

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

Application No.: ZV/W/ABN/DOA/CA-2021-02151
Application Name: Chimu MUPD
Control No./Name: 1994-00013 (Chimu Shopping Center)
Applicant: Chimu Inc
PreLux, LLC
Owners: Chimu Inc
Agent: Urban Design Studio - Bradley Miller
Urban Design Studio - Ailish Villalobos
Telephone No.: (561) 366-1100
Project Manager: Timothy Haynes, Senior Site Planner

- TITLE:** a Development Order Abandonment **REQUEST:** to abandon a Financial Institution with drive-through
- TITLE:** a Type 2 Variance **REQUEST:** to reduce the width of the foundation planting (Building B)
- TITLE:** a Type 2 Waiver **REQUEST:** to extend hours of operation for a Fitness Center use located within 250 feet of a Residential Future Land Use designation or use.
- TITLE:** a Development Order Amendment **REQUEST:** to modify the Site Plan and Conditions of Approval; to add uses and buildings; and, to delete square footage
- TITLE:** a Development Order Amendment **REQUEST:** to modify the Site Plan and delete square footage (Type 1 Restaurant with drive-through Building D)
- TITLE:** a Class A Conditional Use **REQUEST:** to allow a Type 1 Restaurant with drive-through
- TITLE:** a Class A Conditional Use **REQUEST:** to allow a Car Wash
- TITLE:** a Class A Conditional Use **REQUEST:** to allow a Fitness Center

APPLICATION SUMMARY: The proposed requests are for the 8.69-acre Chimu development. The site was last approved by the Board of County Commissioners (BCC) on July 23, 2015 to allow extensions to the previously approved Commercial Shopping plaza with a mix of uses.

The request will modify the site plan in order to reconfigure the development to add and delete uses, square footage, and Conditions of Approval. The Preliminary Site Plan (PSP) indicates five commercial buildings with a total of 49,888 square feet (sq. ft.). These buildings include a mix of commercial uses, including the Conditions/ Uses for the Type I Restaurants (two) with drive-through, Car Wash, and Fitness Center. The request also includes an abandonment of a previous approved Financial Institution, a variance to reduce the foundation planting width on the east and west sides of Building B (Car Wash), and a Waiver to extend the hours of operation earlier than 6 am and later than 11 pm. The plan indicates 281 parking spaces and access from Hypoluxo Road and Adonis Drive.

The application was originally process with a Type 2 Variance to reduce the foundation planting width of Building C, containing the Car Wash use. However, after certification and prior to the Zoning Commission hearing, the Applicant has requested to withdraw the variance application in order to modify the site plan to conform to required provisions of the Code.

SITE DATA:

Location:	Northeast corner of Adonis Drive and Hypoluxo Road
Property Control Number(s)	00-42-45-01-00-000-7070
Existing Future Land Use Designation:	Commercial Low, with an underlying MR-5 (CL/5)
Existing Zoning District:	Multiple Use Planned Development District (MUPD)
Total Acreage:	8.69 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Boynton Beach
Future Annexation Area	Lantana
Commission District	District 2, Vice Mayor Gregg K. Weiss

RECOMMENDATION: Staff recommends **denial** of the Type 2 Variance. Should the Zoning Commission Recommend approval of the subject requests, Staff is recommending Conditions of Approval as indicated in Exhibit C-1

Staff recommends **approval** of the Type 2 Waiver, subject to the Conditions of Approval as indicated in Exhibit C-2.

Staff recommends **approval** of the Development Order Amendment to modify the Site Plan and Conditions of Approval; to add uses and buildings; and, to delete square footage subject to the Conditions of Approval as indicated in Exhibit C-3.

Staff recommends **approval** of the Development Order Amendment to modify the Site Plan and delete square footage (Type 1 Restaurant with drive-through Building D), subject to the Conditions of Approval as indicated in Exhibit C-4.

Staff recommends **approval** of the Class A Conditional use to allow a Type 1 Restaurant with drive-through), subject to the Conditions of Approval as indicated in Exhibit C-5.

Staff recommends **approval** of the Class A Conditional Use to allow a Car Wash, subject to the Conditions of Approval as indicated in Exhibit C-6.

Staff recommends **approval** of the Class A Conditional Use to allow a Fitness Center, subject to the Conditions of Approval as indicated in Exhibit C-7.

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

PROJECT HISTORY:

Application No.	Request	Resolution	Approval Date
PDD-1994-00013	An Official Zoning Map Amendment (Rezoning) from the Agricultural Residential (AR) Zoning District to the Multiple Use Planned Development District (MUPD) Zoning District including a Requested Use (R) for a fast food restaurant	R-1995-0435	March 30, 1995
DOA/R-2004-00293	A Development Order Amendment to reconfigure the site plan and modify/delete conditions of approval for a Special Exception to allow a Planned Commercial Development	R-2005-1122	June 15, 2005
DOA/R-2004-00293	Requested Use to allow a financial institution in the MUPD Zoning District	R-2005-1123	June 15, 2005
DOA/R-2004-00293	A Development Order Amendment to amend conditions of approval, amending the development order previously granted by the approval of the application of Chimu, Inc., Control No. 1994-013, confirmed by the adoption of Resolution R-2005-1122, which approved a Development Order Amendment.	R-2008-1704	Sept. 29, 2008
STR-1994-0013-2a	Status Report No. STR-1994-0013-8, to approve a Development Order Amendment to add a condition of approval to Resolution R-2005-112	R-2015-0960	July 23, 2015

SURROUNDING LAND USES:

NORTH:
FLU Designation: Low Residential (LR-3)
Zoning District: Single-Family Residential District (RS)
Supporting: Residential (Concept Homes of Lantana, Control No 1977-00069)

WEST:
FLU Designation: Low Residential (LR-3)
Zoning District: Single-Family Residential District (RS)
Supporting: Residential (Concept Homes of Lantana, Control No 1977-00069)

EAST:
FLU Designation: Commercial High, with an underlying MR-5 (CH/5)
Zoning District: General Commercial District (CG)
Supporting: Commercial (Walmart, Control No 1989-110)

SOUTH:
FLU Designation: Commercial Low, with an underlying LR-3 (CL/3)
Zoning District: Multiple Use Planned Development District (MUPD)
Supporting: Commercial (Hypoluxo Village MUPD, Control No 2000-91)

FINDINGS:

A DO for a Conditional Use or similar DO granted under Zoning Resolution No. 3-57, Ordinance No. 73-2, Ordinance No. 92-20, or Ordinance No. 2003-067, as amended, may be abandoned according to the procedures pursuant to Art. 2.B, Public Hearing Processes. DOs, that are partially or fully implemented, or have not been implemented may be abandoned subject to the procedures established in Art. 2.B.2.F, Development Order Abandonment. When considering an ABN application, the BCC and ZC shall consider the Standards indicated below.

As part of the proposed request, the Applicant is seeking to abandon a Development Order granted for a Financial Institution with drive through, previously approved under Resolution R-2005-1123, on June 15, 2005. With the proposed DOA described below it is the intent to reconfigure the plan and replace this use with other Conditional Uses described below.

a. Consistency with the Plan *The proposed abandonment is consistent with the Plan.*

The proposed abandonment of a Request Use for a Financial Institution use, is consistent with the Goals, Objectives and Policies of the Comprehensive Plan. The proposed development, being reviewed under a concurrent application, will be compliant with the requirements of the Plan. See Findings Under the Development Order Abandonment (DOA) for additional information.

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.*

The proposed abandonment of a Requested Use for a Financial Institution 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 the use does not create any non-conformities. The proposed abandonment of a use does not affect any provision to the requirements of the ULDC such as setbacks, building coverage, parking, landscaping and signage.

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).*

The proposed partial abandonment of the DO for a Requested Use of a Financial Institution will not impact the requirements of Art. 2. F, Concurrency (Adequate Public Facility Standards).

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.*

The property received approval to provide a Financial Instruction, along with other uses, as part of the overall MUPD development. The Applicant states in their justification that the site plan is intended to be modified to included new uses and no longer intends to continue a Financial Institution use approval at this location. A concurrent application for a Development Order Amendment to modify the Site Plan and Conditions of Approval; to add uses and buildings; and, to delete square footage, a second Development Order Amendment modify the Site Plan and delete square footage (Type 1 Restaurant with Drive-thru Building D), three (3) Class A Conditional Use requests to allow a Type 1 Restaurant with drive-through, a Car Wash, and a Fitness Center, a Type 2 Variance to reduce the width of the foundation planting (Building B) which the Applicant has requested to be withdrawn, and a Type 2 Waiver requests to extend hours of operation for a Fitness Center use located within 250 feet of a Residential Future Land Use designation or use is under review and contingent on the approval of this abandonment.

TYPE. 2 VARIANCE SUMMARY:

ULDC Article	Required	Proposed	Variance
7.C.3.B.1.a Foundation Planting Applicability	8-foot wide foundation planting at front & side facades	5-foot wide foundation planting at side facades of Building "B"	3-foot reduction in width of foundation planting at side facades of Building "B"

The variance proposes a three-foot reduction in width of foundation planting at east and west side façade of Building B. Pursuant to Art. 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 at eight-feet in width. The PSP proposes 5 ft. wide foundation planting on the east and west sides of the structure.

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.

Please note that following the certification of the plan and advertising for the Zoning Commission public hearing, Staff and the Applicant continued to discuss the applications. The Applicant has submitted a letter indicating that the variance will be withdrawn as it is no longer necessary with proposed modifications to the site plan incorporate the 8 foot wide foundation planting which will be made between the ZC and BCC hearings.

- 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:***

NO. There are no special conditions and circumstances that exists that are peculiar to the parcel that are not applicable to other parcels in the same district. Although the site is currently vacant, there is an existing approved site plan. The existing site plan was designed without the need of any variance approvals. The proposed certified site plan layout includes three separate uses with drive-through, which were oriented with limited the space to include the required foundation planting.

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

NO. There are no special circumstances and conditions. The circumstances are a direct result of the site design of the Applicant. The site is has multiple drive-through uses other than the Car Wash. These uses are adjacent to one another creating a very compacted site design with limited available space. The site is currently vacant and can be modified to meet all code requirements without the need of the variance.

- 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:***

NO. Granting the variance will confer special privilege upon the Applicant denied by the Code for other parcels within the same zoning district. Other parcels within the MUPD Zoning Designation would have to adhere to the minimum foundation planting requirements. As previously stated, the subject site is currently vacant with no existing peculiarities preventing foundation planting requirements.

- 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:***

NO. Literal interpretation and enforcement of the Code provisions would not deprive the Applicant of rights commonly enjoyed by other parcels in the same district. The vacant parcel can be designed to accommodate the foundation planting around the building. The site design compacts numerous uses and drive-through areas which create limited available space to install the required planting material. The code only requires the minimum foundation planting requirement which would not cause undue hardship to the Applicant. Other parcels in the same zoning district are subject to the same provisions for foundation planting.

- 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 is the minimum variance that would make it possible for use of the building or structure. The Applicant has provided five ft. wide foundation planting along the east and west sides of the building. The planting material three ft. less of the required eight ft. required foundation-planting width. The Applicant has provided the five ft. of planting material along the entire east and west facades, exceeding the 40% linear foot requirement.

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

NO. Granting the variance will not be consistent with the purpose, goals, and objectives of the code. The variance requested is not entirely justifiable as the site is vacant and there are no existing site constraints preventing the foundation planting material from being installed. The site design, compacting multiple uses adjacent to drive-through and vehicular use areas, and limited space resulting from site intensity, are a direct result of the Applicant. Variances are not intended to accommodate relief from Code requirements where no peculiar circumstances or conditions are present. Therefore the requests is not consistent with the goals of the Code. More adequate site design should be used to accommodate the minimum standards of the ULDC.

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

YES. Granting the variance will not be injurious to the area involved or detrimental to the public welfare. The three ft. reduction of foundation planting will not impact the adjacent parcels adversely. The site impacts are internal to the development. The installment of the five ft. wide planting area along the east and west facades of the structure will provide some screening of the building and will not create adverse impacts.

FINDINGS:

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

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.

The standards below will consolidate the finding for the two DOA requests and three new Class A Conditional Use requests.

- 1) The first DOA relates to modifications to the overall layout and uses of the MUPD, including prior Conditions of Approval;
- 2) The second DOA describes the modifications to a previously approved Class A Conditional Use for a Type I Restaurant with drive through;
- 3) The first Class A Conditional Use, for this application, is for a Type 1 Restaurant with drive through, which would be a second restaurant for the development;
- 4) The second Class A Conditional Use is for a Car Wash (automatic drive through); and,
- 5) The third Class A Conditional Use is for a Fitness Center

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

PLANNING DIVISION COMMENTS:

- *Consistency with the Comprehensive Plan:* The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
- *Relevant Comprehensive Plan Policies:* The Comprehensive Plan s Future Land Use Element (FLUE) Policies 4.3-g and 4.3-k establish framework for requiring development proposals to employ access management techniques between complementary developments. The policy reads as follows:

Policy 4.3-g: Where appropriate, similar and/or complementary neighboring land uses shall employ access management techniques such as shared entrances (to reduce the number of curb cuts) and vehicular and/or pedestrian cross access between like development projects (to encourage inter-connectivity both within and between sites, and reduce the need to use the primary street system to access adjacent sites).

Policy 4.3-k: The County shall require, where feasible, that commercial land uses employ access management techniques, such as shared entrances and vehicular cross access, between adjacent existing and proposed commercial land uses.

The Preliminary Site Plan indicates cross access from the subject property to the adjacent commercial development to the east. The cross access easement for this location was recorded in ORB 8607 PG 1554 as required by a Planning condition of approval for the previous development order.

- *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 (378,651 surveyed sq. ft. or 8.693 acres x 0.50 maximum FAR = 189,325 sq. ft. maximum). The request is 49,888 sq. ft., which equates to a FAR of approximately 0.13 (49,888 / 378,651 surveyed sq. ft. or 8.693 acres = 0.13).
- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The site is not located within any neighborhood plans, overlays or plan study areas as identified in the Comprehensive Plan.

Staff concludes the requests included herein are compliant with this Standard.

- 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.*

Development Order Amendment (Overall MUPD)

The MUPD was previously approved pursuant to Resolution R-1995-0435. The lot has remained vacant since that time and has received time extensions pursuant to Art 2.E.3.B, Administrative Extension of Time, with the most recent in May of 2020.

- *Property Development Regulations:* The site was previously approved as a Commercial Low MUPD, and subject to the property development regulations of Art 3, Table 3.D.1.A, Property Development Regulations. The property meets Code requirements for minimum lot dimensions of three acre size, 200 ft. of width and frontage, and 200 ft. of depth, as the site is 8.69 acre lot, as depicted in Figure 4 Preliminary Site Plan. Frontage is from Hypoluxo, with access from both Hypoluxo and Adonis, continuing to meet the requirements for the Planned Development District.
- *Architectural Review:* The site, as a whole, is required to comply with the Architectural Guidelines pursuant to Article 5.C, Design Standards. Elevations are required to be consistent in Architectural Character. No Architectural elevations have been provided at this time. The Applicant indicated they intend to obtain Architectural review approval at time of building permit and request the deletion of previous Architectural Review Condition of Approval No. 2 from Resolution R-2005-1122. Staff request modification of this condition as indicated in the Architectural Review Condition of Approval of Exhibit C-3.
- *Parking:* Pursuant to Art. 3. E.1.C.2.h. Parking (Non-Residential Uses), a use within a Planned Development District (PDD) may utilize the parking standards indicated in Table 6.B.1.B, Minimum Parking and Loading Requirements, based on the use or the minimum/maximum parking standards below or a combination of both. The Applicant has requested to utilize the parking requirements per individual use per Article 6.
 - Type 1 Restaurant with drive-through use for Building A containing 42 seats requires 14 spaces calculated at 1 space per 3 seats. There are 14 spaces provided.
 - The Car Wash use for Building B requires 1 space per 200 sq. ft. of office, retail, or indoor seating. There is 400 sq. ft. of office space provided which requires 2 parking spaces and 4 spaces are provided.
 - The Retail use for Building C requires 1 space per 4,000 sq. ft., requiring 20 spaces and 29 spaces are provided.
 - The Type 1 Restaurant with drive-through use for Building D containing 42 seats requires 14 spaces calculated at 1 space per 3 seats. There are 20 spaces provided.
 - The Fitness Center use for Building E containing 35,000 sq. ft. requires 175 spaces calculated at 1 space per 200 sq. ft.. There are 212 spaces provided.

The total number of required parking spaces is 226. The PSP indicates a total of 281 parking spaces on throughout the site, which includes 21 grass parking spaces along the northern property line adjacent to Building E and 12 handicap spaces throughout the site. No loading spaces are required or are being proposed. The PSP also indicates a 6 foot high wall along the northern property line as well.

- *Landscape/Buffering:* The site provides all required perimeter buffering per code. To the north is a 20 ft. wide Incompatibility Buffer which includes a 6 ft. high wall. To the south is a 20 ft. R-O-W Buffer. A 5 ft. easement overlap is also provided within the buffer. To the east is an 8 ft. wide Compatibility Buffer. To the west, along Adonis Drive is a 15 ft. R-O-W buffer with a 5 ft. easement overlap.

The Applicant is requesting the deletion of Landscaping Interior Condition of Approval No.1 regarding providing a shade structure at the entrance of Hypoluxo Road, Landscaping Along South Property Line Condition of Approval No. 1 for perimeter buffering, Landscaping Along West Property Line Condition of Approval No. 1 for perimeter buffering. Staff is in support in the deletion of these conditions to allow the site to be comply with current code landscape requirements. Staff is recommending a Condition of Approval that additional landscape material be provided along the perimeter property lines to provided additional screening for the uses.

- *Signs:* The Applicant has submitted a Preliminary Master Sign Plan (PMSP-1), which is provided in Figure 8. The Applicant proposes three freestanding signs along Hypoluxo Road and 2 signs along Adonis Drive in accordance with Table 8.G.2.A - Freestanding Sign Standards. The Entrance Signs are along the Hypoluxo Road and Adonis Drive frontage and meet the requirements of Table 8.G.2.C - Entrance Sign Standards. Building A, B, C, and D proposes four wall signs along the, north, south, east, and west, elevations. Building E proposes three wall signs at the east, west, and south elevations. Each of the wall signs will meet Table 8.G.1.A Wall Sign Standards. The Applicant is seeking to modify Signs Condition of Approval No. 1 which prohibited free standing signs along Adonis Drive to allow a single sign at the entrance on Adonis Drive.
- The Applicant is requesting the deletion of several previous Building and Site Design Conditions of Approval for Resolution R-2005-1122. Specially, the Applicant has request to delete Building Site Design Condition No. 1, relating to decorative pavers provided at the entrances of Hypoluxo Road and Adonis Drive,

Condition No. 2 requiring a 65 ft. setback for all structures adjacent to the north property line, Condition No. 4 requiring a maximum building height of 25 ft. (excluding decorative architectural features which shall be limited to 35 ft. in height), for the northernmost retail building, Condition No. 8 prohibiting truck access onto Adonis Drive, and Condition No. 9 requiring a 12 foot high wall along the northern property line parallel with the loading area.

Staff recommends the modification of Building Site Design Condition No. 1, to include pavers along the Hypoluxo Road and Adonis Drive Entrances, as well as at the T-intersection of the internal driveways. Staff is in support of the deletion of Building and Site Design Condition No. 2, in order to maintain Building E in the configuration presented on the PSP. Staff is also recommending modification of Building and Design Condition No. 4, to limit the maximum building height to 35 ft. excluding mechanical equipment or architectural features Art. 3.D.1.E.4.V (Height Exemptions) for the northernmost building adjacent to the single family residences. Staff is in support of the deletion of Building and Site Design Condition No. 8 and No. 9, as the new site layout proposes no loading area adjacent to the single family residences.

Development Order Amendment (Type 1 Restaurant with drive through (Building D))

FINDINGS: (Type 1 Restaurant with Drive-through and DOAs to these Uses)

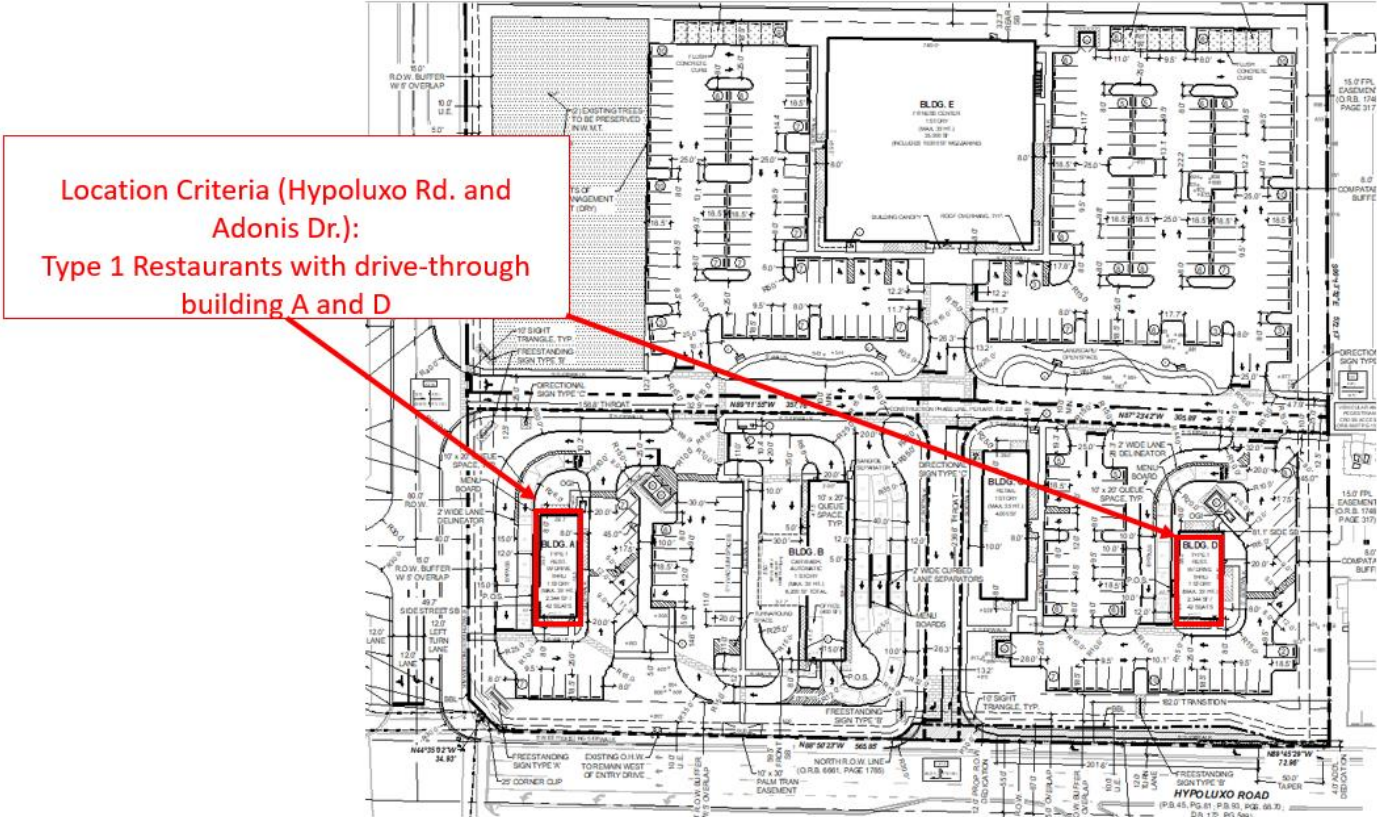
- Use criteria (Type 1 Restaurant with drive-through): The newly proposed Type 1 Restaurant with drive-through for Building A, and the modified Type 1 Restaurant with drive-through for Building D which is subject to the second DOA request, must meet the use requirements pursuant to Art. 4.B.2.33 Restaurant, Type 1.

The existing Type 1 Restaurant with drive-through in Building D was approved under R-1995-0435 with 4,500 sq. ft. with 81 seats and 27 parking spaces as indicated on the approved Final Site Plan in Figure 9. The amendment proposes 2,344 sq. ft. with 42 seats and 20 parking spaces as indicated on the PSP in Figure 4.

The newly proposed Type 1 Restaurant with drive-through in Building A contain 2,355 sq. ft. with 42 seats and 14 parking spaces.

Location Criteria

The request is subject to the Location Criteria provisions of Art. 4.B.2.C.33.f., Location Criteria. The inclusion of the newly proposed Type 1 Restaurant with drive-through for Building A, creates two (2) of the same uses within 1,000 ft. of the mid-block intersection of Hypoluxo Road and Adonis Avenue as seen below. The Type 1 Restaurant uses must be separated from one another by 500 feet unless per Art. 5.E.2.C.2, Separation Criteria.



The Applicant seeks to utilize the location exemption criteria per Art.4.B.2.33.f.3 Exceptions. The Applicants has attempted to meet Exception Design Criteria 1 by submitting a conceptual landscape plan indicating the planting material for screening of the vehicular use areas. Staff is recommending a Condition of Approval that additional planting material is provided along the perimeter buffers to further screen the uses in conjunction with Exception Design Criteria (1). The PSP indicates all required parking for the Type 1 Restaurants with drive-through for Building D are within close proximity to the restaurants which they serve, which also does not exceed a separation distance of 150 ft., meeting Exception Design Criteria (2). The drive-through restaurant within the development is located in the MUPD Zoning District which also provides cross access to the commercial parcel to the east to meet the provisions of Exception Design Criteria (3).

The Applicant has submitted a conceptual landscape plan as part of the provision for Exception Design Criteria (5). The Applicant will submit architectural elevations at the time of Building Permit approval and Staff has recommended a Condition of Approval for this requirement.

MUPD

The Type 1 Restaurant with drive-through is also subject to Art.4.B.2.33.f.3.b. MUPD standards. The PSP indicates the required perimeter landscape buffering for visual screening of the use. There is no direct access to the use from the perimeter R-O-W. Cross access is also provided to the existing commercial shopping plaza to the east.

Major Intersection Criteria for CL FLU

As previously stated, the subject parcel is within the MUPD Zoning District with a CL FLU. Per Art.4.B.2.33.g. Major Intersection Criteria for CL FLU, the Type 1 Restaurant is subject to Art. 5.E.1, Major Intersection Criteria, which requires only two of the same Type 1 Restaurant use to be allowed within 1,000 feet of the intersection and must be separated from the same use. The use must meet these provisions unless the restaurant meets the requirements of one or more of the following: Art. 4.B.2.C.33.b.1, DRO Approval, Art. 4.B.2.C.33.b.2, Permitted by Right, is located within a TMD, or complies with the design requirements outlined under Art. 4.B.2.C.33.f.3, Exceptions. As mention above in the Exceptions Criteria, the Applicant intends to utilize the exemption provisions of Art. 4.B.2.C.33.f.3, Exceptions. However, the Conceptual Landscape plan does not indicate additional landscape screening material provided to screen the use, nor does the layout appropriately contain adequate vehicular circulation and maneuvering.

Outdoor Dining

There is no outdoor dining areas proposed in the amendment for Building D

Class A Conditional Use (Type 1 Restaurant with drive through (Building A))

The request is subject to the Location Criteria provisions of Art. 4.B.2.C.33.f., Location Criteria. The inclusion of the newly proposed Type 1 Restaurant with drive-through for Building A, creates two (2) of the same uses within 1,000 ft. of the mid-block intersection of Hypoluxo Road and Adonis Avenue as seen below. The Type 1 Restaurant uses must be separated from one another by 500 feet unless per Art. 5.E.2.C.2, Separation Criteria.

The Applicant seeks to utilize the location exemption criteria per Art.4.B.2.33.f.3 Exceptions. The Applicants has attempted to meet Exception Design Criteria 1 by submitting a conceptual landscape plan indicating the planting material for screening of the vehicular use areas. Staff is recommending a condition of approval that additional planting material is provided along the perimeter buffers to further screen the uses in conjunction with Exception Design Criteria (1). The PSP indicates all required parking for the Type 1 Restaurants with drive-through for Building A are within close proximity to the restaurants which they serve, which also does not exceed a separation distance of 150 ft., meeting Exception Design Criteria (2). The drive-through restaurant within the development is located in the MUPD Zoning District which also provides cross access to the commercial parcel to the east to meet the provisions of Exception Design Criteria (3). Following certification, the Applicant proposed modifications to the site plan to address staff concerns regarding vehicular circulation including a 25 ft. wide two-way drive aisle along the east and south building facades. The parking area to the east of the structure has also been modified to include 90 degree parking spaces. A single stripped, turn-around space has been included along the south parking spaces for safe vehicular maneuverability. Appropriate traffic directional signage will also be provided. The bypass lane on the west façade has been modified to 11.7 ft. in width, exceeding the 10 ft. requirement. These changes will be made between ZC and BCC hearings. Figure 5 below indicates the modifications to the certified plan.

The Applicant has submitted a conceptual landscape plan as part of the provision for Exception Design Criteria (5). The Applicant will submit architectural elevations at the time of Building permit approval and Staff has recommended a Condition of Approval for this requirement.

MUPD

The Type 1 Restaurant with drive-through is also subject to Art.4.B.2.33.f.3.b. MUPD standards. The PSP indicates the required perimeter landscape buffering for visual screening of the use. There is no direct access to the use from the perimeter R-O-W. Cross access is also provided to the existing commercial shopping plaza to

the east. Staff has included a Condition of Approval that architectural elevations must be submitted at the time of final DRO approval.

Major Intersection Criteria for CL FLU

As previously stated, the subject parcel is within the MUPD Zoning District with a CL FLU. Per Art.4.B.2.33.g. Major Intersection Criteria for CL FLU, the Type 1 Restaurant is subject to Art. 5.E.1, Major Intersection Criteria, which requires only two of the same Type 1 Restaurant use to be allowed within 1,000 feet of the intersection and must be separated from the same use. The use must meet these provisions unless the restaurant meets the requirements of one or more of the following: Art. 4.B.2.C.33.b.1, DRO Approval, Art. 4.B.2.C.33.b.2, Permitted by Right, is located within a TMD, or complies with the design requirements outlined under Art. 4.B.2.C.33.f.3, Exceptions. As mention above in the Exceptions Criteria, the Applicant intends to utilize the exemption provisions of Art. 4.B.2.C.33.f.3, Exceptions. However, the Conceptual Landscape plan does not indicate additional landscape screening material provided to screen the use, nor does the layout appropriately contain adequate vehicular circulation and maneuvering.

Outdoor Dining

There is no outdoor dining areas proposed in the CA for Building A.

Class A Conditional Use (Car Wash – Automatic drive through (Building B))

- Use criteria (Car Wash): The proposed Car Wash within Building B is subject to the use criteria requirements of Art.4.B.2.4. Car Wash and meets all said requirements.

Class A Conditional Use (Fitness Center (Building E))

- Use criteria (Fitness Center): The proposed Car Wash within Building E is subject to the use criteria requirements of Art.4.B.3.5. Fitness Center and meets all said requirements.

- 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.*

Development Order Amendment (Overall MUPD)

The overall MUPD is consistent and compatible with the surrounding area. The amendments to the overall MUPD propose new and modified commercial uses which are consistent to the surrounding commercial development to the immediate east, northeast, and south of the development. The amendment seeks to maintain consistency with the commercial land uses of the surrounding area.

Development Order Amendment (Building D)

The proposed DOA is compatible and consistent with the surrounding area and vicinity where proposed. The newly proposed layout provides two (2) access points, through drive aisle located on the east side of Building C and the other through the bypass lane of Building D. There is a 25 ft. drive aisle located to the south of the structure. Prior to final DRO approval, the Applicant shall modify the site plan to include a turnaround space along the south 90 degree parking spaces for safe vehicular maneuverability.

Class A Conditional Use (Type 1 Restaurant with drive-through for Building A)

The proposed amendment is compatible and consistent with the surrounding area and vicinity where proposed. The certified site plan design to accommodate the Type 1 Restaurant with drive-through were incongruous to the site design and creates vehicular conflict in the proposed maneuvering areas, by indicating one-way site access obtained through the bypass lane. The one-way drive aisle also created conflict with the parking area associated with Building A by allowing queuing spaces to potentially block the angled parking spaces with no other provided alternative. However, the upgraded site plan provided after certification provides safe site circulation which includes a two-way drive aisle on the east and south sides of the proposed structure. The angled parking has been replaced with 90 degree parking to provide sufficient back out space for vehicles. The new design as indicated in Figure 5, provides safe and adequate vehicular maneuvering on site. The site plan will be updated to reflect these changes.

Class A Conditional Use (Car Wash for Building B)

The proposed CA for the Car Wash use in Building B is a commercial use which is consistent and compatible with the surrounding area and vicinity. This use is internally oriented and provides adequate and safe vehicular access and maneuvering area.

Class A Conditional Use (Fitness Center for Building E)

The Fitness Center within Building E is also a commercial use requiring CA approval. The proposed use is consistent with the commercial uses surrounding the area and can serve as a recreational use benefiting the surrounding residential community.

- e. 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.*

Development Order Amendment (Overall MUPD)

The overall development with the Conditions of Approval, have been incorporated to minimize adverse impacts and the adjacent properties. The development meets all the minimum PDRs as previously discussed. The PSP further indicates required perimeter buffering for visual screening of the uses. Staff has included added and modified conditions of approval for additional landscape material screening of the proposed uses with the perimeter buffering to minimize adverse visual impacts of the uses. The setback conditions previously discussed along with the height limitation condition further mitigate potential visual and noise impacts to the adjacent residential properties to the north.

Development Order Amendment (Building D)

The proposed amendment to the existing Type 1 Restaurant with drive-through use of Building D meets the minimum requirements of the ULDC, and the use intensity is similar to the adjacent commercial uses to the east.

Class A Conditional Use (Type 1 Restaurant with drive-through for Building A)

The certified site plan access and circulation for the Type 1 Restaurant with drive-through use of Building did not adequately minimize adverse impacts due to limited access and inadequate site circulation which created conflicts with the angled onsite parking. This site design could potentially disrupt onsite traffic flow which can adverse impact the adjacent properties. However, following certification the applicant proposed modifications to the site plan to address staff concerns regarding vehicular circulation including a 25 ft. wide two-way drive aisle along the east and south building facades. The parking area to the east of the structure has also been modified to include 90 degree parking spaces. A single stripped, turn-around space has been included along the south parking spaces for safe vehicular maneuverability.

Class A Conditional Use (Car Wash for Building B)

The proposed CA for the Car Wash use has been designed to minimize adverse impacts. The proposed structure will comply with the minimum PDR's and provides safe and adequate site circulation within the vehicular use areas. The commercial use is consistent with the other commercial and nonresidential uses adjoining the subject property.

Class A Conditional Use (Fitness Center for Building E)

The proposed Fitness Center is also subject to CA approval. The use is a nonresidential use which is consistent with the nonresidential uses to the east, northeast, and south of the subject site. The proposed structure meets the minimum PDR requirements and parking. The building is placement is proposed at 32.3 ft. from the northern property line, as opposed to the 65 ft. setback on the original approval. Staff is recommending a condition that the height cannot exceed 35 ft. in height, excluding mechanical equipment and architectural features. The 20 ft. Incompatibility Buffer with the 6 ft. high wall will also provide adequate screening of the use from the adjacent residences to the north.

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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- *Vegetation Protection:* The property cleared of most of the vegetation. Native trees shall be mitigated on the site.
- *Wellfield Protection Zone:* The property is not located within a Wellfield Protection Zone.
- *Irrigation Conservation Concerns And Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

- *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

Based on the analysis from our Department of Environmental Resource Management, the requests for Development Order Amendments and the Class A Conditional Uses is compliant with the standards for minimizes environmental impact, subject to the Conditions of Approval.

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

The requests modify a previously approved MUPD and propose several Class A approvals for specific uses which are not out of character with the uses located in the commercial plazas in the immediate vicinity. The changes proposed will not alter the general development pattern of this overall area, and therefore these requests meet a logical, and orderly and timely development pattern of the surrounding area.

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

ENGINEERING COMMENTS:
TRAFFIC IMPACTS

The proposed modification of already approved commercial project is expected to result in a reduction of 779 net daily trips, a reduction of 20 net AM peak hour trips, a reduction of 80 PM peak hour trips. The build out of the project is expected to happen by 2024.

The minor increase in peak hour trips will have insignificant impacts as per the Traffic Performance Standards (TPS) definition.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Segment: Hypoluxo Rd from Haverhill Rd to Military Trail
Existing count: Eastbound=1614, Westbound=1972
Background growth: Eastbound=274, Westbound=335
Project Trips: Eastbound=62, Westbound=73
Total Traffic: Eastbound=1950, Westbound=2380
Present laneage: 3 in each direction
Assured laneage: 3 in each direction
LOS “D” capacity: 2940 per direction
Projected level of service: Better than LOS D in both directions

The Property Owner shall dedicate ROW to be consistent with the PBC Thoroughfare Identification Map and configure the property into a legal lot of record prior to the issuance of the building permit.

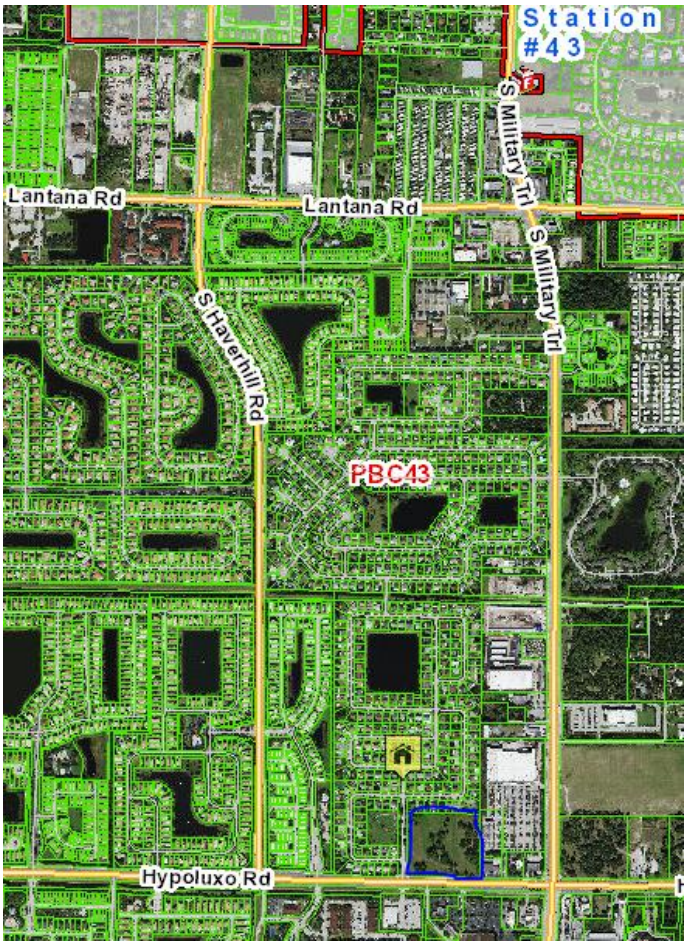
PALM BEACH COUNTY HEALTH DEPARTMENT:
This project has met the requirements of the Florida Department of Health

FIRE PROTECTION:
Staff has reviewed this application and have no comment. The subject site is within the boundaries of Fire Station #43.

SCHOOL IMPACTS:
The School Board has no comment regarding this non-residential application.

PARKS AND RECREATION:
This is a non-residential project, therefore the Parks and Recreation Department ULDC standards do not apply.

Based on the review by the Agencies providing services to the site, the requests for the Development Order Amendments and the Class A Conditional Uses, comply with the provision for Adequate Public Facilities, subject to the Conditions of Approval.



- 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 DOA to the overall MUPD, DOA to the Type 1 Restaurant with drive-through of Building D, and the CA requests to add the new Type 1 Restaurant with drive-through, the Car Wash and Fitness Center uses necessitate the proposed amendments. Staff finds the Applicant’s proposal to provided additional services to the surrounding community is warranted in the requests. The site has been vacant for quite some time, although having prior approvals. The site design as proposed requires modifications to be consistent and functional with the surrounding developments, and these changes necessitate the proposed amendments.

TYPE 2 WAIVERS. SUMMARY:

ULDC Article	Required	Proposed	Variance
5.E.5.A. Hours of Operation - Proximity to Residential	6:00 A.M. to 11:00 P.M.	5:00 A.M. to 11:00 P.M.	1 Hour

The Applicant is proposing waiver from the hours of operation.

Specifically, the wavier proposes to extend the hours of operation by an addition hour for Building E containing the Fitness Center. Pursuant to Table 5.E.5.A.– Hours of Operation, non-residential uses located within 250 feet of a parcel of land with a residential FLU designation or use are limited to 6:00 a.m. to 11:00 P.M. for recreational uses. The waiver requests the hours of operation to be from 5:00 A.M. to 11:00 A.M.

FINDINGS:

Type 2 Waivers:

When considering a Development Order application for a Type 2 Waiver, the BCC shall consider the Standards listed under in Article 2.B.7.D.3, Standards for a Type 2 Waiver, and any other Standards specific to a Type 2 Waiver. The Standards and Staff Analyses are indicated below. A Type 2 Waiver that fails to meet any of the Standards, shall be deemed adverse to the public interest and shall not be approved.

- 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;***

YES. The waiver is for one additional hour of operation of a single use on site for the Fitness Center. The waiver requests to accommodate early morning users of the facility. The request will not create additional conflicts with other requirements of the Code and will be consistent with the purpose and intent of the ULDC.

- 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,***

YES. As previously stated, the Applicant is request a single additional hour of operation for the Fitness Center use on site from 6:00 A.M. to 5:00 A.M.

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

YES. The alternative time of a single hour will not adversely impact adjacent properties. Staff is also recommending a Condition of Approval that the grass parking spaces cannot be utilized during the 5:00am hour of operation.

- d. ***For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.1, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety and welfare of the community.***

YES. Should the tenant for the retail use located within Building “C” be confirmed as a Medical Marijuana Dispensing Facility, the subject site is not located within 500-feet of an existing Elementary or Secondary School.

CONCLUSION: Staff conclusions and recommendations are as follows:

- Staff recommends **denial** of the Type 2 Variance Request based upon staff evaluation the standards listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance, and determination that standards **a., b., c., d., and f.** have not been satisfied.
- Staff recommends **approval** of the Type 2 Waiver Request based upon staff evaluation of the standards listed in Article 2.B.7.D.3 Type 2 Waiver and determination that the standards have been satisfied.

- Staff have evaluated the standards listed under Article 2.B.7.B.2. Conditional Uses and Official Zoning Map Amendment (Rezoning) to a PDD or TDD, and recommend **approval** of:
 - the Development Order Amendment to modify the Site Plan and Conditions of Approval; to add uses and buildings; and, to delete square footage.
 - the Development Order Amendment to modify the Site Plan and delete square footage.
 - the Class A Conditional use to allow a Type 1 Restaurant with drive-through.
 - the Class A Conditional Use to allow a Car Wash.
 - the Class A Conditional Use to allow a Fitness Center.
-

CONDITIONS OF APPROVAL

EXHIBIT C-1: Type 2 Variance – Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 31, 2022. 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 Zoning Commission. (ONGOING: ZONING - Zoning)

VARIANCE

2. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Site Plan. (DRO: ZONING - Zoning)

3. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for ABN/ZV/W/DOA/CA-2021-02151. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

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

COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the 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.

CONDITIONS OF APPROVAL

EXHIBIT C-2: Type 2 Waiver

ALL PETITIONS

1. The approved Site Plan is dated May 31, 2022. 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)

USE LIMITATIONS

1. The grass parking spaces along the northern property line shall not be utilized from 5:00 A.M. to 6:00 A.M. (ONGOING: ZONING - Zoning)

COMPLIANCE

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

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

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

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-3: Development Order Amendment (Overall MUPD)

ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Development of the property is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated May 31, 2022. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC.

Is hereby amended to read:

The approved Preliminary Site Plan is dated May 31, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. All previous Conditions of Approval applicable to the subject property, as contained in Resolution R-2005-1122 (Control 1994-0013), Resolution R-2008-1704 (Control 1994-0013), and Resolution R-2015-0960 (Control 1994-0013) have been consolidated as contained herein. The Property Owner shall comply with all previous Conditions of Approval and deadlines previously established by Article 2.E of the Unified Land Development Code and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

ARCHITECTURAL REVIEW

1. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2005-1122, Control No. 1994-00013, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate an architectural focal point at the following locations:

- a. both sides of each entrance located on Hypoluxo Road;
- b. the south side of the entrance located on Adonis Avenue;
- c. the area located on the east property line at the southeast corner of the T-intersection at the point of cross access to the site to the east; and,
- d. the southwest corner of the anchor retail building.
- e. The focal points shall be in the form of a plaza, fountain, columns, arcade or any other site element or similar pedestrian oriented public areas; and,
- f. details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

Is hereby amended to read

Prior to final site plan approval by the Development Review Officer (DRO), the site plan shall be amended to indicate the location of focal points/pedestrian amenities, such as a gazebo or trellis, two (2) within the open space area south of Building E along the 5' meandering walkway and one (1) within the area south of Building C. Details of these focal points/pedestrian amenities will be updated on the Regulating Plan. (DRO: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

At time of submittal for final DRO approval, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for the commercial structures. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations. (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2005-1122, Control No.1994-00013) (DRO: DRO – Arch Review)

Is hereby amended to read

At time of submittal for final DRO approval, architectural elevations shall be submitted for Building E, as shown on the Preliminary Site Plan dated May 31, 2022, Elevations shall be designed in compliance with Article 5.C of the ULDC. Development and architectural elevations of all other buildings shall be consistent with the approved

architectural elevations for Building E and submitted for architectural review and approval prior to Building Permit issuance. (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2005-1122, Control No.1994-00013) (DRO: DRO – Arch Review)

3. Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Prior to final approval of the site plan by the DRO, the site plan shall be revised to indicate a plaza at the front façade of the 47,600 square foot retail building. The plaza shall be subject to the following:

- a. Location as shown on the site plan dated January 31, 2005;
- b. A minimum of 2,000 SF in area;
- c. An architectural feature with a design consistent with the principal structure;
- d. Details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: DRO – Arch Review)

Is hereby deleted. [REASON: The site plan has been revised]

BUILDING AND SITE DESIGN

Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

1. Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue indicated on the site plan dated January 31, 2005. The minimum dimension for each area shall be as follows:

- a. access points located on Hypoluxo Road 1,200 square feet;
- b. the access point located on Adonis Avenue 1,000 square feet;
- c. all T-intersections minimum of 750 square feet;
- d. all pedestrian cross-walks minimum of seven (7) feet wide. Alternating colors shall be provided where pedestrian cross-walks intersect with decorative paver areas for vehicular traffic. (DRO/BLDG PERMIT: DRO/ZONING Zoning) Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-2005-1122, Control No.1994-00013

Is hereby amended to read

1. Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue, as well as at the T-intersection of the internal driveways, as indicated on the Preliminary Site Plan dated May 31, 2022.-(DRO/BLDG PERMIT: DRO/ZONING Zoning) (Previous BUILDING AND SITE DESIGN Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

Previous BUILDING AND SITE DESIGN Condition 2 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

2. The minimum setback for all structures adjacent to the north property line shall be 65 feet. (BUILDING-Zoning).(Previous BUILDING AND SITE DESIGN CONDITION 3 of Resolution R-2005-1122, Control No. 1994-00013)

Is hereby deleted. [REASON: The site plan has been revised]

3. Previous BUILDING AND SITE DESIGN Condition 4 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

The maximum building height for the northern most building (47,600 SF retail building) shall be 25 feet excluding decorative architectural features and elements, which shall be limited to a maximum height of 35 feet.

Is hereby amended to read:

The maximum building height for the northern most building shall be 35 feet excluding mechanical equipment and architectural features, as allowed by Art. 3.D.1.E.4.V (Height Exemptions) (ONGOING: BLDG PERMIT – Zoning).

4. Previous BUILDING AND SITE DESIGN Condition 8 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

No truck shall be allowed on Adonis Drive. The petitioner shall install a directional sign prohibiting trucks on Adonis Drive. (ONGOING: CODE ENF – Zoning)

Is hereby deleted. [REASON: Will comply with current code provisions for PDD.]

5. Previous BUILDING AND SITE DESIGN Condition 9 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

An opaque wing wall a minimum of 12 feet in height, along the north edge and running the entire length of the loading area shall be installed prior to Certificate of Occupancy for the principal structure. (CO: BLDG PERMIT – Zoning)

Is hereby deleted. [REASON: Will comply with current code provisions for PDD.]

ENGINEERING

1. Prior to site plan approval by the Development Review Committee, the property owner shall record a cross access easement to the property owner to the east, subject to the approval by the County Attorney and County Engineer. (DRO: COUNTY ATTORNEY - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. The property owner shall convey to Palm Beach County Land Development Division by road right-of-way warranty deed for a 25-foot safe sight corner at the intersection of Adonis Drive and Hypoluxo Road prior to the issuance of the first Building Permit. Right-of-way conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer 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. Right-of-way conveyances shall also include "Safe Sight Corners" where appropriate as determined by the County Engineer. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

3. Condition deleted in Resolution R-2005-1122 (Previous ENGINEERING Condition 3 of Resolution R-2005-1122, Control No.1994-00013)

4. LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD

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

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

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of completion or certificate of occupancy. (CC/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 petitioner 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 petitioner. The petitioner 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 Petitioner. (CO/ONGOING: ENGINEERING - Engineering)

d. Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 4 of Resolution R-2005-1122, Control No.1994-00013)

5. Previous ENGINEERING Condition 5 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

The Property owner shall construct: a) right turn lane east approach on Hypoluxo Road at the Project's Entrance Road. b) left turn lane north approach on Adonis Drive at Hypoluxo Road. All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this 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. 1. Permits required by Palm Beach County for this construction in a and b shall be obtained prior to the issuance of the first Building Permit. (BLDGPMT: MONITORING - Engineering)

Is hereby deleted. [REASON: Replaced with new condition]

6. 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 maybe issued after December 31, 2010. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)
[Note: COMPLETED]

b. b) Building Permits for more than:

- 31,500 square feet of general retail;
- 16,000 square feet general office;
- 4,500 square foot fast food restaurant;

shall not be issued until construction has begun for the 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. The mix of allowable uses, as permitted by the Zoning Division, listed above may be adjusted 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. (BLDGPMT: MONITORING - Engineering)
[Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2005-1122, Control No.1994-00013)

7. Prior to issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips" where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDGPMT: MONITORING - Engineering) (Previous ENGINEERING Condition 7 of Resolution R-2005-1122, Control No.1994-00013)

8. Previous ENGINEERING Condition 8 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Construction for these improvements in 6.a and 6.b shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

Is hereby deleted. [REASON: No longer needed]

9. The Property Owner shall construct right turn lane east approach on Hypoluxo Rd at project entrance as per the County standards or as approved by the County Engineer.

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

a. Permits required 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)

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

11. The Property Owner shall fund the construction plans and construction of Adonis Drive from Hypoluxo Road to the project entrance to be consistent with Palm Beach County standards for a non-plan collector roadway, as approved by the County Engineer. This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. 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 condition shall be considered satisfied. (BLDGPMT: MONITORING - Engineering)
b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering)

12. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:
a. No Building Permits for the site may be issued after 12/31/2024. 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)

ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, the Vegetation Disposition Chart shall be revised to correctly measure the native vegetation and correctly identify the appropriate jurisdiction of each tree. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE STANDARDS

1. Previous LANDSCAPING - STANDARDS Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:
Fifty percent of the canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:
a. Tree height: 14-feet;
b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
c. Canopy diameter: 7-feet diameter shall be determined by the average canopy radius measure at 3 points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5-feet in length; and

Is hereby deleted. [REASON: Will comply to current code provisions.]

2. Previous LANDSCAPING - STANDARDS Condition 2 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

All palms required to be planted on the property by this approval shall meet the minimum standards at installation:
a. Palm heights: 12-feet clear trunk;
b. Clusters: staggered heights 12 to 18-feet; and
c. Credit may be given by existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: ZONING – Landscape)

Is hereby deleted. [REASON: Will comply to current code provisions.]

3. Previous LANDSCAPING - STANDARDS Condition 3 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

A group of 3 or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: ZONING – Landscape)

Is hereby deleted. [REASON: Will comply to current code provisions.]

4. The primeter landscape buffer along Hypoluxo Road and Adonis Drive shall be upgraded to provide additonal landscape material to screen vehicular use areas. (ONGOING: ZONING – Zoning)

LANDSCAPING – INTERIOR

1. Previous LANDSCAPING - INTERIOR Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Shade structures (trellis and/or gazebo) shall be providedin the following locations and design requirements:
a. A minimum of 2 shade structures to be placed along the entrance road into the project from Hypoluxo Road; and,
b. The shade structure shall have a minimum dimension of 100 SF and a minimum of 10-feet in height; and
c. Details of the shade structure shall be submitted to the Architectural Review Section for review and approval. (DRO/BLDG PERMIT: DRO/ZONING - Zoning)

Is hereby deleted. [REASON: Will comply to current code provisions.]

LANDSCAPING ALONG SOUTH PROPERTY LINE

1. Previous LANDSCAPING ALONG SOUTH PROPERTY LINE Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

In addition to ULDC requirements, landscaping and buffering along the south property line shall be upgraded to include 1 palm for each 30-linear feet of the property line with a maximum spacing of 60-feet between clusters. (BLDG PERMIT: ZONING Landscape)

Is hereby deleted. [REASON: Will comply to current code provisions.]

LANDSCAPING ALONG WEST PROPERTY LINE

1. Previous LANDSCAPING ALONG WEST PROPERTY LINE Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the westproperty line shall be upgraded to include:

- a. A minimum of 20-foot-wide landscape buffer strip. No width reduction or easement shall be permitted;
- b. A minimum 2- to 3-foot-high undulating berm with an average height of 2.5-feet; and
- c. 1 palm or pine for each of the 30-linear feet of the property line with a maximum spacing of 60-feet between clusters. (BLDG PERMIT: LANDSCAPE – Zoning).

Is hereby deleted. [REASON: Will comply to current code provisions.]

LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG – Zoning) (Previous LIGHTING Condition 1 of Resolution R-2005-1122, Control No.1994-00013).

2. All outdoor lighting fixtures within 100-feet of the north and west property lines shall not exceed 15-feet in height, measured from the finished grade to the highest point. (BLDG – Zoning) (Previous LIGHTING Condition 2 of Resolution R-2005-1122, Control No.1994-00013).

3. All outdoor lighting shall be extinguished no later than 11:00pm Security lighting only is excluded from this requirement. (ONGOING: CODE ENF – Zoning) (Previous LIGHTING Condition 3 of Resolution R-2005-1122, Control No.1994-00013).

SIGNS

1. Previous SIGNS Condition 1 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

No freestanding point of purchase sign shall be permitted on Adonis Drive. (BLDG PERMIT: BLDG PERMIT – Zoning) (Previous SIGNS Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

Is hereby amended to read:

Freestanding (monument) sigs shall be limited to one (1) at the project entrance from Hypoluxo Road, one (1) at the corner of Hypoluxo Road and Adonis Drive and one (1) on the north side of the project entrance from Adonis Drive.

PALM TRAN

1. The located of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the site plan prior to final approval by the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: MONITORING – Palm Tran) (Previous PALM TRAN Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

2. Prior to the issuance of the first Building Permit or recordation of the Plat, whichever shall occur first, the property owner shall convey and/or dedicate to PBC an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions of approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT/PLAT: MONITORING – Eng) (Previous PALM TRAN Condition 2 of Resolution R-2005-1122, Control No.1994-00013)

PLANNING

1. Previous PLANNING Condition 3 of Resolution R-2005-1122, Control No.1994-00013, which currently states:

Pave cross access to the edge of property line.

Is hereby amended to read:

Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the Site Plan. (CO: MONITORING - Planning)

UTILITIES

1. If any relocations/modifications to the County's existing water and wastewater facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (BLDG PERMIT: BLDG – Utilities) (Previous UTILITIES Condition 1 of Resolution R-2005-1122, Control No.1994-00013)

COMPLIANCE

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

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

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

DISCLOSURE

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

Figure 1 - Land Use Map

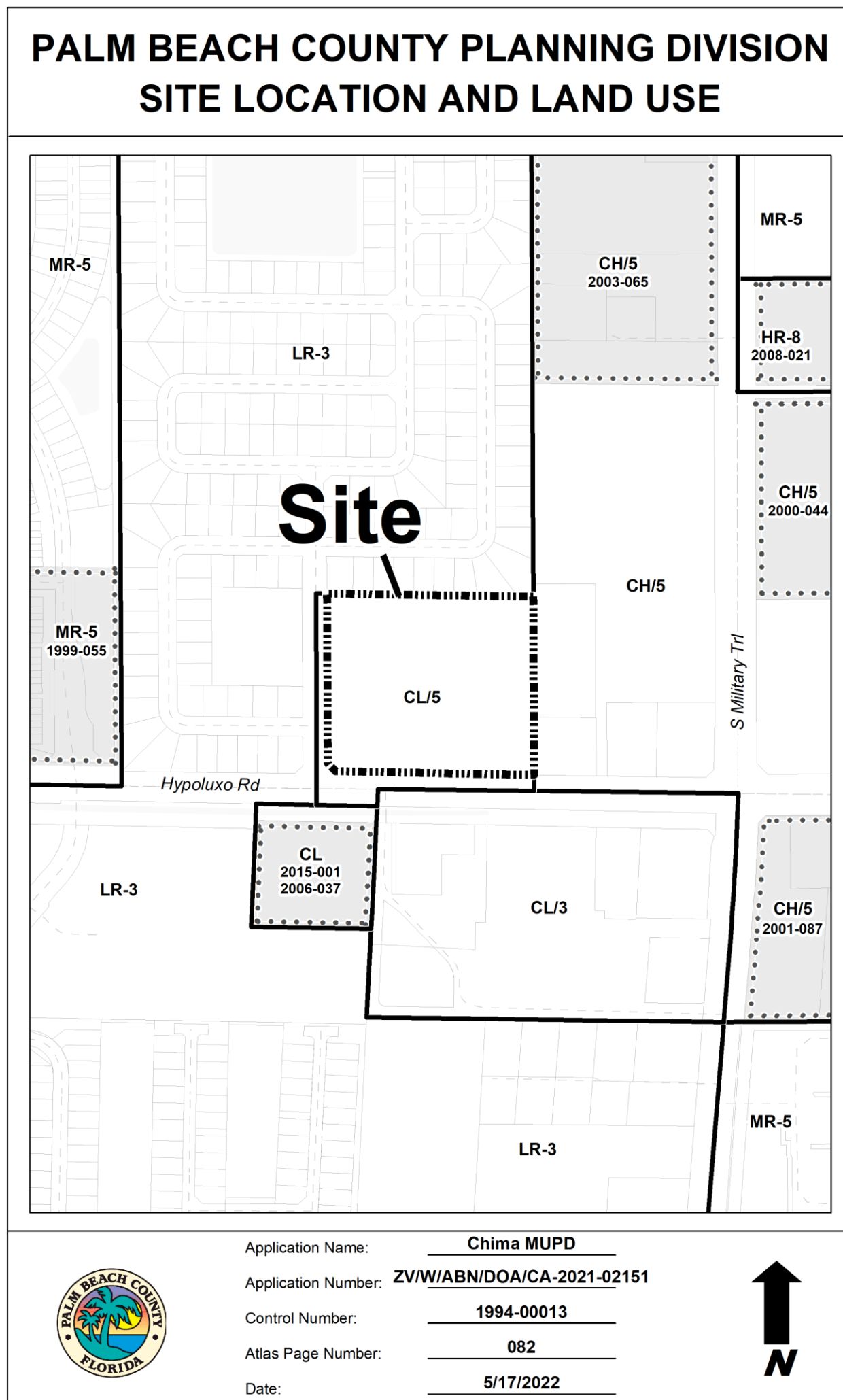
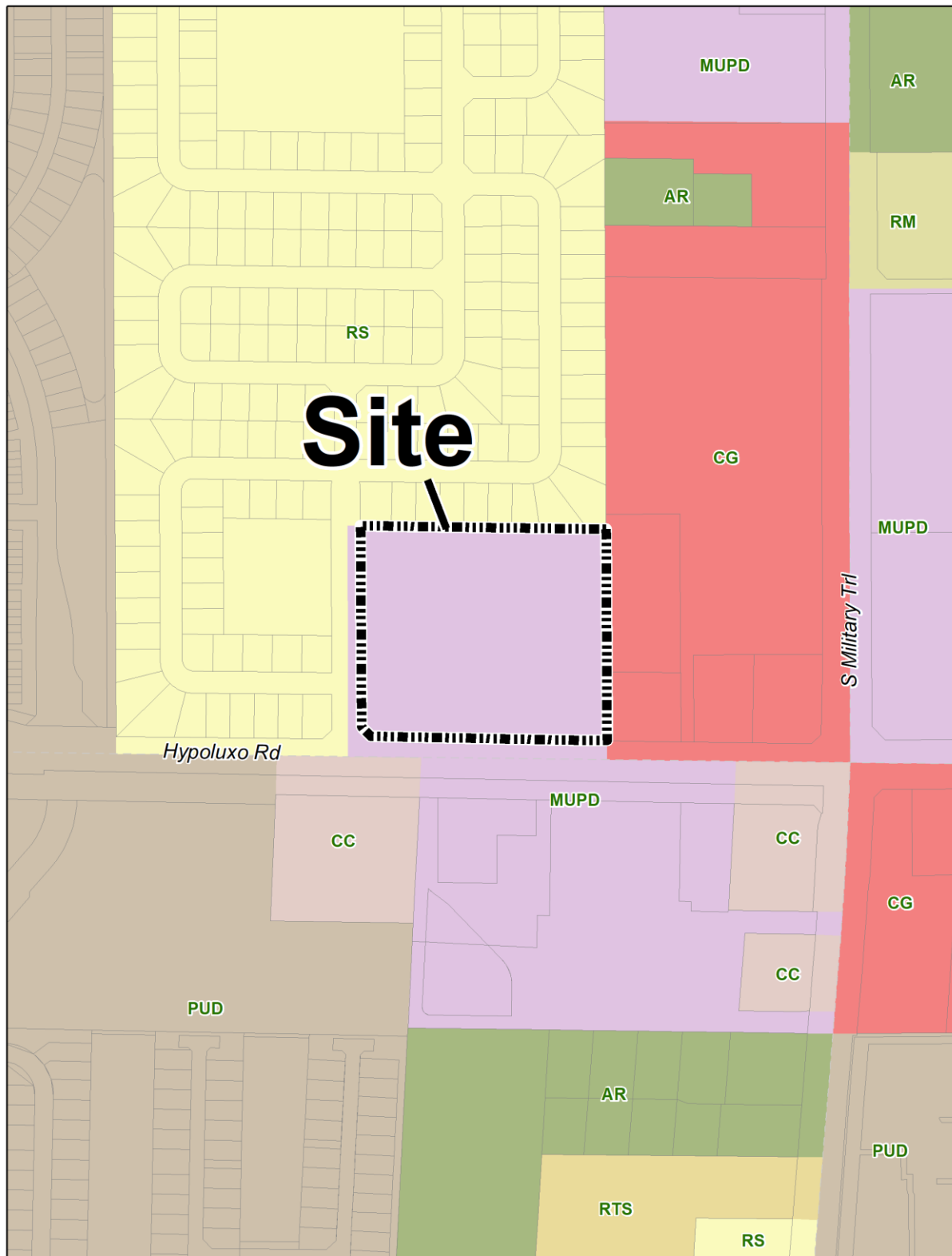


Figure 2 - Zoning Map

PALM BEACH COUNTY PLANNING DIVISION

SITE LOCATION AND ZONING



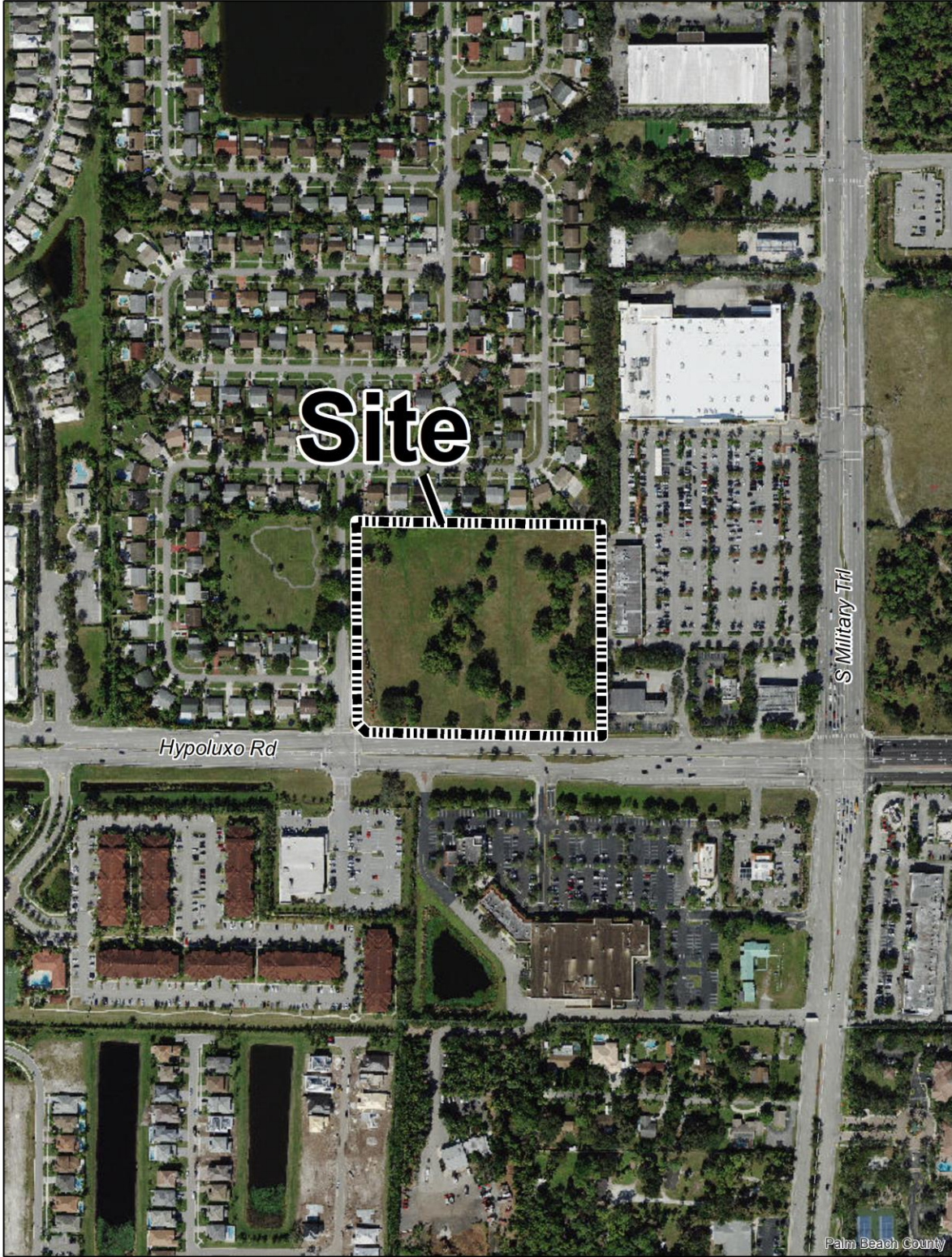
Application Name:	<u>Chima MUPD</u>
Application Number:	<u>ZV/W/ABN/DOA/CA-2021-02151</u>
Control Number:	<u>1994-00013</u>
Zoning Quad Number:	<u>034</u>
Date:	<u>5/17/2022</u>



Figure 3 - Aerial

PALM BEACH COUNTY PLANNING DIVISION

SITE LOCATION



Application Name:	<u>Chima MUPD</u>
Application Number:	<u>ZV/W/ABN/DOA/CA-2021-02151</u>
Control Number:	<u>1994-00013</u>
Atlas Page Number:	<u>082</u>
Date:	<u>5/17/2022</u>



Figure 7– Preliminary Regulating Plan (Sheet 1 of 1) dated May 31, 2022

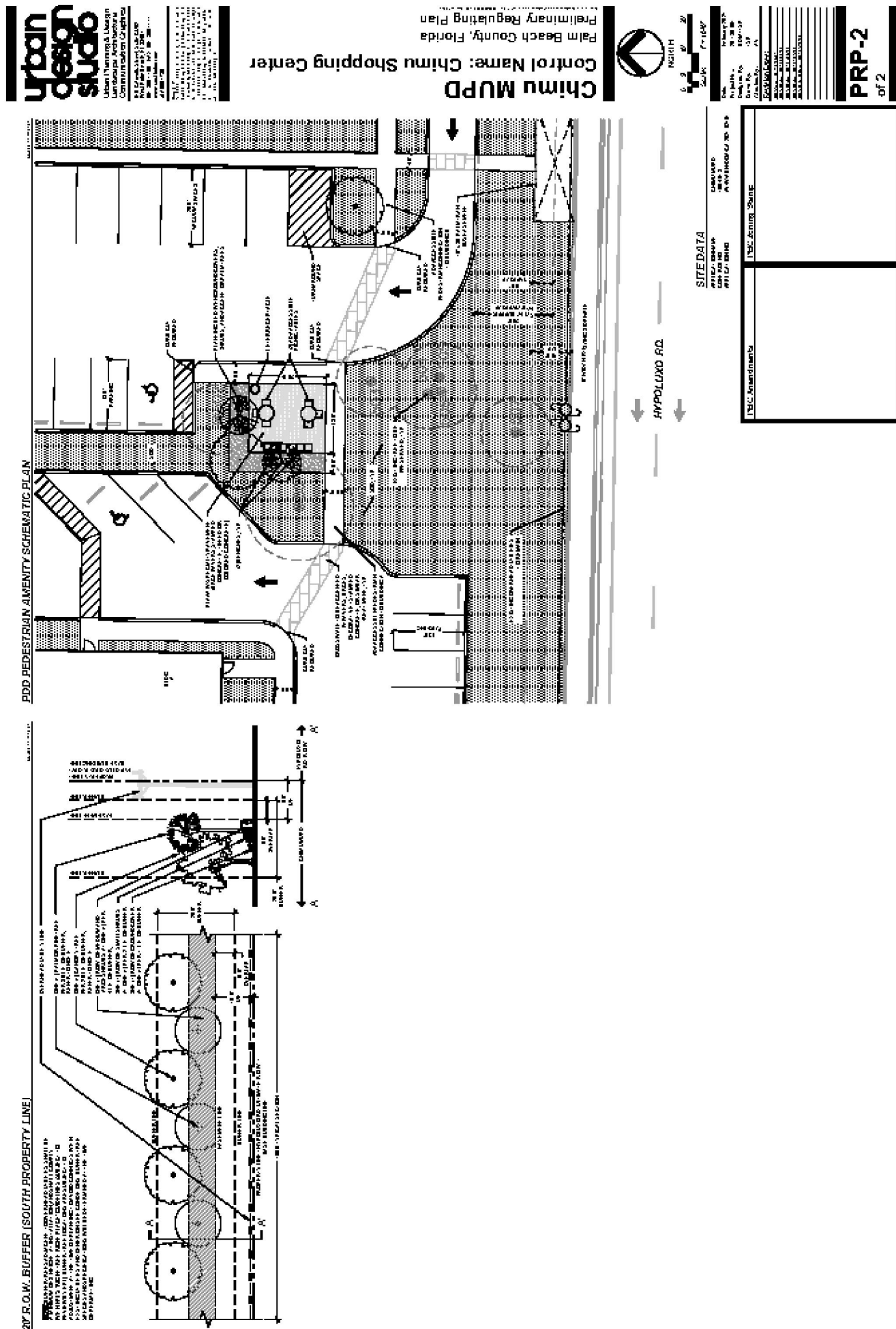
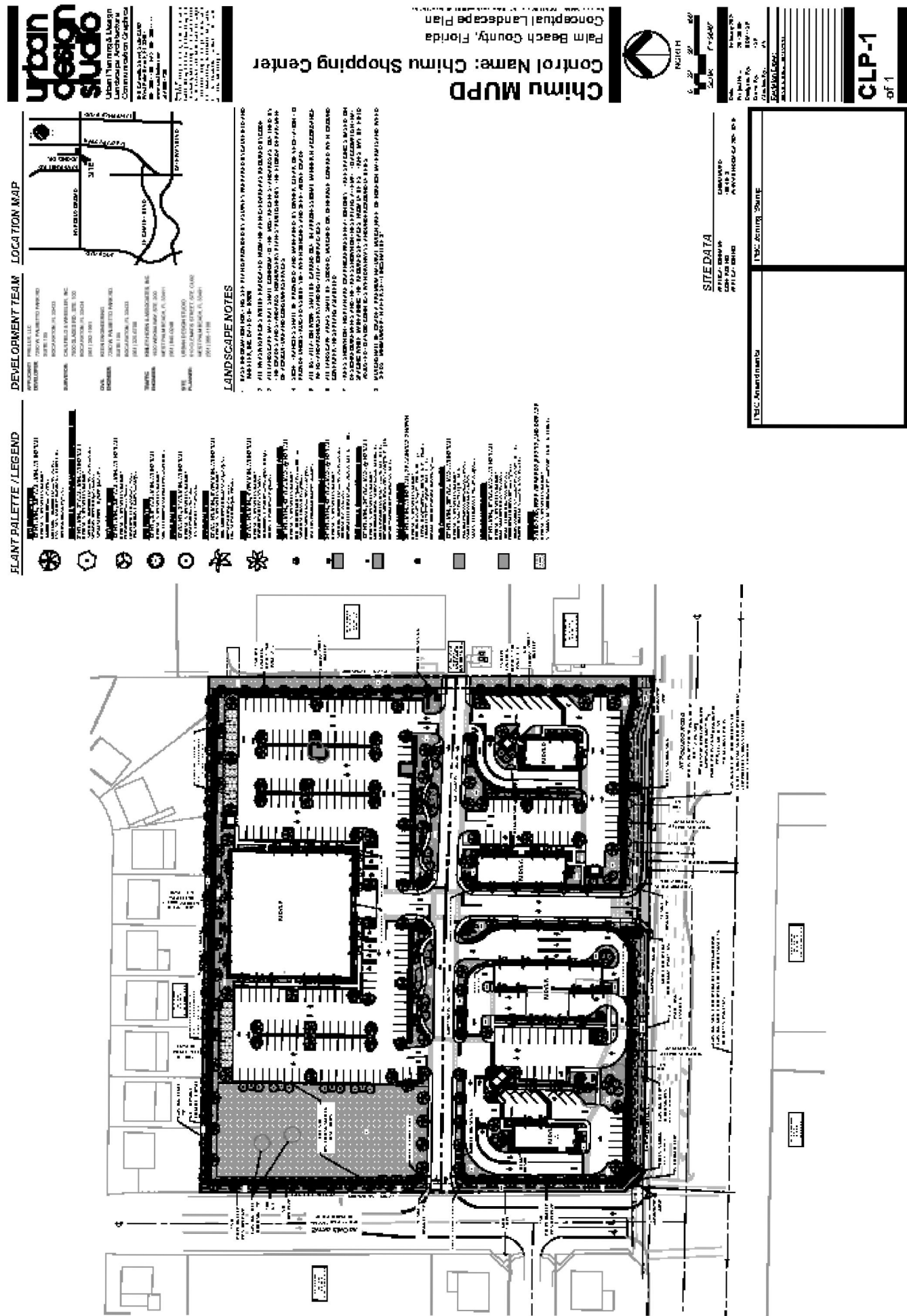


Figure 8 – Conceptual Landscape Plan (Sheet 1 of 1) dated May 31, 2022



Zoning Commission
App. No. ZV/W/ABN/DOA/CA-2021-02151



DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Wendy Sheldon, 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 PreLux, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").

2. Affiant's address is: 7280 W. Palmetto Park Road, Suite 105
Boca Raton, FL 33433


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

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

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

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

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



Wendy Sheldon, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or
[] online notarization, this 12 day of July, 20 21 by
Wendy Sheldon (name of person acknowledging). He/she is personally
known to me or has produced _____ (type of identification) as
identification and did/did not take an oath (circle correct response).

Jordana Kimelman
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: 6/24/24

NOTARY'S SEAL OR STAMP

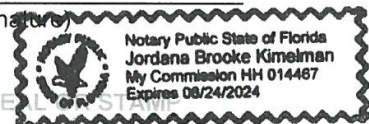


EXHIBIT "A"**DESCRIPTION:**

THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, SITUATE, LYING AND BEING IN PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THEREFROM THE LAND CONVEYED BY RIGHT-OF-WAY DEED IN FAVOR OF THE COUNTY OF PALM BEACH, IN THE STATE OF FLORIDA, RECORDED OCTOBER 12, 1959 IN OFFICIAL RECORDS BOOK 415, PAGE 181, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

AND LESS AND EXCEPT THEREFROM THE LAND DESCRIBED AS PARCEL NO. 1 OF EXHIBIT A TO STIPULATED FINAL JUDGMENT, RECORDED DECEMBER 5, 1990 IN OFFICIAL RECORDS BOOK 6661, PAGE 1785, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

ALSO DESCRIBED AS

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 137, CONCEPT HOMES OF LANTANA PHASE 9-B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, PAGES 81-82 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S89°09'20"E ALONG THE SOUTH LINE OF LOTS 129 THROUGH 137 AS SHOWN ON SAID PLAT, A DISTANCE OF 663.54 FEET TO THE SOUTHEAST CORNER OF SAID LOT 129; THENCE S00°13'52"E ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SAID SOUTHWEST 1/4 OF SECTION 1, A DISTANCE OF 572.13 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 6661, PAGE 1785 OF SAID PUBLIC RECORDS; THENCE N89°45'29"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 72.98 FEET; THENCE N88°50'23"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 565.85 FEET; THENCE N44°35'02"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.93 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF ADONIS DRIVE, AS RECORDED IN PLAT BOOK 44, PAGES 165 AND 166 OF SAID PUBLIC RECORDS; THENCE N00°16'07"W ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 545.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 378,651 SQUARE FEET/8.6926 ACRES MORE OR LESS.

LANDS SITUATE IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

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

Name	Address
Sheldon Living Trust	5818 Windsor Terrace Boca Raton FL 33496
Rod Sheldon	5818 Windsor Terrace Boca Raton FL 33496
Wendy Sheldon	5818 Windsor Terrace Boca Raton FL 33496
Michael Kenney	7280 W Palmetto Park Rd Suite 105 Boca Raton FL 33433
Brett Sheldon	7280 W Palmetto Park Rd Suite 105 Boca Raton, FL 33433
Brittany Sheldon	7280 W Palmetto Park Rd Suite 105 Boca Raton FL 33433

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

1. Affiant is the [] individual or [x] President [position - e.g., president, partner, trustee] of Chimu, Inc. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 410-16th Street, Miami, FL 33139

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.


 _____, 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 05 day of February, 2021 by Roberto Datorre (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Mairena Blanco
 (Name - type, stamp or print clearly)

Mairena Blanco
 (Signature)

My Commission Expires on: 01/19/2024

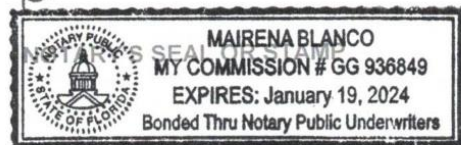


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AND LESS AND EXCEPT THEREFROM THE LAND DESCRIBED AS PARCEL NO. 1 OF EXHIBIT A TO STIPULATED FINAL JUDGMENT, RECORDED DECEMBER 5, 1990 IN OFFICIAL RECORDS BOOK 6661, PAGE 1785, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA

ALSO DESCRIBED AS

A PORTION OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 137, CONCEPT HOMES OF LANTANA PHASE 9-B, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 45, PAGES 81-82 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE S89°09'20"E ALONG THE SOUTH LINE OF LOTS 129 THROUGH 137 AS SHOWN ON SAID PLAT, A DISTANCE OF 663.54 FEET TO THE SOUTHEAST CORNER OF SAID LOT 129; THENCE S00°13'52"E ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SAID SOUTHWEST 1/4 OF SECTION 1, A DISTANCE OF 572.13 FEET TO A POINT OF INTERSECTION WITH THE NORTH RIGHT-OF-WAY LINE OF HYPOLUXO ROAD, AS RECORDED IN OFFICIAL RECORD BOOK 6661, PAGE 1785 OF SAID PUBLIC RECORDS; THENCE N89°45'29"W ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 72.98 FEET; THENCE N88°50'23"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 565.85 FEET; THENCE N44°35'02"W CONTINUING ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 34.93 FEET TO A POINT OF INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF ADONIS DRIVE, AS RECORDED IN PLAT BOOK 44, PAGES 165 AND 166 OF SAID PUBLIC RECORDS; THENCE N00°16'07"W ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 545.27 FEET TO THE POINT OF BEGINNING.

CONTAINING 378,651 SQUARE FEET/8.6926 ACRES MORE OR LESS.

LANDS SITUATE IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

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
Roberto Tomas Datorre	410-16TH STREET MIAMI, FL 33139
Roberto Datorre	410-16TH STREET MIAMI BEACH, FL 33139

CHIMU MUPD
JUSTIFICATION STATEMENT



Request(s): Development Order Amendment (DOA) to a PDD and Class A; 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 2 Variance for reduction in foundation planting width and Type 2 Waiver for hours of operation.

Control No: 1994-0013
Application No: ZV/W/ABN/DOA/CA-2021-02151
Submitted: December 6, 2021
Resubmitted: February 22, 2022
Resubmitted: March 28, 2022
Resubmitted: May 12, 2022

OVERVIEW OF REQUESTS & PROPERTY INTRODUCTION

On behalf of PreLux, Inc. (“Applicant”), Urban Design Studio has prepared and hereby respectfully submits this Development Order Amendment to a previously approved PDD and Class A Conditional Use approval; Class A Conditional Use approval, Development Order Abandonment, Type 2 Waiver and Type 2 Variance application to reconfigure and improve the 8.69-acre site known as Chimu MUPD.

The property is located at the northeast corner of Adonis Drive and Hypoluxo Road in unincorporated Palm Beach County and identified in the Palm Beach County Property Appraisers records under property control number 00-42-45-01-00-000-7070. The site is approved for 71,694 SF of commercial use (which is presently unbuilt) and the parcel is vacant. The Applicant proposes to redevelop the site with 49,888 SF of commercial and recreational use.

The subject property is situated in the Urban/Suburban Tier and is also located within the Community Association boundary of the Coalition of Boynton West Residential Associations (“COBWRA”). 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.

In order to achieve this proposal, the Applicant is requesting approval of the following from the PBC Board of County Commissioners (“BCC”):

- A Development Order Amendment (DOA) to an existing PDD and prior approved Class A Conditional Use for a Restaurant, Type 1 with drive through; to amend conditions of approval; reconfigure the Site Plan, Master Sign Plan & Regulating Plan; delete square footage, modify uses;

610 Clematis Street, Suite CU02, West Palm Beach, FL 33401
P: 561-366-1100 www.udsfloida.com LA0001739

- Class A Conditional Use approval to allow a Fitness Center; one (1) Restaurant, Type 1 with drive-through and a Car Wash (Automatic) within a Commercial Low (CL) Multiple Use Planned Development (MUPD);
- A Development Order Abandonment of Resolution R-2005-1123 which allowed a Financial Institute with drive-through;
- Type 2 Waiver request to modify hours of operation for the proposed conditional use of Fitness Center only within the MUPD.

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

- Type 2 Variance approval for a reduction in east and west side façade foundation planting width from 8-feet to 5-feet for Building "B".

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.

HISTORY

The Chimu MUPD project received original County approval in 1995 and additional Development Order Amendments have been approved since that time along with Time Extensions to keep the approvals valid as the subject site is undeveloped. Per County Zoning online records, below is a chronological description of the project's entitlement history.

1995 – Palm Beach County Board of County Commissioners ("BCC") approved a Rezoning Application from Agricultural Residential (AR) zoning district to Multiple Use Planned Development (MUPD) zoning district including a Requested Use for a fast-food restaurant via Resolution R-1995-435.

2005 – BCC approved a Development Order Amendment to reconfigure the Site Plan and modify/delete conditions of approval for a Special Exception to allow a Planned Commercial Development via Resolution R-2005-1122.

2005 – BCC approved a Requested Use to allow a financial institution in the MUPD zoning district via Resolution R-2005-1123.

2008 – BCC approved a Development Order Amendment to amend conditions of approval, amending the development order previously granted by the approval of the application of Chimu, Inc. confirmed by the adoption of Resolution R-2005-1122 via Resolution R-2008-1704.

2015 - BCC approved Development Order Amendment to add conditions of approval to Resolution R-2005-1122 via Resolution R-2015-0960.

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.

Adjacent Property	FLU Designation	Zoning District	Existing Use	Approved Use	Control No.	Resolution No.
North	LR-3	RS	CONCEPT HOMES OF LANTANA	SF RESIDENTIAL	1977-0069	R-1977-0675
South	LR-3	MUPD	HYPOLUXO VILLAGE MUPD	COMMERCIAL SHOPPING CENTER	2000-0091	R-2002-0298
East	CL/5, CH/5	CG/SE, MUPD	AUTO STORE, WALMART COMMERCIAL SHOPPING CENTER	COMMERCIAL (AUTO CARE), COMMERCIAL SHOPPING CENTER	1989-110, 1980-00173	R-1977-0675
West	LR-3	RS	CONCEPT HOMES OF LANTANA	SF RESIDENTIAL	1977-0069	R-1977-0675

SITE DESIGN

Access to the 8.69-acre property was previously approved with one access point off of Hypoluxo Road and one access point off of Adonis Drive. The proposed application has no impact on the number of access points provided and continues to provide right in-right out access to Hypoluxo Road and full access to Adonis Drive. The previously described access points will provide access to the proposed 281-space (including 12 spaces for accessible parking) parking lot and dumpsters.

The site design also incorporates right-of-way ("ROW") dedication of approximately 12-feet for the ROW of Hypoluxo Road along the south property line to accommodate a new 12-foot-wide right-hand turn lane into the subject property (as required by Engineering Condition 7 of prior Resolution No. R-2005-1122). The proposed development plan has also been designed to provide for a longer-than required throat length on the driveway (at 236.6-feet) which will allow for additional storage internal/within the site.

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

- **Restaurant, Type 1 (with drive-through):** 4,688 SF
- **Car Wash (automatic):** 6,200 SF
- **Retail:** 4,000 SF
- **Fitness Center:** 35,000 SF

The prior approved Financial Institution, with drive-through has been removed from the plan and will be abandoned through a Development Order Abandonment of Resolution R-2005-1123, 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-area-ratio ("FAR") of 0.50 which yields a total of 189,325 SF and a maximum building coverage of 25%. The proposed intensity with this application is 49,888 SF (or 0.13 FAR) and 10.6% building coverage, which is well below the maximum allowable intensity per code. All buildings are proposed at 1-story and will comply with ULDC 35-foot height maximum. Building's "A", "B", "C" and "D" are located with frontage along Hypoluxo Road and oriented for maximum screening of the drive-through facilities as well as maximum queuing distances. Per Planning Staff suggestion, the fitness center use within Building "E" has been located centrally within the north portion of the site and the dry detention area provided along Adonis Drive which will ameliorate the impact of the proposed development to the existing neighborhood.

Below is a breakdown of prior approved and proposed square footage of uses, which is used for concurrency and parking calculations:

BCC Approved (Unbuilt)			Proposed Use	
Bldg.	Art. 4 Use Classification	Approved SF	Art. 4 Use Classification	Proposed SF
A	Retail	45,620 SF	Restaurant, Type 1 with DT	2,344 SF / 42 seats
B	Office	16,574 SF	Car Wash, Automatic	6,200 SF
C	Financial Institution with DT	5,000 SF	Retail	4,000 SF
D	Restaurant, Type 1 with DT	4,500 SF / 81 seats	Restaurant, Type 1 with DT	2,344 SF / 42 seats
E	-	-	Fitness Center	35,000 SF
	TOTAL	71,694 SF	TOTAL	49,888 SF

Architectural plans will be provided at time of permitting in accordance with Article 5.C.

The overall design of the proposed MUPD is intended to provide a mix of community serving uses and facilitate pedestrian activity and connection among the various uses. Crosswalks 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.B.3.A.2.d.4. There is a pedestrian amenity area located between Building "A" and "B" that has been designed around the preservation of existing tree clusters which will include seating, landscape and specialty pavement area in compliance with PDD requirements. Also provided are two landscape/open space areas with meandering walkways and benches located central to the site, in front of Building "E". These landscape/open space areas will also provide for the preservation of a number of existing trees on site. The proposed development plan also meets bicycle parking requirements per Article 5 with bicycle racks provided at a central location within the site, north of Building "B" and at the southwest corner of Building "E". A vehicular and pedestrian cross access easement from the subject property to the site to the east has also been recorded since

the original project approval through ORB 8607 PG 1554 (as required by Planning Condition 2 of Resolution No. R-2005-1122).

PARKING, LOADING & QUEUING

The parking calculation rates for the required parking for the MUPD as permitted by the parking standards provided in Article 3.E.1.C.2.h.2. allows non-residential uses to use the standards in Table 6.A.1.B., the minimum/maximum as permitted for MUPD's or a combination of both. The plan clearly indicates that the parking rate for each use is being utilized based on Table 6.A.1.B with restaurant use at 1 space per 3 seats; car wash use at 1 space per 200 SF of office/retail/indoor seating area; retail use at 1 space per 200 SF; and fitness center use at 1 space per 200 SF. This results in a total required parking amount of 225 spaces and 281 spaces being provided, in compliance with Code.

Per the requirements of Article 6.B.1.H. Loading Standards of the ULDC, the site does not require any loading spaces. The car wash and fitness center use do not require a loading area based on use (loading areas are "N/A") and each of the restaurant and retail uses do not exceed 10,000 SF and therefore do not necessitate a loading area. However, to better serve the site and uses, there is additional striped out pavement areas located at Building "A", "C" and "D".

In addition to meeting the minimum parking and loading standards of Article 6, all drive-through establishments shall meet Article 6 for queuing and bypass design standards and minimum queuing standards per use. The proposed development plan provides a drive-through for the Type I Restaurant uses within Building's "A" and "C" and the Automatic Car Wash use within Building "B". All three buildings with drive-through services are designed in compliance with Article 6.B.3.A.2.b providing minimum 10-foot-wide by-pass lane widths, minimum 10-foot by 20-foot queuing spaces that do not interfere with other traffic using the site, along with identifying menu board locations and point of service locations at each building. Per Table 6.B.3.A, *Minimum Queuing Standards*, the drive-through restaurants located in Building's "A" and "C" each require a minimum of 7 queuing spaces (including 4 minimum spaces before the menu board) with a by-pass lane and the Automatic Car Wash requires a minimum of 5 queuing spaces with a by-pass lane. All buildings are in compliance with minimum queuing standards. The drive-through restaurants located in Building's "A" and "C" provide for 8 queuing spaces (including 4 spaces before the menu board) with a by-pass lane and the Automatic Car Wash located in Building "B" provides for 11 queuing spaces with a by-pass lane.

SIGNAGE

A Preliminary Master Sign Plan ("PMSP") has been submitted with this application which indicates locations of freestanding signs along Hypoluxo Road and Adonis Road along with directional signs internal to the site. The PMSP also indicates allowable wall signage for the commercial and recreational structures. All proposed signage is consistent with Article 8, which will be implemented at time of permitting and code compliant.

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: Per Article 3.E.3.B.2.b., a Type 3 Incompatibility buffer is required along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type. Based on the residential use (Concept Homes of Lantana, Control No. 77-69), located along the north perimeter of the site, a 20-foot Type 3 Incompatibility buffer (to include a 6-foot high opaque wall) is required and provided.

South: Per Article 7.C.2.A, since this portion of the property abuts the ROW of Hypoluxo Road that has a 120.3-foot Ultimate ROW width, a 20-foot ROW landscape buffer is required and provided. This buffer provides for a 5-foot overlap with the utility easement proposed along the ROW in accordance with ULDC 7.C.5.A. As indicated on the Survey and Site Plan, there are existing overhead power lines along the frontage of Hypoluxo Road. A 10-foot utility easement is provided along this frontage with the allowable 5-foot buffer overlap per Article 7.C.5.A.

In order to eliminate conflicts with the existing overhead power lines (OHW) along Hypoluxo Dr., the landscape provided within the 20' width right-of-way buffer shall comply with FPL's "Right Tree, Right Place" guidelines. The current edition of these guidelines differentiates between the following types of vegetation: A.) *Small Trees and Palms* are defined as species less than 14' height at maturity, and may be planted underneath or adjacent to overhead electric utility lines; B.) *Medium Trees* are defined as species from 14' to 49' height at maturity, and shall be planted 30' from overhead electric utility lines; C.) *Large Trees* are defined as species 50' or taller at maturity, and shall be planted 50' from overhead electric utility lines; and D.) *Large Palms* are defined as species 14' or taller at maturity, and shall be planted at least 20' plus the maximum palm frond length away from overhead electric utility lines.

Per Article 7.C.5.A.2.a of the ULDC, these setback guidelines are measured from the outer edge of the power line to the centerline of the tree. Since all trees in this buffer will be planted closer than 30' from the overhead electric utility lines, Small Trees and Small Palms shall be proposed.

Examples of Small Trees include, but are not limited to, the following species (subject to review by FPL). Per Article 7.D.2.A.2, these trees shall be a minimum of 8' height at installation.

1. Silver Buttonwood (*Conocarpus erectus* 'Sericeus')
2. Orange Geiger (*Cordia sebestena*)
3. Spanish Stopper (*Eugenia foetida*)
4. Ligustrum (*Ligustrum japonicum*)
5. Wax Myrtle (*Myrica cerifera*)

Examples of Small Palm Trees include, but are not limited to, the following species (subject to review by FPL).

1. European Fan Palm (*Chamaerops humilis*)
2. Spindle Palm (*Hyophorbe verschaffeltii*)
3. Pygmy Date Palm (*Phoenix roebellini*)
4. Florida Thatch Palm (*Thrinax radiata*)

5. Christmas Palm (*Adonidia merrillii*)

Tree types will be identified at time of permitting in compliance with ULDC and “Right Tree Right Place”.

West: Per Article 7.C.2.A, since this portion of the property abuts the ROW of Adonis Drive that has an 80-foot Ultimate ROW width, a 15-foot ROW landscape buffer is required and provided. This buffer provides for a 5-foot overlap with the utility easement proposed along the ROW in accordance with Article 7.C.5.A.

East: An 8-foot Compatibility buffer is required and provided along this property line per Article 7.C.2.B. This buffer does not overlap with the existing 15-foot FPL easement (ORB 17480 Pg 317) that runs along the property line.

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:

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

RESPONSE: The subject property has 663.2-feet of width/frontage (minimum code is 300’) and 571.3-feet 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.

- c. 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.

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

RESPONSE: There are a total of 93 existing native trees on site (including 38 specimen trees) and the proposed development plan has been design to retain 76 of the existing native trees (including 27 specimen trees), which equates to 81% of

the trees on site being saved. A PDD pedestrian amenity area located between Building "A" & "B" on the Site Plan has been designed around existing tree clusters that will be preserved and utilized in the PDD amenity design. There are additionally two landscape/open space areas located central to the site with meandering walkways and benches which will also allow for the tree preservation and canopy. A vegetation disposition plan is provided on sheet PRP-2 which addresses any existing vegetation that may need to be relocated, removed or preserved.

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

RESPONSE: All potential objectionable features are located/configured/screened in a manner that is consistent with the objectives of the ULDC. Additionally, there is a proposed 6-feet high opaque wall along the north property line next to the residential use 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 while still provide convenient parking. Furthermore, the proposed 20-foot wide buffer with 6-feet high opaque wall along the north property lines will mitigate any potential adverse impacts.

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

RESPONSE: The applicant is utilizing parking calculation by use per Table 6.A.1.B, 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;
 - 2) clock tower;
 - 3) water feature/fountain;
 - 4) outdoor patio, courtyard or plaza; and
 - 5) tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e., restaurant) or outdoor furniture.

RESPONSE: The proposed overall development plan consists of a total of 49,888 SF and provides for a pedestrian amenity area with seating, landscape and specialty pavement area located between Building "A" and "B".

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: Per dimensions provided on the Survey, the subject property has 565.85-feet of frontage along Hypoluxo Road, a roadway defined as an Urban Principal Arterial, and 545.27-feet of frontage along Adonis Drive, a roadway defined as an Urban Collector.

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

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

RESPONSE: Access to the 8.69-acre property will be provided to the site via three access points; with one access point on Hypoluxo Road (a ROW with an ultimate width of 120-feet and defined as an Urban Principal Arterial) and one access points on Adonis Drive (a ROW with an ultimate width of 80-feet and defined as an Urban Collector).

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

RESPONSE: A right-hand turn lane is being provided to the south entrance off of Hypoluxo Road and left exit movements are prohibited by the design. A 236.6-foot throat distance at the entry into the development from Hypoluxo Road and a 158.8-foot throat distance at the entry into the development from Adonis Drive serves to provide adequate storage for vehicles entering the site.

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

RESPONSE: The enclosed Traffic Impact Statement prepared by Kimley-Horn 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:

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

RESPONSE: The subject site is 8.69-acres and 49,888 SF, which is below the threshold to require a Bus Stop, however a 10' X 30' Bus Stop easement adjacent to the right-of-way of Hypoluxo Road is provided on the plan, in accordance with prior Conditions of Approval.

- 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 10'x30' easement, prior to the issuance of first Building Permit or recordation of the Plat, in accordance with prior Conditions of Approval.

...(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-foot utility easements along the property's frontage on both Hypoluxo Road and Adonis Drive and shall be installed in an acceptable manner. There is an existing 15-foot FPL easement (ORB 17480 Page 317) along the eastern property line.

h. Parking

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

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 plan clearly indicates that the parking rate for each use is being utilized per Table 6.A.1.B with restaurant use at 1 space per 3 seats; car wash use at 1 space per 200 SF of office/retail/indoor seating area; retail use at 1 space

per 200 SF; and fitness center use at 1 space per 200 SF. This results in a total required parking amount of 225 spaces and 281 spaces being provided, in compliance with code.

Please also refer to 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: A vehicular and pedestrian cross access easement from the subject property to the site to the east has also been recorded since the original project approval through ORB 8607 PG 1554 (as required by Planning Condition 2 of Resolution No. R-2005-1122).

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: 281 spaces are required which would equate to 29 spaces to meet this requirement and 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 in compliance.

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.

a) Remote Parking Areas

Paved pedestrian pathways shall be provided to all parking areas in excess of 400 feet from a public entrance. Pathways shall be unobstructed grade separated and/or protected by curbs, except when traversing a vehicular uses area, and clearly marked.

RESPONSE: The parking space locations are in compliance with the public entrance distance requirement and are paved accordingly.

i. Way Finding Signs

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

RESPONSE: The applicant is not proposing any off-site directional signage at this point in time.

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

MUPD OBJECTIVES & STANDARDS

Article 3.E.3.B defines the design objectives and performance standards required for MUPD's and those are addressed below.

1. Design Objectives

- a. Allow for both residential and non-residential uses within a project that is designed in a manner to foster compatibility within and adjacent to the project;

RESPONSE: The project is 100% non-residential as permitted by code.

- b. Provide innovative building location and orientation;

RESPONSE: The orientation of the building locations and overall design of the MUPD is intended to facilitate pedestrian activity and connection among the various uses along with extensive tree preservation throughout the site.

- c. Protect adjacent residential uses from potential adverse impacts;

RESPONSE: The proposed development plan provides for the specific placement of buildings and the dry detention area location to protect adjacent residential uses from potential adverse impacts. Furthermore, the site will provide code compliant landscape buffering that will include a 20-foot-wide buffer with 6-foot-high opaque wall along the north property line which 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. A vehicular and pedestrian cross access easement from the subject property to the site to the east has also been recorded since the original project approval through ORB 8607 PG 1554 (as required by Planning Condition 2 of Resolution No. R-2005-1122).

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

RESPONSE: As detailed above, all landscape buffers proposed around the perimeter of the site 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 site. 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: A 20-foot-wide Type 3 Incompatibility buffer, with a 6-foot-high opaque wall, is provided along the north property line in compliance.

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: A vehicular and pedestrian cross access easement from the subject property to the site to the east has also been recorded since the original project approval through ORB 8607 PG 1554 (as required by Planning Condition 2 of Resolution No. R-2005-1122).

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/CONDITIONAL USE STANDARDS:

This application requests a DOA to a previously approved PDD and Class A Conditional Use (fka Requested Use) for a Restaurant, Type 1 with drive-through along with three (3) Class A Conditional Use approval requests for a Fitness Center; one (1) Restaurant, Type 1 with drive-through and a Car Wash (automatic) which are noted in this section as the following:

No.	Art. 4 Use Classification	Site Plan Location
CA.1	Restaurant, Type 1 with DT	Building A
CA.2	Car Wash, Automatic	Building B
CA.3	Fitness Center	Building E

The standards for the DOA's and Class A Conditional Use's, per Article 2.B.7.B.2 are addressed below:

- 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 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 proposed development results in a reduction of square footage as previously approved and is well below the 0.50 FAR allowed in the CL land use category at the proposed FAR of 0.13.

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

Response: *The amendment and uses are not in conflict with the Code, upon the granting of the Type 2 Waiver for a modification to the hours of operation for the fitness center use (CA.3) and the Type 2 Variance for the reduction in the east and west side façade foundation planting width for the car wash use (CA.2). The supplemental regulations for each the use are also addressed below which address compliance.*

Retail Sales is permitted by right in an MUPD zoning district with a CL FLU. Proposed with this development plan is 4,000 SF of retail use within Building "C".

35. Retail Sales

a. Definition

An establishment providing general retail sales or rental of goods, but excluding those uses specifically classified as another Use Type.

b. Typical Uses

Retail Sales may include but are not limited to clothing stores, bookstores, business machine sales, food and grocery stores, window tinting, marine supply sales (excluding boat sales), auto accessories and parts, building supplies and home improvement products, monument sales, printing and copying, pharmacies and medical marijuana dispensing facilities. Uses shall also include the sale of bulky goods such as household goods, lawn mowers, mopeds. [Ord. 2017-028]

c. Zoning Districts

1) TND District in a Neighborhood Center, Retail Sales shall not exceed 5,000 square feet of GFA per establishment.

a) A maximum of 40,000 square feet of GFA for a food store or 20,000 square feet of GFA for a food store when the TND is developed as part of a TTD.

b) In a Multifamily building with more than 50 units, a "corner store" may be allowed, provided it does not exceed 1,000 square feet of GFA and is integrated into the building and at a corner location.

Response: Not Applicable.

2) TMD District

a) In a TMD, a single establishment shall not exceed the following:

(1) 100,000 square feet of GFA in the U/S Tier;

(2) 50,000 square feet of GFA in the Exurban and Rural Tiers; and,

(3) 65,000 square feet of GFA in the AGR.

b) A drive-through facility for a drug store is allowed subject to the following:

(1) If located in the rear of a building;

(2) Access shall be from an alley, an interior parking area, or a street not designated as a Main Street; and,

(3) The drive-through facility shall be covered by a canopy or the second story of a building.

Response: Not Applicable.

3) CN District

Shall be limited to a maximum of 3,000 square feet of GFA per establishment.

Response: Not Applicable.

d. Outdoor Display Areas – Monument Sales

An outdoor display area for the Retail Sale of monuments, gravestones, markers, or headstones for placement on graves shall be exempt from the provisions in Art. 5.B.1.A.3, Outdoor Storage and Activities when located in a designated display area on the Final Site Plan. **Response: Not Applicable.**

e. Fireworks

The retail sale or storage of fireworks as a principal use in any commercial district is prohibited. [Ord. 2018-002]

1) Exception Temporary sale of sparklers, subject to a DRO approval through the ZAR process.

Response: Noted.

f. Sale or Dispensing of Controlled Substances – Pharmacy

A pharmacy shall be subject to the following:

1) No more than 15 percent of the total number of prescriptions filled within a 30-day period can be derived from the sale of controlled substances that are identified in Schedule II in accordance with F.S. § 893.03, and as further amended by F.S. § 893.035, F.S. § 893.0355, or F.S. § 893.0356, as determined by audits or information provided through the Florida Department of Health or any other government agency having the legal right to view such records. **Response: Noted.**

g. Collocated Use

A Retail Sales use may be Permitted by Right in the IL, IG, PO, IPF Zoning District or MUPD with an INST FLU designation when collocated to an Animal Shelter. [Ord. 2018-018] **Response: Not Applicable.**

h. Unmanned Retail Structure

An unmanned structure which stores or dispenses items for sale, rent, or customer pick up.

1) Definition and Typical Uses

a) Freestanding Includes Unmanned Retail Structures that are not attached to a building and located further than 15 feet from the nearest principal structure.

b) In-Line Includes Unmanned Retail Structures that are adjacent to, attached to, or located within 15 feet of a principal structure, and not separated by vehicular access drives.

2) Accessory Use – Industrial Zoning Districts May be allowed as an accessory use to Data and Information Processing, Research and Development, Government Services, or Wholesaling.

3) Size Shall not exceed 150 square feet, excluding canopies provided for decorative aesthetics or protection from weather.

4) Number Shall not exceed one per development.

5) Design Standards Shall not encroach any required site design elements, including but not limited to: drive aisles, easements, landscaping, parking spaces, and ADA paths.

a) Freestanding (1) Shall achieve architecturally compatibility with the other structures in the development, including texture, paint and similar building materials. (2) Shall be limited to one story, not to exceed 15 feet in height. b) In-

Line (1) Shall not exceed eight feet in height, or nine feet if including a weather protection canopy. (2) Shall not obstruct more than 20 percent of the windows.

6) Signage

a) Freestanding Wall signs may be allowed for buildings that meet the requirements for Art. 5.C.1.H.1.a, Guidelines for Non-Residential Design Elements.

b) In-Line Shall be limited to a maximum of 20 percent of each side's facade of the structure, or a maximum of four-square feet, per side, whichever is less.

Response: Not Applicable.

i. Medical Marijuana Dispensing Facility

1) Definition A facility, operated by a Medical Marijuana Treatment Center (MMTC) in accordance with the Florida Department of Health as a medical marijuana dispensing facility that dispenses medical marijuana to qualified patients or caregivers. A medical marijuana dispensing facility does not prepare, transfer, cultivate or process any form of marijuana or marijuana product. [Ord. 2017- 028]

2) Location Medical marijuana dispensing facility shall not be located within 500 feet of an existing Elementary or Secondary School, unless approved as a Type 2 Waiver. **Response: Should the tenant for the retail use located within Building "C" be confirmed as a Medical Marijuana Dispensing Facility, the subject site is not located within 500-feet of an existing Elementary or Secondary School.**

The project is currently approved for one (1) Type 1 Restaurant with 4,500 SF and 81 seats. Provided with the development plan are two (2) Type 1 Restaurants with drive-through facilities to be located within Building "A" and Building "D". Each Type 1 Restaurant will consist of 2,344 SF and 42 seats. Both buildings meet queuing and by-pass lane requirements and the drive-throughs are provided in a southern orientation in order to provide for maximized internal queuing/stacking and visual screening from the ROW. As such, a DOA is requested for a modification/reduction in the prior approved Type 1 Restaurant with drive-through and Class A Conditional Use approval ("CA.1") is requested to add a second Type 1 Restaurant with drive-through. Below outlines use compliance with ULDC:

33. Restaurant, Type 1

a. Definition An establishment equipped to sell food and beverages in one of the following methods: drive-through sales to patrons in automobiles for takeout who place orders through a window or remote transmission device; or sales to patrons for takeout or dining in, that includes three or more of the following: food or beverage choices are advertised on a menu board; countertop sales where payment is made prior to consumption; disposable containers and utensils; limited service dining facilities with no hostess or waiters; and, self-service or prepackaged condiments.

b. Approval Process

1) DRO Approval A - Type 1 Restaurant without a drive-through where the use is allowed provided the GFA including outdoor dining areas does not exceed 5,000 square feet. **Response: The proposed Type 1 Restaurant use located at**

Building “A” and “D” include a drive-through and therefore DRO Approval not applicable.

2) Permitted by Right - A Type 1 Restaurant without a drive-through or located in an out parcel, may be Permitted by Right in any PDD or TDD with a commercial or institutional FLU designation, or Pod; the Commercial or Recreation Pod of a PUD, MHPD, or RVPD; and, all commercial zoning districts, provided the GFA including outdoor dining areas does not exceed 1,500 square feet. **Response: The proposed use located at Building “A” and “D” include a drive-through and therefore DRO Approval not applicable.**

c. Tier Specific – Exurban and Rural

A Type 1 Restaurant shall comply with the following:

- 1) Shall not be the sole use on the property;
- 2) Shall be located in an MUPD or TDD;
- 3) Shall not have direct ingress/egress to an adjacent Arterial or Collector Street. Ingress/egress shall be from the interior of the overall vehicular circulation system for the development or interior streets, whichever is applicable; and,
- 4) Shall comply with the design requirements outlined under Art. 4.B.2.C.33.f.3), Location Criteria, Exceptions.

Response: Not Applicable.

d. Zoning Districts – TMD

A Type 1 Restaurant shall be limited to:

- 1) 5,000 square feet of indoor dining area, for a maximum of 6,500 square feet of GFA.
- 2) Located in an outparcel or freestanding building; or
- 3) A drive-through, unless it is located in the rear of a building, with access from an alley or the interior of a parking area, and is covered by a canopy or the second story of a building.

Response: Not Applicable.

e. Accessory Alcohol Sales

A Type 1 Restaurant may include the on-premises sale, service and consumption of alcoholic beverages as an accessory use. **Response: Noted.**

f. Location Criteria

A Type 1 Restaurant with a drive-through shall be subject to the following:

1) Intersection Criteria

A maximum of two Type 1 Restaurants shall be permitted at an intersection in accordance with Art. 5.E.2.B, Intersection Criteria. **Response: Exemption applies per below.**

2) Separation Criteria

A Type 1 Restaurant shall be separated from any other Type 1 Restaurant in accordance with Art. 5.E.2.C.2, Separation Criteria. **Response: Exemption applies per below.**

3) Exceptions

a) Design Criteria

A Type 1 Restaurant may be exempt from the location criteria if the site is designed to: address the additional trips associated with a drive-through restaurant; as well as enhance pedestrian circulation, safety and

accessibility while limiting vehicular circulation using exemplary site design and architectural treatment that incorporates the following:

(1) Drive-through facilities, including queuing and by-pass lanes that run parallel and are visible from adjacent streets, shall provide additional landscaping to mitigate views of the vehicular use areas. **Response: The orientation of the queuing and by-pass lanes are oriented in a southern facing direction for less visibility along the main frontage of Hypoluxo Road. Additionally, landscaping buffering is provided in accordance with Code which will further mitigate visibility of the queuing and by-pass lanes.**

(2) If located in a non-residential Planned Development District or a Commercial Pod, all the required parking spaces shall be located in close proximity to the restaurant that they serve. Required parking shall not be separated from the restaurant main entrance by a distance of more than 150 feet. The Applicant may request an increase to this distance up to a maximum of ten percent of the dimensional requirement through a Type 1 Waiver; **Response: All required parking spaces are provided in accordance.**

(3) If located in Standard Zoning Districts and required by the Zoning Director, cross access shall be provided to all abutting parcels that have commercial FLU designation. If required, the cross-access easement shall be recorded prior to Final Approval by the DRO. The Zoning Director may elect not to require the cross-access easement based on review of the existing or approved use for the abutting property. **Response: A vehicular and pedestrian cross access easement from the subject property to the site to the east has also been recorded since the original project approval through ORB 8607 PG 1554 (as required by Planning Condition 2 of Resolution No. R-2005-1122).**

(4) Consideration shall be given to site design that promotes a safe pedestrian environment and addresses vehicular circulation and maneuvering. A restaurant located on a single parcel with a Standard Zoning District is allowed continuous vehicular circulation:

(a) on all four sides of the building if the site is limited to only one access point to the subject property; or

(b) on all three sides of the building if site is limited to two access points to the subject property.

Response: Not Applicable

(5) Landscape plans and architectural elevations shall be required as part of any application for a Conditional Use, or any DOA affecting the items listed herein. **Response: A Conceptual Landscape Plan is provided with this application. Specific tenants have not yet been identified for Building "A" and "Building D", as such it has been determined that Architectural Elevations will be provided at time of Final Site Plan Application, following use approval.**

b) MUPD

A Type 1 Restaurant located within an MUPD may be exempt from the location criteria of Art. 4.B.2.C.33.f.1), Intersection Criteria, and Art. 4.B.2.C.33.f.2),

Separation Criteria, where in compliance with the following: **Response: Exemption applies.**

(1) Required perimeter landscape buffers, where located between all Type 1 Restaurant areas, including ingress/egress, and any R-O-W or parcel of land with a residential FLU designation or use, unless obstructed from view by other existing structures; and **Response: The Type 1 Restaurant uses within Building “A” and Building “D” are located with frontage along Hypoluxo Road, completed screened by perimeter landscape buffers.**

(2) Direct access from any perimeter R-O-W abutting the MUPD shall be prohibited. All access shall be from entrances established for the overall MUPD, and comply with minimum standards for ingress/egress, stacking, turn-lanes, and pedestrian connectivity. **Response: All access is in compliance.**

g. Major Intersection Criteria for CL FLU

A Type 1 Restaurant with a CL FLU designation shall comply with Art. 5.E.1, Major Intersection Criteria, unless the restaurant meets the requirements of one or more of the following: Art. 4.B.2.C.33.b. 1), DRO Approval, Art. 4.B.2.C.33.b.2), Permitted by Right, is located within a TMD, or complies with the design requirements outlined under Art. 4.B.2.C.33.f.3), Exceptions. **Response: Exemptions apply per above.**

h. Outdoor Dining Shall comply with the principal structure setbacks.

Response: Not Applicable.

Provided with the development plan is a 6,200 SF Automatic Car Wash (“car wash”) use located within Building “B”. This use is allowed pursuant to Class A Conditional Use approval (“CA.2”). The car wash provides for three drive-through lanes which reduce down to one drive-through lane upon entry to the automatic car wash tunnel. Once a car completes the automatic wash cycle, the vehicle can immediately exit the use or it can proceed into the (open air/under canopy) detail area or utilize the 12 vacuum spaces that are provided for patrons of the use. Included within Building “B” is 400 SF of office space, as identified on the Site Plan.

4. Car Wash

a. Definition

A permanent establishment engaged in washing or detailing motor vehicles which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. Detailing includes hand washing and waxing, striping, and interior cleaning.

b. Typical Uses

A Car Wash may include but is not limited to an automatic, full-service, hand wash, or self-service Car Wash.

c. Collocated – CG, PDD with CH FLU Designation

A Car Wash may be Permitted by Right when collocated with a Retail Gas and Fuel Sales establishment. **Response: Not Applicable.**

d. Accessory Use – CL FLU Designation

An Automatic Car Wash may be allowed as an accessory use to a Retail Gas and Fuel Sales subject to DRO Approval when it is located on the same lot. Auto

detailing or other extended services shall be prohibited. **Response: Not Applicable; the subject site has a CL FLU, however the proposed Automatic Car Wash is not accessory to a gas station.**

e. Zoning District – TMD

A maximum of one Car Wash may be allowed. The Car Wash shall be located outside the main street, and may be accessed from a secondary street, alley or from a parking lot. The Car Wash shall not be visible from the main street. [Ord. 2017-025] **Response: Not Applicable.**

Provided with the development plan is a fitness center use located within Building “E”. This use is allowed pursuant to Class A Conditional Use approval (“CA.3”). The fitness center has a building footprint of 25,000 SF and will include a 10,000 SF mezzanine for a total of 35,000 SF. The main entrance of the building is facing internal to the site with two landscape/open space features provided, to include meandering walkways, benches and tree preservation/canopy, upon main vehicular entrance to the use.

5. Fitness Center

a. Definition

An establishment containing multi-use facilities for conducting recreational sport activities.

b. Typical Activities

Typical sport activities may include but is not limited to aerobic exercises, weight lifting, running, swimming, racquetball, handball, squash, dance studios and martial arts studios.

c. Approval Process

1) CC Zoning District and MUPD with CL FLU Designation

a) A Fitness Center that has less than 8,000 square feet of GFA shall be Permitted by Right. **Response: Not Applicable**

b) A Fitness Center with more than 8,000 square feet but less than 15,000 square feet shall be subject to DRO approval. **Response: As the proposed use is over 15,000 SF in size, the Conditional Use Class A request is being made.**

2) Commercial Pod of PUD

A Fitness Center less than 10,000 square feet may be Permitted by Right.

Response: Not Applicable

d. Zoning District – CN Zoning District

The use shall be limited to 3,000 square feet of GFA when located in CN Zoning District and shall not include outdoor activities. **Response: Not applicable.**

e. Existing Approvals – IL Zoning District and Industrial Light Pod of PIPD

A Fitness Center legally established in the IL Zoning District or Industrial Light Pod of a PIPD prior to March 2, 2017 shall be considered legal conforming. **Response: Not applicable.**

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 with mixed uses 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. 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.

RESPONSE: *The location of building placement and orientation, parking, landscape buffering and vehicular access to the subject site minimizes any adverse impacts on adjacent lands. A 236.6-foot throat distance at the entry into the development from Hypoluxo Road and a 158.8-foot throat distance at the entry into the development from Adonis Drive serves to provide adequate storage for vehicles entering the site. Building's "A", "B" and "D" orients the drive-through lanes in a southern direction in order to allow for additional queuing spaces and less visibility from the ROW. Building "E" is located within the northern parcel of the site and at the suggestion of Planning Staff, we have relocated this building centrally and shifted the dry detention area closer to Adonis Drive in order to provide a design that will minimize adverse effects of the proposed development and the existing neighborhood.*

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

RESPONSE: *The subject property is currently undeveloped. The proposed development plan incorporates the preservation of existing native vegetation on site based on direction from Staff. As such, the proposed development will not have any negative impacts on the natural functioning of the environment.*

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

RESPONSE: *The approval of the application will support current development patterns in the area and provide goods and services that are lacking in the area. The subject property has current approvals for a shopping center with Retail, Type 1 Restaurant with drive-through, Financial Institution with drive-through and Office uses. This application proposes a modification to the Development Order to modify the uses of the shopping center to include Retail, two (2) Type 1 Restaurant with drive-through uses, Car Wash (Automatic) and a Fitness Center along with an abandonment of the Financial Institution with drive-through use, which remains consistent with the development patterns of the surrounding area.*

g. Adequate Public Facilities - The extent to which the proposed use complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).

RESPONSE: *The proposed redevelopment project results in a reduction of trips from the prior approved plan. A traffic report prepared by Kimley-Horn is included in this application materials to address traffic. A drainage statement prepared by Keen Engineering is included in this application materials to address drainage along with a letter from Palm Beach County Water Utilities Department confirming the site is located within the Palm Beach County utility service area and the site is serviced with water and sewer.*

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

RESPONSE: *There is a continual change of development patterns from 1995 to today within the housing market which supports the Applicants request to allow a reconfiguration of the previously approved 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 Financial Center drive-thru are consistent with those proposed at the time for a center of this size.*

TYPE 2 (CONCURRENT) VARIANCE & STANDARDS

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 at 8-feet in width. As stated previously, the Applicant is requesting the approval of the following concurrent Type 2 Variance for a reduction in east and west side façade foundation planting width from 8-feet to 5-feet for Building “B” and must address each standard per Article 2.B.7.E.6, as outlined below:

	TYPE 2 VARIANCE			
	ULDC CODE SECTION	REQUIRED	PROPOSED	VARIANCE
V.1	Table 7.C.3.B Foundation Planting	40% front & side façade to provide foundation planting at 8-feet in width	5-foot-wide foundation planting at east and west side façades of Building B	3-foot reduction in width of foundation planting at east and west side façade of Building B

Building “B” includes 6,200 SF of Automatic Car Wash (“car wash”) use with the front façade oriented to the south (along Hypoluxo Road) and the side façades to the east and west. The car wash provides for three drive-through lanes which reduce down to one drive-through lane upon entry to the automatic car wash tunnel. Once a car completes the automatic wash cycle, they can immediately exit the use or they can proceed into the detail area or utilize the vacuum spaces that are provided for the patrons of the use. Based on the design of the building to accommodate the automatic car wash tunnel and detail area, there is only 5-feet between the building and curb on both side façades. As such, we are proposing a reduction from the required 8-feet side façade foundation planting to 5-feet on the east and west side of the building.

- 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: A special circumstance exists in that the proposed Automatic Car Wash use for Building “B” has a unique rectangular shaped building design in order to accommodate the automatic car wash tunnel and attached detail area. This variance will allow for a reduction in 3-feet in planting width, however the side façades will exceed the 40% building length required. The east side façade of Building “B” requires a total planting area of 55.2 LF and 88.4 LF are provided, which meets and exceeds Code. The west side façade of Building “B” requires a total planting area of 55.2 LF and 91 LF are provided, which meets and exceeds Code.

- 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. It is the Applicant's intent to reconfigure the plan to provide a shopping center with a mix of uses that meets the needs of the surrounding community. The subject property will be fully landscaped around the perimeter and granting this variance for a reduction in side façade foundation planting for Building “B” will only enhance the aesthetic of the MUPD.

- 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: The intent of the code of providing adequate green space is met as the foundation area planting areas provided meets and exceeds the overall code requirement for the side façades of Building “B”.

- 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 reduction in side façades foundation planting width and increasing the length of the side façades foundation planting width at Building “B” will provide a better design which serves to enhance the aesthetics of the use and overall MUPD. 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 reduction in side façades foundation planting width at Building “B” will not be injurious to the area involved or detrimental to the public welfare.

TYPE 2 WAIVER & STANDARDS

Pursuant to Table 5.E.5.A.– Hours of Operation, non-residential uses located within 250 feet of a parcel of land with a residential FLU designation or use are limited to 6:00 a.m. to 11:00 p.m. for recreational uses, such as a Fitness Center. The measurement is taken by depicting a straight line from the property line of the residential FLU or use to the closest point of the loading area, the exterior wall, structure, or bay housing the non-residential use. This may be waived via the approval of a Type 2 Waiver by the Board of County Commissioners (BCC).

As noted on the Site Plan, there is 30-foot separation between the fitness center use (Building “E”) and the adjacent residential property line.

The fitness center use is proposing to operate between the hours of 5:00 a.m. and 11:00 p.m. Access for members will be via the front entrance which is located on the south side of the building, which is approximately 186.3-feet from adjacent residential property line. The fitness center members will need to check in with staff at the entry desk, which will be manned during all hours of operation, and security cameras will be installed both interior and exterior to the facility. All fitness center activities will take place in-side the building; there are no outdoor classes on property.

Specifically, the waiver request is outlined below in table format and is to apply only to the fitness center use.

ULDC SECTION	REQUIRED	PROPOSED	WAIVER
Table 5.E.5.A. Hours of Operation	6:00 a.m. to 11:00 p.m.	5:00 a.m. to 11:00 p.m.	1 Hour

Per PBC ULDC Art.2.B.7.D.3. Standards for a Type 2 Waiver shall meet the four (4) standards listed as follows:

1. 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: *The request is consistent with other ULDC requirements and meets the intent of the MUPD zoning district. As outlined further in the following standards, the existing separation, landscape and the buffering of the internal use and parking by the building serve to create no negative impacts to the surrounding community, meeting the intent of the code.*

2. 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;

Response: *The request is to allow a modification in hours of operation from a 6:00 a.m. start of business operations to a 5:00 a.m. start of business operations. This one hour earlier start time which will not have a detrimental effect on the design of the project or create any design impacts.*

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

Response: *As referenced prior, there is 30-feet of separation between the building proposed to be occupied by the Fitness Center use (Building "E") to the adjacent residential property line. Within that 30-foot separation, there is a 20-foot buffer which includes a 6-foot high opaque wall. Access for fitness center members will be via the front entrance on the south side of the building, which is approximately 186.3-feet from the adjacent residential property line and the closest vehicular access into the subject site is located on the south side of the building, approximately 296.85-feet from the adjacent residential property line. The orientation of the main entrance and vehicular access are mitigating factors that will serve to avoid any negative impacts to the adjacent property owners based on the proposed waiver request to start business hours at 5:00 a.m. instead of 6:00 a.m. per current ULDC.*

4. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.35.i, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety and welfare of the community.

Response: *Not applicable.*

ABANDONMENT STANDARDS

Pursuant to Art. 2.C.5.G.6. the standards for the request abandonment of Resolution R-2005-1123 which allowed a Financial Institute with drive-through and all associated conditions, please see the standards for this request addressed below:

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

Response: The proposed abandonment is consistent with the Plan. All conditions of approval contained within Resolution R-2005-1123 are proposed to be deleted. The subject site is undeveloped and the Contract Purchaser/Applicant, PreLux LLC, has proposed a new development plan based on current community needs and demands which no longer includes a Financial Institute with drive-through use. The subject site has frontage on Hypoluxo Road and Adonis Drive and the current development plan provides for a mix of community serving uses to include Retail, Automatic Car Wash, Type I Restaurant with drive-through and a Fitness Center. As such, the Applicant is proposing to abandon the Financial Institute with drive-through approved with Resolution R-2005-1123.

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.

Response: The proposed abandonment of the Financial Institute with drive-through and all conditions of approval contained within Resolution R-2005-1123 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 this DO will not create any new non-conformities as the site is currently undeveloped and the Financial Institute was never constructed. There are no other parties which have ownership interest or other uses which are approved on the property.

c. Adequate Public Facilities The proposed abandonment of the DO shall not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). When a non-implemented DO is abandoned, all concurrency affiliated with the DO is no longer valid. For implemented DOs, concurrency for the remainder of the non-affected area shall remain. Concurrency for any new uses on the subject property shall be subject to the requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards).

Response: The proposed abandonment of all conditions of approval contained within Resolution R-2005-1123 will not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). The DO for a Financial Institute with drive-through has not been implemented and it is understood concurrency affiliated with

the DO is no longer valid and concurrency for the proposed new uses on the subject property shall be reviewed for compliance with the concurrency requirements of Art. 2.F.

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

Response: The subject site is undeveloped and the DO has not been implemented. The prior user listed the subject site for sale and the Contract Purchaser/Applicant, PreLux LLC, has proposed a new development plan based on current community needs and demands which no longer includes a Financial Institute with drive-through use. As such, the Applicant is proposing to abandon Resolution R-2005-1123 for a Financial Institute with drive-through and all conditions of approval contained within Resolution R-2005-1123 are proposed to be deleted. Approval of this abandonment will not impact any other DO’s and there is no reliance on other parties.

STATUS OF CONDITIONS OF APPROVAL

Resolution R-2005-1123: The proposed Development Order Abandonment application provided requests to abandon Resolution R-2005-1123 and delete all conditions of approval; the proposed development associated with this approval for a Financial Institution with drive-through was never constructed and is not part of the current application/development plan.

Resolution R-1995-435 was consolidated into Resolution R-2005-1122. This application includes a request to consolidate, modify and/or delete the following Conditions of Approval from R-2005-1122, R-2008-1704 and R-2015-0960, as follows:

Resolution R-2005-1122

ALL PETITIONS

- 1. Development of the property is limited to the uses approved by the Board of County Commissioners. The approved site plan is dated January 31, 2005. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (DRO: ZONING – Zoning).

STATUS: Condition to be amended based on proposed development plan date.

ARCHITECTURAL REVIEW

- 1. Prior to final site plan approval by the DRO, the site plan shall be amendment to indicate an architectural focal point at the following locations:
 - a. Both sides of each entrance located on Hypoluxo Road;
 - b. The south side of the entrance on Adonis Avenue;
 - c. The area located on the east property line at the southeast corner of the T-intersection at the point of cross access to the site to the east;
 - d. The southwest corner of the anchor retail building.
 - e. The focal points shall be in the form of a plaza, fountain, columns, arcade or any other site element or similar pedestrian oriented public areas; and
 - f. Details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: DRO – Arch Review)

STATUS: Applicant is requesting to adhere to Current ULDC Article 3 requirements for PDD with non-residential uses. Request for deletion of Condition.

- 2. At time of submittal for final DRO approval, architectural elevations shall be submitted simultaneously with the site plan for final architectural review and approval for the commercial structures. Elevations shall be designed to be consistent with Article 5.C of the ULDC. Development shall be consistent with the approved architectural elevations. (DRO: DRO – Arch Review) **STATUS: Architectural Elevations to be provided at time of permitting approval, per ULDC allowance. Request for deletion of Condition.**
- 3. Prior to final approval of the site plan by the DRO, the site plan shall be revised to indicate a plaza at the front façade of the 47,600 square foot retail building. The plaza shall be subject to the following:
 - a. Location as shown on the site plan dated January 31, 2005;
 - b. A minimum of 2,000 SF in area;
 - c. An architectural feature with a design consistent with the principal structure;
 - d. Details of these architectural focal points shall be submitted to the Architectural Review Section for review and approval. (DRO: DRO – Arch Review)

STATUS: Applicant is requesting to adhere to Current ULDC Article 3 requirements for PDD with non-residential uses. Request for deletion of Condition.

BUILDING AND SITE DESIGN

- 1. Decorative pavers (paving blocks or stamped concrete) shall be provided at the entrances located on Hypoluxo Road and Adonis Avenue indicated on the site plan dated January 31, 2005. The minimum dimension for each area shall be as follows:
 - a. Access points located on Hypoluxo Road – 1,200 SF
 - b. The access point located on Adonis Avenue – 1,000 SF
 - c. All T-intersections – 750 SF; and,
 - d. All pedestrian cross-walks – seven (7) foot wide. Alternating colors shall be provided where pedestrian cross-walks intersect with decorative paver areas for vehicular traffic. (DRO/BLDG PERMIT: ZONING – Zoning).

STATUS: Applicant is requesting to adhere to Current ULDC Article 3 requirements for PDD with non-residential uses. Request for deletion of Condition based on new proposed development plan.

- 2. Deleted with the approval of R-2005-1122.
- 3. The minimum setback for all structures adjacent to the north property line shall be 65 feet. (BUILDING-Zoning). **STATUS: Application is requesting to adhere to current ULDC requirements for setbacks. Request for deletion of Condition based on new proposed development plan.**
- 4. The maximum building height for the northern most building (47,600 SF retail building) shall be 25 feet excluding decorative architectural features and elements, which shall be limited to a maximum height of 35 feet. (BLDG PERMIT: BLDG PERMIT – Zoning) **STATUS: Applicant is requesting to adhere to Current ULDC requirements for maximum building height. Request for deletion of Condition based on new proposed development plan.**
- 5. Deleted with the approval of R-2005-1122.
- 6. Deleted with the approval of R-2005-1122.
- 7. Deleted with the approval of R-2005-1122.
- 8. No truck shall be allowed on Adonis Drive. The petitioner shall install a directional sign prohibiting trucks on Adonis Drive. (ONGOING: CODE ENF – Zoning) **STATUS: Request for deletion of Condition based on new proposed development plan.**
- 9. An opaque wing wall a minimum of 12 feet in height, along the north edge and running the entire length of the loading area shall be installed prior to Certificate of Occupancy for the principal structure. (CO: BLDG PERMIT – Zoning) **STATUS: Request for deletion of Condition based on new proposed development plan.**
- 10. Deleted with the approval of R-2005-1122.
- 11. Deleted with the approval of R-2005-1122.

ENGINEERING

- 1. Prior to site plan approval by the DRO, the property owner shall record a cross access easement to the property owner to the east, subject to the approval by the County Attorney and County Engineer. (DRO: COUNTY ATTY – Eng). **STATUS: COMPLETE**
- 2. The property owner shall convey to PBC Land Development Division by road ROW warranty deed for a 25-foot safe site corner at the intersection of Adonis Drive and Hypoluxo Road prior to issuance of the first Building Permit. ROW conveyance shall be along the projects entire frontage and shall be free of all encumbrances and encroachments. Developer shall provide PBC with sufficient documentation acceptable to the ROW Acquisition Section to ensure that the property is free of all encumbrances and

- encroachments. ROW conveyances shall also include "Safe Sight Corners" where appropriate as determined by the County Engineer. (BLDG PERMIT: MONITORING – Eng) **STATUS: Ongoing**
3. Deleted with the approval of R-2005-1122.
4. LANDSCAPE WITHIN THE MEDIAN OF HYPOLUXO ROAD
- The property owner shall design, install and perpetually maintain the median landscaping withing the median of all abutting ROW of Hypoluxo Road. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation and Sod (OTIS) program. Additional landscaping beyond OTIS requires BCC approval. Median landscaping installed by petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to PBC, unless petitioner provides payment for maintenance set forth in paragraph below.
- a) The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG: PERMIT: MONITORING-Eng).
- b) All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of completion or certificate of occupancy. (CC/CO: MONITORING – Eng)
- 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 petitioner 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, PBC shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscape and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner. (ONGOING: ENG – Eng)
- d) Also, prior to the issuance of a Building Permit, and at the option of the petitioner, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated throughfare beautification program. This payment, for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's frontage along Hypoluxo Road. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (ONGOING: ENG – Eng). **STATUS: Ongoing**
5. The property owner shall construct: a) right turn lane east approach on Hypoluxo Road at the Project's Entrance Road. b) left turn lane north approach on Adonis Drive at Hypoluxo Road. All construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include but are not limited to, utility relocations and acquisition of any additional ROW. 1. Permits required by PBC for this construction in a and b shall be obtained prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING – Eng) **STATUS: Condition to be reassessed based on new proposed development plan.**
6. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:
- a) No Building Permis for the site may be issued after January 1, 2009. A time extension for this condition may be approved by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of request. This extension shall be made pursuant to the requirements of Article 2.E of the ULDC. (DATE: MONITORING -Eng)
- b) Building Permits for more than;
- 31,500 SF of general retail;
 - 16,000 SF of general office;
 - 4,500 SF of fast food restaurant;
- Shall not be issued until construction has begun for the 6 laning Hypoluxo Road from Jog Road to Military Trail plus the appropriate paved tapers. (BLDG PERMIT: MONITORING – Eng) **STATUS: Condition to be reassessed based on new proposed development plan.**
7. Prior to the issuance of a building permit, the property owner shall convey to PBC Land Development Division by warranty deed additional ROW for the construction of a right turn lane on Hypoluxo Road at the project's entrance road. This ROW shall be a minimum of 280-feet in length, 12-feet in width and a taper length of 50-feet or as approved by the County Engineer. This additional ROW 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 PBC with sufficient documentation acceptable to the ROW Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG PERMIT: MONITORING – Eng). **STATUS: Condition to be reassessed based on new proposed development plan.**
8. Construction of these improvments in 6.a. and 6b. shall be completed prior to the issuance of the first Certificate of Completion or Certificate of Occupancy. **STATUS: Ongoing**

LANDSCAPE STANDARDS

Fifty percent of the canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. Tree height: 14-feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: 7-feet diameter shall be determined by the average canopy radius measure at 3 points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5-feet in length; and

- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: ZONING – Landscape)
STATUS: Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Request to delete condition.
2. All palms required to be planted on the property by this approval shall meet the minimum standards at installation:
a. Palm heights: 12-feet clear trunk;
b. Clusters: staggered heights 12 to 18-feet; and
c. Credit may be given by existing or relocated palms provided they meet current ULDC requirements. (BLDG PERMIT: ZONING – Landscape)
STATUS: Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Request to delete condition.
3. A group of 3 or more palms may not supersede the requirement for a canopy tree in that location, unless specified herein. (BLDG PERMIT: ZONING – Landscape)
STATUS: **STATUS:** Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Request to delete condition.

LANDSCAPING – INTERIOR

1. Shade structures (trellis and/or gazebo) shall be provided in the following locations and design requirements:
a. A minimum of 2 shade structures to be placed along the entrance road into the project from Hypoluxo Road; and
b. The shade structure shall have a minimum dimension of 100 SF and a minimum of 10-feet in height; and
c. Details of the shade structure shall be submitted to the Architectural Review Section for review and approval. (DRO/BLDG PERMIT: DRO/ZONING - Zoning)
STATUS: Request to delete condition based on new proposed development plan.
2. Deleted with the approval of R-2005-1122.
3. Deleted with the approval of R-2005-1122.
4. Deleted with the approval of R-2005-1122.
5. Deleted with the approval of R-2005-1122.
6. Deleted with the approval of R-2005-1122.

LANDSCAPING ALONG NORTH PROPERTY LINE

1. Deleted with the approval of R-2005-1122.
2. Deleted with the approval of R-2005-1122.
3. Deleted with the approval of R-2005-1122.

LANDSCAPING ALONG SOUTH PROPERTY LINE

1. In addition to ULDC requirements, landscaping and buffering along the south property line shall be upgraded to include 1 palm for each 30-linear feet of the property line with a maximum spacing of 60-feet between clusters. (BLDG PERMIT: ZONING Landscape)
STATUS: Applicant is requesting to adhere to current ULDC Article 7 requirements for planting materials. Request to delete condition.

LANDSCAPING ALONG WEST PROPERTY LINE

1. In addition to the proposed landscaping and buffering program and code requirements, landscaping and buffer width along the west property line shall be upgraded to include:
a. A minimum of 20-foot-wide landscape buffer strip. No width reduction or easement shall be permitted;
b. A minimum 2- to 3-foot-high undulating berm with an average height of 2.5-feet; and
c. 1 palm or pine for each of the 30-linear feet of the property line with a maximum spacing of 60-feet between clusters. (BLDG PERMIT: LANDSCAPE – Zoning).
STATUS: Request for modification to Condition. Applicant is requesting to adhere to current ULDC Article 7 requirements for landscape buffer width with allowable 5-foot easement encroachment and planting materials.
2. Deleted with the approval of R-2005-1122.

LIGHTING

1. All outdoor lighting used to illuminate the premises and identification signs shall be of low intensity, shielded and directed down and away from adjacent properties and streets. (BLDG – Zoning). **STATUS:** Ongoing.
2. All outdoor lighting fixtures within 100-feet of the north and west property lines shall not exceed 15-feet in height, measured from the finished grade to the highest point. (BLDG – Zoning). **STATUS:** Ongoing.
3. All outdoor lighting shall be extinguished no later than 11:00pm Security lighting only is excluded from this requirement. (ONGOING: CODE ENF – Zoning). **STATUS:** Ongoing.

RECYCLE SOLID WASTE

1. Deleted with the approval of R-2005-1122.

SIGNS

1. Deleted with the approval of R-2005-1122.
2. No freestanding point of purchase sign shall be permitted on Adonis Drive. (BLDG PERMIT: BLDG PERMIT – Zoning)
STATUS: Request to delete condition based on proposed new development plan.

PALM TRAN

1. The located of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the site plan prior to final approval by the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: MONITORING – Palm Tran)
STATUS: ONGOING
2. Prior to the issuance of the first Building Permit or recordation of the Plat, whichever shall occur first, the property owner shall convey and/or dedicate to PBC an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions of approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT/PLAT: MONITORING – Eng)
STATUS: ONGOING

PLANNING

1. Prior to final site plan approval by the DRO, the site plan shall include sidewalks, decorative pavement pedestrian crosswalks and cross access points, consistent with the certified site plan dated January 31, 2005. The site plan shall be revised to include a label for the vehicular and pedestrian cross access point to the eastern property line that shall read "proposed vehicular and pedestrian cross access". (DRO: PLANNING – Planning) **STATUS: ONGOING**
2. Prior to final site plan approval by the DRO, the property owner shall record a cross access easement from the subject property to the site to the east (Petition 1980-173B) in a form acceptable to the County Attorney. (DRO: COUNTY ATTY – Planning). **STATUS: COMPLETE (ORB 8607 PG 1554)**
3. Prior to the issuance of a certificate of completion or certificate of occupancy for any buildings on site, the property owner shall pave the cross-access point to the edge of the eastern property line at the location shown on the site plan labeled proposed vehicular and pedestrian cross access". (CC/CO: MONITORING – Planning) **STATUS: ONGOING**

UTILITIES

1. If any relocations/modifications to the County's existing water and wastewater facilities are required that are a direct or indirect result of the development, the developer shall pay for the complete design and construction costs associated with these relocations/modifications. (BLDG PERMIT: BLDG – Utilities) **STATUS: ONGOING**

R-2008-1704

1. All previously approved conditions of approval from Resolution No. R-2005-1122 continue to apply unless expressly modified herein.
STATUS: ONGOING.
2. Condition E.6 of Resolution R-2005-1122, Control No. 1994-013, amended to read:
 - a) No Building Permits for the site may be issued after December 31, 2010. 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 Article 2.E of the Unified Land Development Code. (DATE: MONITORING–Eng). **STATUS: ONGOING; DATE WITHIN COA TO BE REVISED BASED ON APPROVAL OF CURRENT APPLICATION REQUEST.**
 - b) Building Permits for more than 2,800 SF of retail and 4,000 SF of office (the equivalent of 47 peak hour trips) shall be issued until contract has been issued for the widening of Hypoluxo Road and Jog Road to Military Trails as a 6-lane divided section. The mix of allowable uses (Retail, Office, Drive-in Bank, and Fast-Food Restaurant), as permitted by the Zoning Division, may be adjusted by the County Engineer only if based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. (BLDG PERMIT: MONITORING-Eng). **STATUS: CONDITION TO BE REVISED BASED ON UPDATE IN USES WITH THIS APPLICATION REQUEST.**

R-2015-0960

1. All previously approved conditions of approval from Resolution No. R-2005-1122 continue to apply.

STATUS: ONGOING.

- 2. Condition of approval Eng. 9, to be added, states: The Property Owner shall provide proportional share funds in the amount of 54% towards the cost of signal installation at Hypoluxo & Adonis Drive. Signalization shall be a mast arm structure installation. The cost of the signalization shall also include any required utility relocation and right of way or easement acquisition.
 - (a) Building permits shall not be issued until the Property Owner provides 54% of the cost of signal installation, as determined by the Director of the Traffic Division. (BLDG PERMIT: MONITORING – Eng).

STATUS: CONDITION TO BE RE-EVALUATED BASED ON CURRENT ROADWAY STANDARDS AND PROPOSED DEVELOPMENT PLAN.

CONCLUSION

On behalf of the Applicant, Urban Design Studio requests consideration for approval of a Development Order Amendment to an existing PDD and prior approved Class A Conditional Use for a Type 1 Restaurant with drive through, to amend conditions of approval, reconfigure the Site Plan, Master Sign Plan & Regulating Plan, delete square footage and modify uses; along with Class A Conditional Use approval to allow a Fitness Center, an Automatic Car Wash and a Type 1 Restaurant with drive through; Development Order Abandonment of a Financial Institution with drive-through use; Type 2 Waiver and Type 2 Variance requests for the proposed commercial and recreational uses within the Chimu MUPD.

Should you have any questions regarding this application, please contact Bradley Miller or Ailish Villalobos from Urban Design Studio at bmiller@udsflorida.com and avillalobos@udsflorida.com.

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