

RESOLUTION NO. ZR-2022-030

RESOLUTION APPROVING ZONING APPLICATION ZV/PDD-2022-00120 CONTROL
NO. 2021-00123

TYPE II VARIANCE (*CONCURRENT*)

APPLICATION OF William Kennedy, 6690 S Military Trail LLC, MG3 Alf Military LLC,
Ray Marcinkoski, Pulte Home Company, LLC, George Homrich
BY Insite Studio, AGENT
(WINCHESTER ASSEMBLAGE PUD)

WHEREAS, the Zoning Commission, pursuant to Article 2 (Application Processes and Procedures) of the Palm Beach County Unified Land Development Code, Ordinance 2003-067 as amended (ULDC), is authorized and empowered to consider, approve, approve with conditions or deny the request;

WHEREAS, the notice and public hearing requirements pursuant to Article 2 (Application Processes and Procedures) of the ULDC have been satisfied;

WHEREAS, Zoning Application ZV/PDD-2022-00120 was presented to the Zoning Commission at a public hearing conducted on September 1, 2022;

WHEREAS, the Zoning Commission considered the evidence and testimony presented by the Applicant and other interested parties, and the recommendations of the various County Review Agencies;

WHEREAS, the Zoning Commission hereby incorporates by reference the Findings in the staff report addressing the Standards contained in Article 2.B (Public Hearing Processes) for a Type 2 Variance;

WHEREAS, this approval is subject to Article 2.E (Monitoring) of the ULDC and other provisions requiring that development commence in a timely manner;

WHEREAS, the issuance of this Development Permit does not in any way create any rights on the part of the Applicant and/or Property Owner to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law;

WHEREAS, the Palm Beach County Survey Section may administratively correct any scrivener's errors that will not significantly impact the overall boundary of the adopted legal description; and,

WHEREAS, Article 2.B.6.C (Board Action) of the ULDC requires that action of the Zoning Commission be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE ZONING COMMISSION OF PALM BEACH COUNTY, FLORIDA, that Zoning Application ZV/PDD-2022-00120, the Application of William Kennedy, 6690 S Military Trail LLC, MG3 Alf Military LLC, Ray Marcinkoski, Pulte Home Company, LLC - Aimee Carlson, George Homrich, by Insite Studio, Agent, for a Type 2 Variance to eliminate the Compatibility and Type 1 Incompatibility Buffers (north, east and west property lines of preserve area), on a parcel of land generally described as shown on the legal description in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch as indicated in EXHIBIT B, attached hereto and made a part hereof, was approved on September 1, 2022, subject to the Conditions of Approval described in EXHIBIT C, attached hereto and made a part hereof and Variance request as described in EXHIBIT D, attached hereto and made a part hereof.

Commissioner Scarborough moved for the approval of the Resolution.

The motion was seconded by Commissioner Caliendo and, upon being put to a vote, the vote was as follows:

Marcelle Griffith Burke, Chair	- Absent
John Kern, Vice Chair	- Yes
Cheri Pavlik	- Yes
Michael Kelley	- No
Sam Caliendo	- Yes
Sheri Scarborough	- Yes
Alex Brumfield III	- Yes
Mark Beatty	- Yes
Jess Sowards	- Absent

The Chair thereupon declared the resolution was duly passed and adopted on September 1, 2022.

This resolution shall only become effective upon the adoption of a resolution approving Zoning Application ZV/PDD-2022-00120 by the Board of County Commissioners.

This resolution was filed with the Palm Beach County Zoning Division on September 1, 2022.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS ZONING COMMISSIONERS

BY: 
COUNTY ATTORNEY

BY: 
V? CHAIR

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1 & 2:

THAT PORTION OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 LYING SOUTH OF THE RIGHT OF WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL 17 CANAL AS SHOWN ON SHEET 58 OF 240 SHEETS, AND RECORDED IN MAY, 1969, LESS THE RIGHT OF WAY FOR STATE ROAD 804; THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTH 1/2 THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4, LESS THE RIGHT OF WAY FOR STATE ROAD 804; ALL IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

PARCEL 3:

THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA. LESS THE SOUTH 242 FEET OF THE NORTH 428.03 FEET OF THE WEST 180 FEET THEREOF.

EASEMENT ESTATE:

INGRESS, EGRESS EASEMENT CONTAINED IN OFFICIAL RECORDS BOOK 1707, PAGE 1639, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

A STRIP OF LAND 18 FEET IN WIDTH, LYING IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID STRIP LYING SOUTHERLY OF AND CONTIGUOUS TO THE FOLLOWING SPECIFICALLY DESCRIBED LINE:

FROM THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 1, RUN DUE SOUTH ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 148.50 FEET, THENCE SOUTH 88 DEGREES 20 MINUTES 00 SECONDS EAST A DISTANCE OF 50.02 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 88 DEGREES 20 MINUTES 00 SECONDS EAST, A DISTANCE OF 615.93 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF THE SAID SECTION 1, AND THE END OF THE SPECIFICALLY DESCRIBED LINE.

PARCEL 4:

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 1, THENCE EASTERLY ALONG THE EAST/WEST 1/4 SECTION LINE ON AN ASSUMED BEARING OF SOUTH 89°57'20" EAST AND ALL OTHER BEARINGS RELATIVE THERETO A DISTANCE OF 665.60 FEET, MORE OR LESS, TO AN IRON PIPE; THENCE SOUTH 0°03'37" EAST A DISTANCE 186.03 FEET, MORE OR LESS, TO AN IRON PIPE AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 0°03'37" EAST A DISTANCE OF 242 FEET; THENCE SOUTH 89°58'37" EAST, A DISTANCE OF 180.01 FEET; THENCE NORTH 0°03'37" WEST A DISTANCE OF 242 FEET; THENCE NORTH 89°58'37" WEST A DISTANCE OF 180.01 FEET TO THE POINT OF BEGINNING

PARCEL 5:

THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH AN EASEMENT FOR ROAD AND UTILITIES PURPOSES OVER THE EAST 20.0 FEET OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE WEST 20.0 FEET AT THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE

NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE WEST 20.0 FEET OF THE NORTH 30.0 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4), ALL LYING IN SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST.

TOGETHER WITH AN UNDIVIDED QUARTER (1/4) INTEREST IN THE NORTH 30.0 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE NORTH 40.0 FEET OF THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF MILITARY TRAIL (S.R. 809).

PARCEL 6:

THE NORTHEAST (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH AN EASEMENT FOR ROAD AND UTILITY PURPOSES OVER THE EAST 20.0 FEET OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE WEST 20.0 FEET OF THE SOUTHEAST QUARTER (SE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) AND THE WEST 20.0 FEET OF THE NORTH 30.0 FEET OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4), ALL LYING IN SAID SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST.

TOGETHER WITH AN UNDIVIDED QUARTER (1/4) INTEREST IN THE NORTH 30.0 FEET OF THE NORTHWEST QUARTER (NW 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SOUTHEAST QUARTER (SE 1/4) AND THE NORTH 40.0 FEET OF THAT PART OF THE NORTHWEST QUARTER (NW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SAID SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, LYING EAST OF THE EAST RIGHT-OF-WAY OF MILITARY TRAIL, (S.R. 809).

MORE PARTICULARLY DESCRIBED AS:

PARCEL A

A PORTION OF LAND LYING IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION THENCE SOUTH 00° 11' 50" EAST, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 150.17 FEET; THENCE SOUTH 88° 50' 22" EAST, A DISTANCE OF 53.01 FEET; THENCE CONTINUE SOUTH 88° 50' 22" EAST, AND ALONG THE SOUTH LINE OF THE REQUIRED RIGHT OF WAY OF THE LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 17, PER MAP SUPPLIED BY SAID DISTRICT JOB NO.68-22, AS SHOWN ON PAGE 58 OF 240, DATED AUGUST OF 1968, A DISTANCE OF 1279.14 FEET; THENCE SOUTH 00° 20' 02" EAST, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 847.48 FEET; THENCE SOUTH 89° 47' 09" WEST, ALONG THE SOUTH LINE OF THE NORTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 1280.80 FEET; THENCE NORTH 00° 11' 50" WEST, ALONG A LINE 53.00 FEET EAST OF AND PARALLEL TO THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND ALSO BEING THE EAST LINE OF THE RIGHT OF WAY PARCEL FOR MILITARY TRIAL AS RECORDED IN OFFICIAL RECORD BOOK 5944 PAGE 1129 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 878.17 FEET TO THE POINT OF BEGINNING, SAID PARCEL BEING 1104214.12 SQUARE FEET OR 25.349 ACRES MORE OR LESS.

TOGETHER WITH:

PARCEL B

A PORTION OF LAND LYING IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION, THENCE SOUTH 00° 11' 50" EAST, ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 99.01 FEET; THENCE SOUTH 88° 50' 22" EAST, ALONG THE NORTH LINE OF THE REQUIRED RIGHT OF WAY OF THE LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 17, PER MAP SUPPLIED BY SAID DISTRICT JOB NO. 68-22, AS SHOWN PAGE 58 OF 240, DATED AUGUST OF 1968, A DISTANCE OF 666.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00° 15' 56" WEST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 114.26 FEET; THENCE NORTH 89° 50' 56" EAST, ALONG NORTH LINE OF THE SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 665.68 FEET; THENCE SOUTH 00° 20' 02" EAST, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER A DISTANCE OF 129.50 FEET; THENCE NORTH 88° 50' 22" WEST, ALONG THE SAID REQUIRED NORTH RIGHT OF WAY LINE OF LATERAL CANAL L-17 A DISTANCE OF 666.03 FEET TO THE POINT OF BEGINNING.

CONTAINING 81140.516 SQUARE FEET OR 1.863 ACRES.

TOTAL AREA CONTAINING 1,185,354.63 OR 27.212 ACRES MORE OR LESS.

EXHIBIT B
VICINITY SKETCH

LOCATION MAP

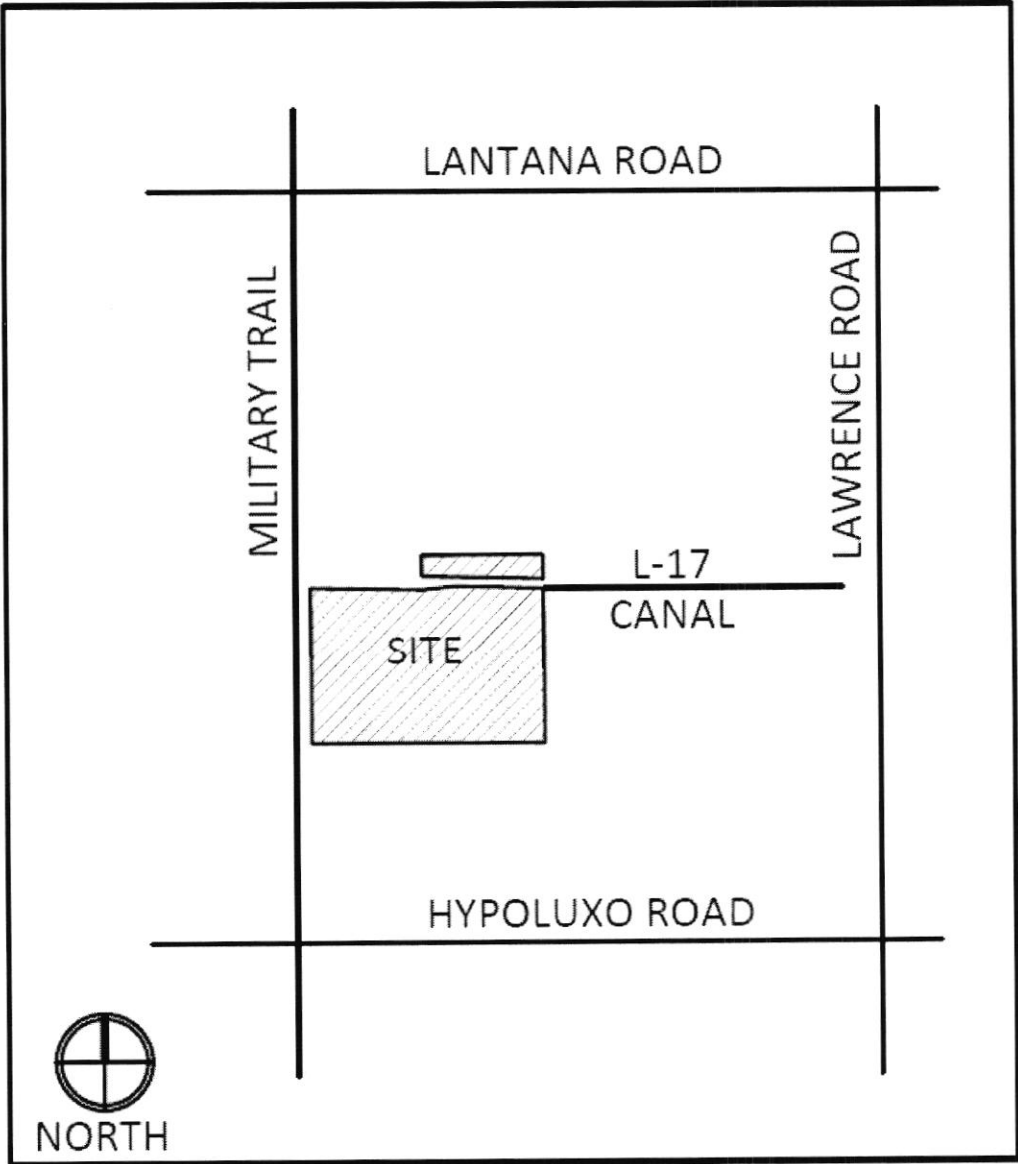


EXHIBIT C

CONDITIONS OF APPROVAL

Type 2 Variance - Concurrent

ALL PETITIONS

1. The Development Order for this concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD-2022-00120. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Zoning)

2. Development of the site is limited to the site design approved by the Zoning Commission. The approved Master, and Subdivision Plans are dated July 14, 2022. All modifications to the Development Order must be approved by the Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (ONGOING: 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 Plans to the Building Division. (ONGOING: BUILDING DIVISION - Zoning)

LANDSCAPE - INTERIOR

1. Prior to Final approval by the Development Review Officer, the Regulating Plan shall be revised to show the trees required in the eliminated landscape buffers, relocated throughout the site. (DRO:ZONING - Zoning)

COMPLIANCE

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

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

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

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

DISCLOSURE

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

EXHIBIT D

REQUEST

TYPE II VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
7.C.2.B.3 Landscape Requirements	8' Compatibility Buffer along the north and west boundary of the preserve area	0' north and west property lines of the portion of the property north of the LWDD L-17 Canal	- 8' north and west property lines of the portion of the property north of the LWDD L-17 Canal
7.C.2.C.3 Landscape Requirements	10' Type 1 Incompatibility Buffer along the east boundary of the preserve area	0' east property line of the portion of the property north of the LWDD L-17 Canal	-10' east property line of the portion of the property north of the LWDD L-17 Canal

SITUS ADDRESS:	4366 Sylvia Ln Lake Worth 33463 6666 43rd Ave S Lake Worth 33463 4265 Sylvia Ln Lake Worth 33463 6690 S Military Trl Lake Worth 33463 6654 43rd Ave S Lake Worth 33463	
OWNER NAME & ADDRESS:	6690 S Military Trail Llc George Homrich Mg3 Alf Military LLC Ray Marcinkoski William Kennedy 4366 Sylvia Ln Lake Worth Beach, FL 33463-7519	
PCN:	00-42-45-01-00-000-5111 00-42-45-01-00-000-5150 00-42-45-01-00-000-5040 00-42-45-01-00-000-5110 00-42-45-01-00-000-5170 00-42-45-01-00-000-5230	
ZONING DISTRICT:	AR	
BCC DISTRICT:	District 2, Vice Mayor Gregg Weiss	
PROJECT MANAGER:	Jerome Ottey, Senior Site Planner	
LAND USE:	HR-8 MR-5	S/T/R: 01-45-42
CONTROL #:	2021-00123	
LOT AREA:	27.21 acres +/-	
APPLICANT REQUEST:	to eliminate the Compatibility and Type 1 Incompatibility Buffers (north, east and west property lines of preserve area)	