

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

Application No.: ZV/PDD-2021-01531
Application Name: Okeechobee Commerce Park
Control No./Name: 1994-00038 Okeechobee Commerce Park
Applicant: 2154 Zip Code Property LLC
Owners: 2154 Zip Code Property LLC
Agent: Schmidt Nichols - Josh Nichols
Schmidt Nichols - Cameron Ennis
Telephone No.: (561) 684-6141
Project Manager: Brenya Martinez, Site Planner II

TITLE: a Type 2 Variance **REQUEST:** to allow side and rear setback reduction on 8.12 acres.**TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the General Commercial (GC) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 8.12-acres

APPLICATION SUMMARY: The proposed requests are for the 8.12 acres Okeechobee Commerce Park Commercial Development. The site has no prior approvals by the Board of County Commissioners (BCC), but received a Class B Conditional Use approval for a Gun Club in 1994, and more recently a variance on MUPD lot frontage on June 6, 2022.

These requests will modify the zoning from the General Commercial (GC) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District. In addition the Applicant requests a Type 2 Variance to allow side and rear setback reduction, to eliminate the required pedestrian amenity for non-residential development, the required continuous non-vehicular circulation to all uses within a PDD; and to eliminate the 10 percent parking requirement towards the side or rear of Building B.

The proposed Preliminary Site Plan (PSP) indicates two existing one-story Buildings (Building A and B), that include a mix of commercial, recreational, and industrial uses of, Retail, Adult Entertainment, Fitness Center, Shooting Range (Gun Club), and Warehouse. A total square footage of 89,833 sq. ft. exists with 285 proposed parking spaces. Two access points are from Military Trail and one from Okeechobee Boulevard.

Following the mailing of the courtesy notices, the Applicant withdrew some of the variance requests that were indicated in the notice, after working with Staff to indicate compliance with those requirements.

SITE DATA:

Location:	East side of Military Trail, approximately 670 feet north of Okeechobee Boulevard.
Property Control Number(s)	00-42-43-24-11-000-0060
Existing Future Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Existing Zoning District:	General Commercial District (CG)
Proposed Zoning District:	Multiple Use Planned Unit Development (MUPD)
Total Acreage:	8.12 acres
Tier:	Urban/Suburban
Overlay District/ Neighborhood Plan:	RRIO, URA
CCRT Area:	N/A
Municipalities within 1 Mile	Haverhill, West Palm Beach
Future Annexation Area	West Palm Beach
Commission District:	District 7, Commissioner Mack Bernard

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

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

PROJECT HISTORY: The development has been approved since the 1960's, with a United States Postal Service use in the northern most structure, and other commercial uses within the southern building through the building permit process. The site received a Class B Conditional Use approval on August 4, 1994 (ZR-1994-0005) to allow an enclosed Gun Club. In addition, the site was subject to a

special permit approval to allow an Adult Entertainment on August 26, 1992 (SPAE-1992-00119). Although the use is not allowed within the MUPD Zoning District, the use may remain as a valid non-conforming use within the proposed district. The site received a recent approval by the board on June 2, 2022 (ZR-2022-0019) to allow frontage reduction for an MUPD Zoning District.

TYPE. 2 VARIANCE SUMMARY

Variance No.	ULDC Article	Required	Proposed	Variance
V1	3.E.3.D MUPD Property Development Regulations (Side Setback)	15 feet	12 feet	3' reduction of side setback
V2	3.E.3.D MUPD Property Development Regulations (Rear Setback)	20 feet	14 feet	6' reduction of rear setback

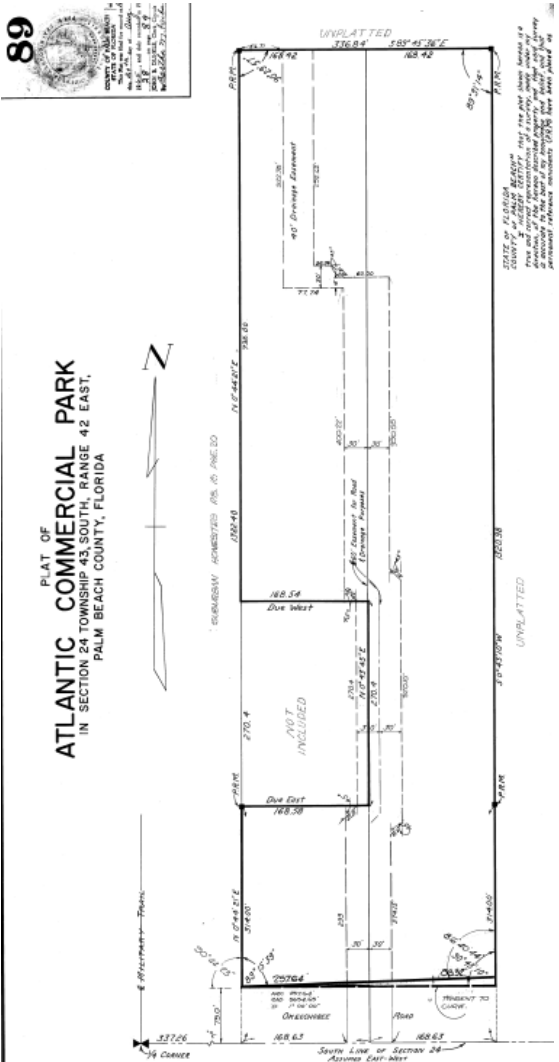
FINDINGS:

When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

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

YES. V1-V2 The subject site supports General Commercial uses in the CG zoning district that have been developed since the 1960s, pursuant to the original 1957 Zoning regulations, as amended, and the requirements of the C-2 Zoning District. A portion of the site was platted in 1965 under the Atlantic Commercial Park plat (Plat Book 28 page 89). Other areas proposed to be added to the development are part of Suburban Homesites (Plat book 18 page 20) platted in July of 1937. The Atlantic Commercial Park plat had access and frontage directly on Okeechobee Road, via Zip Code Place access easement.

Figure 1 Aerial Feb 20, 1965



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

The structures were built in accordance with the property development regulations as required by the 1957 Zoning Code, as amended, which allowed 0 foot side interior setback and 10 foot rear setback, when not adjacent to an alley at the rear. The structures were built with the 12 foot and 14 foot setbacks.

The Figure 2 Aerial November 14, 1976



Property Owners desire is to redevelop the site creating a unified development under the current regulations of the MUPD Zoning District, and utilize the subdivision regulations of Article 11. In order to allow utilization of those subdivision regulations, the Applicant must rezone to the MUPD district. These existing legally constructed buildings becoming non-conforming to the district regulations. The Property Owner desires to renovate the structures which would then be limited by the thresholds of Article 1, limiting renovations.

As part of the sub-objectives of the Plan, the County is to work loosely with businesses to assist in redevelopment of areas and properties within the Revitalization and Redevelopment Infill Overlay (RRIO) and the Urban Redevelopment Area (URA). It is also encouraged to promote redevelopment with the

existing infrastructure in order to allow for reinvestment in the area, where resources exist. This commercial development is in close proximity to multiple Countywide Community Revitalization Teach Areas that would benefit from redevelopment of this commercial parcel. Allowing the structures to remain at their permitted setbacks and redevelopment and renovate those structures assists in this objective, and applicable to this development.

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

YES. V1- V2: The subject structures were built legally pursuant to the Zoning Regulations of the 1957 Code, as amended. Modifications to the ULDC were not a result of the actions of the Applicant. Although the Applicant is requesting to rezone the property to the new district, the policies of the Plan are to encourage revitalization and redevelopment for this site in the Overlays/Areas it is located within. Furthermore, the Applicant is seeking the required approvals as they are adding additional land area, decreasing non-conformities, providing better circulation, drainage, landscaping, as well as a unified development that promotes revitalization and redevelopment of this parcel. Therefore, the special site conditions do not result from the actions of the Applicant.

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

YES. V1-V2: The Variance request for setback reduction does not intend to modify the site but to but to allow the structures to remain in place and be revitalized and redeveloped, rather than limited by percentages of cost to maintain and renovate the structure. The Plan objectives for the RRIO and the URA are to encourage revitalization and redevelopment, rather than restrict redevelopment for this targeted area. The Therefore, the granting of the variance shall not confer upon the Applicant any special privilege but will allow an existing development with a unified control, and the future redevelopment of this older shopping plaza.

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

YES. V1-V2: Literal interpretation and enforcement of the code with respect to the side and rear setback would require the removal of Building B, which has existed since the 1960s. Furthermore, If the Applicant were held to a strict enforcement of the terms and provisions of this Code, it would subject the site to additional application processes and additional building permits, and would be inconsistent with the Objectives of the Plan for the RRIO and URA. While the use remains as a commercial plaza approved under prior land development regulations, allowance of the variance encourages the redevelopment of this structure and development.

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

YES. V1-V2: Granting the variance to reduce the side and rear setbacks by 3 ft. towards the side and 6ft. towards the rear is the minimum variance necessary to continue with the Zoning Amendment Request. In addition, vesting of the lot configuration and existing non-conformities, will support a unified proposed planned development (MUPD) in the future.

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

YES V1-V2: Granting the variance for side and rear setback reduction is consistent with the Goals and Objectives of a Planned Development. The Type 2 Variance request will allow redevelopment to occur. The subject site is located in the RRIO and URA and allowance of the variance will assist with redevelopment and further the objectives to promote redevelopment and protect and maintain these existing communities.

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

YES. V1-V2: Granting this variance to allow the setbacks to remain at 12 ft. side and 15 ft. rear, will not be injurious to the area or detrimental to the public welfare as not current development is proposed at this time. The site is located within the RRIO, and will allow the redevelopment in the future and allow the rezoning to the MUPD Zoning District, while promoting redevelopment and creating a unified control for the existing commercial development.

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.

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

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

○ *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.

Cross access is shown along the Midwestern portion of the site. The Applicant will be required to provide a recorded cross access agreement prior to final DRO.

○ *Prior Land Use Amendments:* The site has been the subject of 1 previous Future Land Use Amendment. The amendment, Commercial Categories, LGA 2004-006, was adopted with no conditions via Ord 2004-028, which amended the land use from C/8 to CH/8.

○ *Intensity:* The request does not seek to change the previously approved 93,547 square feet (sq. ft.), which equates to a FAR of approximately 0.25 (89,833 / 354,232 sq. ft. or 8.12 acres = 0.25). The

maximum Floor Area Ratio (FAR) of .85 is allowed for the subject future land use designation in the Urban Suburban Tier (354,232 sq. ft. or 8.12 acres x .85 maximum FAR = 301,097 sq. ft. maximum).

- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The property is located within the Urban Redevelopment Area (URA) The request is consistent with FLUE Policy 4.3-k: which requires “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 cross access is shown on the plans and an easement will be recorded prior to final DRO.

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.*

- *Nonconformities:* The property was originally approved and developed under the regulations of an early versions of the Palm Beach County Zoning Codes. Based on the existing Adult Entertainment, the use was implemented subject to a Special Permit approval on August 26, 1992 under Permit Application (SPAE-1992-00119). Based on further discussions in the past between Staff and the Applicant, the use is vested under the proposed MUPD Zoning District. Moreover, pursuant to Article 1, the Applicant is vested for nonconformities that are depicted in prior approved Development Orders as referenced under Final Site Plan Petition CB 1994-0038 Exhibit No.4. subject to the requirements of Article 1.E.1.C.2 Modification to a Prior Approval with Nonconformities. Furthermore, modifications to those non-conformities are required to comply with current code.

- *Code Enforcement:* The subject site has an active code enforcement Case: C-2019-12060036 for use violations. However, as part of the zoning amendment request the Applicant is proposing a 9,791 sq. ft. Fitness Center, which is a Permitted by Right Use in the proposed MUPD Zoning District, which will serve to rectify the code enforcement violation.

- *Property Development Regulations:* Staff has reviewed the Preliminary Site Plan (PSP) for compliance with Article 3 Property Development Regulations and has concluded that the proposed rezoning to MUPD complies with the minimum lot dimensions in terms of minimum acres, width and depth, FAR, building coverage and front setbacks.

The Applicant received approval of a Type 2 Variance by the Zoning Commission to allow the reduction the required frontage from the minimum required 300’ feet to 234.6’ feet. In addition to the Applicant is also seeking Type 2 Variance request would allow the existing non-conforming side interior setback for Building B to remain under minimum of 15 ft. by providing 12 ft. (-3 ft.) and the rear setback to remain under minimum of 20 ft. by providing 14ft. (-5 ft.). Refer to variance Chart

This Application is also seeking the addition of approximately 0.8- acres of land located to the proposed MUPD. This portion of land has been part of the MUPD and is been use as part of the required parking area and drainage but never has been legally incorporated.

Overlays: The site is located within Palm Beach County’s URA and RRIO.

Although the current site has many non-conforming elements, the Zoning Amendment Request would allow compliance with the URAO Purpose and Intent to the greatest extent possible as per the applicable standards, should re-development occur. Moreover, the Zoning Amendment request will allow compliance with Article 3.E.1.C Objective and Standards to the greatest extent possible.

The proposed rezoning to an MUPD will allow compliance with standards (a-i) above through future re-development. Moreover, the Applicant’s request is consistent with Article 3 Purpose and Intent per Article 3.E.3.A.1 as follows: which is to allow flexibility from standard PDRs and apply PDRs to an entire project by supporting a unified image through architecture and cross-access connections. Moreover, allowing the use of residential and non-residential uses; and supporting a safe and efficient circulation for pedestrian and non-pedestrian systems.

- *Architectural Review:* Currently no buildings are proposed. Therefore, Architectural Review is not required at this time. However, should re-development occur, the review shall be subject to Article 5.C. Design guidelines.

- *Parking:* The proposed Zoning Amendment request is consistent with Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements. The Applicant will provide the minimum parking requirement for the existing Warehouse Retail (Building B), Shooting Range, Indoor, Fitness Center and Adult Entertainment Use (Building A) for a total of 285 parking spaces vs the min. 263 spaces required by code. (+ 22) which is based per the use in lieu of the min/max parking calculation.

- *Landscape/Buffering:* The site has various existing Non-Conformities and does not include the required Foundation Plantings towards the front and sides of Building A and B nor includes the required

Compatibility Buffers. The Zoning Amendment Request will allow compliance of Article 7 Landscape requirement through the subdivision process and any future development of the existing commercial development to the greatest extent possible since the subdivision would allow the selling and unified re-development of the property to the north as required for MUPD Zoning Districts.

○ *Signs:* As part of the Non-conformities as shown on Figure A above, the site provides three freestanding signs vs two as required by code and exceeds the maximum height limitation at 25 ft. vs 15 ft. maximum required by code. (ten ft.). However, the request will allow the non-conforming signs to remain. Should the re-development take place through the approval of the Zoning Amendment request, adherence to Article 8 Signage would be required and the non-conforming elements would no longer be vested.

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

The rezoning request is consistent with the Future Land Use (FLU) designation with a CH/8 Commercial High with an underlying Residential FLU designation. The surrounding land uses are zoned as non-residential uses and have FLU designations for both Commercial and Industrial development. The proposed rezoning to an MUPD would allow a future subdivision of the property allowing flexibility and revitalization of the site. This is compatible with other non-residential uses that support commercial uses to the north, south and west of the existing commercial development and industrial uses to the east side of the development. In addition, the site is situated between Military Trail and Okeechobee Boulevard, which are both major commercial corridors in the County, which further support the existing and proposed uses of the site.

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

As part of the request the Applicant has indicated no new square footage is proposed at this time. If the variances are approved, it would allow for redevelopment of the structures encouraged by the objectives of the Plan. The request intends to vest the existing Non-conformities on site as indicated in Figure B table above in addition to requesting variances as part of the request.

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 was previously cleared and is void of native vegetation that is regulated by Article 14.C.7.C.

○ *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 Palm Beach County Mandatory Year-Round Landscape Irrigation Conservation Measures Ordinance, Ordinance No. 2022-007. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.

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

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

The Zoning Amendment Request from General Commercial (GC) to an MUPD is consistent with the existing CH/8 FLU designation that support the existing uses on the site. The rezoning to the MUPD District is logical and orderly for the development pattern of the area. The site exist, pursuant to the development regulations of the 1957 Code, as amended. The Planned Development District will unite these parcels under one Controlled Unity, allowing for uniform redevelopment and revitalization for this development and the area.

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

ENGINEERING COMMENTS:

The Property Owner shall configure the property into a legal lot of record prior to December 1, 2023 or prior to the issuance of the building permit, whichever occurs first.

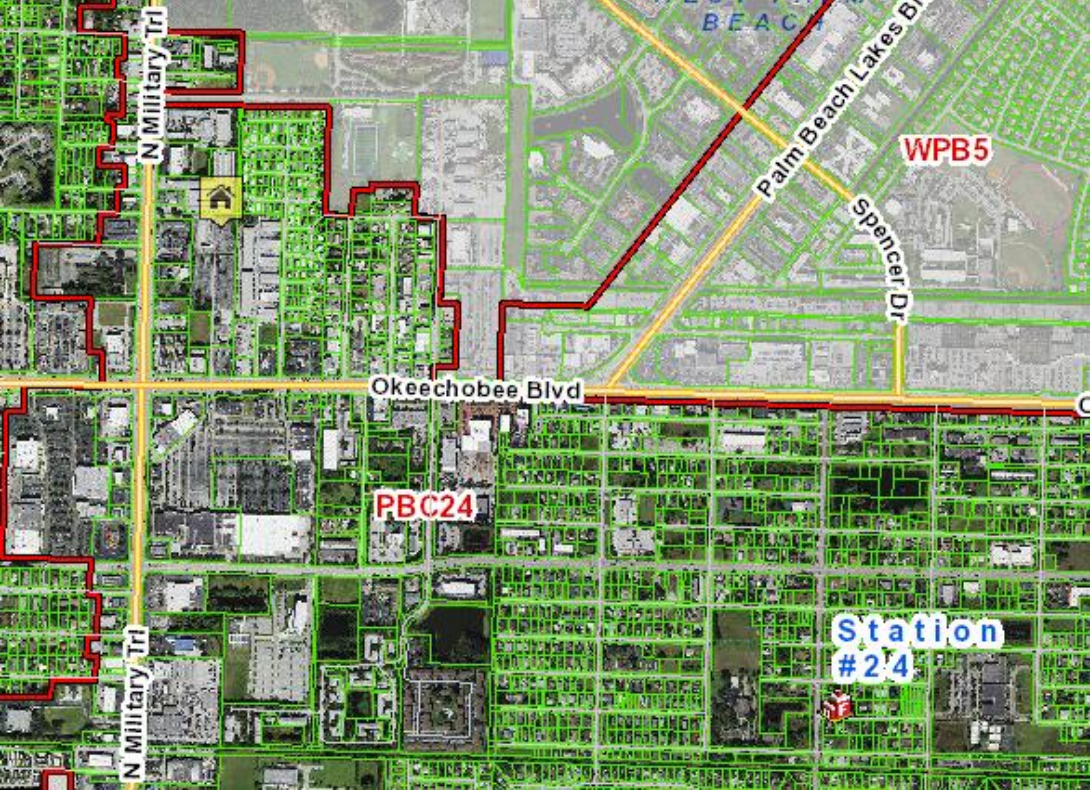
The Property Owner shall submit a drainage study that identifies historical flows that currently enter the site prior to the Final Site Plan approved by the DRO.

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 located within the boundaries of PBC Fire Station #24.



SCHOOL IMPACTS:

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

PARKS AND RECREATION:

This is a nonresidential project, therefore Parks and Recreation Department ULDC standards do not apply.

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

The Applicant intends to subdivide the property to the north by the existing Mail Handling Facility. In order to promote future development for potential owners. Furthermore, the existing development predates ULDC code requirements and intends to operate within a unified development with shared facilities, parking, access and vehicular use areas. Therefore, these changed conditions and circumstances necessitate the Zoning Amendment Request for the proposed MUPD district.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff is recommending approval of the request, subject to the Conditions of Approval in Exhibit C-1 and C-2.

CONDITIONS OF APPROVAL

EXHIBIT C-1:

Type 2 Variance – Concurrent Buildings A and B

ALL PETITIONS

1. The approved Preliminary Site Plan is dated August 11, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved as a new variance by the Zoning Commission. (ONGOING: ZONING - Zoning)
2. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM: BUILDING DIVISION - Zoning)
3. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD-2021-01547. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: MONITORING - Zoning)

COMPLIANCE

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

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-2:

Non-Residential Planned Development District (MUPD)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated August 11, 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. (ONGOING: ZONING - Zoning)

ARCHITECTURAL REVIEW

1. At the time of re-development of the site, all new structures shall comply with Article 5.C.1 - Architectural Guidelines in effect at that time. (ONGOING: ZONING - Zoning)

ENGINEERING

1. Prior to the issuance of the first building permit or December, 1, 2023, whichever shall occur first, 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. (BLDGPM/DATE: MONITORING - Engineering)

2. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

3. Prior to the approval of the Final Site Plan by the Development Review Officer, the Property Owner shall amend the driveways to meet Section 300 of the Design Standards Manual, or as approved by the County Engineer. (DRO: ENGINEERING - Engineering)

LANDSCAPE - GENERAL

1. Prior to October 27, 2023, the Property Owner shall replace all dead and missing plant materials on the entire subject property. (DATE/ONGOING: ZONING - Zoning)

PLANNING

1. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement for the location depicted on the site plans. (DRO: PLANNING - Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to add the Official records book and page number for the recorded cross access easement. (DRO: PLANNING - Planning)

3. 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)

SIGNS

1. Replacement or relocation of the existing freestanding signs the Property Owner shall comply with Article 8 - Signage, in effect at the time of permitting. (ONGOING: ZONING - Zoning)

COMPLIANCE

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

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

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of

any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

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

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

d. Referral to Code Enforcement; and/or

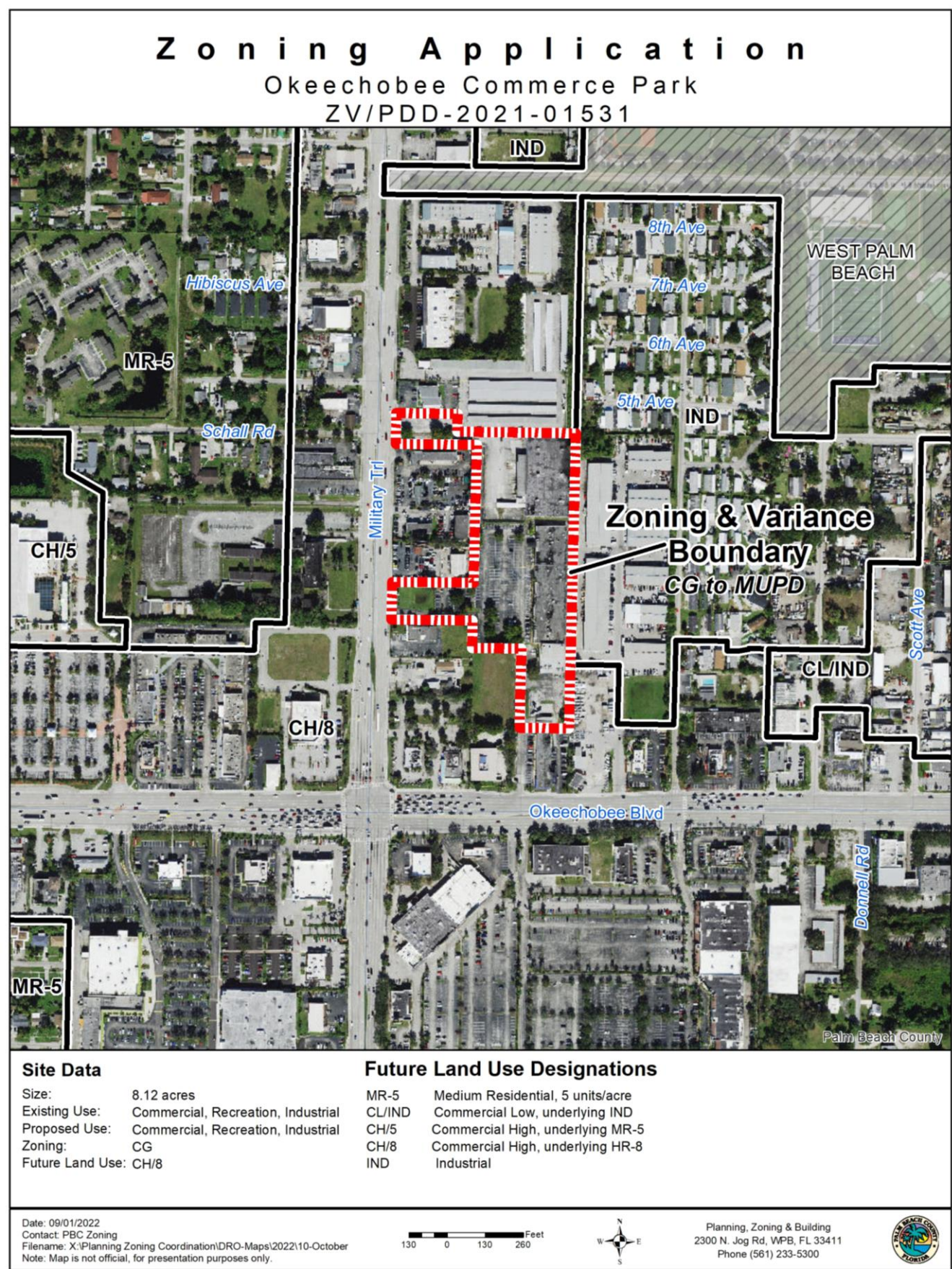
e. Imposition of entitlement density or intensity.

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

DISCLOSURE

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

Figure 1 - Land Use Map



Zoning Commission

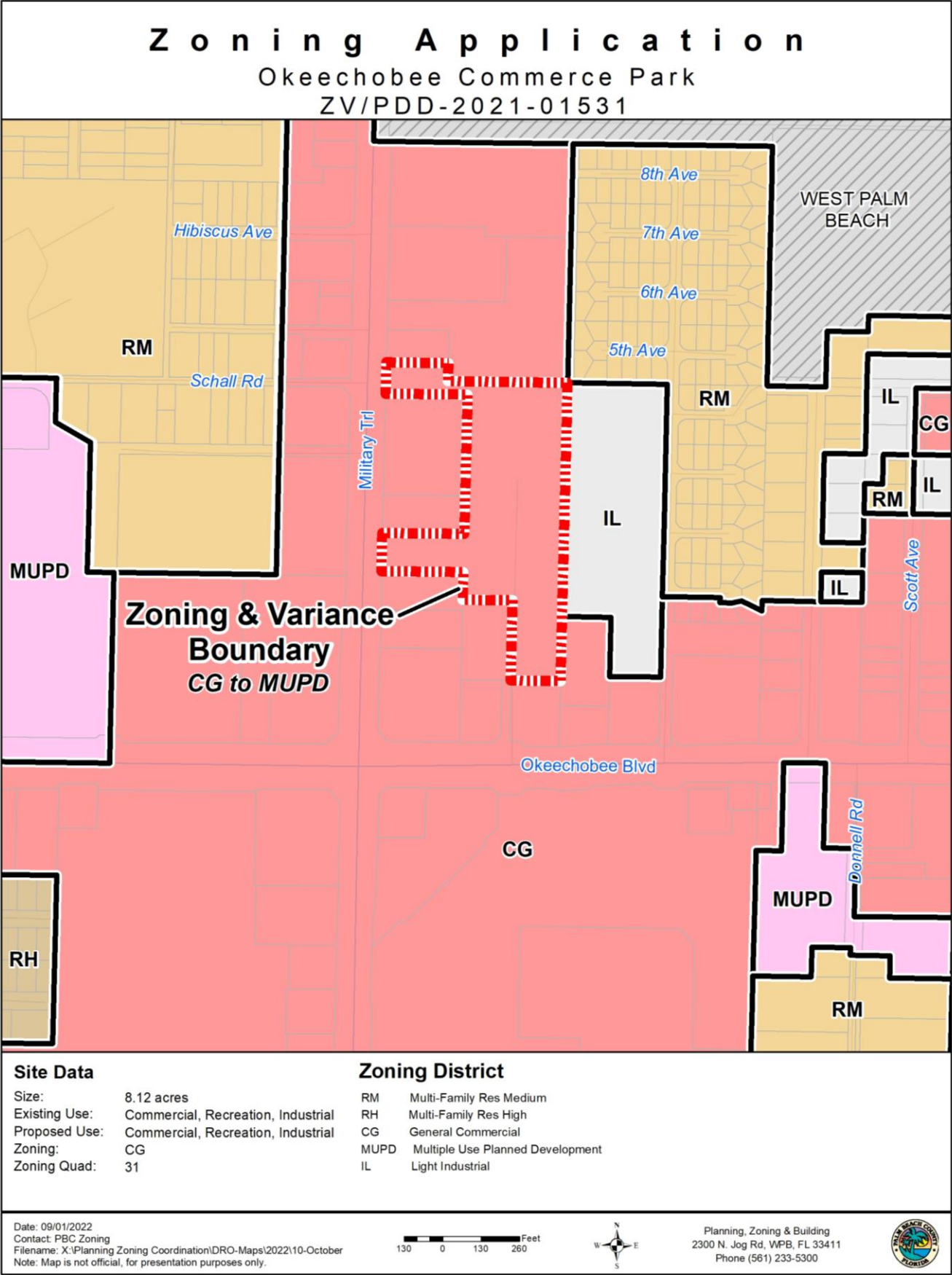
Application No. ZV/PDD-2021-01531

October 6, 2022

Page 11

Okeechobee Commerce Park

Figure 2 - Zoning Map



Page 13
Okeechobee Commerce Park

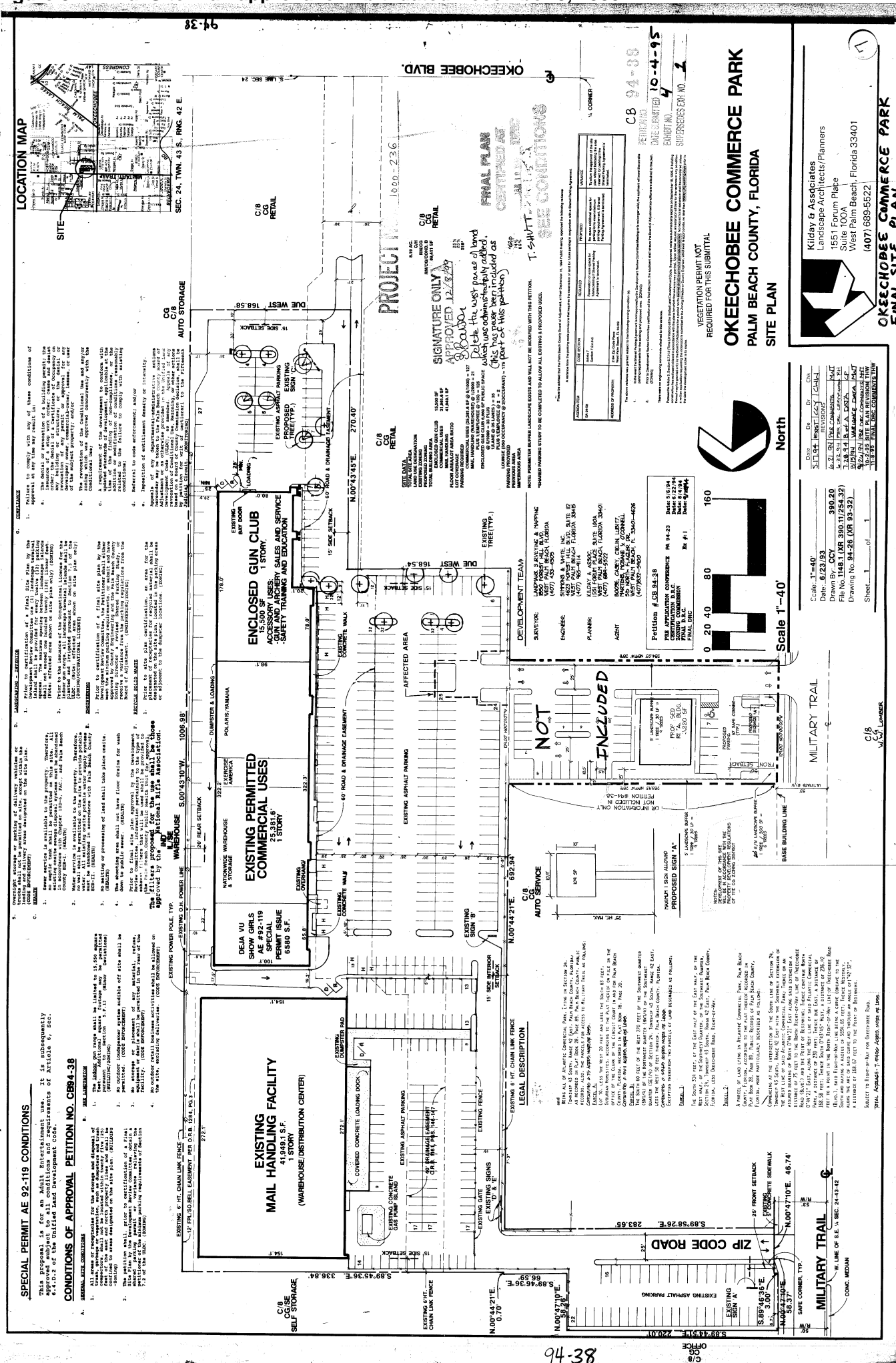


Figure 4 – Preliminary Site Plan dated August 11, 2022

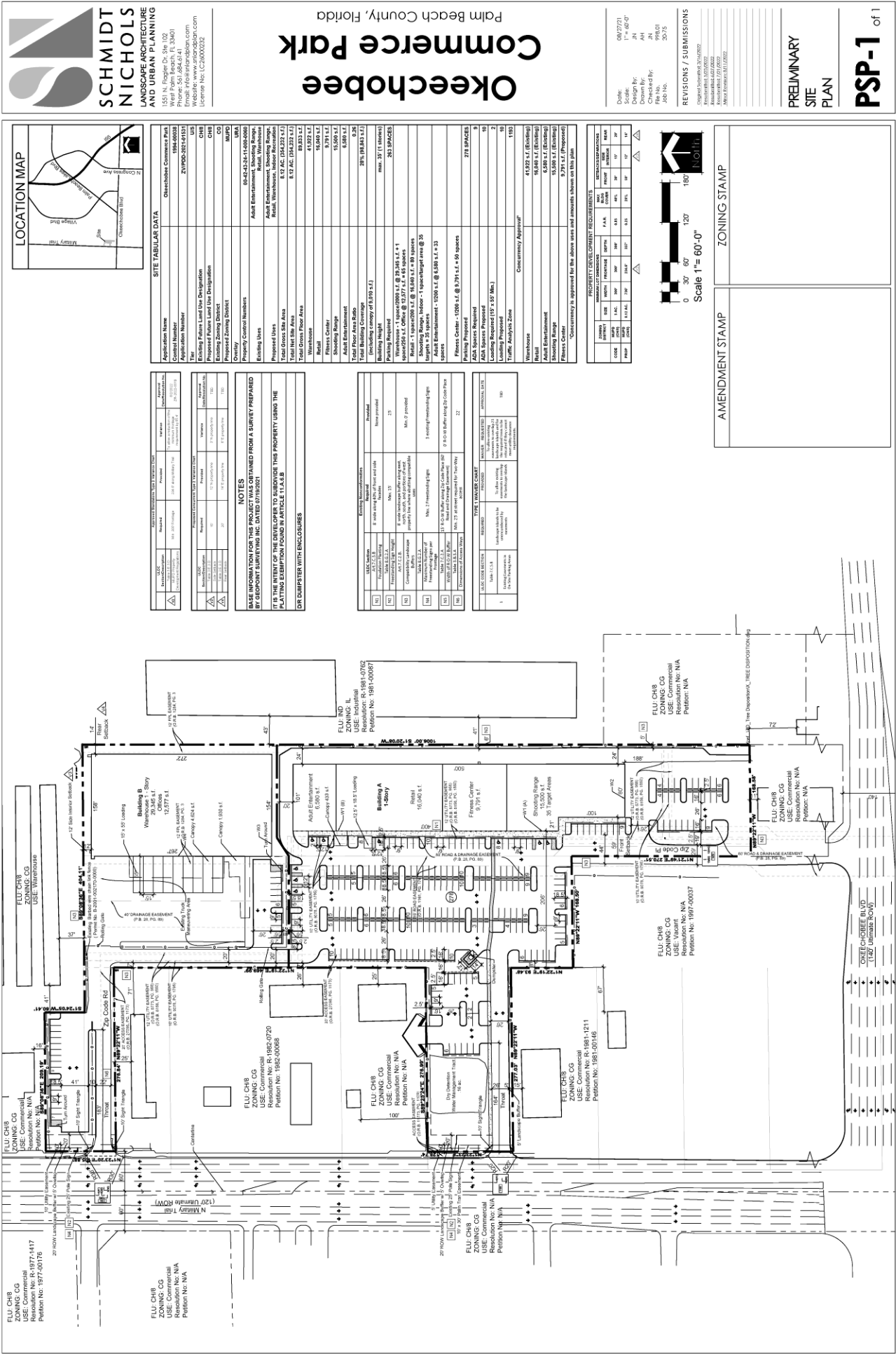
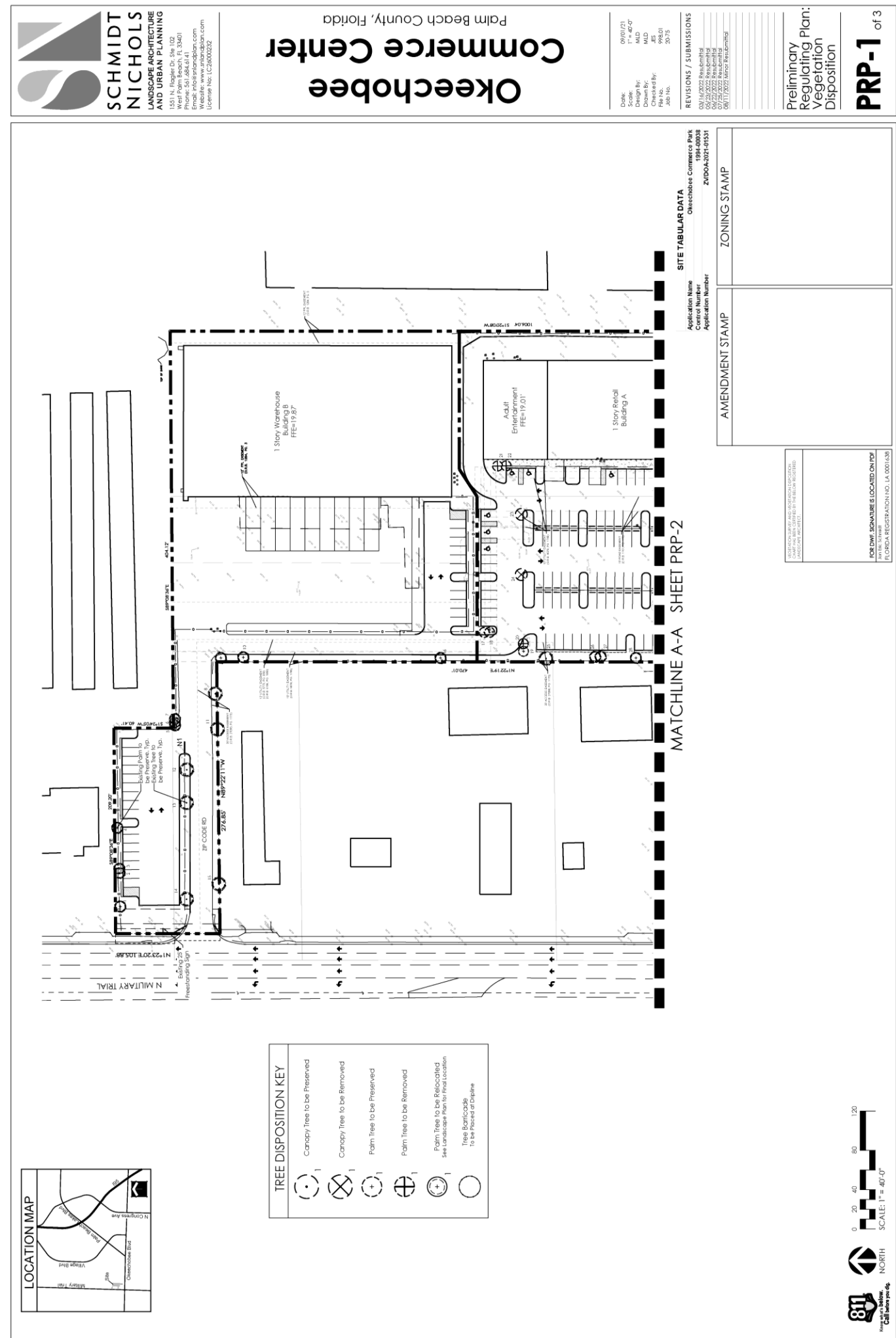


Figure 5– Preliminary Regulating Plan Sheet 1 of 3 dated August 11, 2022



Zoning Commission
Application No. ZV/PDD-2021-01531

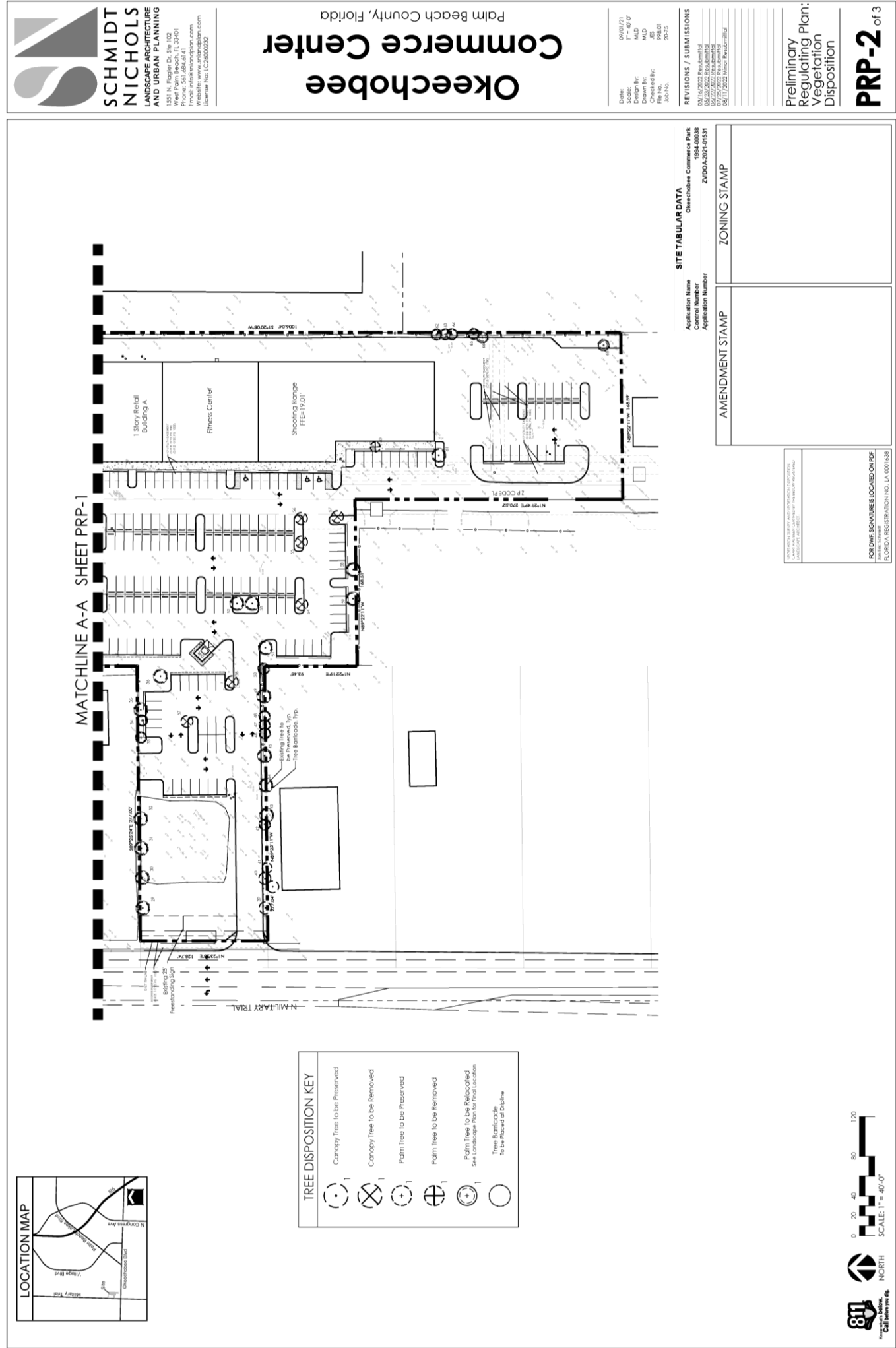


Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Kathy Vercher, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- Affiant is the ☐ individual or ☒ MGR of 2154 Zip Code Property, LLC [position - e.g., president, partner, trustee] [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.
- Affiant's address is: 1875 Tandem Way, Norco, CA 92860
- 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.
- 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.
- Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
- Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.



Kathy Vercher, Affiant
 (Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
 COUNTY OF PALM BEACH

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

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

, Notary Public
 (Signature)

My Commission Expires on: April 16, 2023

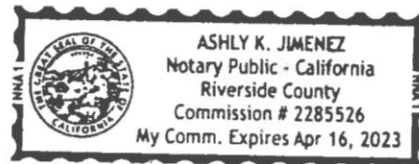


Exhibit A

DESCRIPTION:

LOT 6, LESS THE WEST 20 FEET OF SAID LOT, OF SUBURBAN HOMESITES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 18, PAGE 20, IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA;

TOGETHER WITH:

ALL OF ATLANTIC COMMERCIAL PARK, LYING IN SECTION 24 TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AS RECORDED IN PLAT BOOK 28, PAGE 89, PALM BEACH COUNTY PUBLIC RECORDS, ALSO TWO (2) PARCELS FOR ACCESS TO MILITARY TRAIL AS FOLLOWS:

PARCEL A:

LOT 10, LESS THE WEST 20 FEET AND LESS THE SOUTH 83 FEET, SUBURBAN HOMESITES, ACCORDING TO THE PLAT THEREOF ON FILE IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT IN AND FOR PALM BEACH COUNTY, FLORIDA, RECORDED IN PLAT BOOK 18 PAGE 20.

PARCEL B:

THE SOUTH 60 FEET OF THE WEST 270 FEET OF THE SOUTHWEST QUARTER (S.W. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, LESS THE WEST 50 FEET THEREOF PALM BEACH COUNTY, FLORIDA.

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

PARCEL 1:

THE SOUTH 314 FEET OF THE EAST HALF (E 1/2) OF THE EAST HALF (E 1/2) OF THE WEST HALF (W 1/2) OF THE SOUTHWEST QUARTER (S.W. 1/4) OF THE SOUTHEAST QUARTER (S.E. 1/4) OF SECTION 24, TOWNSHIP 43 SOUTH- RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS OKEECHOBEE ROAD, RIGHT-OF-WAY.

PARCEL 2:

A PARCEL OF LAND LYING IN ATLANTIC COMMERCIAL PARK, PALM BEACH COUNTY, FLORIDA, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 28, PAGE 89, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION, OF THE SOUTH LINE OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID ATLANTIC COMMERCIAL PARK; **THENCE** ON AN ASSUMED BEARING OF NORTH 0°44'21" EAST, ALONG SAID EXTENSION, A DISTANCE OF 75 FEET TO THE NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD (BLVD) **AND THE POINT OF BEGINNING**; **THENCE** CONTINUE NORTH 0° 44' 21" EAST, ALONG THE WEST LINE OF SAID ATLANTIC COMMERCIAL PARK, A

DISTANCE OF 239 FEET; THEN DUE EAST, A DISTANCE OF 168.58 FEET; THENCE SOUTH 0° 43' 45" WEST, A DISTANCE OF 236.42 FEET TO A POINT IN THE NORTH RIGHT-OF-WAY LINE OF OKEECHOBEE ROAD (BLVD) SAID RIGHT-OF-WAY LINE BEING A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 5654.65 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE AND THROUGH AN ANGLE OF 01° 42' 32" A DISTANCE OF 168.67 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

THE EAST 2.134 METERS (7.00 FEET) OF THE WEST 8.230 METERS (27.00 FEET) OF LOT 6, SUBURBAN HOMESITES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND LYING IN SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 4:

A PORTION OF LOT 10, SUBURBAN HOMESITES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGE 20, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND A PORTION OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OR SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A FOUND PALM BEACH COUNTY DISC IN CONCRETE STAMPED "24/25" MARKING THE SOUTH 1/4 CORNER OF SAID SECTION 24, SAID POINT BEING ON THE BASELINE OF SURVEY FOR STATE ROAD 809 (MILITARY TRAIL) AS SHOWN ON THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR SECTION 93150-2505; THENCE NORTH 01° 23' 20" EAST ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 24 AND SAID BASELINE OF SURVEY, A DISTANCE OF 421.545 METERS (1,383.02 FEET); THENCE SOUTH 88° 36' 40" EAST ALONG A LINE AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 15.240 METERS (50.00 FEET) TO A POINT ON THE EASTERLY EXISTING RIGHT-OF-WAY LINE FOR SAID STATE ROAD 809 (MILITARY TRAIL), AND THE NORTHERLY BOUNDARY LINE OF A PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORD BOOK 7831, PAGE 879 AND THE **POINT OF BEGINNING**; THENCE SOUTH 89° 08' 19" EAST ALONG SAID NORTHERLY BOUNDARY LINE, A DISTANCE OF 3.048 METERS (10.00 FEET); THENCE SOUTH 01° 23' 20" WEST ALONG A LINE 18.288 METERS (60.00 FEET) EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 24 AND SAID BASELINE OF SURVEY, A DISTANCE OF 32.318 METERS (106.03 FEET) TO A POINT ON A LINE 25.299 METERS (83.00 FEET) NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 10; THENCE NORTH 89° 08' 19" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 2.134 METERS (7.00 FEET) TO A POINT ON THE EASTERLY EXISTING RIGHT-OF-WAY LINE FOR SAID STATE ROAD 809 (MILITARY TRAIL); THENCE NORTH 01° 23' 20" EAST ALONG SAID EASTERLY EXISTING RIGHT-OF-WAY LINE AND A LINE 16.154 METERS (53.00 FEET) EAST OF AND PARALLEL WITH THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 24 AND SAID BASELINE OF SURVEY A DISTANCE OF 14.023 METERS (46.01 FEET) TO A POINT ON THE NORTH LINE OF SAID LOT 10; THENCE NORTH 89° 08' 19" WEST ALONG THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 0.914 METERS, (3.00 FEET); THENCE NORTH 01° 23' 20" EAST ALONG SAID EASTERLY EXISTING RIGHT-OF-WAY LINE AND A LINE 15.240 METERS (50.00 FEET) EAST OF AND PARALLEL WITH THE WEST LINE OF

THE SOUTHEAST 1/4 OF SAID SECTION 24 AND SAID BASELINE OF SURVEY, A DISTANCE OF 18.295 METERS (60.02 FEET) TO THE **POINT OF BEGINNING**.

MORE PARTICULARLY DESCRIBED AS:

A PARCEL OF LAND LYING IN SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER (1/4) OF SECTION 24, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; THENCE S.0°30'40"W., A DISTANCE OF 3912.01 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (STATE ROAD 809) AS RECORDED IN OFFICIAL RECORD BOOK 11871, PAGE 260, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; ALSO BEING THE **POINT OF BEGINNING**; THENCE S.89°08'36"E., A DISTANCE OF 209.19 FEET; THENCE S.01°24'05"W., A DISTANCE OF 60.41 FEET; THENCE S.89°08'36"E., A DISTANCE OF 404.11 FEET; THENCE S.01°20'08"W., A DISTANCE OF 1006.00 FEET; THENCE N.89°22'11"W., A DISTANCE OF 168.58 FEET; THENCE N.01°21'49"E., A DISTANCE OF 270.51 FEET; THENCE N.89°22'11"W., A DISTANCE OF 168.50 FEET; THENCE N.01°22'19"E., A DISTANCE OF 93.48 FEET; THENCE N.89°22'11"W., A DISTANCE OF 277.03 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (STATE ROAD 809) AS RECORDED IN OFFICIAL RECORD BOOK 11871, PAGE 256, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.01°23'23"E ALONG SAID EAST RIGHT-OF-WAY LINE., A DISTANCE OF 128.74 FEET; THENCE S.89°25'24"E., A DISTANCE OF 276.99 FEET; THENCE N.01°22'19"E., A DISTANCE OF 469.99 FEET; THENCE N.89°22'11"W., A DISTANCE OF 276.84 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (STATE ROAD 809) AS RECORDED IN OFFICIAL RECORD BOOK 11871, PAGE 260, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; THENCE N.01°23'20"E ALONG SAID EAST RIGHT-OF-WAY LINE., A DISTANCE OF 105.88 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 354,232 SQUARE FEET OR 8.123 ACRES MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

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

Exhibit E – Applicant’s Justification Statement dated March 15, 2022



Justification Statement
Okeechobee Commerce Park
Palm Beach County (PBC) Submittal
Rezoning & Concurrent Type 2 Variance Application Submittal
Original Submittal: March 15, 2022

Introduction

Schmidt Nichols (“Agent”), on behalf of the Applicant and Property Owner, 2154 Zip Code Property, LLC (“Applicant”) to seek a Rezoning approval from the site’s existing General Commercial (CG) zoning to Multiple Use Planned Development (MUPD) and approval of concurrent Type 2 Variance requests.

Currently, the subject property supports a Future Land Use Atlas Designation of Commercial High with underlying High Density Residential, 8 units per acre (CH/8) and falls within the Urban/Suburban (U/S) Tier according to the Growth Management Tier System Maps outlined in the Comprehensive Plan Future Land Use Element. The site also has an existing zoning designation of CG with an existing SE/PCD approval.

As part of this subject application, the applicant proposes to rezone the subject property to the MUPD zoning district, which is consistent with the existing CH/8 FLU designation. Furthermore, the applicant proposes to preserve the existing uses on the subject site: Retail, Warehouse, Shooting Range, and Adult Entertainment, and proposes to add an Fitness Center use through the DRO Use Approval process following approval by the BCC of the subject rezoning application. The applicant also requests several Type II Variances to address site design elements that cannot conform with current ULDC standards without significant hardship. A Type 1 Waiver will also be requested at the time of DRO to accommodate proposed landscape islands in the parking areas of the site that are encumbered by existing easements. All required trees in these landscape islands will be relocated on site if utility clearance requirements cannot be met.

The 8.12-acre subject site is composed of one parcel (PCNs 00-42-43-24-11-000-0060) located on the east side of Military Trail approximately 650 feet north of the intersection of Okeechobee Boulevard and Military Trail in unincorporated Palm Beach County, Florida (“subject properties”). The applicant proposes the subject rezoning from General Commercial (CG) to Multiple Use Planned Development (MUPD) to take advantage of exceptions from Article 11 subdivision standards so the existing warehouse (Building B) can be subdivided and individually sold to another owner/operator, while maintaining a unified commercial development. There are no additional uses or structure proposed beyond what is currently approved on the existing plan of record.

The proposed site plan consists of two existing structures (buildings A and B) per the existing site plan of record. Building A is an existing structure that consists 47,911 s.f., 6,580 of which is an existing permitted Adult Entertainment use, 15,500 is an existing permitted indoor Shooting Range, 16,040 s.f. is existing Retail space, and 9,791 s.f. is proposed to be a Fitness Center facility which is Permitted by Right per Article 4 ULDC standards.. Building B is an existing Warehouse structure that consists 41,922 s.f. Moreover, the site is currently constructed per the existing site plan of record, however there are a number of existing site features that are nonconforming with the current ULDC regulations and with the standards for the proposed MUPD zoning district. Therefore, some of these items are vested as nonconforming site

1551 N. Flagler Drive #102 West Palm Beach, Florida 33401 ■ Tel. (561)684-6141 ■ Email jschmidt@snlandplan.com

elements, while others that are specific to the proposed MUPD zoning district are requested as Type 2 Variances.

Below is a summary of surrounding properties:

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

Project History

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

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

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

Existing Nonconformities

The subject site is currently built out in accordance with the approved site plan of record (Control No. 1994-00038 Exhibit 4, Page 0). Some of the existing site elements that were constructed according to that plan no longer comply with the current requirements and property development regulations of the Unified Land Development Code. As a result, these items are identified as existing nonconforming site elements. The chart below summarizes these site elements:

Existing Nonconformities			
	ULDC Section	Required	Provided
N1	Art.7.C.3.B	8' wide along 40% of front and side facades	None provided
	Foudation Planting		
N2	Table 8.G.2.A	Max. 15'	25'
	Freestanding Sign Height		
N3	Art.7.C.2.B.	8' wide landscape buffer along east, north, south, and portions of west property line where abutting compatible uses	Min. 0' provided
	Compatibility Landscape Buffers		
N4	Table 8.G.2.A	Max. 2 Freestanding Signs	3 existing Freestanding Signs
	Maximum Number of Freestanding Signs per Frontage		
N5	Table 7.C.2.A	15' R-O-W Buffer along Zip Code Place (60' Road and Drainage Easement)	0' R-O-W Buffer along Zip Code Place
	Width of R-O-W Buffer		

Overlays

The subject site is located within Palm Beach County’s Urban Redevelopment Area Overlay. This overlay covers the central portion of Palm Beach County and includes special Priority Redevelopment areas which follow specific code requirements in Article 3.B.16 of the ULDC. The subject site, while located within the URAO, is not located within a Priority Redevelopment Area. The proposed rezoning and variance do, however, adhere to the intent of the Urban Redevelopment Area Overlay. Specifically, the items found in Article 3.B.16.A – Purpose and Intent as follows:

- 1. *Implement the concepts of the July 2007 Palm Beach County Redevelopment Area Planning Study and Corridor Master Plan, prepared by the Treasure Coast Regional Planning Council, inclusive of the 2009 Planning Division addendum, and the 2016 amendments to the Plan (Ord. 2016-037), URA Alternative Revisions;*

Response: The proposed rezoning is consistent with the concepts set forth in the Palm Beach County Redevelopment Area Planning Study and Corridor Master Plan. While the applicant is not proposing redevelopment at this time, the proposed rezoning to the MUPD zoning district allows for greater flexibility of land uses and development standards in the future.

- 2. *Implement the Urban Redevelopment Area (URA) Objectives and Policies of the Plan, with an emphasis on Priority Redevelopment Area (PRA) Policies;*

Response: The proposed rezoning is consistent with the Objectives and Policies of the Plan, however it is not located within a Priority Redevelopment Area.

3. *Utilize Smart Growth and Form Based Coding principles to establish standards that create a predictable regulatory framework and built form that improves the aesthetics of the streetscape and establishes, enhances the pedestrian realm, and encourages redevelopment of the PRAs;*

Response: The subject site is not located within a Priority Redevelopment Area and is therefore not required to follow the form based code principals. The proposed rezoning is from the CG designation to MUPD, which is a standard zoning district that adheres to the MUPD Property Development Regulations.

4. *Encourage a compact, mixed use, and walkable development form, with an emphasis on safety, comfort, and ecological responsibility;*

Response: The subject request to rezone the site to the MUPD district is in compliance with this intent. The MUPD zoning district allows for multiple land uses on the same overall development site, including residential uses. Furthermore, the MUPD zoning district has specific performance standards that include things like improving pedestrian safety. While the applicant is not proposing any development of this site at this time, they are proposing to bring the site into conformance with current MUPD property development and performance standards to the greatest extent possible.

5. *Create an interconnected pedestrian friendly street network that establishes parallel, alternate vehicular routes between the PRAs and creates new blocks that are a walkable scale;*

Response: The subject site is not located within a Priority Redevelopment Area and the applicant is not proposing any redevelopment of the site at this time as part of this Rezoning request.

6. *Advocate walking, cycling, mass transit, or other modes of transportation as viable alternatives to automobile use by encouraging the development of commercial, civic, and recreational uses that provide for the daily needs of residents within walking distance;*

Response: The proposed rezoning would designate the site with MUPD zoning designation. This designation allows for multiple land uses within the same development, including commercial and residential uses. Furthermore, the MUPD zoning district has performance standard

requirements that include standards for pedestrian circulation which are in adherence with the intent of the URA. While the applicant does not propose any redevelopment of the site at this time, the proposed rezoning will allow for redevelopment in the future that is in conformance with the intent of the URA overlay.

7. *Promote mixed use development that balances housing with employment, commercial, and civic uses;*

Response: The proposed rezoning to the MUPD zoning district will allow for multiple uses to be located within the same overall development, including residential and non-residential uses.

8. *Provide a variety of housing types to support residents of diverse ages, incomes, family sizes, ethnicities, and lifestyles;*

Response: The existing development is non-residential in nature, however the proposed rezoning to the MUPD zoning district will allow for multiple uses to be located within the same overall development, including residential and non-residential uses.

9. *Promote sustainability by integrating the social, economic, and ecological needs of the community with overall regional, State, and national policy advocating management of resources for future generations;*

Response: While the applicant does not propose any redevelopment as part of this application, the proposed rezoning of the subject property to the MUPD zoning district results in an opportunity for infill redevelopment that utilizes existing infrastructure. This promotes sustainability of natural resources as it does not convert greenfield lands into development sites.

10. *Redevelop retail uses along the PRA corridors along stipulated street frontages;*

Response: The subject property is not located within a PRA corridor.

11. *Simplify and facilitate the permitting process; and,*

Response: The subject application is for a rezoning and variances to allow for a subdivision of the northern half of the subject parcel. The URA overlay has no impact on this process.

12. *To encourage redevelopment and revitalization of commercial corridors by establishing standards that recognize various opportunities, challenges,*

and constraints. Certain standards may be altered through a Waiver process.

Response: The proposed rezoning to the MUPD zoning district creates an opportunity for redevelopment of the site with multiple uses including residential and non-residential uses. The site is not located within a PRA and therefore cannot utilize the waiver processes and standards cited in this item.

Requests

Request 1: Rezoning from General Commercial (CG) to Multiple Use Planned Development (MUPD)

The Applicant respectfully requests consideration to rezone the subject property from the current zoning designation of General Commercial (CG) to Multiple Use Planned Development (MUPD). Below are the specific standards for a rezoning:

Per ULDC 2.B.7.A.2: *When considering a Development Order application for rezoning to a standard zoning district, the BCC and ZC shall consider Standards a - g indicated below.*

a. Consistency with the Plan: *The proposed amendment is consistent with the Plan.*

Response: The subject property has a future land use (FLU) designation of Commercial High with underlying High Density Residential, 8 units per acre (CH/8) which is consistent with the proposed MUPD zoning district.

Policy 1.2.2-h: *The County shall require inter-connectivity in the URA between complementary neighboring land uses for both vehicular and pedestrian cross access, which shall be implemented through criteria established in the ULDC.*

The subject site has an existing cross access point to the neighboring commercial property at 2172 N Military Trail (PCN: 00-42-43-24-11-000-0070). The subject application does not propose any new development on this site including no changes to this existing cross access point.

Policy 4.4.7-a: *The purpose of a Multiple Use Planned Development (MUPD) is to provide for the efficient use of land by the integration of multiple uses, or large single uses, within a unified development in order to provide opportunities for enlightened and imaginative approaches to community planning and site design.*

The subject site already exists and operates in a fashion that is consistent with the purpose and intent of a Multiple Use Planned Development. However, it was developed prior to the existence of the MUPD zoning district, so it holds an antiquated General Commercial zoning designation. The proposed rezoning seeks to correct this condition and allow the site to be improved in the future in accordance with the stated purpose and intent of a Multiple Use Planned Development.

Policy 4.4.7-b: The Multiple Use Planned Development (MUPD) shall be subject to the following design objectives:

1. Provide innovative building location and orientation;
2. Protect adjacent residential uses from potential adverse impacts;
3. Provide interconnection between uses in and adjacent to the project; and
4. Allows for both residential and non-residential uses within a single project designed in a manner that fosters compatibility within the project and with adjacent properties.

The applicant proposes the subject rezoning to the MUPD district with the intent of subdividing the property to allow sales to various owners, while still maintaining a unified and interconnected development with multiple uses. The flexibility and innovative design permitted and promoted by the MUPD zoning allows the site to be more marketable to owners and operators of the various users and outparcels who expect a modern unified development with multiple users and shared facilities. Under the site's existing standard CG zoning, this flexibility and innovative design is restricted to a higher degree and therefore makes the site less marketable and holds it back from being improved over time. Furthermore, the applicant is proposing to preserve the site's existing design as much as possible as they are not proposing any additional intensity to the site. The property currently has interconnections to adjacent properties to the south via a road and drainage easement to Okeechobee Boulevard. Furthermore, the site has existing circulation to all sections of the property and these connections are proposed to remain. Future proposals to add intensity to this site may require additional cross connections both internally and to neighboring parcels.

- 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*

Response: The proposed amendment and corresponding site plan are in compliance with ULDC Articles 2, 3, 4, 5, 6, 7 and 8 as detailed below:

Article 2: The proposed Rezoning and concurrent Type 2 Variance requests are consistent with Article 2 as it relates to the public hearing procedures and application requirements. Complete applications have been filed for Rezoning and a Type 2 Variances.

Article 3: The proposed Rezoning is consistent with Article 3 as it relates to Overlays and Zoning Districts, specifically:

The proposed amendment meets the intent of ULDC Table 3.E.3.D, MUPD Property Development Regulations, in that the site plan:

- Minimum lot size of 5 acres (8.12 acres provided),
- Minimum width and frontage of 300 feet (264 feet of frontage on Military Trail subject to Standalone Type 2 Variance approval),
- Minimum depth of 300 feet (337 feet of depth provided),
- Maximum building coverage of 30% (29% building coverage provided);
- Does not exceed the maximum FAR of .85 for CH FLU (.29 FAR provided);
- The site meets the minimum setbacks for MUPD as follows:

- Front: 30 feet (59 feet provided);
- Side Interior: 15 feet (13 feet provided, subject to Variance); and
- Rear: 20 feet (14 feet provided, subject to Variance).

Per Article 3.E.1.C.2, Planned Development Districts shall meet the following performance standards:

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; [Ord. 2010-022] [Ord. 2012-027]

a) Type 2 Waiver – Infill Development

The BCC may grant a Type 2 Waiver to reduce the frontage requirement in the U/S Tier upon demonstration by the Applicant that the requirements cannot be satisfied by any other means and by complying with the following standards: [Ord. 2005-002] [Ord. 2010-022] [Ord. 2012-027]

- (1) the reduction is the minimum necessary to provide safe and adequate access to the project; [Ord. 2005-002]
- (2) the reduction will not result in any undue hardship or adverse impact on adjacent Property Owners; [Ord. 2005-002]
- (3) the reduction will not adversely affect the development of adjacent land in accordance with the Plan and this Code; [Ord. 2005-002]
- (4) the reduction is supported by the County Engineer and PZB; [Ord. 2005-002]

b) PUD Minimum

The BCC shall not reduce the frontage requirements below the following thresholds: [Ord. 2005-002]

- (1) 1,500 trips or less: 50 feet of frontage. [Ord. 2005-002]
- (2) More than 1,500 trips: 80 feet of frontage. [Ord. 2005-002]

Further reductions from the frontage requirements shall only be allowed by the ZC as a Type 2 Variance in accordance with Art. 2.B.7.E, Type 2 Variance. [Ord. 2005-002]

Response: The subject site meets this requirement for frontage. The subject site has 234.6' of frontage on Military Trail.

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

Response: The subject site has access to Military Trail which is an Arterial street.

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: The proposed site design includes modifications to the existing parking lot to allow for better access and circulation throughout the site.

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

Response: There is no additional traffic proposed as part of this rezoning request. The subject site has existing land uses that are to remain in place.

5) Cul-de-Sacs

The objective of this provision is to recognize a balance between dead-end streets and interconnectivity within the development. In order to determine the total number of Local Streets that can terminate in cul-de-sacs, the Applicant shall submit a Street Layout Plan, pursuant to the Technical Manual. The layout plan shall indicate the number of streets terminating in cul-de-sacs, as defined in Art. 1, General Provisions of this Code, and how the total number of streets is calculated. During the DRO certification process, the Addressing Section shall confirm the total number of streets for the development, which would be consistent with how streets are named. Streets that terminate in a T-intersection providing access to less than four lots, or a cul-de-sac that abuts a minimum 20-foot-wide open space that provides pedestrian cross access between two pods shall not be used in the calculation of total number of cul-de-sacs or dead-end streets. [Ord. 2008-037]

a) 40 percent of the Local Streets in a PDD may terminate in a cul-de-sac or a dead end by right. [Ord. 2007-001] [Ord. 2008-037]

b) An additional 25 percent of the Local Streets in a PDD may terminate in a cul-de-sac pursuant to a Type 2 Waiver application approved by the BCC. The BCC shall consider the following additional standards when deciding whether or not to approve the Waiver. [Ord. 2007-001] [Ord. 2008-037] [Ord. 2012-027]

(1) cul-de-sacs terminate in an open space that provides amenities accessible to the residents of the development; and [Ord. 2008-037]

(2) cul-de-sacs connect to a pedestrian system including but not limited to sidewalks, and designated path or trail systems. [Ord. 2008-037]

Response: Not applicable. The applicant is not proposing any cul-de-sacs or dead end streets.

6) Non-residential PDDs shall provide cross access to adjacent properties where possible, subject to approval by the County Engineer;

Response: The subject site has an existing cross-access point to the neighboring commercial property located at 2172 N Military Trail (PCN: 00-42-43-24-11-000-0070).

7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project; and,

Response: The applicant is not proposing the construction of any streets as part of this rezoning application.

8) Public streets in the project shall connect to public streets directly adjacent to the project. If no adjacent public streets exist, and the County Engineer determines that a future public street is possible, a connection to the property line shall be provided in a location determined by the County Engineer. This standard may be waived by the BCC.

Response: Not applicable. The subject site does not include any public streets.

b. Street Lighting

Street lights shall be a maximum of 25 feet in height and shall be installed along all streets 50 feet in width or greater. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with Art. 5.E, Performance Standards.

Response: The applicant is not proposing any streets and is therefore not required to install street lighting. This is an existing development that is to remain in its existing condition wherever possible.

c. Median Landscaping

Refer to the most recent Engineering and Public Works Operations – Streetscape Standards available from the PBC Engineering Department. [Ord. 2011-001]

Response: The applicant is not proposing any street medians as part of this rezoning application. All medians within parking and circulation areas will be planted with the landscape material required by Article 7 of the ULDC.

d. Street Trees

Street trees shall meet the Canopy tree requirements of Art. 7, Landscaping and planting standards pursuant to Engineering and Public Works Operations – Streetscape Standards, and as follows: [Ord. 2011-001]

1) Street trees shall be spaced an average of 50 feet on center. Palms meeting the requirements of Art. 7, Landscaping and Engineering and Public Works Operations – Streetscape Standards, may be planted as street trees if spaced an average of 40 feet on center. [Ord. 2011-001]

2) Street trees shall be located along both sides of all streets 50 feet in width or greater and shall be planted between the edge of pavement and sidewalk. Appropriate root barrier techniques shall be installed where applicable. [Ord. 2011-001]

3) Street trees shall be installed in accordance with the phasing of the Planned Development pursuant to Art. 7.F.2.B.1, Developments with Phasing. For residential PDDs, planting of street trees shall be completed prior to the issuance

of the final Certificate of Occupancy within that phase or pursuant to Conditions of Approval. [Ord. 2011-001]

4) This requirement may be waived or modified by the County Engineer if the location of the proposed street trees conflict with requirements of Art. 11, Subdivision, Platting, and Required Improvements. [Ord. 2011-001]

Response: Not applicable. The applicant is not proposing any streets as part of this rezoning application.

e. Bike Lanes

Bike lanes shall be provided in all streets 80 feet in width or greater, unless an alternative is approved by the County Engineer in accordance with Art. 11, Subdivision, Platting, and Required Improvements.

Response: Not applicable. The applicant is not proposing any streets as part of this rezoning application.

f. Mass Transit

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

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

Response: A 10' by 30' Palm Tran Easement is proposed along the subject site's frontage on Military Trail.

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.

- 1) Exceptions

- a) Primary facilities and high voltage wires.
- b) Lift stations, transformers, and other above-ground structures necessary for the function of utility services. Such above-ground structures shall be screened from view from adjacent R-O-W by landscaping, fences, walls, or combination.

Response: The proposed site plan as part of this rezoning application includes two proposed Utility Easements located along the property's frontage on Military Trail.

h. Parking

1) Residential Uses

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

2) Non-Residential Uses

Non-residential uses located within a PDD may apply the parking standards indicated in Table 6.B.1.B, Minimum Parking and Loading Requirements, based on the use or the minimum/maximum parking standards below or a combination of both. The Site Plan shall clearly indicate which parking standards are being utilized for the entire site. [Ord. 2009-040] [Ord. 2019-005]

a) Minimum/Maximum Parking Standards

- (1) Minimum: one space per 250 square feet of GFA (4/1,000)
- (2) Maximum: one space per 166.66 square feet of GFA (6/1,000)

b) Exceptions – MLU/EDC

Parking for large-scale and regional facilities in excess of 500,000 gross square feet may be reduced to one space per 333.33 square feet of GFA (3/1,000).

3) Design

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

4) Cross Access

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

5) Location – Non-Residential PDDs

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

6) Distance

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

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 applicant proposes to utilize the individual parking requirements for each individual use per Article 6 of the ULDC. Furthermore, the subject site is currently built out and existing conditions are to remain in place wherever possible with regard to the design of the parking areas. This rezoning application does not propose any new development or intensity.

i. Way Finding Signs

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

j. Emergency Generators

A permanent emergency generator shall be required to meet the standards of Art. 5.B.1.A.19, Permanent Generators. [Ord. 2006-004] [Ord. 2010-022] [Ord. 2021-022]

Response: The applicant does not propose any new signage as part of this rezoning application including wayfinding signage.

Article 4: The proposed Rezoning is consistent with Article 4 as it relates to the use regulations, specifically in Article 4. The applicant is not proposing any uses with this application, as all uses are vested per the existing DO of record and/or existing and operating. These uses are as follows: 45,045 s.f. of retail, 41,825 s.f. of which are existing. The remaining 3,220 s.f. of retail uses are vested per the existing site plan of record. The 6,580 s.f. Adult Entertainment use is also existing and permitted subject to an existing special use permit. Finally, the existing Warehouse use consists 41,922 s.f. and is located at the northern end of the site. As stated above, these uses are all existing and/or vested by the site plan of record. No additional uses are proposed or requested as part of this rezoning application.

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

Article 6: The proposed Rezoning is consistent with Article 6 Parking, specifically the following:

The proposed amendment meets the standards listed in ULDC Art.6 (subject to the proposed variances), Parking, as follows:

- Per ULDC Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements, the project will provide the minimum off-street parking spaces for the uses as follows:
 - Warehouse
 - Parking
 - 1 Space / 2,000 s.f. @ 41,922 s.f. = 21 Spaces
 - Retail
 - Parking
 - 1 Space / 200 s.f. @ 45,045 s.f. = 225 Spaces

- Shooting Range, Indoor
 - Parking:
 - 1 Space / Target Area @ 35 target areas = 35 Spaces
- Adult Entertainment
 - Parking:
 - 1 Space / 200 s.f. @ 6,580 s.f. = 33 spaces

Required Parking: 314 spaces
Parking Provided: 353 Spaces

- Per ULDC Table 6.A.1.D, Parking Space for Persons Who Have Disabilities, the proposed amendment meets the required spaces for persons who have disabilities as follows:
 - **Required 9 ADA Spaces**
 - **Provided 10 ADA Spaces**

Per ULDC Art.6.B.1.E.1, Width, the loading spaces provided will be a minimum of 15 feet in width and per ULDC Art.6.B.1.E.2, Length, the loading spaces provided will be a minimum of 55 feet in length.

- **Required 15' x 55' Loading Spaces: 3 Spaces**
- **Provided 15' x 55' Loading Spaces: 9 Spaces (equivalent based on dimensions of existing loading areas)**

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

The proposed amendment meets the standards listed in ULDC Art.7, Landscaping (subject to variances), as follows:

- Per Table 7.C.2.A, Width of R-O-W Buffer, the project must provide a minimum of a 20-foot wide ROW landscape buffer along Military Trail (see Type 2 Variance requests below);
- An 8' Compatibility Landscape Buffer is provided adjacent to compatible uses to the south per Article 7 requirements (see Type 2 Variance requests below)
- Landscaping for Off-Street Parking areas are currently existing nonconforming elements on this site and are therefore memorialized on the site plan with the Nonconformity identification chart.

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

Per ULDC Table 8.G.1.A-4, Wall Sign Standards, the project has existing permitted wall signage that is memorialized on the Master Sign Plan and the applicant is not currently proposing any new wall signage, but if proposed later, it will comply with the standards for the U/S Tier:

- *Maximum Sign Area:*
 - *1.0 square feet for each lineal foot of the front wall to which the sign is attached;*
 - *0.5 square feet for each lineal foot of the side and rear wall to which the sign is attached; or*

- 0.25 square feet for each lineal foot of the wall to which the sign is attached if it faces a residential zoning district
- Allowable facades: Front, Side and Rear if facing a street;

Per ULDC Table 8.G.2.A – Freestanding Sign Standards, the subject site has three existing freestanding signs that are identified and memorialized in the Master Sign Plan. These signs are existing nonconforming as they are permitted and memorialized per the site plan of record. The applicant is not currently proposing any new freestanding signs, but if proposed later, it will comply with the standards for the U/S Tier:

- Maximum Number Per Project: 2 Signs
- Maximum Sign Area (per linear feet of frontage): 1.0 square feet
- Maximum Sign Area (per individual sign): 200 square feet
- Minimum setback: 5 feet

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

Response: The rezoning of the subject property will be compatible with the surrounding land uses. The surrounding land uses are entirely non-residential and are zoned and have FLU designations for commercial development. The proposed rezoning to an MUPD would allow the applicant to subdivide the property without having to address and meet all subdivision requirements for frontage and access, by simply recording meets and bounds of the newly proposed parcel as part of a plat. This allows significant flexibility to the applicant to market outparcel opportunities to new owners and give the property a better chance at being revitalized and upgraded over time. This is compatible with other non-residential uses on neighboring parcels that consist mainly of commercial uses. The site is also located near the hard corner of Military Trail and Okeechobee Boulevard, which are both major commercial corridors in the County, which is consistent with the existing and proposed use of the site.

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

Response: The subject property does not support any significant habitats or Listed Species. It would not be reasonably expected for any Listed Species to be present due to the site being completely developed and based on the current commercial operations existing on the site. Therefore, the proposed rezoning will not have a negative effect on the natural environment.

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

Response: The subject property is currently zoned General Commercial (GC) and has a CH/8 FLU designation, which is consistent with the existing uses on the site. The proposed MUPD zoning district is also consistent with the CH/8 FLU designation and with the existing uses on the site. The applicant does not propose any additional

development as part of this application. The existing operation and uses on the subject property operate as a unified development, consistent with the intent of the MUPD zoning district.

f. Adequate Public Facilities: The proposed amendment complies with Art. 2.F, Concurrency.

Response: There are no adverse impacts on public facilities anticipated from this development.

Traffic: The proposed project meets the County's Traffic Performance Standards. See Traffic Generation Statement prepared by Simmons & White.

Potable Water & Wastewater: Water and sewer is available to site and is provided by Palm Beach County.

Drainage: No modifications to the storm drainage system, impervious area, or buildings are proposed. The existing drainage system consists of drainage inlets, storm sewer, exfiltration trench and dry retention and will remain unchanged. Legal positive outfall will continue to be through the existing control structure to the Northern Palm Beach County Improvement District Unit 4. No stormwater permitting will be required with this application.

g. Changed Conditions or Circumstances: There are demonstrated changed conditions or circumstances that necessitate the amendment.






Response: The applicant wishes to subdivide the property in a manner that is marketable to new potential owners and operators of outparcels. This cannot be done under the existing CG zoning, as rigid subdivisions standards that regulate access and frontage requirements would make this difficult and would require a significant burden of subdivision variances to be approved. In contrast, the MUPD zoning district allows the subdivision of property within the unified development through the recording of meets and bounds, without needing to meet the standard subdivision requirements of the code. Furthermore, the existing development was built and has been operating since long before the MUPD zoning district existed, although it operates in a manner consistent with the purpose and intent of the MUPD zoning district. The development includes several different non-residential land uses that operate within a unified development with shared facilities, such as parking, vehicular use areas, and driveways. Therefore, these changed conditions and circumstances necessitate the subject rezoning to the MUPD district.

Type II Concurrent Variance Request:

The applicant (2154 Zip Code Property, LLC) respectfully requests consideration of two (2) Type 2 Concurrent Zoning Variances. These variances include 1) reduction of the side setback by 3' on the north property line and 2) a reduction of the rear setback by 6' on the east property line. The following chart is also on the site plan submitted with this request:

Variance Chart

1551 N. Flagler Drive #102 West Palm Beach, Florida 33401 ■ Tel. (561)684-6141 ■ Email jschmidt@snlandplan.com

Proposed Concurrent Type 2 Variance Chart					
	ULDC Section/Description	Required	Provided	Variance	Approval Date/Resolution No.
	Table 3.E.3.D	15'	12' N property line	3' N property line	TBD
	Side Setback				
	Table 3.E.3.D	20'	14' E property line	6' E property line	TBD
	Rear Setback				
	Art. 3.E.1.C.1.i	Min. 1 pedestrian amenity per 100,000 s.f. of non- residential GFA	None	To eliminate requirement for a pedestrian amenity.	TBD
	Pedestrian Amenity				
	Art. 3.E.1.C.1.b	Continuous non-vehicular circulation to all uses within PDD	Non-continuous non- vehicular circulation system.	To eliminate requirement for continuous non-vehicular circulation system.	TBD
	Continuous Pedestrian Circulation				
	Art. 3.E.1.C.2.h.5)	Min. 10% of parking shall be located at rear or side of each building it is intended to serve.	No parking provided at rear of Buildings A and B	To eliminate requirement for min. 10% of parking to be located at rear or side of building.	TBD
	Location of Parking - Non Residential PDDs				

Per Unified Land Development Code (ULDC) Art.2.B.3.E, Standards, applications for Type II Variances must take the following standards into consideration:

VIII. VARIANCE INFORMATION:

Per ULDC Article 2.B.3, requires a statement of special reason or the basis for the variance required. Article 2.A.3.E states that in order to authorize a variance, the Zoning Commission shall and must find that the conditions enumerated have been met. The Seven Standards below are one of the factors Staff uses in formulating their recommendations and opinions. Address each standard completely and attach additional information or documentation as necessary.

General Statement of Variance:

V3: This variance requests the reduction of the minimum side setback requirement to the north property line by 3 feet. This setback is the result of an existing structure that was constructed prior to the subject rezoning request.

V4: This variance requests the reduction of the minimum rear setback requirement for the east property line by 6 feet. This setback is the result of an existing structure that was constructed prior to the subject rezoning request.

V5: This variance requests the elimination of the requirement for Planned Developments to provide a pedestrian amenity for every 100,000 s.f. of non-residential gross floor area. The subject site is currently built out and no additional development is proposed as part of this rezoning application. Therefore, all site elements will remain exactly as they are existing currently.

V6: This variance requests the elimination of the requirement for Planned Developments to provide a continuous non-vehicular circulation system to connect all uses and promote the pedestrian realm. The subject site is currently built out and additional development is proposed as part of the subject rezoning application. Therefore, all site elements will remain exactly as they are existing currently.

V7: This variance requests the elimination of the requirement for Planned Developments to provide a minimum of 10% of the parking intended for a particular structure to be located at the rear or side. Buildings A and B and their associated parking areas were built prior to the existence of Palm Beach County's modern land development code. Therefore, they pre-exist the subject Planned Development code section. The applicant does not propose any new development as part of the subject rezoning application. Therefore, all site elements are proposed to remain exactly as they exist currently.

TYPE II VARIANCE SEVEN (7) STANDARDS
<p>1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:</p> <p>RESPONSE: Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district.</p> <p>V3 & V4: The subject site is currently built out, with buildings A and B having been built prior to the existence of the County's modern land development code. Building B was constructed 3' closer to the north property line and 6' closer to the east property line than the current MUPD property development regulations allow, however these regulations did not exist at the time the structure was built. Therefore, unique conditions and circumstances exist that are peculiar to this site.</p> <p>V5 – V7: The subject site is currently built out and vested per the existing site plan of record that pre-dates the MUPD property development regulations and performance standards. The subject variances request elimination of several performance standards and design objectives that cannot be accommodated due to the existing nature of the site and the fact that no additional development is proposed for this site. The absence of these elements are unique this this site and constitute special circumstances or conditions.</p>
<p>2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:</p> <p>RESPONSE: There are special circumstances and conditions that apply that are not a result of actions by the applicant. Furthermore,</p> <p>V3 & V4: The applicant is not responsible for the construction of Building B in its existing</p>

<p>location. The applicant did not own the property in 1965 when this building was constructed, according to property appraiser records. Furthermore, the current MUPD zoning designation and property development regulations did not exist at that time, although their intent is consistent with the unified operation of the various uses within this site.</p> <p>V5 – V7: The applicant is not responsible for the construction of the site and site elements in its current form. These improvements pre-exist the applicant's ownership of the property and were all done with permits in a fashion that was acceptable and consistent with the County's standards at the time they were completed. Furthermore, the proposed rezoning to the MUPD district is consistent with the unified operation of the site as a single entity with multiple non-residential uses, with parking shared between uses, outparcel opportunities, a unified circulation system, and shared points of access to the adjacent ROW. Therefore, the unique circumstances of the site are not the result of actions of the applicant.</p>
<p>3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:</p> <p>RESPONSE: Granting the variance will not confer any special privilege upon the applicant denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same zoning district.</p> <p>V3 & V4: The subject variances request a reduction of the minimum rear and side setbacks to Building B, which has existed on the site since 1965, according to property appraiser records. Granting of this variance will result in no change to the subject property, as it simply seeks to memorialize the location of this existing structure, which does not conform with the more modern MUPD property development regulations of the current Unified Land Development Code. It is important to note no additional development is proposed as part of the subject rezoning application. The subject application seeks only to apply the MUPD zoning designation over the site, consistent with its unified operation and shared facilities between multiple uses within a single development. Therefore, granting of this variance will not confer any special privilege upon the applicant that is denied to any other parcel of land or structure within the same zoning district.</p> <p>V5 – V7: The subject variances request elimination of the requirement for a pedestrian amenity, parking location, and non-vehicular circulation requirements for Planned Developments, including MUPDs. The subject site is currently developed, and has been developed prior to the existence of these design objectives and performance standards. No additional development is proposed as part of this rezoning application, which therefore means approval of these variances will result in no change to the existing conditions of the site, which is the intent of the applicant. Therefore, by allowing the applicant's property to remain in its existing condition, approval of these variances do not result in any special privilege not afforded to other parcels or structures within the same zoning district.</p>
<p>4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING</p>

<p>DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:</p> <p>RESPONSE: Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would work an unnecessary and undue hardship.</p> <p>V3 & V4: Literal interpretation and enforcement of the subject setback requirements of the code would require the applicant to demolish Building B, which has existed on the site since 1965. Demolition of this building to satisfy a 3' reduction of the side setback requirement and a 6' reduction of the rear setback requirement would constitute an undue hardship on the applicant, as this would require significant resources, time, permits, and opportunity cost to accomplish.</p> <p>V5 – V7: Literal interpretation and enforcement of the subject design objectives and performance standards for planned developments and MUPDs would require the razing and redevelopment of a significant portion of the site, and potentially the demolition of Building A and B, which has existed on the site since 1956 and 1965 respectively. The requirement for a pedestrian amenity and non-vehicular circulation system consistent with the requirements of the code would result in a reduction of the site's parking and would require significant resources, time, permits, from the applicant, despite no additional development being proposed as part of this rezoning application. Furthermore, compliance with the parking location standards for MUPDs would require at least partial demolition of Buildings A and B to allow enough space for a minimum of 10% of the parking provided to be located at the side or rear of the buildings</p>
<p>5. GRANTING OF THE VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:</p> <p>RESPONSE: Granting these variances are the minimum needed for the reasonable use of the property.</p> <p>V3 & V4: The subject variances to reduce the minimum side setback requirement by 3' and the minimum rear setback requirement by 6' are the minimum necessary to make possible the reasonable use of the site. The subject variances are the result of the location of Building B, which has existed on the site since 1965. The subject variances request the minimum reduction necessary to make the existing façade locations of the Building B in relation to the side and rear property lines compliant with the property development regulations for the MUPD zoning district.</p> <p>V5 – V7: The subject variances to eliminate design objectives and performance standards that cannot be met by the existing site design are the minimum necessary to make possible the reasonably use of the land. Denial of these variances would require significant changes to the subject site that would constitute a hardship on the applicant that would negatively impact the existing operation of the site, including the requirement to demolish at least a portion of existing Buildings A and B.</p>

<p>6. GRANTING OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:</p> <p>RESPONSE: Granting of the requested variances will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.</p> <p>V3 & V4: Granting of these variances for the reduction of the side and rear setback requirements are consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. The intent of the MUPD zoning district is to allow developments with multiple uses to operate in a unified manner with shared facilities. The subject variances seek to memorialize and rectify the existing location of Building B, where it has stood since 1965 with the current property development regulations of the MUPD zoning district in the code.</p> <p>V5 - V7: Granting of the subject variances to eliminate the requirement for several design objectives and performance standards of planned developments and MUPDs is consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and Code. The elimination of these requirements allows the site to remain in its existing condition, and operate as a unified development with shared facilities and multiple users, which is the purpose and intent of the MUPD district.</p>
<p>7. GRANTING OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:</p> <p>RESPONSE: Granting of the requested variances will clearly not be injurious to the area involved or otherwise detrimental to the public welfare.</p> <p>V3 – V7: Granting of the requested variances to address property development regulations, performance standards, and design objectives that do not comply with the existing conditions of the site will clearly not be injurious to the area involved or otherwise be detrimental to the public welfare. Granting of these variances will not result in any changes to the site whatsoever. The site will remain exactly as it exists currently, with no additional development or site changes proposed. Therefore, the public welfare will not be affected in any way by the granting of these variances.</p>

On behalf of the Applicant, 2154 Zip Code Property, LLC, Schmidt Nichols respectfully requests your approval of this Rezoning & Concurrent Type 2 Variance application for Okeechobee Commerce Park.