided	Variance	Approval Date/Resolution No.
	Table 3.E.3.D MUPD Property Development Regulations	Min. 300' Frontage	234.6' along Military Trail	To allow a reduction of the minimum frontage requirement by 65.4'	TBD

Per Unified Land Development Code (ULDC) Art.2. B.7.E.6, Standards for Zoning or Subdivision Variance, The Zoning Commission shall consider and find that all seven criteria listed below have been satisfied by the Applicant prior to making a motion for approval, of a zoning or subdivision variance:

VIII. VARIANCE INFORMATION:

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

TYPE II VARIANCE SEVEN (7) STANDARDS
A. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE



PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE,  
THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND,  
STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

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

Furthermore,

**V2:** The subject site's configuration is determined entirely by past subdivisions of land and lot combinations. As a result of multiple subdivisions, lot combinations, and sales over the decades, the resulting frontage on Military Trail is what was left. These circumstances are not applicable to other parcels of land in the same district, as the atypical shape of the site with two "finger-shaped" portions of the parcel stretch out to Military Trail on what is otherwise a land-locked property. This is a unique situation that is not applicable to any other parcel of land. Under current subdivision standards for Palm Beach County, these subdivisions of land that resulted in the unique shape, frontage, and configuration of the site would not be permitted. In addition, the subject site is currently developed in a pattern and with a mix of commercial uses that is consistent with the intent of the MUPD district. However, the site's CG zoning designation does not permit the applicant to utilize the same subdivision tools that are granted to MUPD zoned parcels. It is typical for developers and operators of MUPD zoned properties to subdivide their properties using meets and bounds, rather than having to follow the standard subdivision requirements, as this allows different owners and uses within a planned development to own and operate their own parcel of land within a property owner's association, rather than rent or lease space from a single owner. Therefore, the applicant requests the subject variance to allow the rezoning from CG to MUPD. The subject variance, if granted would memorialize the current condition of the site's layout and make it a viable parcel with an MUPD zoning designation as requested in a companion rezoning application.

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

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

Furthermore,

**V2:** The applicant did not own the property during the time it was subdivided, which is what created the unique circumstances. Moreover, the unique shape and configuration of the site was not the result of the applicant, as they did not own the property at the time of the subdivisions and lot combinations that created

these conditions. Furthermore, the applicant is not responsible for the site's existing CG zoning designation where it should be a planned development, considering the current configuration and mix of different commercial uses. Finally, the Property Development Regulations of the ULDC allow for substantially similar development potential on CG and MUPD zoned parcels, however a CG parcel is only required 100' of frontage.

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

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

Furthermore,

**V2:** The variance, if granted, would allow the subject site to be rezoned to the MUPD zoning district, with a CH/8 FLU designation. The subject site is unique from other properties, as it has substantial size that far exceeds the 5 acre minimum (8.12 acres provided), however the unique configuration of the property boundaries results in a nearly landlocked, non-rectangular parcel of land. Other, typically shaped parcels of land in the MUPD zoning district have the benefit of a site configuration with simple and direct frontage onto a roadway with no constraints regarding being landlocked. Additionally, with the site currently being zoned CG, and given its odd parcel configuration, it is not permitted to subdivide in accordance with the subdivision standards of the code, instead requiring substantial variances to achieve any reasonable subdivision that would be typical of a multiple use commercial development such as this one. Therefore, the variance, if granted, would not confer any special privilege to the subject parcel as it is subject to substantially unique circumstances and conditions.

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

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

<p>Furthermore,</p> <p><b>V2:</b> The literal interpretation of this code would deny the applicant their ability to rezone the subject parcel from the CG to the MUPD zoning district on the basis of a discrepancy of 64.5' of frontage. Additionally, the CG zoning designation has substantially similar development potential to the MUPD district, despite requiring only 100' of frontage. The MUPD district allows for subdivision of land through the establishment of meets and bounds, without regard for the typical subdivision standards of the code. This was implemented to accommodate owners and operators of outparcels within multiple use commercial developments such as this one to subdivide and own their land without having to compromise the unified and contiguous nature of such a multiple use development. The applicant would be denied this ability if the code were interpreted literally. Finally, although the site's frontage is just short of the minimum requirement for an MUPD, the site far exceeds other requirements including, but not limited to minimum size, width, depth, and building coverage.</p>
<p>E. GRANTING THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:</p> <p>RESPONSE: Granting these variances are the minimum needed for the reasonable use of the property.</p> <p>Furthermore,</p> <p><b>V2:</b> Granting of the subject variance to reduce the minimum frontage requirement by 64.5' would allow the site to be rezoned to the MUPD district, which is substantially consistent with the existing development on site. The frontage of the site is set in place and currently existing, and cannot be increased without the private purchase of neighboring parcels. Finally, the subject site is currently denied the reasonable use of the land, given its existing development pattern as a commercial plaza with multiple uses and opportunities to create outparcels. The CG district only allows subdivisions of land that meet the restrictive subdivision requirements of the code, which would hinder the property's function as a unified and contiguous development with multiple different uses. Therefore, the requested variance is the minimum necessary for the reasonable use of the site.</p>
<p>F. GRANTING THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:</p>

RESPONSE: Granting of the requested variances will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.

Furthermore,

**V2:** Granting the requested variance to reduce the minimum frontage requirement for an MUPD by 64.5' is consistent with the intent of the MUPD district and CH FLU as stated in the ULDC and Comprehensive Plan. The purpose of the MUPD district is to promote "the efficient use of land by the integration of multiple uses, or large single uses, within a unified development." The subject variance request seeks to accomplish this by allowing the subject property to rezone to the MUPD district. Under the current CG zoning, the property cannot be subdivided in a way that promotes the efficient use of the land by the integration of the existing multiple uses into a single development. Instead, subdivision requirements for standard zoned parcels require substantial division of the land, in such a fashion that would silo each individual parcel or outparcel. The subject variance request seeks to alleviate this and allow the property to be subdivided using meets and bounds, and allow for the innovative and imaginative use of the land by multiple different uses within a unified development.

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

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

Furthermore,

**V2:** Granting of the subject variance would not result in any physical change to the subject parcel and would therefore not result in any impacts to neighboring parcels or be otherwise detrimental to the public welfare. Instead, granting of the variance would result in a benefit to the public welfare, as the additional flexibility of the MUPD district would allow for innovative and high quality future development of the site, in contrast to the CG property development regulations that promote and incentivize segregated and decentralized development that has greater external impacts on the public realm.

On behalf of the applicant, 2154 Zip Code Property, LLC ("Applicant"), Schmidt Nichols respectfully requests your approval of this Standalone Type II Variance application for Okeechobee Commerce Park.