

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

Application No.: ABN/ZV/Z-2021-01863
Application Name: Windsor Industrial
Control No./Name: 2003-00020 (Stuart Ledis)
Applicant: Shawn Chemtov, 6562 Belvedere LLC
Owners: 6562 Belvedere LLC
Agent: Schmidt Nichols - Josh Nichols
Telephone No.: (561) 684-6141
Project Manager: Imene Haddad, Senior Site Planner

TITLE: a Development Order Abandonment **REQUEST:** to abandon a Class A Conditional Use for a Convenience Store with Gas Sales on 2.55 acres

TITLE: a Type 2 Variance **Request:** to allow a reduction of the width of a Type 3 Incompatibility buffer; substitute wall with chain link fence and locate it on the property line, reduction in number of palms or pines; elimination of small shrubs; reduction in front setback; and, to replace a 12-foot wall loading area screening with an 8-foot hedge on 2.55 acres

TITLE: an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Community Commercial (CC) Zoning District to the Light Industrial (IL) Zoning District with Conditional Overlay Zone (COZ) on 2.55 acre

APPLICATION SUMMARY: The proposed requests are for the 2.55-acre Windsor Industrial development. The site was last approved by the Board of County Commissioners (BCC) on August 23, 2007, to allow a rezoning to the Community Commercial (CC) Zoning District along with a Conditional Use for a Convenience Store with Gas Sales. The site is currently developed with a Single Family Home.

The requests will abandon prior use approvals and allow a rezoning to Light Industrial (IL) Zoning District with a Conditional Overlay Zone (COZ) for the development of a warehouse use. In addition, the Applicant is also requesting Variances, as stated above, for the placement of the structure, buffering and screening. The Preliminary Site Plan indicates a single story structure with 35,022 square feet (sq. ft.) (30,400 sq. ft. warehouse and 4,523 sq. ft. office), a total of 33 parking spaces with access from Jog Road.

These requests are contingent upon a concurrent application for a Small Scale Future Land Use (FLU) Amendment (Planning Application No. SCA-2022-015) to amend the FLU designation from Commercial Low (CLO) to Industrial (IL).

SITE DATA:

Location:	Southwest corner of Old Belvedere Road and Jog Road
Property Control Numbers:	00-42-43-27-05-005-0051; 00-42-43-27-05-005-0054
Existing Future Land Use Designation:	Commercial Low, with an underlying LR-2 (CL/2)
Proposed Future Land Use Designation:	Industrial with an underlying 2 units per acre (IND/2)
Existing Zoning District:	Community Commercial District (CC)
Proposed Zoning District:	Light Industrial (IL)
Total Acreage:	2.55 acres
Tier:	Urban/Suburban
Overlay District:	Palm Beach International Airport Overlay, Turnpike Aquifer Protection Overlay District
Neighborhood Plan:	Haverhill Neighborhood Plan
CCRT Area:	N/A
Municipalities within 1 Mile:	N/A
Future Annexation Area:	Haverhill, West Palm Beach
Commission District:	District 2, Mayor Gregg K. Weiss

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

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received one contact from the public in support of the requests. The adjacent Property Owner to the west in supports all of the requests, stating it is a better compliment to his property, and the surrounding area (Exhibit F).

PROJECT HISTORY: The subject site was previously approved in 2007 when the Small Scale Future Land Use (SCA-2007-0004) and an Official Zoning Map and Class A Conditional Use for a Convenience Store with Gas Sales (Z/CA-2006-01818) were presented to the BCC. Staff recommended denial of all of the requests based on inconsistency with the Plan, incompatibility with the FLU, lack of directives to protect residential areas, and inconsistencies with the Jog Road Corridor Study, PBIA Overlay and Haverhill Area Neighborhood Pan. However, at the public hearing, based on the testimony and evidence presented, the BCC adopted the Ordinance to modify the FLU, approved the rezoning with a Conditional Overlay Zone and approved the use Conditions of Approval. Since that approval the Property Owner has not implemented the Development Order for the Convenience Store with Gas Sales, and Conditions of Approval.

Application No.	Request	Resolution	Approval Date
Z-1977-0001	An Official Zoning Map Amendment to rezone from Agricultural District (AG) to RS Residential Single Family District.	R-1977-0136	February 8, 1977
Z/CA-2003-0020	An Official Zoning Map Amendment and a Class A Conditional Use	2003	Withdrawn
ZV-2006-1748	Type 2 Variance to allow variance from the minimum lot depth. <i>Note: This variance was never implemented and no time extensions were granted, thereby rendering the request null and void.</i>	R-2007-0004	January 5, 2007
SCA-2007-00004	Small Scale Future Land Use Amendment from Low Residential, Two units per acre (LR-2 to Commercial Low with underlying residential of two units per acre (CL/2)	ORD-2007-014	August 27, 2007
Z/CA-2006-01818	An Official Zoning Map Amendment to rezone from the Single Family Residential Zoning District (RS) to the Community Commercial Zoning District with a Conditional Overlay Zone (CC).	R-2007-1442	August 27, 2007
	A Class A Conditional Use to allow a convenience store with gas sales in the Community Commercial District.	R-2007-1443	
ZV-2021-02031	Type 2 Variance to allow a reduction on lot depth.	ZR-2022-023	July 7, 2022

TYPE 2 VARIANCE SUMMARY

#	ULDC Article	Required	Proposed	Variance
V1	3.D.1.A Front Setback	40 feet	25 feet	15 feet reduction
V2	6.E.4.A.3 Loading Standards	12 foot wall for loading area screening	8 foot hedge loading area screening	Substitution of the 12 foot wall with an 8 foot hedge
V3	7.C.2.C Incompatibility Buffer	-20 feet Type 3 Incompatibility Buffer (West Property Line) - 6-feet high Opaque wall -1 Canopy Tree per 20 linear feet (31 canopy trees) -1 palm or pine per 30 linear feet (21 Palm or Pines) -1 Row of small shrubs- (1 per 2 linear feet) -1 Row of medium shrubs- (1 per 4 linear feet)	-8 foot landscape buffer -chain link fence -1 Canopy tree per 20 linear feet (31 canopy trees) -1 palm or pine per 70 linear feet (9 palm or pines) -1 Row of medium shrubs- 1 per 4 linear feet	-a 12 foot reduction of the buffer width -Substitution of a 6 foot wall with a 6 foot Chain link fence; located on the property line; -Reduction in number of palms or pines from 21 to 9 - Elimination of all small shrubs

FINDINGS: TYPE 2 VARIANCE STANDARDS:

When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning 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:**

V1, V2, & V3 YES: The two parcels located to the west of the subject site are owned by the same Property Owner and total nearly 19 acres. The Property Owner has issued a letter of support, Exhibit F. The 4.8 acre parcel immediately to the west has been in use as a nursery for many years, and to its south borders a 5.75 acre civic pod that is currently approved for a 26,627 sq. ft. building for the County’s Sheriff Office. The subject site and adjacent 19 acre property are located within the PBIA Overlay which allows sites to

rezone to Light Industrial (IL) Zoning without a FLUA amendment (Future Land Use Element Policy 1.2.4-b). Although the subject site does not meet the acreage requirement for the rezoning without the FLUA, the 19 acre site does. Considering that the property to the west is located with non-residential uses that are approved or built to its north, east, and south, the likelihood of conversion to industrial is very possible. This factor combined with the existing approval for Convenience Store with Gas Sales, Planning Division and Planning Commission recommendations for approval of the FLUA amendment with conditions to limit the site to light industrial uses, and the narrow configuration of the subject site, warrant consideration of the setback, buffer and screening variances.

The subject site was party to the eminent domain proceeding with the loss of property due to the previous widening of Belvedere and Jog Roads. This widening of Jog Road more specifically affected the depth of the property, and the improvements for the front and rear of the property. A variance for the depth has been previously approved two times, in 2006 (never implemented) and most recently in 2021. The special circumstance of the road widening affects the front setback of structures from Jog Road, as well as the buffering at the rear of the site. The Applicant dedicated land area adjacent to the subject property through the eminent domain process to accommodate the expansion of the street right-of-way and for storm-water retention for Belvedere Road and alignment of Jog Road. The Applicant states that as a result of this lot re-configuration, the ability to place the proposed building 40 feet from the front property line has more implications. The proposed placement of the building takes into account the physical constraint of the site while providing safe, efficient circulation and traffic flow throughout the site by providing a significant throat distance and locating the proposed parking spaces to the rear of the site. With the narrow depth of the site, and the Applicants statement that the proposed development can accommodate small business owners that do not utilize larger semi-tractor trailers to conduct their business. The use of the smaller commercial vehicles can be accommodated on the site and its circulation where the larger ones cannot. This lighter intensity use aligns with the buffer and the screening. The Applicant justifies that the screening of the use and loading from the agricultural use to the west can be accommodated by the alternate proposal. The Applicant has support from the Property Owner to the West because of the proposed landscaping provided and location of the building.

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

V.1 & 2 & 3– YES: As outlined by the Applicant in the Justification statement, and stated above the conditions by which the setbacks, buffering, and location of the loading spaces are created are based on the unique configuration of the subject site and widening of Jog Road over the course of time, which directly impacts the required lot depth of the parcel. Staff has also considered that the road expansion at the intersection of Belvedere and Jog Roads has created a special circumstance that is not a result from the actions of the Applicant. The eminent domain action reducing the dimension of the property is justification as described in Article 1.

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

V.1, V2 & V3 – YES: Granting of the variance will not confer upon the Applicant special privilege denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same zoning district. The proposed use is light industrial use with lower impacts on the surrounding properties, as provided in the FLU amendment, Planning Staff have included a condition of approval that would restrict the uses on the property to light industrial uses. Because of these restrictions that are part of the legislative action of the BCC, granting this variance would not be conferring a special privilege, as these limitations are specific to the this site.

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

V.1, V2 & V3 – YES: As stated above, the size of this site was reduced to accommodate the right-of-way expansion and reconfiguration of Belvedere and Jog Road, even though the site remains at the intersection of these two roads. The property's historic access onto Belvedere Road was eliminated, and further burdened by the location of an existing LWDD Canal, which abuts the north property line of the site, therefore any redevelopment of the site will require access onto Jog Road. The current conditions in this area have rendered a hardship upon the Applicant's plan for redevelopment of the site whether it remains a commercial use or industrial.

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

V1, V2, & V3 – YES: Granting of the variance requests is the minimum possible to make reasonable use of the land. Staff have outlined reasons for the variance in the previous standards, and the purposes and

needs for requiring reduction in setback and required screening. Staff have worked closely with the Applicant to limit the variances to the greatest extent possible.

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

V1, V2, & V3 – YES: As demonstrated in the Applicant's justification statement, the requested variance is consistent with the purposes, objectives and policies of the Comprehensive Plan and the ULDC. The variance requests will allow for the development of the site for the warehouse and accessory office use. The subject rezoning and variances are being concurrently processed with a Future Land Use Amendment to Industrial. Zoning and Planning Staff have analyzed the request and support the IND FLU. Supporting the variances does not create any inconsistencies with the purposes, goals, objectives and policies of the Plan.

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

V1, V2, & V3 – YES: The requested variance will not be injurious and detrimental to the adjacent uses in the vicinity. The Applicant stated that surrounding properties are generally industrial in nature and the impacts are removed from any public right-of-way to avoid any potential visual impacts. The Applicant has received support from the adjacent Property Owner to the west that abuts the variance for the buffering, Figure F. With the subject conditions limiting uses, the proposed Warehouse provides a facility for smaller businesses to locate that have no need for large semi-tractor trailers reducing impacts on the adjacent properties, while still providing a buffer that screens the use from the west.

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

V1, V2, & V3 – YES: The requested variance will not be injurious and detrimental to the adjacent uses in the vicinity. The site is located at the southwest corner of Belvedere and Jog Roads, which had been expanded through a prior eminent domain action. As the Applicant stated, surrounding properties are generally industrial in nature and the impacts are removed from any public right-of-way to avoid any potential visual impacts.

FINDINGS: Official Zoning Map Amendment (Rezoning) to a Standards District:

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

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

o *Consistency with the Comprehensive Plan:* Should the BCC approve the Future Land Use Amendment (FLUA) request, then the proposed amendment would be consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

o *Concurrent Land Use Amendments:* The site is the subject of a companion small scale, site-specific future land use atlas amendment known as Windsor Industrial (SCA-2022-015). The request is to amend the future land use designation from Commercial Low, with an underlying Low Residential, 2 units per acre (CL/2), to Industrial, with an underlying Low Residential, 2 units per acre (IND/2). If adopted, Staff is recommending it be subject to the following conditions:

The condition adopted by Ord. 2007-014 is proposed to be deleted with deleted text stricken out below and added conditions underlined.

~~Limit the proposed development to 22,215 s.f. of commercial uses~~

1. The site shall be limited to light industrial uses as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County Comprehensive Plan.
2. Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Self-Service Storage and accessory uses.

The request is consistent with the recommended amendment conditions since the proposed warehouse use is classified as Light Industrial by FLUE Policy 2.2.2-d of the Comprehensive Plan. For additional information, please refer to the summary on the accompanying Small Scale amendment.

○ *Intensity:* The maximum Floor Area Ratio (FAR) for non-residential projects utilizing the IND land use designation in the Urban Suburban Tier is .85 (111,052 surveyed sq. ft. or 2.55 acres x .85 maximum FAR = 94,394 sq. ft. maximum). The request for a total of 35,022 sq. ft. equates to a FAR of approximately 0.32 (35,022 / 111,052 surveyed sq. ft. or 2.55 acres = 0.315 rounded to 0.32). Thus, the requested intensity is consistent with the proposed IND land use designation.

○ *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The request is located within and is consistent with the Comprehensive Plan's PBI Approach Path Overlay, Turnpike Aquifer Protection Overlay, the 1995 Jog Road Corridor Study, and the 1992 Haverhill Area Neighborhood Plan. A brief analysis for each planning area is provided below:

- *PBIA Approach Path Conversion Area Overlay (PBIAO)* – Per Future Land Use Element Sub-Objective 1.2.4, the stated purpose of the PBIA Approach Path Conversion Area Overlay is to provide for future land uses that are compatible with existing neighborhoods and the future operations at PBIA. The site has an existing future land use of Commercial Low with an underlying Low Residential, two units per acre (CL/2). In addition, the parcel abuts Jog Road, which is shown as 120 feet on the County's Thoroughfare Right-of-Way Identification Map. The site is currently vacant Single Family residence, and not adjacent to any lands that are developed residentially (there is a public civic pod of a residential PUD to the south), and therefore existing neighborhoods are protected from incompatible uses. However, the site is less than 5 acres and is therefore not eligible to convert to industrial uses without a future land use amendment. As the application is the companion request for an amendment to Industrial (IND/2) land use, the proposed use is consistent with the intent of the Overlay.
- *Turnpike Aquifer Protection Overlay (TAPO)* – The nonresidential project does not require a well dedication as it is less than the 10-acre or 75,000 sq. ft. minimum size identified by FLUE Policy 5.5-b, and the site will be restricted by condition from storing or handling regulated substances. As the project does not exceed the regulatory thresholds identified in this Overlay, the provisions do not apply.
- *Jog Road Corridor Study (JRCS)* - The site is located within Sub-Area VI of the 1995 JRCS, which recognized that while a majority of the subarea was vacant, several wellhead locations and established residential uses existed along the Belvedere Corridor. Since publication of the Study, the area has undergone significant growth that has changed this sub-area, including a planned industrial development at the northwest corner of Belvedere and Jog Roads, and a prior land use amendment that granted the subject site's current nonresidential FLU designation.
- *Haverhill Area Neighborhood Plan (HANP)* - The Haverhill Neighborhood Plan recommended maintaining the existing residential future land use designations for the area located at the Belvedere Road and Jog Road intersection, which included the subject site (Map, Page 52a, Haverhill Neighborhood Plan). However, since adoption of the Neighborhood Plan, the planning area has experienced significant growth and development than originally envisioned. To date, no comments have been received from the Town of Haverhill.

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

○ *Property Development Regulations (PDR):* Per Table 3.D.1.A – Property Development Regulations, a lot depth of 200 feet is required. The PSP indicates a lot depth of 173.80 feet per approved variance (ZR-2022-023). The Applicant has requested a variance to allow for the reduction for the front setback and the PSP indicates a front setback of 25 feet where 40 feet is required and provided sufficient justification for the need of the requested variance. Staff is in support of the variance request.

○ *Conditional Overlay Zone (COZ):* The purpose of a COZ is to modify or restrict the use and site development regulations authorized in the underlying Standard Zoning District to prevent, minimize, or mitigate adverse impacts upon the surrounding land uses. In application of the COZ, the BCC shall find that the proposed Rezoning is appropriate only if the applicable regulations are modified. The BCC shall find one or more of the following reasons for the COZ district:

1. Potential impact to surrounding land uses requires mitigation;
2. Compatibility will be furthered between the requested zoning district and adjacent zones if uses and PDRs are modified.
3. Intensity limits reflect available capacity of public facilities.

Although the Applicant is proposing one use at this time, the Planning Division has proposed Conditions of Approval that need to apply to the proposed zoning to ensure consistency with the Comprehensive Plan.

The Engineering Division is also proposing conditions of approval to provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the Jog Road and to configure the property into a legal lot of record in accordance with provisions of Article 11. The conditions are added to document the increase in the Right of Way on the required documents.

These conditions, as described in Exhibit C-1, are the reason for the COZ and is to mitigate potential impact to surrounding uses, that compatibility is furthered between the adjacent zoning districts, and to ensure the capacity of public facilities.

- *Landscape/Buffering:* The Preliminary Site Plan indicates a 20 ft. right-of-way buffer on the eastern property line along Jog Road and a 10 ft. right-of-way buffer on the northern property line along Old Belvedere Road. This buffer is reduced from the required 20 ft. pursuant to Art. 7.C.2.A.3.A, landscape buffer and interior landscape requirement, allowing the required buffer width to be reduced by 50 percent when a project is separated from R-O-W by a canal, lake, retention, open space area provided there is no reduction in canopy trees and no easement overlap. The buffer meets all the requirements for the reduction as it is located on L.W.D.D. L-3 canal with no easement overlap and no reduction to the required canopy trees. An 8 foot compatibility buffer is required along the southern property buffer abutting the Government use parcel to the south. The buffer meets the requirements in 7.C.2.A.3.A, landscape buffer and interior landscape requirement.

As previously described, the Applicant is requesting a variance for the buffer along the western property line. The 8 foot Type 3 incompatibility buffer includes reductions in plant material, modification to the type of barrier and its location. Reductions for this buffer are supported by staff, and would be locked into the request and detail as depicted on the buffer plan, and modified at Final DRO.

- *Parking and Loading:* The PSP complies with Table 6.B.1.B – Minimum Parking and Loading Requirements. The minimum number of parking required for the Warehouse use is 1 space per 2000 sq. ft. and 1 space per 250 sq. ft. of the accessory office use. According to the proposed use the development will require a total of 33 parking spaces. The site plan shows a total of 34 spaces which meets the requirement in Table 6.B.1.B. The PSP shows eight loading spaces and the Applicant is requesting a Type 1 waiver to reduce the loading spaces dimensions as required in Article 6.E.4.1.d from the required 15'x55' to 17'x24'. The waiver will be finalized during the review by DRO review at time of Final Site Plan approval.

- *Signs:* The Preliminary Master Sign Plan (PMSP) indicates compliance with Table 8.G.1.A - Wall Sign Standards in the U/S Tier. The PMSP indicates a proposed freestanding monument sign, and according to the Applicant, the Freestanding Sign shall comply with Table 8.G.2.A – Freestanding Sign Standards.

- *Concurrent Land Use Amendment:* Should the BCC deny the future land use change (Windsor Industrial SCA-2022-015), the subject rezoning request would not be allowed as it would be inconsistent with the Comprehensive Plan. The request is to amend the future land use designation from Commercial Low with an underlying 2 units per acre (CL/2) to Industrial with an underlying 2 units per acre (IND/2). Planning Staff is recommending Conditions of Approval to limit the use of the parcel to light industrial uses, and Self Service Storage. As a result, Heavy industrial uses such as salvage and junkyards, storage or regulated substances, asphalt and concrete mixing and product manufacturing, heaving manufacturing, construction and demolition recycling, and equestrian waste management would not be permitted on the site.

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

The proposed rezoning from the Community Commercial (CC) Zoning District to the Light Industrial (IL) Zoning District is compatible and consistent with the surrounding zoning districts uses. The site is located at the southwest corner of Belvedere Road and Jog Road approximately 1/2 mile east of the Florida Turnpike. To the north of the property is the Turnpike Crossing East PIPD (Control No. 2005-00456). To the east across North Jog Road is the "Life Church", a place of worship (Control No. 2000-00027). To the west of the property is a wholesale nursery. To the south of the property is the Government services building with in the Johnson Property PUD civic pod (Control No. 2001-076). The site is located along a corridor with residential, industrial and utility/transportation land uses. Considering the low impact (low noise, low activity, and low trip generation) of the proposed warehouse use, and the nature of the corridor, the IL Zoning district is an appropriate zoning district for the subject parcel because it is consistent with the surrounding parcels. As part of the analysis prepared by the Planning Division for the proposed FLU amendment, they are recommending approval of the modification to the IND FLU with Conditions of Approval restricting the uses of the site.

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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- o *Vegetation Protection:* The site contains native vegetation that is regulated by the ULDC, Article 14.C.7.C. There are native strangler figs, oaks, pines, and sabal palms. Species that cannot be relocated or preserved in place are being mitigated for in accordance with Table 14.C.7.C. of the ULDC. A Protection of Native Vegetation Approval application will need to be submitted prior to the final approval by the DRO.
- o *Wellfield Protection Zone:* This property is located within Wellfield Protection Zone 2, 3, and 4. An Affidavit of Notification will be required prior to the final approval by the DRO and any tenant with applicable Uses or Regulated Substances will need to meet with ERM Wellfield Staff and may need to seek and obtain a Wellfield Permit as pursuant to the ULDC, Article 14.B.
- o *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-storm water discharge or the maintenance or use of a connection that results in a non-storm water discharge to the storm water system is prohibited pursuant to Palm Beach County Storm water Pollution Prevention Ordinance No. 93-15.
- o *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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

The subject site is located in a corridor with a mix of residential, utility/Transportation and industrial FLU and Zoning. The modification to the Industrial Zoning District would be consistent with the pattern established in the area. Planning Staff have indicated in their analysis for the change of the Future Land Use that the proposed site to industrial is compatible and would generate less traffic than the previously approved Convenience Store with Gas Sales. The Applicant states the development patterns along North Jog Road are generally industrial. The proposed warehouse use and accessory office space is an appropriate use based on both the land uses in the general vicinity, and the existing uses surrounding the subject site.

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

ENGINEERING COMMENTS:

The proposed Warehouse development is expected to generate 55 net daily trips, 5 net AM peak hour trips, and 6 net PM peak hour trips. The build out is expected to happen by 2025.

The trips from the development will have insignificant traffic impacts within the radius of influence, as per the definition of Palm Beach County Traffic Performance Standards.

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

PALM BEACH COUNTY HEALTH DEPARTMENT:

This project has met the requirements of the Florida Department of Health

SCHOOL IMPACTS:

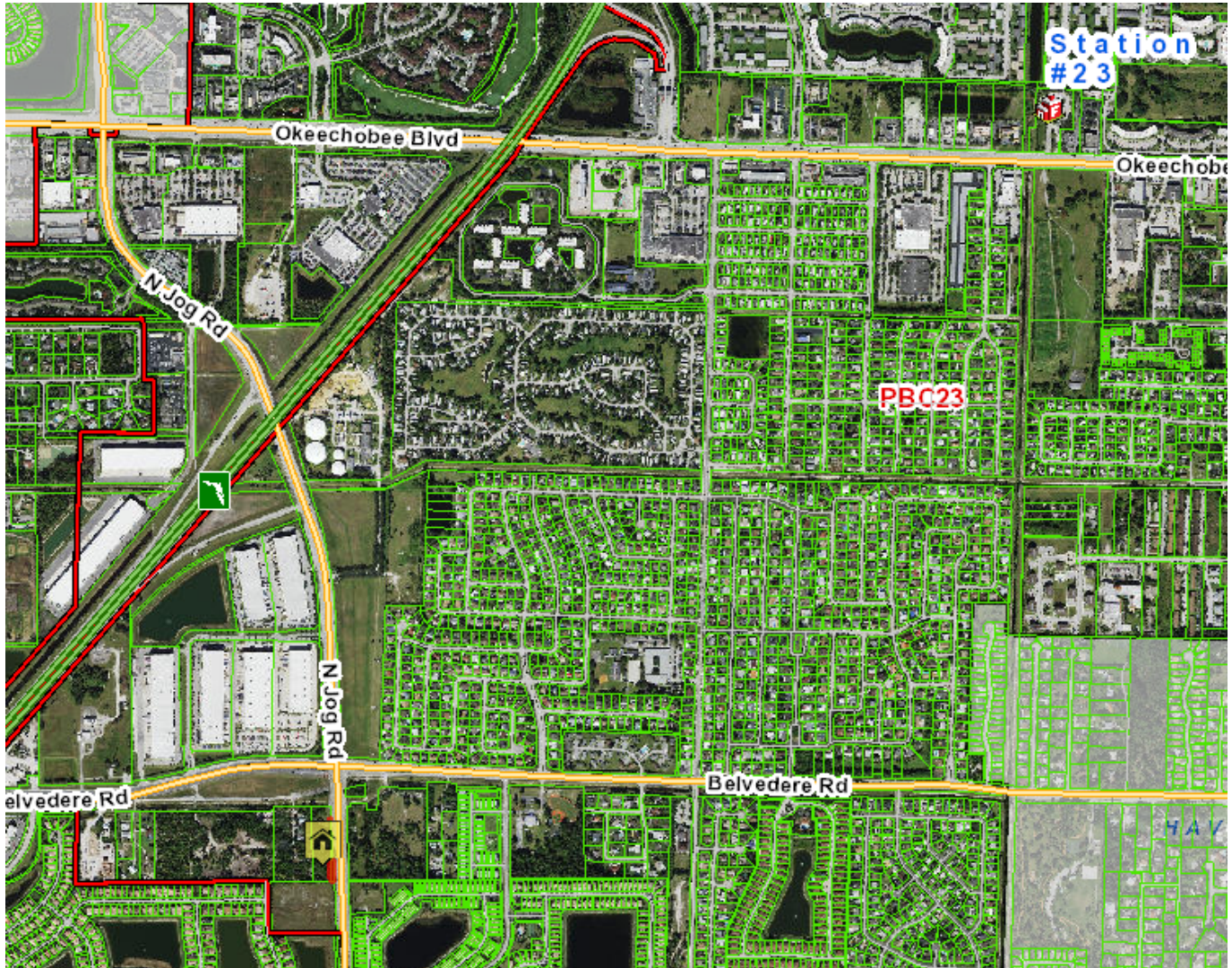
The School Board has no comment regarding this non-residential application.

PARKS AND RECREATION:

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

FIRE PROTECTION:

Staff has reviewed this application and have no comment. The subject development is located within the boundaries of PBC Fire Station #23.



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

As indicated by the Applicant’s Justification Statement, “The proposed use will be compatible with surrounding uses. The site is currently underutilized as vacant single family. The proposed Warehouse use would better serve the site and remain consistent with the impact and intensity of the surrounding uses. Due to the current COV-ID pandemic, the applicant is also proposing a warehouse use on the subject property as there has been a higher demand for warehouse and distribution.” According to the analysis provided in the FLUA Planning Staff Report, the assessment and recommendation states there has been a change along the corridor since the approval of the CL/2, including the development of a 67 acre industrial land to the north in 2008. The proposed industrial uses would decrease trips than the CL land use, and thus has satisfied changed conditions for the FLU amendment. This modification of the zoning would allow for the site to be consistent with the FLU.

CONCLUSION: Staff has evaluated the Applicant’s justification and responses for Standards of Article 2.B. for the Type 2 Variance and an Official Zoning Map Amendment with a Conditional Overlay Zone (COZ), 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 a Conditional Overlay Zone and subject to the recommended Conditions of Approval as indicated in Exhibit C-1 and C-2.

CONDITIONS OF APPROVAL

EXHIBIT C-1 -

Type 2 Variance - Concurrent

ALL PETITIONS

1. The approved Preliminary Site Plan and Preliminary Landscape Plan are dated December 15, 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 the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Prior to Final Approval by the Development Review Officer, the Landscape Plan shall be updated to include the medium shrubs. (DRO: ZONING- Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDG PERMIT: BLDG - Zoning)

4. Use of large commercial vehicles, such as semi-tractor trailers or dump trucks, is prohibited on site, based on the configuration of the building, reduction of screening, and size of the loading areas. (ONGOING: CODE ENFORCEMENT – 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: ZONING - Zoning)

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

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

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

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

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-2:

Official Zoning Map Amendment with Conditional Overlay Zone

ALL PETITIONS

The approved Preliminary Site Plan dated December 15, 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)

ENGINEERING

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

2. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for the Jog Road, 60 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the cleanup. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPMT/ONGOING: MONITORING - Engineering)

3. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2025, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

PLANNING

1. Per SCA-2022-015, Condition 1: The site shall be limited to light industrial uses as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County Comprehensive Plan. (ONGOING: PLANNING - Planning)

2. Per SCA-2022-015, Condition 2: Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Self-Service Storage and accessory uses. (ONGOING: PLANNING - Planning)

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; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

DISCLOSURE

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

Figure 1 - Land Use Map



Figure 2 - Zoning Map

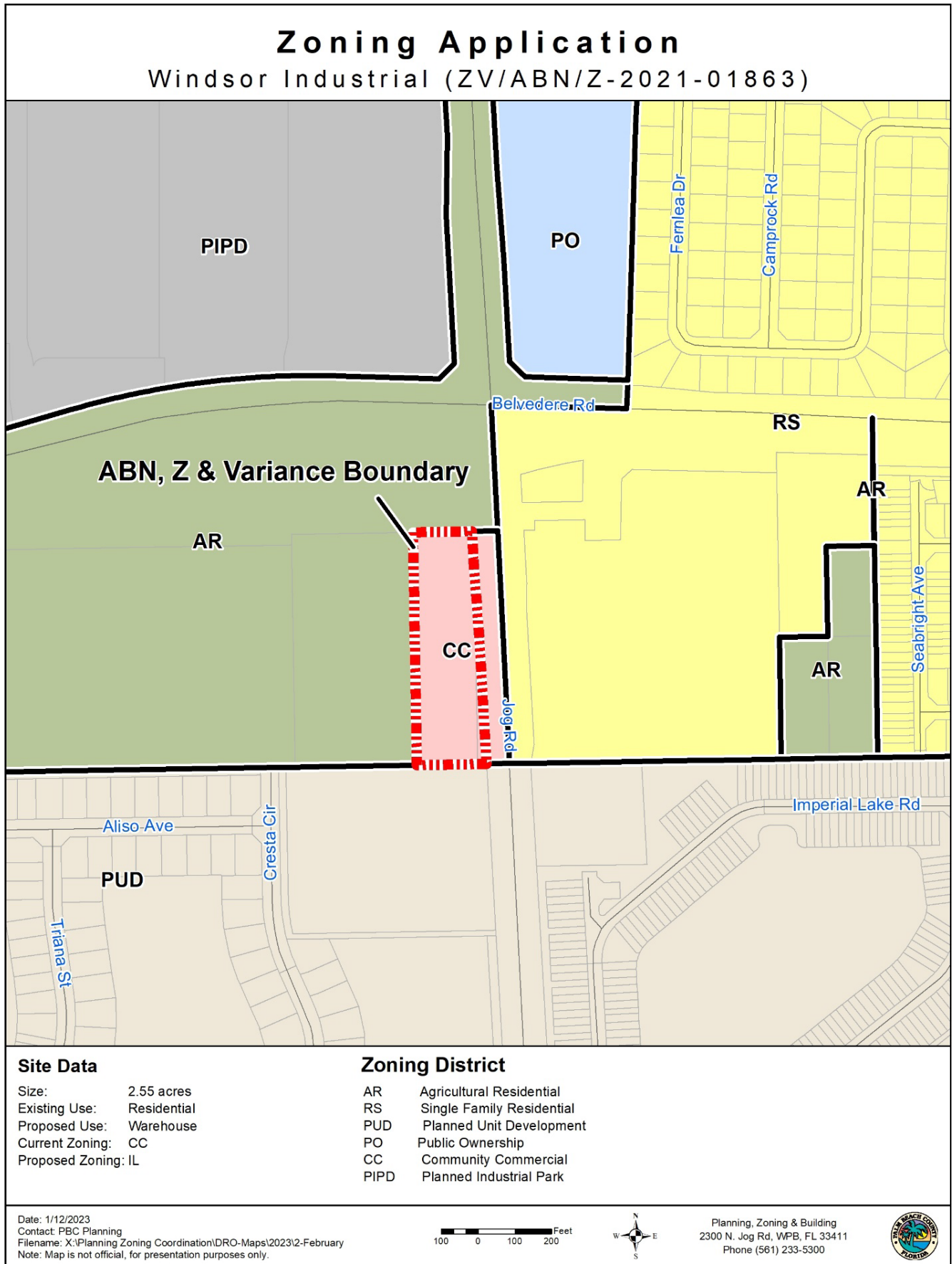


Figure 3 – Preliminary Site Plan dated December 15, 2022

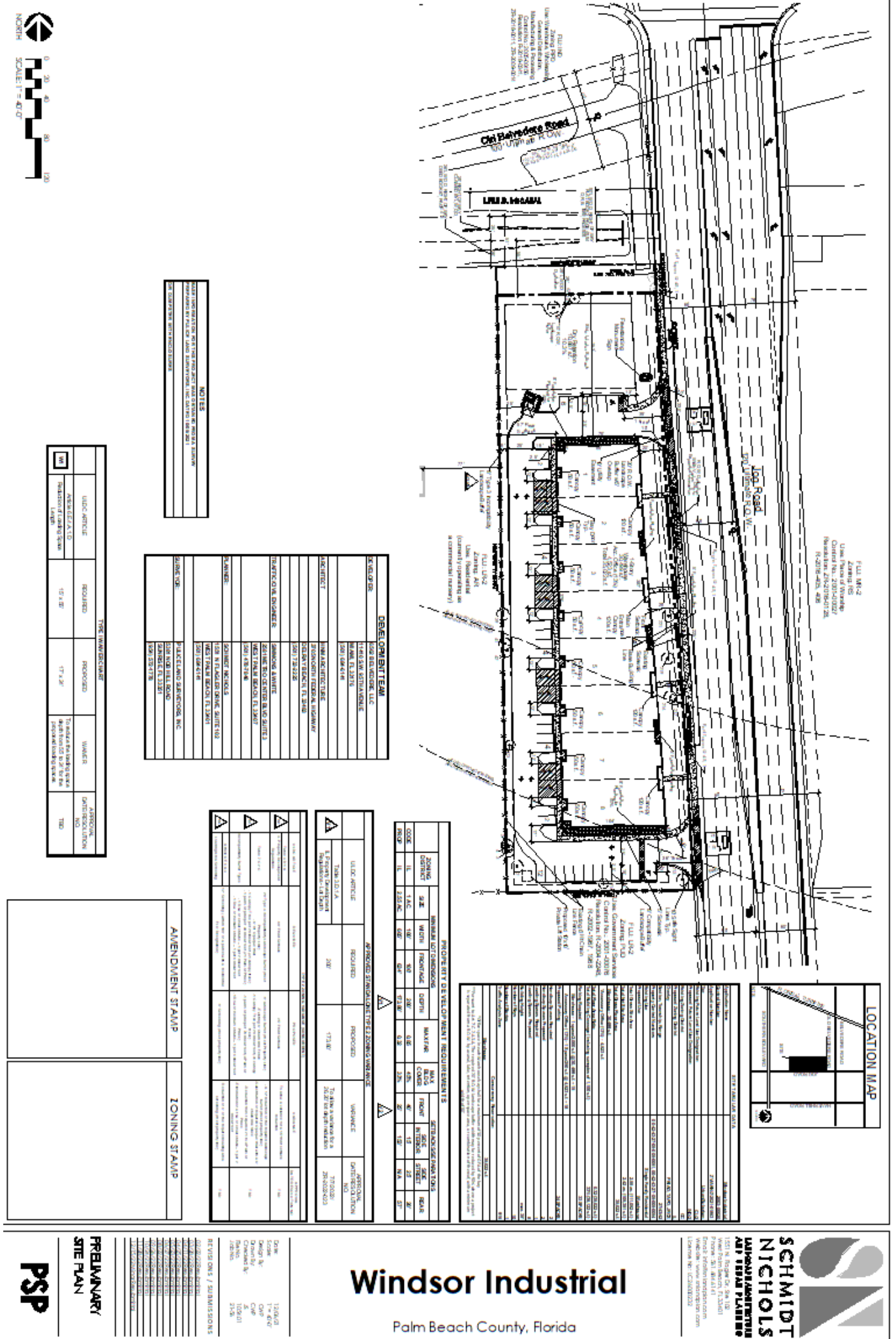


Figure 4 – Preliminary Regulating Plan (Page 1 of 2) dated December 15, 2022

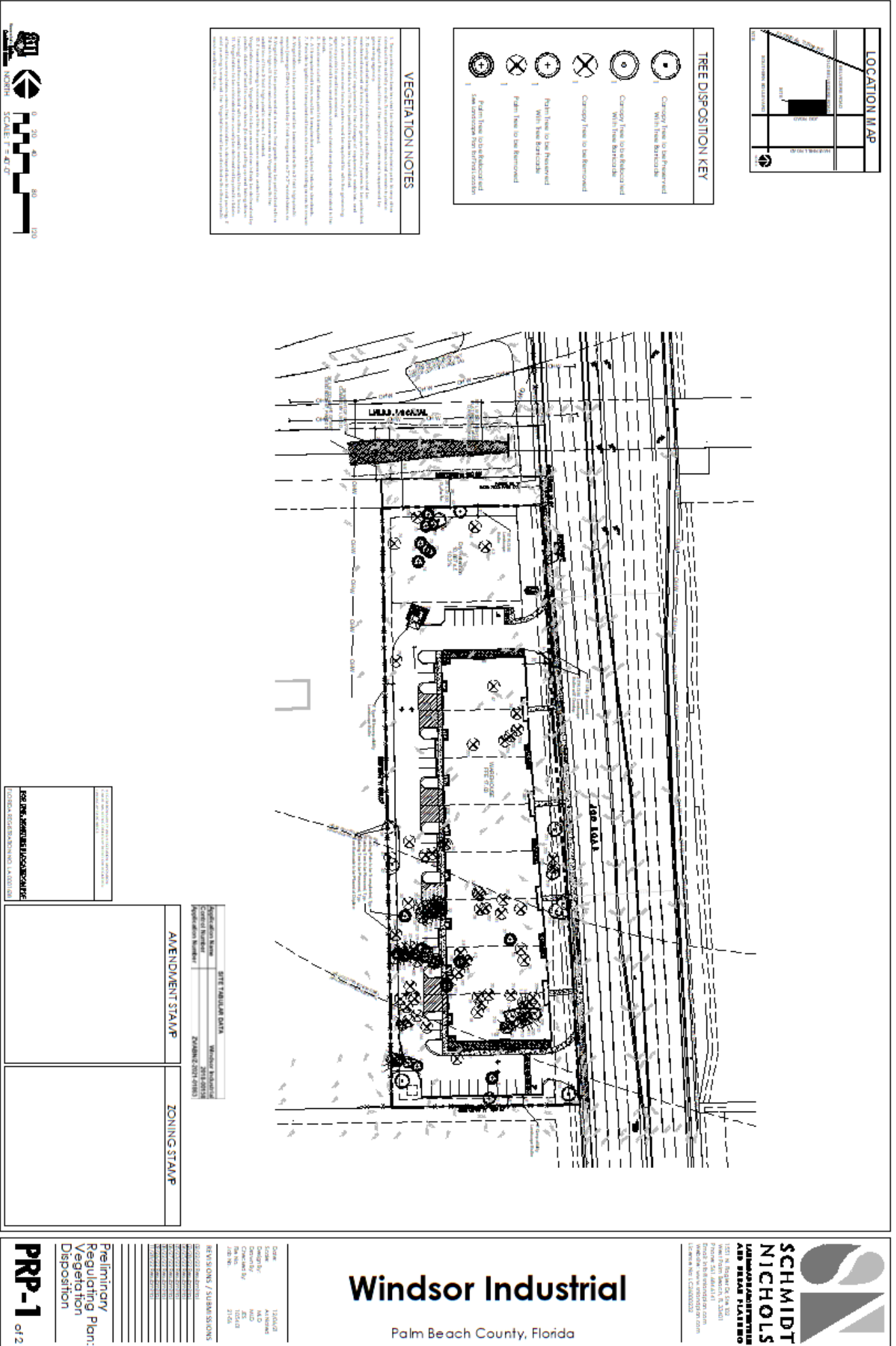


Figure 4 – Preliminary Regulating Plan (Page 2 of 2) dated December 15, 2022

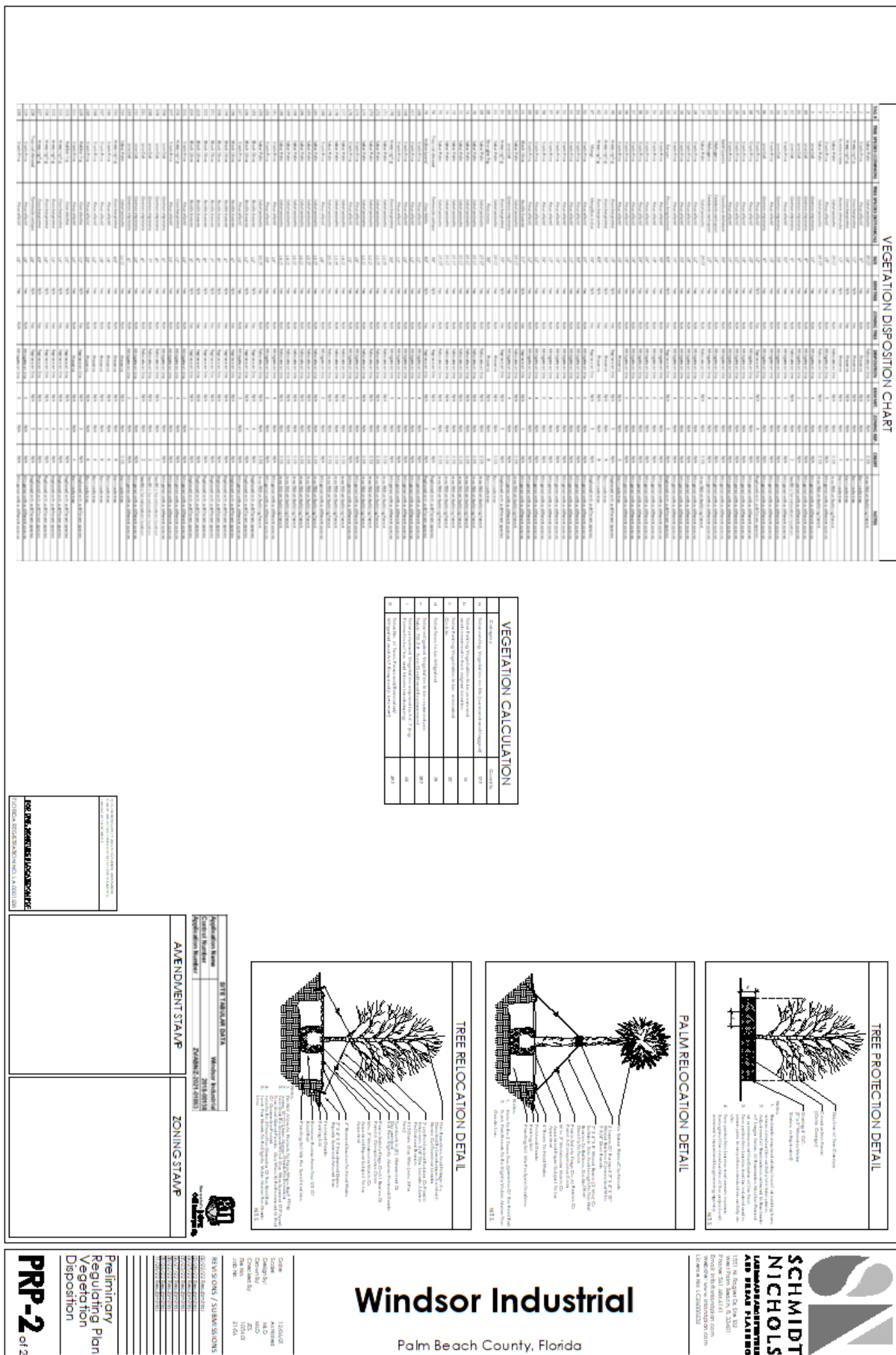
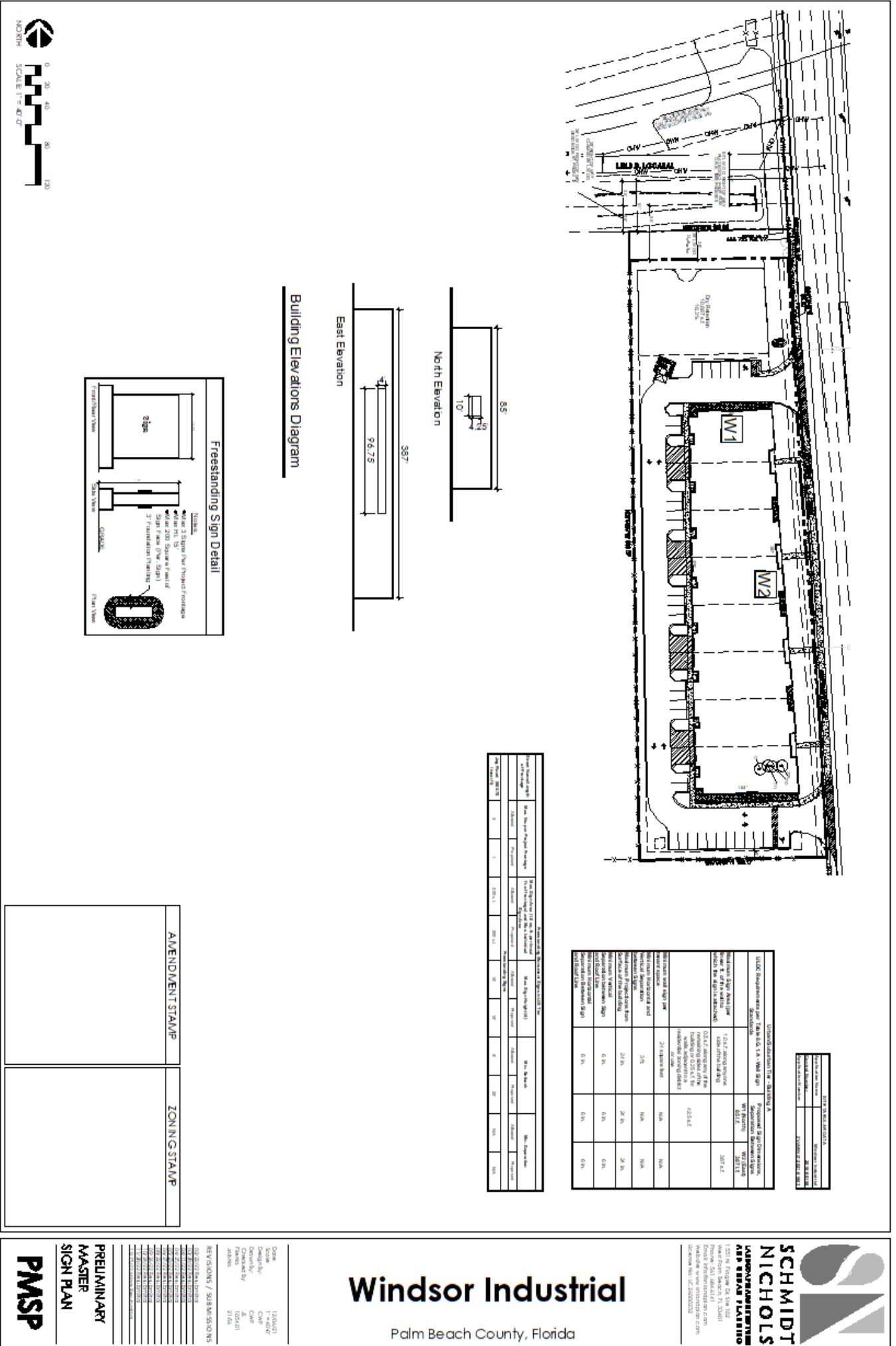


Figure 5 – Preliminary Master Sign Plan dated December 15, 2022



SCHMIDT NICHOLS
LANDSCAPE ARCHITECTURE AND URBAN PLANNING
1375 N. FEDERAL AVE. SUITE 100
WEST PALM BEACH, FL 33411
PHONE: 561.866.6141
WWW.SCHMIDTNICHOLS.COM
LICENSING NO. LC 20000023

Windsor Industrial
Palm Beach County, Florida

DESIGNER: TROJAN
DRAWN BY: C. ROBERT
CHECKED BY: C. ROBERT
DATE: 12/15/22
REVISIONS / SUBMITTALS:
012 2022 01 15 10:00 AM
011 2022 01 15 10:00 AM
010 2022 01 15 10:00 AM
009 2022 01 15 10:00 AM
008 2022 01 15 10:00 AM
007 2022 01 15 10:00 AM
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PRELIMINARY MASTER SIGN PLAN
PMSPP

Figure 6 – Preliminary Alternative Landscape Plan dated December 15, 2022

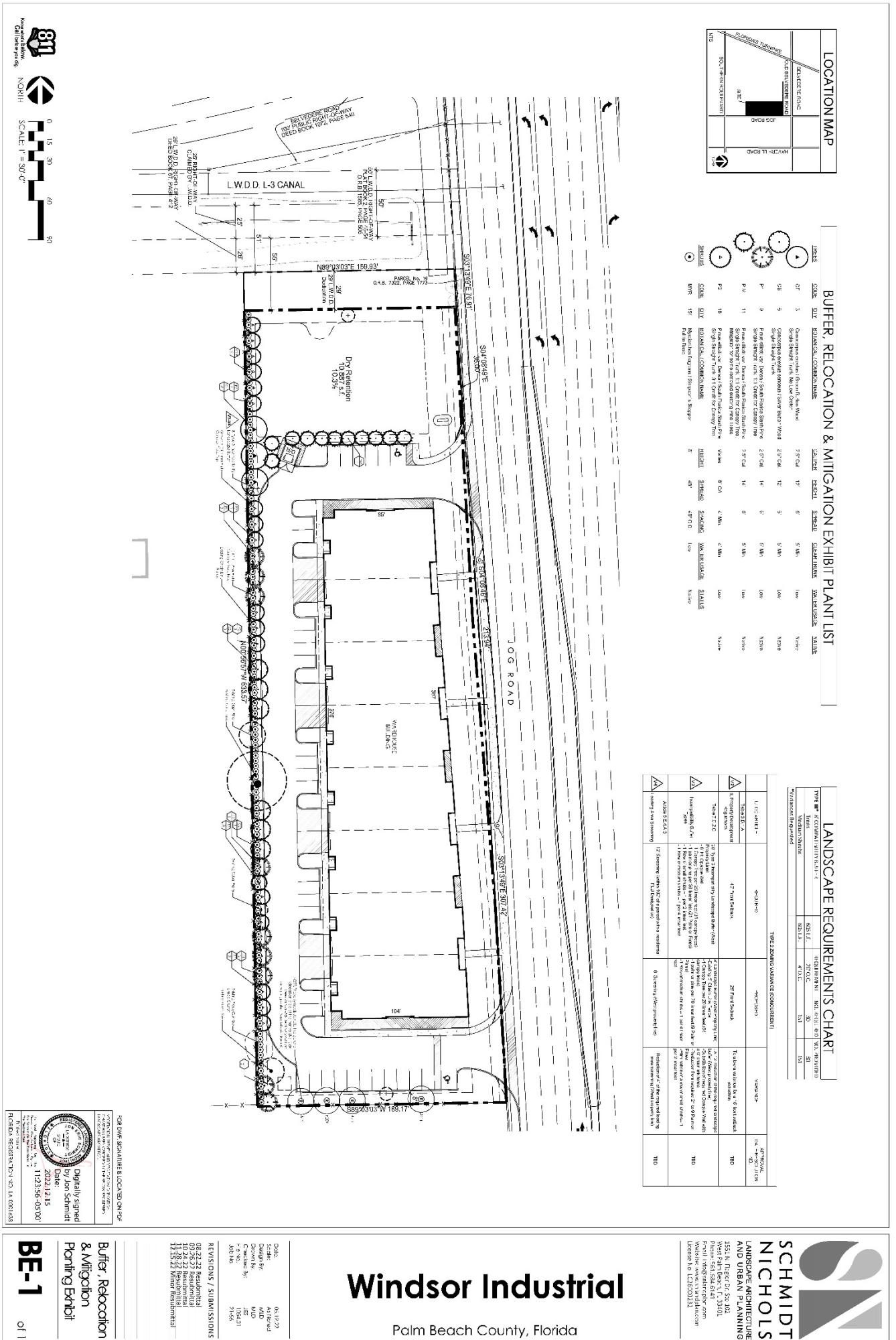


Exhibit D – Disclosure of Ownership

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

- 1. Affiant is the [] individual or [x] President of 6562 Belvedere LLC [position - e.g., president, partner, trustee] of 6562 Belvedere LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 11410 S.W. 95th Avenue, Miami, FL 33176
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.


Shawn Chemtov, 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 26 day of October, 2021 by Shawn Chemtov (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did take an oath (circle correct response).

Alicia Cabrera
(Name - type, stamp or print clearly)

Alicia Cabrera
(Signature)

My Commission Expires on: 7-1-25

NOTARY'S SEAL OR STAMP

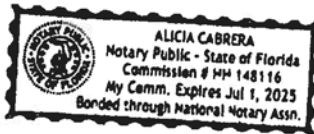


EXHIBIT "A"

PROPERTY

A PORTION OF THE EAST HALF OF TRACT 5, BLOCK 5, "PALM BEACH FARMS COMPANY PLAT No. 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45-54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF TRACT "R", "TERRACINA TRACT "R-1" REPLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 109, PAGE 117 OF SAID PUBLIC RECORDS, SAID POINT BEING THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD WITH THE SOUTH LINE OF SAID TRACT 5; THENCE SOUTH 89°03'03" WEST ALONG SAID SOUTH LINE, ALSO BEING THE NORTH LINE OF SAID TRACT "R" 189.17 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID TRACT 5; THENCE NORTH 00°56'57" WEST ALONG THE WEST LINE OF THE EAST HALF OF SAID TRACT 5 FOR 633.57 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF THE LAKE WORTH DRAINAGE DISTRICT L-3 CANAL; THENCE NORTH 89°03'03" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE 159.93 FEET TO A POINT ON THE AFOREMENTIONED WESTERLY RIGHT-OF-WAY LINE OF JOG ROAD; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) SOUTH 03° 13'49" EAST 76.91 FEET; 2) SOUTH 04°08'49" EAST 36.00 FEET; 3) SOUTH 04°08'46" EAST 213.94; 4) SOUTH 03°13'49" EAST 307.42 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA AND CONTAINING 111,052 SQUARE FEET (2.5494 ACRES), MORE OR LESS.

DEED LEGAL:

PARCEL 1:

THE WEST HALF (W 1/2) OF THE EAST HALF (E 1/2) OF TRACT 5, BLOCK 5, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS THE NORTH 26 FEET THEREOF AS CONVEYED IN DEED BOOK 67, PAGE 412.

PARCEL 2:

THE EAST QUARTER (E 1/4) OF TRACT 5, BLOCK 5, LYING WEST OF THE JOG ROAD RIGHT-OF-WAY, "THE PALM BEACH FARMS CO. PLAT No. 3", WHICH LIES SOUTH OF THE PALM BEACH CANAL, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address	100%
Shawn Chemtov	11410 S.W. 95th Avenue, Miami, FL 33176	



**Justification Statement
Windsor Industrial
Palm Beach County (PBC) Type II Variance (Concurrent)
Rezoning to IL,
Development Order Abandonment Submittal
Original Submittal: November 1, 2021
Resubmittal: February 22, 2022
Resubmittal: March 28, 2022
Resubmittal: April 25, 2022
Resubmittal: May 23, 2022
Resubmittal: June 27, 2022
Resubmittal: August 22, 2022
Resubmittal: September 26, 2022
Resubmittal: October 24, 2022
Resubmittal: November 28, 2022
Minor Resubmittal: December 15, 2022**

Request

On behalf of the Applicant, 6562 Belvedere LLC, ("Applicant"), Schmidt Nichols respectfully requests your consideration for the Rezoning, Type 2 Variance (Concurrent), and Development Order Abandonment applications for the project known as Windsor Industrial. The 2.55-acre (2.42-acres per L.W.D.D dedication and Land Development expanded intersection standards) subject property (PCNs: 00-42-43-27-05-005-0051, 00-42-43-27-05-005-0054) is comprised of two parcels and generally located on the southwest corner of Old Belvedere Road and Jog Road in unincorporated Palm Beach County ("subject property"). The proposed plan of development is a 35,022 s.f. warehouse building inclusive of 4,523 s.f. (13%) of accessory office with a project build-out of 2025. Site access is proposed via two (2) right-in, right-out driveway connections to Jog Road. A concurrent Future Land Use Amendment (Windsor Industrial, SCA-2022-015) is also in process to amend the land use from Commercial Low, with an Underlying LR-2 (CL/2) to Industrial, with an Underlying LR-2 (IND/2), enabling this application to proceed. Please refer to page 2 for further details and page 3 for the prior Ordinance (Belvedere/Jog Commercial SW, SCA-2007-00004) along with the proposed removal of the prior condition of approval.

Currently the subject property supports a Future Land Use Atlas (FLUA) designation of Commercial Low, with an Underlying LR-2 (CL/2) 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 subject parcel is currently within the Community Commercial (CC) Zoning District.

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

The applicant requests consideration of the following applications:

Request 1: Rezoning Application from Community Commercial (CC) to Limited Industrial (IL) District on 2.55 acres

Request 2: Development Order Abandonment (ABN) of Resolution No. R-2007-1443, which allowed a Class A Conditional Use to allow a convenience store with gas sales

Request 3: Type 2 Variance for:

1. A 15' front setback reduction
2. A 12' reduction of the required landscape buffer (West property line); Substitution of required Opaque Wall with a 6' chain link fence; Reduction from required 21 to 9 Palm or Pines; Elimination of a row of small shrubs – 1 per 2 linear feet
3. Reduction of 4' of the required loading area screening (West property line)

Request 4: Type I Waiver to reduce the loading space depth from 55' to 24' for the proposed loading spaces

Concurrent Application:

- Small Scale LUPA (Windsor Industrial, SCA-2022-015) from Commercial Low, with an Underlying LR-2 (CL/2) to Industrial, with an Underlying LR-2 (IND/2) that has been submitted to the Planning Division on November 9, 2021.
- Approved Standalone Type 2 Variance for a 26.20' reduction of the minimum 200' lot depth (Resolution No. ZR-2022-023)



Site Aerial

The subject property is located within the Palm Beach International Airport Overlay (PBIAO), Turnpike Aquifer Protection Overlay (TAPO), and the Jog Road Corridor Study (JRCS).

Below is a summary of surrounding properties:

Adjacent Lands	Uses	FLU	Zoning
Subject Property (Proposed)	Warehouse	IND/2	IL
North	Warehouse, Wholesaling, General, Distribution, Manufacturing & Processing (Turnpike Crossing East PIPD)	IND	PIPD
South	Government Services	LR-2	PUD
East	Place of Worship	MR-5	RS
West	Residential (Currently Operating as a	LR-2	AR

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	Commercial Nursery)		
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History

- **August 27, 2007 (Ordinance No. 2007-014)** – The Board of County Commissioners approved a Small-Scale Amendment (Belvedere/Jog Commercial SW, SCA-2007-00004) by changing the FLUA from Low Residential, Two Units per Acre (LR-2) to Commercial Low, With an Underlying Residential Designation of Two Units per acre (CL/2). The applicant is proposing to remove the below condition of approval due to the proposed warehouse development.
 - **Condition of Approval:** Limit the proposed development to 22,215 s.f. of commercial uses
- **September 11, 2007** - The Board of County Commissioners approved a Class A Conditional Use to allow a convenience store with gas sales
- **July 7, 2022** – The Zoning Commission adopted a resolution (Resolution No. ZR-2022-023) approving a Type 2 Variance to allow a reduction in lot depth

Request 1: Rezoning Application from Community Commercial (CC) to Limited Industrial (IL) District on 2.55 acres

Pursuant to Unified Land Development Code (ULDC) Article 2.B.7.A.2, When considering an application for rezoning to a Standard Zoning District with or without a COZ, the BCC and ZC shall utilize Standards a through g indicated below. An amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. The applicant must take the following standards into consideration:

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

Response:

- *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.
- *Intensity:* The request for 35,022 square feet equates to a FAR of approximately 0.32 (35,022 / 111,052 surveyed square feet or 2.55 acres = 0.32). The maximum Floor Area Ratio (FAR) of .85 is allowed for the Industrial future land use designation in the Urban Suburban Tier (111,052 surveyed square feet or 2.55 acres x .85 maximum FAR = 94,394 square feet maximum).

- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The subject property is located within the Palm Beach International Airport Overlay (PBAIO), Turnpike Aquifer Protection Overlay (TAPO), and the Jog Road Corridor Study (JRCS).

Turnpike Aquifer Protection Overlay - The proposed project does not require a well dedication as it is less than 25 acres minimum identified in the Turnpike Aquifer Protection Overlay and the site will not store or handle regulated substances. This project is not large enough in land area to trigger any of the regulatory thresholds identified in this Overlay, as such, the provisions are not applicable.

Palm Beach International Airport (PBA) Approach Path Conversion Area Overlay: The PBA Overlay was developed to address the land use issues in neighborhoods/communities within the approach path of PBA. The Overlay covers the area west of the airport to the Turnpike, north to Belvedere Road and south to Southern Boulevard. Several established neighborhoods in this area are excluded, but the subject site is not among them. The Comprehensive Plan provisions in Sub-Objective 1.2.4 PBA Approach Path Conversion Area Overlay protects existing neighborhoods from incompatible uses and promotes conversion to industrial uses when parcels meet the proper size, site design and location requirements. The proposed development is consistent with the PBA-O by providing a transitional use to the surrounding uses as discussed in the applicable Comprehensive Plan objectives.

As part of this proposed application, the applicant is protecting neighborhoods surrounding the PBA from incompatible land development, protecting airport operations from incompatible land development. The proposed warehouse use and accessory office space is an appropriate use based on both the land uses in the general vicinity, and the existing uses surrounding the subject site.

The Jog Road Corridor Study - The Jog Road Corridor Study (JRCS) was completed in 1995 by the PBC Planning Division following the expansion and extension in 1994 of Jog Road north from Southern Boulevard to Okeechobee Boulevard. The purpose of the study was "to investigate and determine appropriate Future Land Use Atlas (FLUA) designations for properties within the study area, given the expansion/extension of Jog Road". The proposed Warehouse use will remain consistent with the impact and intensity of the surrounding uses.

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:

- **Article 3: Overlays and Zoning Districts** –The proposed Rezoning meets the intent of ULDC Table 3.D.1.A, Property Development Regulations, in that the site plan:
 - Meets the minimum lot size of 1 acre (2.55 acres provided), minimum width and frontage of 100 feet (634 feet of frontage on N Jog Road), and minimum depth of 200 feet (173.80 feet of depth provided – see approved Standalone Type 2 Variance) for IL zoning district;
 - Does not exceed the maximum building coverage of 45% for IL (40% building coverage provided);
 - Does not exceed the maximum FAR of .85 for IL with IND FLU (.32 FAR provided);
 - Meets the minimum setbacks for IL as follows:
 - Front: 40 feet (25 feet provided) – See V2 on page 13
 - Side: 15 feet (153 feet provided);
 - Side Street: 25 feet (N/A); and
 - Rear: 20 feet (57 feet provided).
- **Article 4: Use Regulations:** The proposed Rezoning is consistent with Article 4 as it relates to the use regulations, specifically in Article 4.
 - The requested Warehouse use is a DRO use in the proposed IL zoning district pursuant to Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval. The proposed plan of development is one warehouse facility consisting of 35,022 s.f. inclusive of 4,523 s.f. of accessory office. The proposed accessory office space is approximately 13% of the Gross Floor Area (GFA) of the warehouse and does not exceed the maximum 30% maximum requirement pursuant to Art. 4.B.5.17.E.1.

Warehouse:

a) Definition

An establishment used for the storage of raw materials, equipment, or products.

Response: Complies.

b) Typical Uses

Typical uses include moving companies, cold storage, and dead storage

facilities, but excludes self-service storage facilities.

Response: Complies.

c) Overlay – WCRAO

Office/warehouse uses shall be allowed as specified in Table 3.B.14.E, WCRAO Sub-area Use Regulations. The office/warehouse development shall have a minimum of 25 percent office space per gross floor area for each bay.

Response: Not applicable. The subject site is not located within the WCRAO.

d) Zoning Districts with a CH FLU Designation

A facility located in these zoning districts: CG, IRO, MUPD, MXP, or Commercial Pod of a PIPD shall comply with the following additional requirements:

- 1) Outdoor Storage and activities shall be prohibited.

Response: Not applicable. The subject site is proposing a rezoning to the IL Zoning District.

e) Accessory Use

1) Office

Unless approved as a Class A Conditional Use, or as specified in the Overlay – WCRAO standard, office space in each warehouse bay shall be a maximum of 30 percent of the GFA of that bay.

Response: The proposed accessory office space is approximately 13% of the Gross Floor Area (GFA) of the warehouse and does not exceed the maximum 30% maximum requirement pursuant to Art. 4.B.5.17.E.1.

2) General Retail

Sales shall be prohibited, except where allowed in conjunction with Flex Space.

Response: Not applicable. No sales will take place at the subject site.

f) Freestanding Structures

Freestanding structures for Warehouse developments located in an MUPD with an IND FLU designation shall not be subject to the provisions of Table 3.E.3.B, Freestanding Buildings.

Response: Not applicable. The subject site is proposing a rezoning

to the IL Zoning District.

➤ **Article 5: Supplemental Regulations:**

- *Architectural Review:* The proposed Use 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 Rezoning meets the standards listed in ULDC Art.6, Parking, as follows:

- Per ULDC Table 6.B.1.B, Minimum Off-Street Parking and Loading Requirements, the project will provide the minimum off-street parking spaces for the uses as follows:

Parking Required: 33 Spaces

Warehouse - 1 space/2,000 s.f. @ 30,499 s.f. = 15
Accessory Office (13%) – 1 space/250 s.f. @ 4,523 s.f. = 18

Proposed Parking: 34 Spaces

- Per F.S. § 553.511 & 553.5041, the proposed project meets the required spaces for persons who have disabilities as follows:

Handicap Spaces Required: 2 Spaces
Handicap Spaces Provided: 2 Spaces
Loading Spaces Required: 1 Space
Loading Spaces Provided: 8 Spaces

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

- Per ULDC Table 7.C.2.B Compatibility Buffer Landscape Requirements, the project will provide an 8' compatibility landscape buffer along the south property line
- Per ULDC Table 7.C.2.C Incompatibility Buffer Types, the project will provide an 8' Type 3 Incompatibility landscape buffer along the west property line (See V3-V4 on page 13)
- Per ULDC Table 7.C.2.A R-O-W Buffer Landscape Requirements, the site design also incorporates a 20' right-of-way landscape buffer along the frontage adjacent to N Jog Road and a 10' right-of-way landscape buffer along the north property line
 - Pursuant to Article 7.C.2.A.3.A, the required 20' right-of-way landscape buffer may be reduced by 50 percent where a

project is separated from a R-OW by a canal, lake, retention, open space area, or combination thereof, with a minimum width of 80 feet,

- o The Preliminary Tree Disposition Plan provides a total of 16 trees to be preserved on site in their existing location. All other vegetation will be removed or relocated.

Foundation Planting: Per Table 7.C.3.B. Foundation Planting and Dimensional Requirements, foundation planting shall be provided for 40% of the front and side facades of non-residential and residential buildings:

- **Building A (Warehouse)**
 - **North (Side) Building Façade (85')**
 - o Required: $85' \times 40\% = 34'$
 - o Provided: 85'
 - **South (Side) Building Façade (104')**
 - o Required: $104' \times 40\% = 41.6'$
 - o Provided: 104'
 - **East (Front) Building Façade (387')**
 - o Exempt where required planting area overlaps the required 20' ROW landscape buffer per Article 7.C.3.B.2.D

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

Per ULDC Table 8.G.2.A, Freestanding Sign Standards, the project is currently proposing one (1) entrance sign along Jog Road and will comply with the standards for the U/S Tier:

- Maximum Number: 3 signs per project frontage
- Maximum Sign Face Area Per Sign: 200 sq. ft.
- Maximum Height: 15'

Per ULDC Table 8.G.1.A-4, Wall Sign Standards, the project is proposing wall signage along the north façade and west facade, which is in compliance with the standards for the U/S Tier:

- o Building A (Warehouse):
 - Maximum Sign Area:
 - 1.0 square feet for each lineal foot of the front wall to which the sign is attached;
 - o North Façade Length = 85 l.f. (Max 42.5 s.f.)
 - 0.5 square feet for each lineal foot of the side and rear wall to which the sign is attached; or

- o East Façade Length = 387 l.f. (Max 387 s.f.)

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

Response: The proposed use will be compatible with surrounding uses. To the north is an industrial business park (Turnpike Crossing East PIPD, Control No. 2005-00456). To the east across N Jog Road is a place of worship (Control No. 2001-00027). To the west is a commercial nursery. To the south is government services uses (Control No. 2001-00076). As described under the Landscape/Buffering section above, the site will provide 8 ft. compatibility landscape buffers around the west and south property lines and a 20' right-of-way landscape buffer and 10' right-of-way landscape buffer along the north and east property lines to provide visual buffering from N Jog Road and neighboring uses.

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

Response: The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment. Additionally, there are no listed species on site. The subject property does not contain any wetlands or wildlife habitat.

VEGETATION PROTECTION: The Preliminary Tree Disposition Plan provides a total of 16 trees to be preserved on site in their existing location. All other vegetation will be removed or relocated.

WELLFIELD PROTECTION ZONE: The property is located within Wellfield Protection Zones #2 – 4.

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

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

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

Response: The overall area surrounding the subject lands are designated for industrial uses. The development patterns along N Jog Road are generally industrial. The proposed warehouse use and accessory office space is an appropriate use based on both the land uses in the general vicinity, and the existing uses surrounding the subject site. The proposed development of the subject property follows a logical, orderly and timely development that will be consistent with the Comprehensive Plan and ULDC.

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

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

Traffic: The proposed development has been estimated to generate 55 trips per day, 5 AM peak hour trips, and 6 PM peak hour trips at project build-out in 2025. The proposed peak hour trips are negligible and will have an insignificant impact on the surrounding roadways and is therefore approvable with regard to the Palm Beach County Traffic Performance Standards. As less than 20 peak hour trips are estimated, additional analysis is not required. See Traffic Generation Statement prepared by Simmons & White.

Potable Water & Wastewater: Water and sewer is available to site. Potable water and wastewater lines run within the right-of-way of N Jog Road and capacity from the Palm Beach County Water Utilities Department (PBCWUD) will need to be confirmed through a Standard Potable Water and Wastewater Development Agreement (SDA). Traffic capacity is available based on the proposed uses.

Drainage: The site is located within the boundaries of the Lake Worth Drainage District and the South Florida Water Management District C-51 Drainage Basin. The Site Plan as shown and proposed will meet the C-51 Drainage Basin requirements. It is proposed that runoff be directed to on-site dry retention by means of paved or grass swales and inlets and storm sewer. Legal positive

outfall for overflow and bleed-down is available via a connection to the Lake Worth Drainage District L-3 Canal along the north side of the property.

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

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

Response: The proposed use will be compatible with surrounding uses. The site is currently underutilized as vacant single family. The proposed Warehouse use would better serve the site and remain consistent with the impact and intensity of the surrounding uses. Due to the current COVID pandemic, the applicant is also proposing a warehouse use on the subject property as there has been a higher demand for warehouse and distribution.

Request 2: Development Order Abandonment Request:

Pursuant to ULDC Article 2.B.7.F.6, when considering an ABN application, the BCC and ZC shall consider the standards indicated below. The applicant is requesting a Development Order Abandonment (ABN) of Resolution No. R-2007-1443, which allowed a Class A Conditional Use to allow a convenience store with gas sales.

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

Response: The proposed abandonment is consistent with the Plan. All conditions of approval contained within Resolution No. R-2007-1443 are proposed to be deleted. The current user no longer intends to continue a convenience store with gas sales operations at the subject site and instead plans to solely repurpose the site for a proposed warehouse use, which is a DRO use in the proposed IL Zoning District, so the applicant is proposing to abandon the previously approved convenience store with gas sales development order.

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

Response: The proposed abandonment of all conditions of approval

contained within Resolution No. R-2007-1443 is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. The abandonment of a DO will not create any new nonconformities. There are no other parties which have ownership interest or other uses which are approved on the property.

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

Response: The proposed abandonment of all conditions of approval contained within Resolution No. R-2007-1443 will not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). The current user no longer intends to continue a convenience store with gas sales operations at the subject site and instead plans to solely repurpose the site for a proposed warehouse use, which is a DRO use in the proposed IL Zoning District, so the applicant is proposing to abandon the previously approved convenience store with gas sales development order.




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

Response: All conditions of approval contained within Resolution No. R-2007-1443 are proposed to be deleted. The changed conditions or circumstances consist of the proposed change of use from the previously approved convenience store with gas sales to the warehouse use. The change from a convenience store with gas sales to warehouse is a DRO use pursuant to Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval.

Request 3: Type II Variance Request:

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

approval, of a zoning or subdivision variance:

TYPE II ZONING VARIANCE (CONCURRENT)					
	ULDC ARTICLE	REQUIRED	PROPOSED	VARIANCE	APPROVAL DATE/RESOLUTION NO.
	Table 20.1.A L Property Development Regulations	40' Front Setback	25' Front Setback	To allow a variance for a 15' front setback reduction	TBD
	Table 7C.2.C Incompatibility Buffer Types	20' Type 3 Incompatibility Landscape Buffer (West Property Line) - 8' HI Orange Wall - 1 Canopy tree per 20 linear feet (31 canopy trees) - 1 palm tree per 20 linear feet (21 Palm or Pines) - 1 Row of small shrubs – 1 per 2 linear feet - 1 Row of medium shrubs – 1 per 4 linear feet	8' Landscape Buffer (West Property Line) - Existing 8' ChainLink Fence - 1 Canopy tree per 20 linear feet (31 canopy trees) - 1 palm tree per 20 linear feet (2 Palm or Pines) - 1 Row of medium shrubs – 1 per 4 linear feet	- A 12' reduction of the required landscape buffer (West property line) - Substitution of required Orange Wall with a 8' chain link fence - Reduction from required 21 to 9 Palm or Pines - Elimination of a row of small shrubs – 1 per 2 linear feet	TBD
	Table 8.E.4.A.3 Loading Area Screening	12' Screening (within 100' of parcel to the residential R.U. Designation)	8' Screening (West property line)	Reduction of 4' of the required loading area screening (West property line)	TBD

VIII. VARIANCE INFORMATION:

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

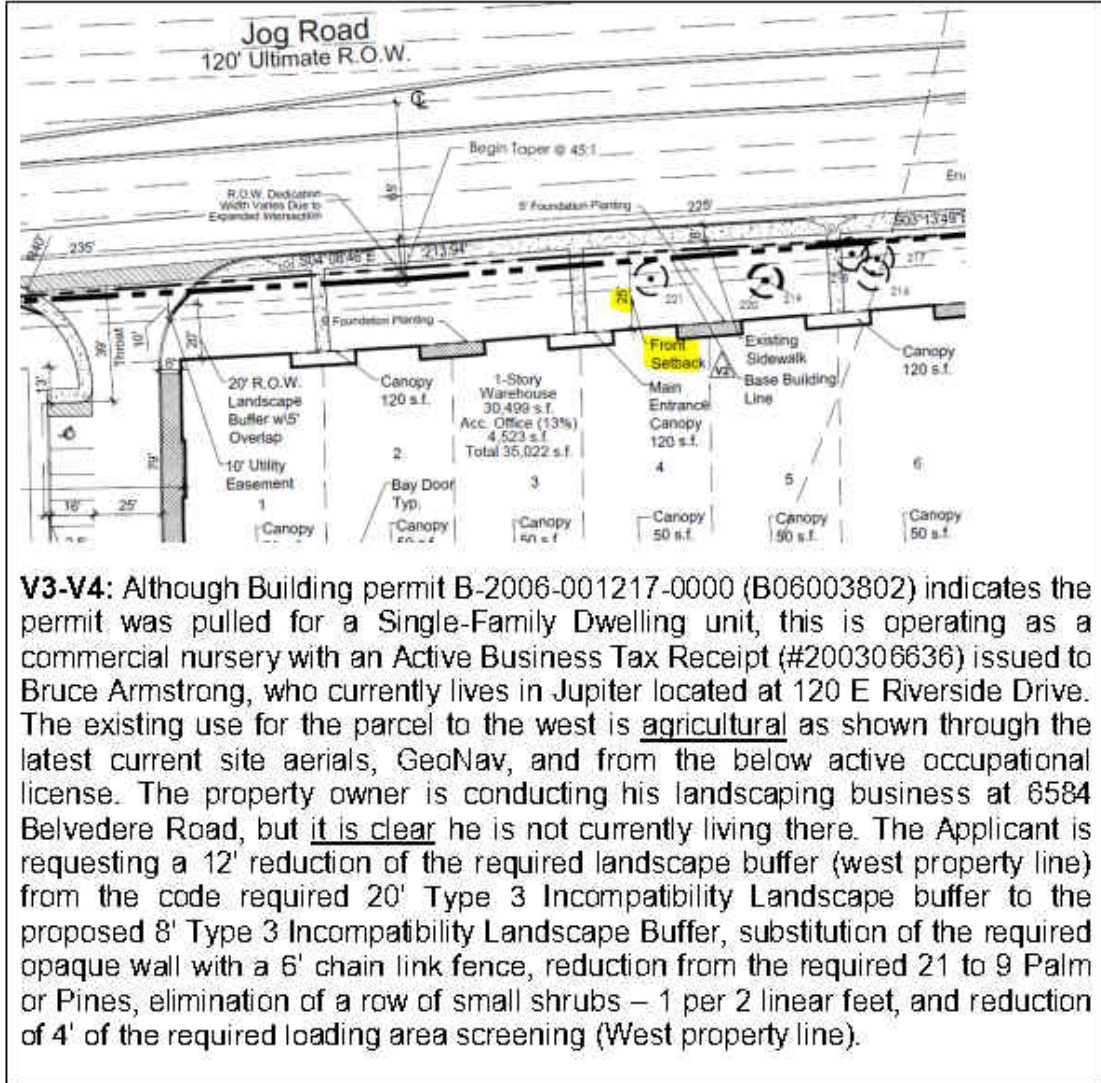
TYPE II VARIANCE SEVEN (7) STANDARDS

A. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

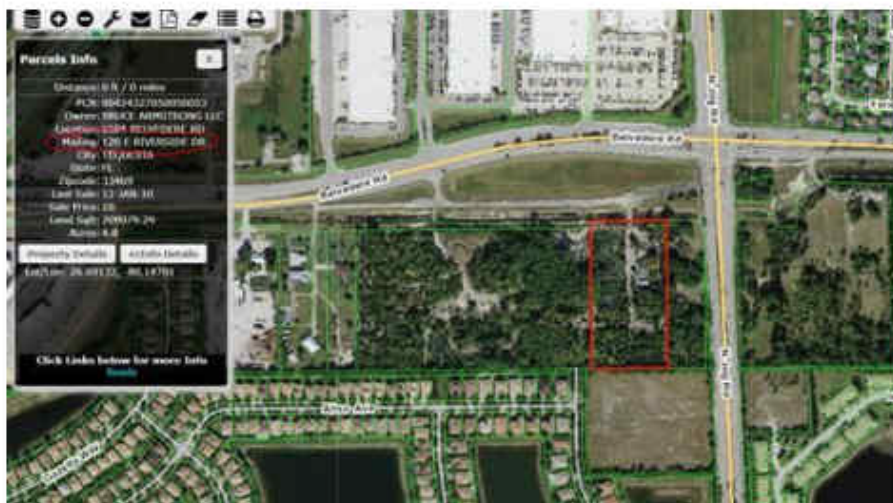
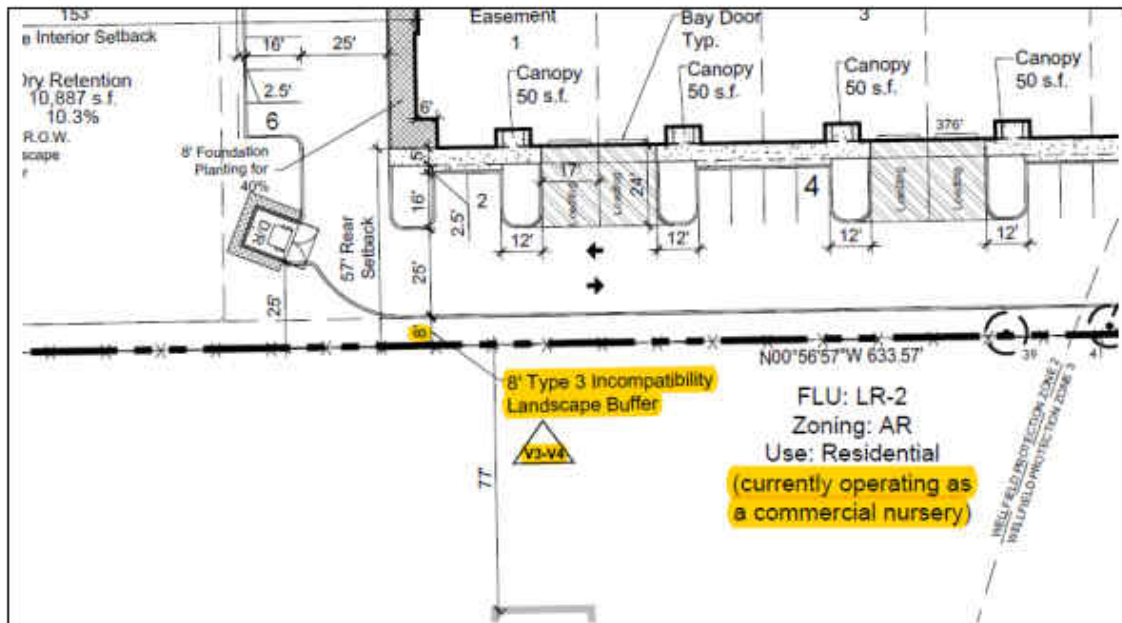
RESPONSE: Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district.

Furthermore,

V2: The parcel has a unique lot configuration, and while it has frontage on N Jog Road, the unique configuration directly impacts the lot depth of the parcel. This restricts the ability for the applicant to place the proposed building on the subject site to maximize the existing dimensional constraints of the property. The applicant is providing safe, efficient circulation and traffic flow throughout the site by providing a significant throat distance and pushing back the proposed parking/loading spaces to the rear of the site. The applicant is also appropriately placing the loading areas in the rear of the building to screen them from view from the Jog Road right-of-way. The Applicant is requesting to reduce the required front setback from 40 feet to 25 feet. The diagram below illustrates the proposed 15' front setback.



V3-V4: Although Building permit B-2006-001217-0000 (B06003802) indicates the permit was pulled for a Single-Family Dwelling unit, this is operating as a commercial nursery with an Active Business Tax Receipt (#200306636) issued to Bruce Armstrong, who currently lives in Jupiter located at 120 E Riverside Drive. The existing use for the parcel to the west is agricultural as shown through the latest current site aerials, GeoNav, and from the below active occupational license. The property owner is conducting his landscaping business at 6584 Belvedere Road, but it is clear he is not currently living there. The Applicant is requesting a 12' reduction of the required landscape buffer (west property line) from the code required 20' Type 3 Incompatibility Landscape buffer to the proposed 8' Type 3 Incompatibility Landscape Buffer, substitution of the required opaque wall with a 6' chain link fence, reduction from the required 21 to 9 Palm or Pines, elimination of a row of small shrubs – 1 per 2 linear feet, and reduction of 4' of the required loading area screening (West property line).



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

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

Furthermore,

V2: The conditions by which the setbacks are created are based on the unique configuration of the subject site and widening of Jog Road over the course of time, which directly impacts the required lot depth of the parcel. Because of this,

the proposed front setback variance is required.

V3-V4: The conditions by which the variances are created are based on that there is a Building permit B-2006-001217-0000 (B06003802), which indicates a Single-Family Dwelling unit is existing along the commercial nursery for the adjacent parcel to the west, which requires the applicant to provide a 20' Type 3 Incompatibility Landscape Buffer (West Property Line: Industrial Use abutting Residential Use) per Table 7.C.2.C, Incompatibility Buffer Types. However, the Active Business Tax Receipt (#200306636) for the adjacent parcel indicates that property owner (Bruce Armstrong) currently lives at 120 E Riverside Drive. The existing use for the parcel to the west is agricultural as shown through the latest current site aerials, GeoNav, and from the active occupational license. The property owner is conducting his landscaping business at 6584 Belvedere Road, but it is clear he is not currently living there. Because of this, the proposed landscape buffer variances are not warranted.

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

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

Furthermore,

V2: 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. The proposed variance would be expected to be granted on similar properties with adjacent properties supporting the same uses.

V3-V4: The proposed variance would be expected to be granted on similar properties with adjacent properties supporting the same uses. If the property owner (Bruce Armstrong) had gone through the proper channels for the use of his site to be consistent with his Active Business Tax Receipt for landscape service and installation, this variance would not have been necessary. The County had no other information available other than to classify the adjacent parcel to the west as a residential use as the property owner did not go through the proper channels. Building permit B-2006-001217-0000 (B06003802) indicates a Single-Family Dwelling unit existing along the commercial nursery, however this site is operating as a commercial nursery as shown through the latest current site aerials, GeoNav, and from the active occupational license.

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

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

Furthermore,

V2: 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. The literal interpretation of the Code would require the proposed warehouse use to maintain a 40' front setback from N Jog Road. A 40 ft. setback eliminates the ability to efficiently place the proposed building on the subject site and work within the limitations of the property. The subject site is currently underutilized as vacant single-family fronting on a 6-lane highway. The proposed Warehouse use would better serve the site and remain consistent with the impact and intensity of the surrounding uses. If the building and the loading/maneuvering area were flipped, it would create an unsafe circulation pattern in front of the building along Jog whereby the throat would be reduced and the line of sight into the property would be on of a number of loading bays.

V3-V4: 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. The literal interpretation of the Code would require a 20' Type 3 Incompatibility Landscape Buffer along the west property line. A 20' Type 3 Incompatibility Landscape Buffer eliminates the ability to efficiently place the proposed building on the subject site and work within the limitations of the property. The subject site is currently underutilized as vacant single-family fronting on a 6-lane highway. The proposed Warehouse use would better serve the site and remain consistent with the impact and intensity of the surrounding uses.

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

RESPONSE: Granting these variances are the minimum needed for the

reasonable use of the property.

Furthermore,

V2: Granting of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. The granting of the front setback variance is the minimum needed to make reasonable use of the property for the proposed warehouse use. Based on the shallow lot depth, the site doesn't lend itself to flexibility in site layout. In terms of design and screening of bay doors to the ROW, this variance is the minimum necessary to efficiently operate the site and mitigate line of sight impacts along Jog Road as well as safety concerns for a reduced throat if developed without the requested variance.

V3-V4: Granting of variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. The granting of the landscape buffer variances are the minimum needed to make reasonable use of the property for the proposed warehouse use.

F. GRANTING THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

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

Furthermore,

V2: Granting of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. The variance request is consistent with the ULDC by providing safe, efficient circulation and traffic flow throughout the site.

V3-V4: Granting of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. Granting the applicant variances for a 12' reduction of the required landscape buffer (west property line) from the code required 20' Type 3 Incompatibility Landscape buffer to the proposed 8' Type 3 Incompatibility Landscape Buffer, substitution of the required opaque wall with a 6' chain link fence, reduction from the required 21 to 9 Palm or Pines, elimination of a row of small shrubs – 1 per 2 linear feet, and reduction of 4' of the required loading area screening (West property line) will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.

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

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

Furthermore,

V2: The proposed variance will not be injurious to the area involved or detrimental to the public welfare. The proposed variances will not be injurious to the surrounding properties as they are generally industrial in nature and the impacts are removed from any public right-of-way to avoid any potential visual impacts. The proposed variance will not be injurious to the area involved or detrimental to the public welfare.

V3-V4: The proposed variance will not be injurious to the area involved or detrimental to the public welfare as the applicant is requesting a variance for a 12' reduction of the required landscape buffer (west property line) from the code required 20' Type 3 Incompatibility Landscape buffer to the proposed 8' Type 3 Incompatibility Landscape Buffer, substitution of the required opaque wall with a 6' chain link fence, reduction from the required 21 to 9 Palm or Pines, elimination of a row of small shrubs – 1 per 2 linear feet, and reduction of 4' of the required loading area screening (West property line).

Request 4: Type I Waiver to reduce the loading space depth from 55' to 24' for the proposed loading spaces

Pursuant to Article 6.E.4.A.1.D & ULDC Article 2.C.5.F.3, When considering a DO application for a Type 1 Waiver, the DRO shall consider the following Standards in addition to any other Standards applicable to the specific Waiver as contained in this Code. For a Waiver application that requires the submittal of an ALP, the Applicant shall comply with additional standards pursuant to Art. 7.B.4, Type 1 Waiver for Landscaping.

A waiver chart has been added to the site plan in reference to this waiver request.

TYPE I WAIVER CHART					
	ULDC ARTICLE	REQUIRED	PROPOSED	WAIVER	APPROVAL DATE/RESOLUTION
W1	Article 8.E.4.A.1.D Reduction of Loading Space Length	15' x 55'	17' x 24'	To reduce the loading space depth from 55' to 24' for the proposed loading spaces	TBD

- A. The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the Zoning district or Overlay.**

Response: *The proposed waiver does not create additional conflicts with other requirements of the ULDC and is consistent with the stated purpose and intent for the zoning district. The reduced loading zones allow for overall better circulation for the site.*

- B. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development**

Response: *The Waiver will not cause a detrimental effect on the overall design and development standards of the project and will be in harmony with the general site layout and design details of the development. By reducing the loading zone, it increases the efficiency of the traffic circulation and keeps the loading area out of the drive aisles, thus reducing its impact.*

- C. The alternate design option recommended as part of the Waiver approval, if granted, will not adversely impact users of the project or adjacent properties**

Response: *The Applicant is not proposing an alternative design; therefore, the Applicant will not impact users of the project or adjacent properties.*

On behalf of the Applicant, 6562 Belvedere LLC, Schmidt Nichols respectfully requests your approval of the Rezoning, Type 2 Variance (Concurrent), and Development Order Abandonment applications for Windsor Industrial.

Figure F Letter of support adjacent Property Owner to West

January 16, 2023

Lisa Amara, Zoning Director
Palm Beach County, Zoning Division
2300 North Jog Road
West Palm Beach FL 33411
Phone: (561) 233-5234
Email: lamara@pbcgov.org

RE: Windsor Industrial (Application No. ZV/ABN/Z – 2021-01863)

Dear Ms. Amara,

I am the owner of the properties located at 6584 and 6594 Belvedere Road (total of +/- 19 acres) adjacent to the west of the development site under consideration. The purpose of this letter is to express my support for the proposed requests sought for the Windsor Industrial project as follows:

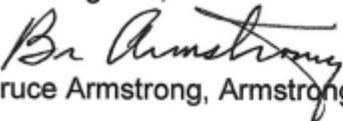
1. Future Land Use Map Amendment
2. Development Order Abandonment
3. Rezoning
4. Type II Variance for Landscape buffer reduction (west property line)

The previous approval on the property was for a gas station. That said, the proposed light industrial development will better complement my business and the surrounding developments. The corridor has become dominated by non-residential uses as encouraged by the PBC Airport Overlay. The proposed reduction of the landscape buffer along my adjoining property line will not cause any negative impacts with the proposed 8' hedge and fence along with adequate trees. I met with the applicant who walked me through the proposal and I feel comfortable with all aspects of the project. My property is the only affected party and I have no issues and as stated before support the project.

I would ask that the Commission support the proposed requests as this would bring a much needed industrial building to the corridor and avoid a gas station development which may bring unwanted people in and around my property. The proposed use will be low impact and still provide landscaping along our shared property line.

You may reach me via email at bruce@armstronglandscapegroup.com.

Best Regards,


Bruce Armstrong, Armstrong Landscaping

cc: Wendy Hernandez, Deputy Zoning Director, PBC Zoning Division, via email
Imene Haddad, Site Planner II, PBC Zoning Division, via email