

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



**ZONING COMMISSION VARIANCE  
STAFF REPORT  
09/16/13**

<b>APPLICATION NO.</b>	<b>CODE SECTION</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>VARIANCE</b>
ZV-2013- 01344 (HYDER AGR-PUD)	<b>(V1)</b> 3.D.1.A Property Development Regulations	40 % Building Coverage	44% for single story single family dwelling units	10% increase
	<b>(V2)</b> 3.D.2.B Property Development Regulations	50% Building Coverage	55% for single story zero lot line homes	10% increase
LOCATION:	West of and adjacent to Lyons Road; East of and adjacent to State Road 7 between L36 canal and L39 canal			
SITUS ADDRESS:	16625 Lyons Road Delray Beach 33446			
AGENT NAME & ADDRESS:	Gladys DiGirolamo G.L. Homes 1600 Sawgrass Corporate Pkwy Sunrise FL 33323			
OWNER NAME & ADDRESS:	Boca Raton Associates VII, LLLP 1600 Sawgrass Corporate Pkwy Sunrise FL 33323  Boynton Beach Associates XXIV, LLLP 1600 Sawgrass Corporate Pkwy Sunrise FL 33323			
PCN:	00-42-43-27-05-070-0011; 0160; 00-42-46-30-01-000-0170			
ZONING DISTRICT:	Agricultural Reserve Planned Unit Development (AGR-PUD)			
BCC DISTRICT:	05			
PROJECT MANAGER:	Joyce Lawrence, Site Planner II			
LEGAL AD:	<b>ZV-2013-01344 Title:</b> Resolution approving a Type II Variance application of Boynton Beach Associates XXIV, LLLP, Boca Raton Associates VII, LLLP by G.L. Homes, Agent. <b>Request:</b> to allow an increase in building coverage for single story single family dwelling units and single story zero lot line homes <b>General Location:</b> Bound on the west by State Road 7, on the east by Lyons Road, on the north by the L-36 Canal and the South by the L-39 Canal <b>(HYDER AGR-PUD) (2005-00455)</b>			
LAND USE:	Agricultural Reserve (AGR)	S/T/R: 30-46-42; 27-43-42		
CONTROL #:	2005-00455			
LOT AREA:	719.64 acres +/- (Development Area) 6,000 square feet - minimum lot size for a Single Family dwelling unit 4,500 square feet - minimum lot size for a Zero Lot Line unit			
LOT DIMENSIONS:	SF: 65 feet minimum width and frontage; 75 feet minimum depth ZLL: 45 feet minimum width and frontage; 75 feet minimum depth			

CONFORMITY OF LOT:	Lots have not been subdivided and must conform to the minimum lot dimensions.	CONFORMITY OF ELEMENT:	N/A
TYPE OF ELEMENT:	Building Coverage: Percentage of lot area occupied by the ground floor area of a building or structure.	ELEMENT SIZE:	Maximum of 40% of lot area (SF) Maximum of 55% of lot area (ZLL)
BUILDING PERMIT #:	N/A	NOTICE OF VIOLATION:	N/A
CONSTRUCTION STATUS:	Undeveloped		
APPLICANT REQUEST:	To allow an increase in Building Coverage for single story single family homes and single story zero lot line dwelling units.		

**RECOMMENDATION:** Staff recommends **denial** of the request, based upon the following application of the standards enumerated in Article 2, Section 2.B.3.E of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance.

### STAFF SUMMARY

Proposed is a Type II Variance for the Hyder Agricultural Reserve Planned Unit Development (AGR PUD). The 1,815.84-acre development was last approved by the Board of County Commissioners (BCC) on August 25, 2013 to allow an abandonment of Resolution R-2007-01873; to reconfigure the Preliminary Master Plan to add land area (Development and Preserve); to reconfigure the Civic Pod; to establish access points and delete Collector Road; to increase the number of dwelling units; establish model rows; and amend the recorded Conservation Easement (ORB 18768, Page 1681) for South Florida Water Management District (SFWMD) Preserve Parcel and a Type II Waiver to allow streets to terminate in cul-de-sacs.

The applicant is requesting a Variance to allow an increase from 40% to 44% (+10%) in the building coverage for the Single Family Residential lots and from 50% to 55% (+5) for the Zero Lot Line (ZLL) lots that will be developed with a one-story unit. The Variance request is not applicable to the two-story Single Family or the ZLL units. Three access points will be provided from Lyons Road (2) and State Road 7 (1).

Application No.	Request	Approval Date	Resolution
PDD/W-2005-01328	An Official Zoning Map Amendment to rezone the property from the Agricultural Reserve Zoning District to the Agricultural Reserve Planned Unit Development Zoning District.	February 23, 2006	R-2006-278
PDD/W-2005-01328	A Waiver of Objectives and Standards (Performance Standards (Waiver) to allow deviation from cul-de-sac and/or dead-end restrictions in the Agricultural Reserve Planned Unit Development Zoning District.	February 23, 2006	R-2006-279
DOA/EAC-2008-00802	A Development Order Amendment to delete a Condition of Approval (Preserve Platting).	September 29, 2008	R-2008-1698
DOA/EAC-2008-00802	A Development Amendment to reconfigure the Master Plan, increase the number of units, to amend a Condition of Approval (Engineering), create a model row, and restart the commencement clock.	March 30, 2009	R-2009-506
DOA-2008-01367	A Corrective Resolution to correct the legal description in Resolution R-2009-0506.	March 30, 2009	R-2010-959
ABN/DOAW-	A Development Order Abandonment to	July 25, 2013	R-2013-967

2012-03372	abandon Resolution R-2007-01873.		
ABN/DOAW-2012-03372	A Development Order Amendment to reconfigure the Preliminary Master Plan to add land area (Development and Preserve); to reconfigure the Civic Pod; to establish access points and delete Collector Road; to increase the number of dwelling units; establish model rows; and amend the recorded Conservation Easement (ORB 18768, Page 1681) for South Florida Water Management District (SFWMD) Preserve Parcel.	July 25, 2013	R-2013-968
ABN/DOAW-2012-03372	A Waiver to allow a percentage (64%) of the streets to terminate in a cul-de-sac.	July 25, 2013	R-2013-969

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)  
 Supporting: Residential (Sussman PUD, Control No. 2000-00032)

**NORTH:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Special Exception (SE)  
 Supporting: Residential/Daycare Center (In the Pines, Control No. 1991-00035)

**SOUTH:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Planned Unit Development (PUD)  
 Supporting: Residential (Oaks at Boca Raton, Control No. 1997-00104)

**EAST:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Planned Unit Development (AGR-PUD)  
 Supporting: Residential (Kenco Ranch PUD, Control No. 2000-00015)

**EAST:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)  
 Supporting: Residential (Bridges AGR-PUD, Control No.2004-00250)

**WEST:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)  
 Supporting: Agriculture (Lyons West AGR-PUD, Control No. 2005-00003)

**ANALYSIS OF ARTICLE 2, SECTION 2.B.3.E VARIANCE STANDARDS**

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

**V1 - V2 NO:** There are no special circumstances or conditions exist that are peculiar to this development and not to other developments within the same Zoning District. Flexible Regulations are no longer available to developers in any Zoning District since the adoption of the 2004 Code. The fact that Flexible Regulations are not available to the applicant under the current Code, is not a special circumstance. All Zoning applications submitted since the adoption of the 2004 Code were required to meet the maximum building coverage requirement.

The AGR PUD Zoning District is permitted in the AGR FLU designation to accommodate low density residential development in conjunction with the preservation of agriculture, wetlands, or other

significant open space area. An AGR PUD allows flexibility in Property Development Regulations by allowing a mix of unit types within the development in the form of residential pods to promote an innovative and quality design.

On July 25, 2013, the latest Development Order Amendment application, the BCC approved a Development Order Amendment to reconfigure the Preliminary Master Plan to add land area (Development and Preserve); to reconfigure the Civic Pod; to establish access points and delete Collector Road; to increase the number of dwelling units; establish model rows; and amend the recorded Conservation Easement (ORB 18768, Page 1681) for South Florida Water Management District (SFWMD) Preserve Parcel. In addition, the BCC approved a Type II Waiver to allow a 64% of the streets to terminate in cul-de-sacs. The most recent request included added land area of 820.18 acres for a total of 1,815.84 acres, and the number of units were increased to 1,319 units (+324). The applicant did not request the proposed Variances concurrently with that request even though he was cognizant of the maximum building coverage requirements by Code. Additionally, the applicant has every opportunity to provide for larger lots to account for the design of their homes, but chooses not to modify their design.

Staff is unable to support the applicant request as there are no special conditions and circumstances stated in the Justification Statement to support the applicant's request to allow an increase in Building Coverage for the single story single family dwelling units from a maximum of 40% of building coverage to a maximum of 44% (+10%) and the single story zero lot line homes from a maximum of 50% to a maximum of 55 (+10%) of the lot area. The applicant made reference to other developments instead of providing information to support the subject site as required for a Type II Variance.

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

**V1 - V2 NO:** The site is undeveloped. There is no special circumstance or conditions. The actions are solely created by the applicant and they have every opportunity to comply with the Code requirements. The recently approved Preliminary Master Plan provides more land area for open space and recreation area within the development that have exceeded minimum Code requirements by 0.71 acre and 11.38 acres respectively. They also requested waivers and the maximum density which could be adjusted to provide for the home design proposed by the applicant. The applicant will propose the subdivision of the land and can subdivide to offer the size lot necessary to accommodate the builder's speculative design. Therefore, the applicant has sufficient land available within the development to subdivide the single story single family and single story zero lot line lots to support the buyers' customized models without the need for a variance.

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

**V1 - V2 NO:** The granting of the Variance will confer special privilege upon the applicant. The Code is clear. All lots in the AGR PUD Zoning District must be subdivided to accommodate the proposed building coverage for the lot. The maximum building coverage for the single family lot is 40% and zero lot line is 50%. The development area for this 60/40 AGR PUD is 719 acres and has not yet been subdivided. The Code allows the applicant to modify the approved Master Plan by the BCC if the modifications are consistent with the representations regarding the original approval, the Conditions of Approval, and the Development Order.

The applicant is requesting a blanket increase of 10% of the building coverage for the single story single family dwelling units and the single story zero lot line homes. The site was recently approved by the BCC to reconfigure the site and therefore can be designed and developed as was approved and in compliance with the Conditions of Approval and Code requirements.

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

**V1 - V2 NO:** Enforcement of the terms and provisions of the Code would not deprive the applicant of any rights commonly enjoyed by other parcels of land and would not work an unnecessary/undue hardship, as other sites have to comply with Code requirements as well. The site was recently approved to reconfigure the site, and therefore can be designed and developed as was approved in compliance with the Conditions of Approval and Code requirements.

No property owner in the AGR PUD Zoning District may choose to apply only a portion of a prior Code. The applicant has exceeded Code requirement for the recreation and more than sufficient open space available within the development area to subdivide the lots to support the buyers' customized models without the need for a variance.

**5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:**

**V1 - V2 NO:** The granting of the variance is not the minimum variance that will make possible the use of the parcel. On July 25, 2013, the applicant did not request the proposed Variances concurrently with the latest Development Order Amendment. The application included the request to reconfigure the Master Plan to add land area (+820.18 acres) and increased the number of units to 1,319 (+324).

The applicant's Justification Statement states that the request is for flexibility to adjust the product type to potentially meet the needs of the buyers. However, the site has exceeded Code requirements for the open space and the recreation area, and has more than sufficient acreage available within the development area to subdivide the lots to support the buyers' potential need without the Variances. The applicant is also maximizing density, requesting and received approval from the BCC. The site is undeveloped, and is currently being used for agriculture production. Variances are not necessary to make use of the parcel of land.

**6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:**

**V1 - V2 NO:** The granting of the variance request to allow an increase in building coverage is inconsistent with Code. The sequence of submittal for a Type II Variance is: approval of a variance shall be obtained prior to master plan, site plan or subdivision plan approval by the DRO, plat recordation, or issuance of a building permit, whichever occurs first. For the Hyder AGR PUD development, the applicant is only seeking a request for a 10% blanket variance to allow 44% and 55% building coverage for single story single family dwelling units and single story zero lot line homes which should have been part of the most recent concurrent submittal approved by the BCC on July 25, 2013. The prior approval included a reconfiguration of the Master Plan to add land area (+820.18 acres) and increased the number of units to 1,319 (+324).

**7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:**

**V1 - V2 NO:** All applications for a Development Order must meet the minimum requirements of the Code at the time of application submittal. Developers cannot pick and choose portions of prior Codes. Staff has not supported previous requests for a blanket Type II Variance to allow an increase in building coverage in other developments. The granting of the Variances and to allow the applicant not to meet the minimum Code requirements for maximum building coverage in the current Code is detrimental to the public welfare.

## ZONING COMMISSION CONDITIONS

### EXHIBIT C

Type II Variance - Standalone

### VARIANCE

1. This Variance is approved based on the layout as shown on the Preliminary Master Plan - Variance Exhibit dated May 15, 2013. Only minor modifications by Zoning Commission or Development Review Officer shall be permitted provided the changes are consistent with this Plan. (ONGOING: ZONING - Zoning)

2. The Development Order for this Variance shall be tied to the Time Limitations of the Development Order for ABN/DOA/W-2012-03372. (ONGOING: MONITORING - Zoning)

3. At time of application for a Building Permit for the single story Single Family dwelling units with building coverage exceeding 40% and the single story Zero Lot Line Homes with building coverage exceeding 50%, 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. 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 Board of County Commissioners for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

5. 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)

Figure 1 Aerial

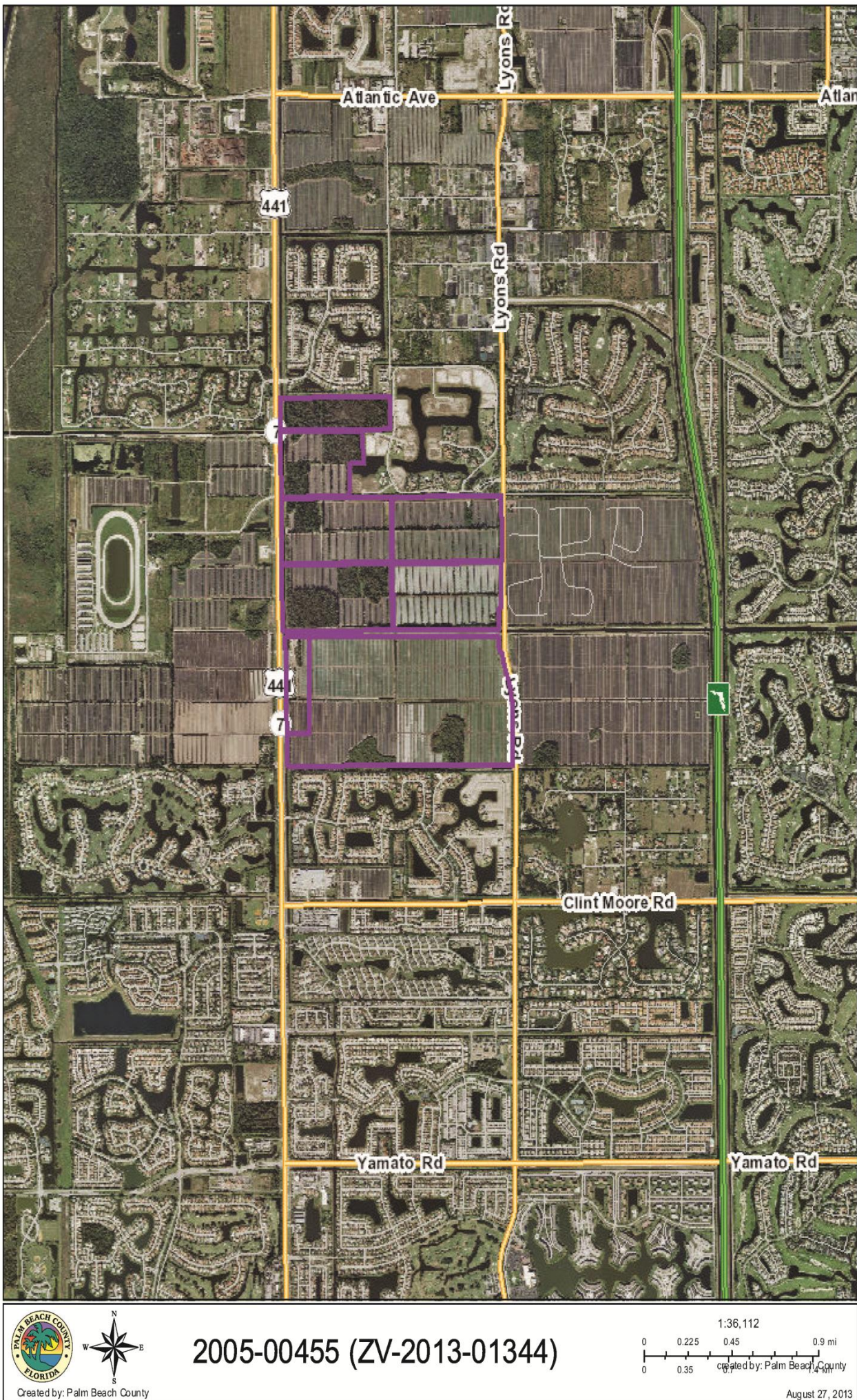


Figure 2 Preliminary Master Plan dated May 15, 2013

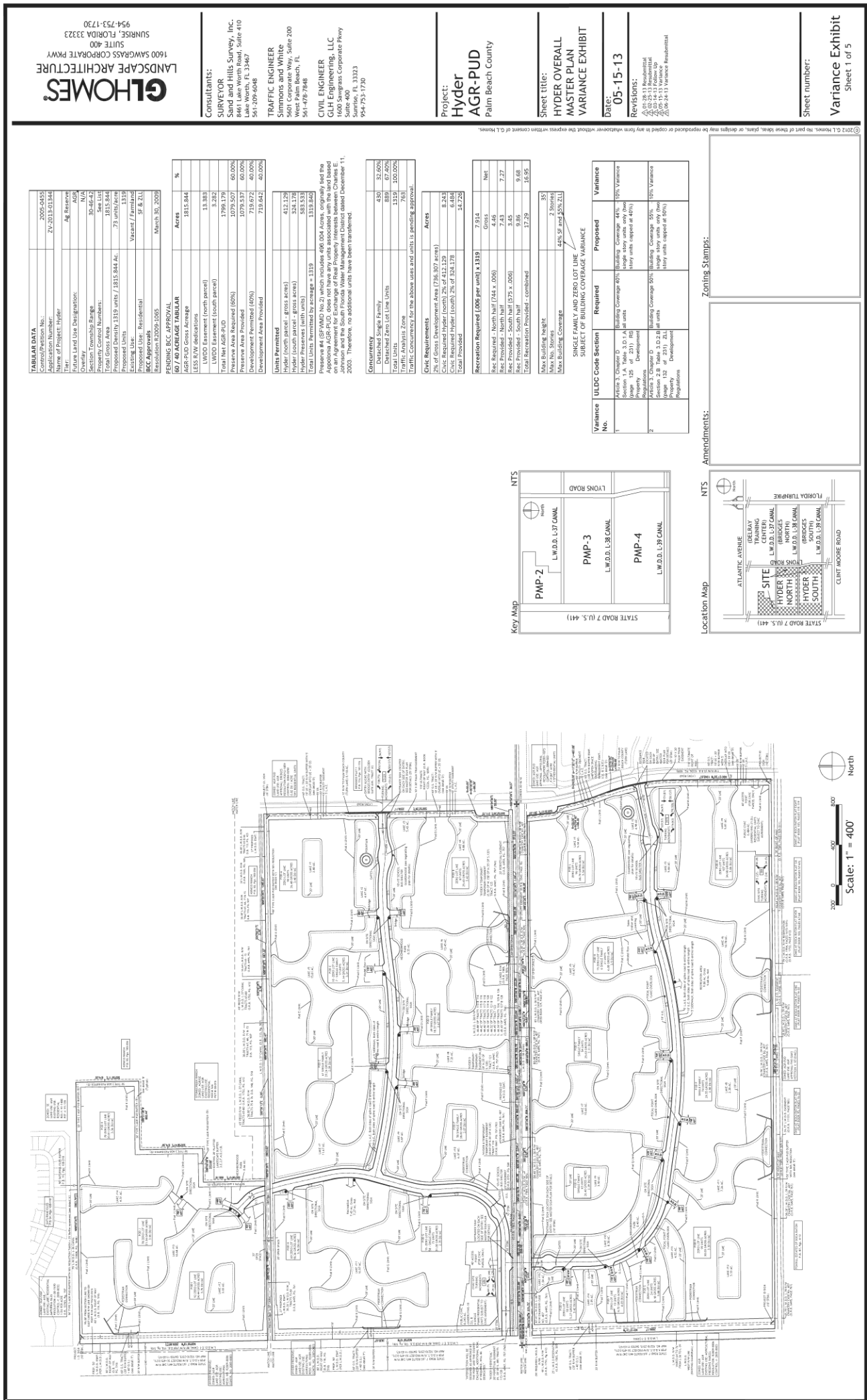






Figure 4 Preliminary Master Plan dated May 15, 2013

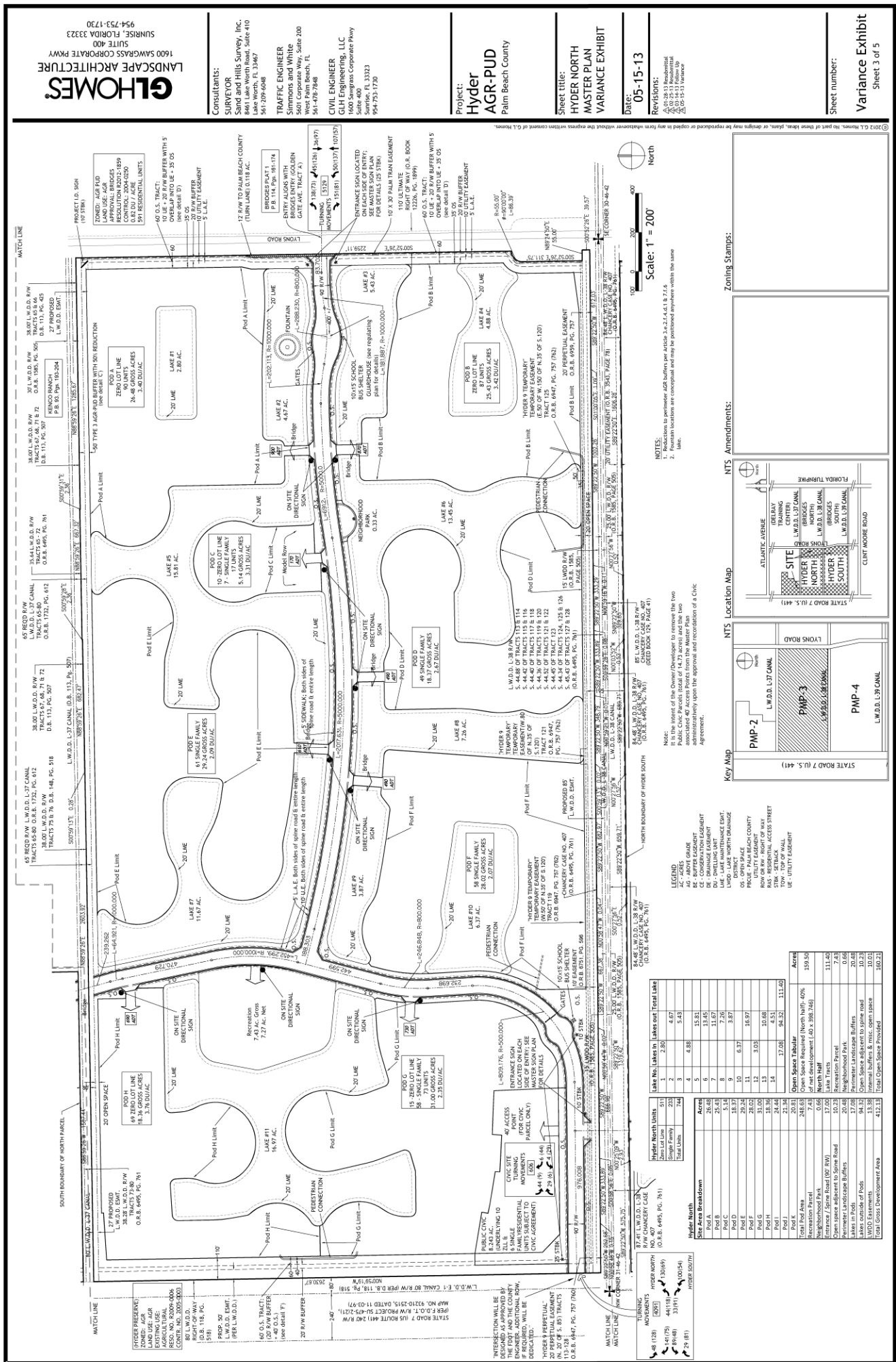
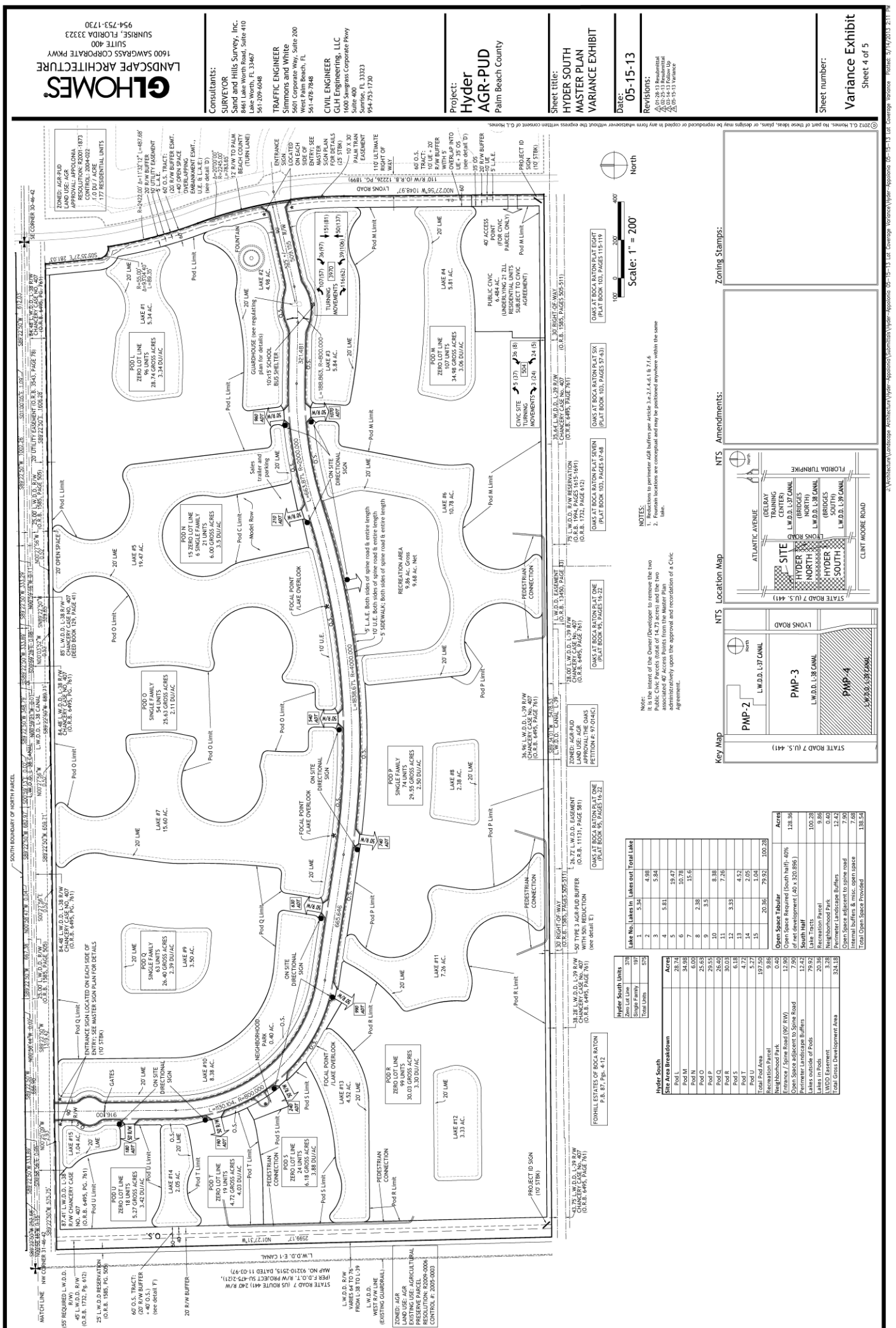


Figure 5 Preliminary Master Plan dated May 15, 2013





**DISCLOSURE OF OWNERSHIP INTERESTS - APPLICANT**

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 N. Maria Menendez, hereinafter referred to as "Affiant," as the Vice President of Boynton Beach XXIV Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIV, LLLP, a Florida limited liability limited partnership, who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Vice President of Boynton Beach XXIV Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIV, LLLP, a Florida limited liability limited partnership (the "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for the real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

N. Maria Menendez, as the Vice President of Boynton Beach XXIV Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIV, LLLP, a Florida limited liability limited partnership

The foregoing instrument was acknowledged before me this 17 day of December, 2012, by N. Maria Menendez, as the Vice President of Boynton Beach XXIV Corporation, a Florida corporation, the general partner of Boynton Beach Associates XXIV, LLLP, a Florida limited liability limited partnership, [X] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.

Notary Public

(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: \_\_\_\_\_

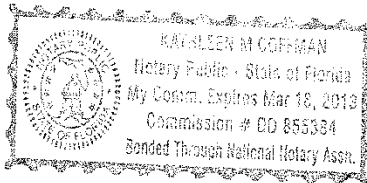


EXHIBIT "A"

PROPERTY

**LEGAL DESCRIPTION: HYDER AGR-PUD**

(DEVELOPMENT PARCEL NORTH HALF):

ALL OF TRACTS 17 THROUGH 24, INCLUSIVE, TRACTS 43 THROUGH 53, INCLUSIVE, TRACTS 65 THROUGH 128, INCLUSIVE, ALL LYING WITHIN SECTION 30, ACCORDING TO THE PLAT OF PALM BEACH FARMS CO. PLAT NO. 1, AS RECORDED IN PLAT 2, PAGES 26 THROUGH 28, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS AS DESCRIBED IN OFFICIAL RECORDS BOOK 11413, PAGE 1734, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

PARCEL 107

THE WEST 40 FEET OF THE EAST 55 FEET OF TRACTS 65, 96, 97, AND 128, BLOCK 30 OF SECTION 30, TOWNSHIP 46 SOUTH, RANGE 42 EAST OF PALM BEACH FARMS PLAT NO. 1 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.

PARCEL 107A

THAT PART OF TRACT 128, BLOCK 30 OF PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA: BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.E. CORNER OF SECTION 30, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE N.00°52'26"W. ALONG THE EAST LINE OF SAID SECTION 30 A DISTANCE OF 85.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF LAKE WORTH DRAINAGE DISTRICT (L.W.D.D.) L-38 CANAL; THENCE S.89°24'20" W. ALONG SAID CANAL FOR A DISTANCE OF 55.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°24'20"W. FOR A DISTANCE OF 30.00 FEET; THENCE N.00 52'26"W. ALONG A LINE PARALLEL WITH AND 85.00 FEET WEST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 311.87 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 30.00 FEET; THENCE NORTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 47.12 FEET TO A POINT 55.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID SECTION 30; THENCE S.00° 52'26"E. ALONG A LINE PARALLEL WITH AND 55 FEET WEST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 342.02 FEET TO THE POINT OF BEGINNING.

## PARCEL 107B

A 25 FOOT WIDE STRIP OF LAND LYING WEST AND NORTHWEST OF THE FOLLOWING DESCRIBED PARCEL: THAT PART OF TRACT 128, BLOCK 30 OF PALM BEACH FARMS COMPANY PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 PAGES 26 THROUGH 28, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE S.E. CORNER OF SECTION 30, TOWNSHIP 46 SOUTH, RANGE 42 EAST; THENCE N.00°52'26"W. ALONG THE EAST LINE OF SAID SECTION 30 A DISTANCE OF 85.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF LAKE WORTH DRAINAGE DISTRICT (L.W.D.D.) L-38 CANAL; THENCE S.89°24'20"W. FOR A DISTANCE OF 55 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S.89°24'20"W. FOR A DISTANCE OF 30 FEET; THENCE N.00°52'26"W. ALONG A LINE PARALLEL WITH AND 85.00 FEET WEST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 311.87 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 30.00 FEET; THENCE NORTH EASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 90° 00'00", A DISTANCE OF 47.12 FEET TO A POINT 55.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF SAID SECTION 30; THENCE S.00°52'26"E. ALONG A LINE PARALLEL WITH AND 55.00 FEET WEST OF THE EAST LINE OF SAID SECTION 30 FOR A DISTANCE OF 342.02 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCELS

THE E-1 LAKE WORTH DRAINAGE DISTRICT RIGHT-OF-WAY AS DESCRIBED IN DEED BOOK 118, PAGE 518, PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA, BEING THE WEST 95.00 FEET OF SAID TRACTS 17, 48, 49, 80, 81, 112 AND 113, SAID SECTION 30, AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP 93210-2515.

THE NORTH 38.00 FEET OF SAID TRACTS 65 AND 66, SECTION 30, ACCORDING TO DEED BOOK 113, PAGE 425.

THE NORTH 38.00 FEET OF SAID TRACTS 67, 68, 71 AND 72, SAID SECTION 30, ACCORDING TO DEED BOOK 113, PAGE 507.

THE NORTH 38.00 FEET OF SAID TRACTS 75 AND 76, SAID SECTION 30,, ACCORDING TO DEED BOOK 148, PAGE 518.

THE SOUTH 15.00 FEET OF SAID TRACTS 49 THROUGH 53 ACCORDING TO OFFICIAL RECORDS BOOK 1585, PAGE 505.

THOSE LANDS ACCORDING TO OFFICIAL RECORDS BOOK 6495, PG. 761.  
THE EAST 15.00 FEET OF SAID TRACTS 65, 96, 97 AND 128, SAID SECTION 30.  
ALL OF THE PUBLIC RECORDS, PALM BEACH COUNTY, FLORIDA.



CONTAINING 412.129 ACRES, MORE OR LESS.

TOGETHER WITH

(DEVELOPMENT PARCEL – SOUTH HALF):

A PORTION OF BLOCK 70, PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA; SAID LAND LYING IN SECTIONS 31 AND 32, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

TRACTS 1 THRU 15, INCLUSIVE, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT LATERAL CANAL NO. 38; LESS THE RIGHT-OF-WAY FOR LYONS ROAD AS RECORDED IN OFFICIAL RECORDS BOOK 12226, PAGE 1899, AND LESS THAT PORTION LYING EAST OF THE EAST RIGHT-OF-WAY FOR SAID LYONS ROAD; TRACTS 18 THRU 31, INCLUSIVE, TRACT 32, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD AND LESS THAT PORTION OF TRACT 32 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF SAID LYONS ROAD; TRACT 33, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD; TRACTS 34 THRU 47, INCLUSIVE; TRACT 49, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT E-1 CANAL; TRACTS 50 THRU 64, LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD, ALL LYING IN BLOCK 70, OF PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. TOGETHER WITH THAT PORTION OF THE ROAD RIGHTS-OF-WAY AS DESCRIBED IN QUIT-CLAIM DEED RECORDED IN OFFICIAL RECORDS BOOK 9343, PAGE 73, AND AS SHOWN ON THE SAID PLAT OF THE PALM BEACH FARMS CO. PLAT NO. 3 AS CONTAINED WITHIN THE ABOVE DESCRIBED PARCEL, LESS THE RIGHTS-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT CANALS AS DESCRIBED HEREIN AND LESS THE RIGHT-OF-WAY FOR SAID LYONS ROAD. PARCEL 3: TRACTS 16, 17 AND 48, LESS THE RIGHT-OF-WAY FOR LAKE WORTH DRAINAGE DISTRICT CANAL E-L, ALL BEING IN BLOCK 70, THE PALM BEACH FARMS CO. PLAT NO 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGES 45 THRU 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 324.178 ACRES MORE OR LESS.

TOGETHER WITH:

PRESERVE NO. 1 (HYDER NORTH)

A PORTION OF THE SOUTH HALF (S 1/2) OF THE NORTH HALF (N 1/2) OF SECTION 25, TOWNSHIP 46 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, LYING WEST OF THE RIGHT-OF-WAY FOR STATE ROAD NO. 7 AS IT NOW EXISTS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

EXHIBIT "B"**DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT**

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

1. Itzhak Ezratti, having an address of 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
2. Maya Ezratti-Rosenblum, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
3. Misha Ezratti, individually and/or through trusts for his interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
4. Maxie Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
5. AmFin Financial Corporation (f/k/a AmTrust Financial Corporation) having an address of c/o Mr. Ronald Glass, GlassRatner Advisory and Capital, 3391 Peachtree Road, Suite 110, Atlanta, Georgia 30326, a debtor under Bankruptcy Case No. 09-21323 pending in the United States Bankruptcy Court for the Northern District of Ohio, through its wholly owned subsidiary, Amtrust Real Estate Investments, Inc.

**DISCLOSURE OF OWNERSHIP INTERESTS - APPLICANT**

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

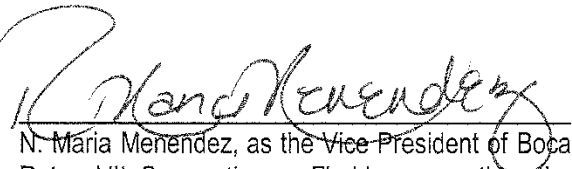
STATE OF FLORIDA  
COUNTY OF BROWARD

BEFORE ME, the undersigned authority, this day personally appeared N. Maria Menendez, hereinafter referred to as "Affiant," as the Vice President of Boca Raton VII Corporation, a Florida corporation, the general partner of Boca Raton Associates VII, LLLP, a Florida limited liability limited partnership, who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the Vice President of Boca Raton VII Corporation, a Florida corporation, the general partner of Boca Raton Associates VII, LLLP, a Florida limited liability limited partnership (the "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for the real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

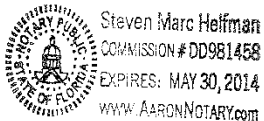
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and, to the best of Affiant's knowledge and belief, it is true, correct, and complete.

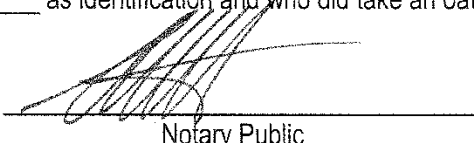
FURTHER AFFIANT SAYETH NAUGHT.



N. Maria Menendez, as the Vice President of Boca Raton VII Corporation, a Florida corporation, the general partner of Boca Raton Associates VII, LLLP, a Florida limited liability limited partnership

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of May, 2013, by N. Maria Menendez, as the Vice President of Boca Raton VII Corporation, a Florida corporation, the general partner of Boca Raton Associates VII, LLLP, a Florida limited liability limited partnership, [X] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.





Notary Public

(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: \_\_\_\_\_

EXHIBIT "A"

**PROPERTY**

A portion of Block 70, PALM BEACH FARMS COMPANY PLAT NO. 3, according to the plat thereof as recorded in Plat Book 2, Pages 45 through 54, of the Public Records of Palm Beach County, Florida, more particularly described as follows:

Tracts 1 thru 15, inclusive, less the right-of-way for Lake Worth Drainage District Lateral Canal No. 38; also less those portions described in Official Records Book 22302, Page 1590; less the right-of-way for Lyons Road as recorded in Official Records Book 12226, Page 1899, and less that portion lying East of the East right-of-way for said Lyons Road; Tracts 18 thru 31, inclusive, Tract 32, less the right-of-way for said Lyons Road and less that portion of Tract 32 lying East of the East right-of-way line of said Lyons Road; Tract 33, less the right-of-way for said Lyons Road; Tracts 34 thru 47, inclusive; Tract 49, less the right-of-way for Lake Worth Drainage District E-1 Canal; Tracts 50 thru 64, less the right-of-way for said Lyons Road, all lying in Block 70, of PALM BEACH FARMS CO. PLAT NO. 3, according to the plat thereof as recorded in Plat Book 2, Pages 45 thru 54, inclusive, of the Public Records of Palm Beach County, Florida, together with that portion of the road rights-of-way as described in Quit-Claim Deed recorded in Official Records Book 9343, Page 73, and as shown on the said plat of THE PALM BEACH FARMS CO. PLAT NO. 3 as contained within the above described parcel, less the rights-of-way for Lake Worth Drainage District Canals as described herein and less the right-of-way for said Lyons Road; Tracts 16, 17 and 18, less the right-of-way for Lake Worth Drainage District Canal E-1, Less and Except any portion thereof lying within the right of way of U.S. 441, all being in Block 70, THE PALM BEACH FARMS CO. PLAT NO. 3, according to the plat thereof as recorded in Plat Book 2, Pages 45 thru 54, of the Public Records of Palm Beach County, Florida.

**EXHIBIT "B"****DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT**

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

1. Itzhak Ezratti, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
2. Maya Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
3. Misha Ezratti, individually and/or through trusts for his interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
4. Maxie Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.
5. A&W Realty, LLC, having an address of 23611 Chagrin Blvd., Beachwood, Ohio 44122 (none of the owners of this entity own a 5% or greater beneficial interest in the Owner).

**JUSTIFICATION STATEMENT  
HYDER AGR-PUD  
Control Number 2005-0455  
Type II Stand Alone Variance  
Submitted May 15, 2013**

**Request**

This application is a request for a variance from Article 3, Chapter D, Section 2.B Table 3.D.2.B and Article 3, Chapter D, Section 1.A., of the Palm Beach County Unified Land Development Code (ULDC) for the Hyder AGR-PUD. This section of the code refers to property development regulations for both Residential Single Family units and Zero Lot Line units. The owner/petitioner, Boca Raton Associates VII, LLLP (G.L. Homes) is seeking variance relief from the lot coverage requirement from 40% to 44% for single story Single Family units and from 50% to 55% for single story Zero Lot Line units for the entire project. The requested variance relief from lot coverage is not requested for any two story Single Family or two story Zero Lot line units.

The variance request is described in the following Table:

<b>Variance No.</b>	<b>ULDC Code Section</b>	<b>Required</b>	<b>Proposed</b>	<b>Variance</b>
1.	Article 3, Chapter D Section 1.A Table 3.D.1.A (page 125 of 231) RS Property Development Regulations	Building Coverage 40% - all units	Building Coverage 44% - single story units only (two story units capped at 40%)	10% Variance
2.	Article 3, Chapter D Section 2.B Table 3.D.2.B (page 132 of 231) ZLL Property Development Regulations	Building Coverage 50% - all units	Building Coverage 55% - single story units only (two story units capped at 50%)	10% Variance

**Project Location**

The site is located west of The Bridges (aka Dubois AGR-PUD), west of and adjacent to Lyons Road and between the Lake Worth Drainage District L-36 & Lake Worth Drainage District L-38 Canals.

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**Site Description:**

The overall development area (Hyder AGR-PUD) is located south of the existing residential community Saturnia Isles (Sussman PUD, R2001-0143). Lying north and northeast of the project is the existing Stonecreek Ranch aka (Kenco Ranch DRO2000-015), a large lot equestrian/residential community in the AGR District. East and along the east side of Lyons Road is an approved AGR-PUD known as Bridges currently approved for 591 dwelling units, as approved by the Board of County Commissioners on December 5, 2012. Directly south of Bridges is the east half of the prior Appolonia Farms AGR-PUD (Control 2004-0022). It is currently included in a similar DOA along with Bridges to include the development land area into Bridges AGR-PUD for similar residential uses. South of the project is the Le Rivage PUD (Control Number 1999-059) and Horse Shoe Acres (control Number 1979-246). To the west of the site on the west side of State Road 7 are existing preserve lands associated with several AGR-PUDs known as Hyder Preserve. Said Hyder Preserve Land area is being utilized for active agricultural uses and farmland. The overall density of the project is .72 units per acre based on the gross acreage of 1,815.844 acres (development and preserve) and 1,319 dwelling units. The 496.004 acres of preserve area originally tied to the Appolonia development parcel now being incorporated into this DOA does not include the right to utilize the associated density right, thus the difference between 1,815.868 acres and the 1,319 requested units.

**Project History:**

The 995.66-acre Hyder AGR-PUD development parcel was originally approved by the Board of County Commissioners on February 23, 2006 to rezone the property from Agricultural Reserve to an AGR-PUD Zoning District with 554 dwelling units via Resolution R2006-0678 and R2006-0679. On September 29, 2008, the Board of County Commissioners approved DOA-EAC 2008-802 via Resolution R2008-1698 which deleted a condition of approval requiring the platting of preserve parcels. Subsequent to those approvals, a Development Order Amendment was approved by Resolution R2009-0506 on March 30, 2009 which increased the density of the project to a total of 995 residential dwelling units consisting of 790 single family units and 205 multi-family units. GL Homes is seeking a Development Order Amendment to Hyder AGR-PUD, currently scheduled for public hearings in July, 2013 (Application Number DOA 2012-3372).

**VARIANCE JUSTIFICATION:**

The Hyder PUD, is planned as an up-scale family community with pricing starting at around \$500,000 and going up to the \$1.5 million price range.

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The justification for the variance requested is based on three factors: (1) the precedent of similar lot coverage deviations having been permitted within existing AGR-PUD developments in proximity to Hyder AGR-PUD; (2) the ability to produce and sell single story units with sufficient square footage to help mitigate the so-called "canyon effect" wherein two story units dominate the streetscape; and (3) all units, inclusive of single story units granted additional lot coverage, if approved, adhering to all code required setbacks.

Precedent:

Hyder PUD is a 60/40 AGR-PUD located within the Agricultural Reserve area (Ag Reserve Tier), with the development area of approximately 719.64 acres, being generally located south of Atlantic Avenue, north of Clint Moore Road, west of the Lyons Road, and east of State Road 7 (US 441). In geographic proximity to Hyder AGR-PUD there are three 60/40 AGR-PUDs that have been approved and built to date: (1) The Bridges (aka Dubois AGR-PUD, Petition W/DOA-2011-00150, Control Number 2004-00250), Mizner Country Club (aka Delray Training Center, Petition PDD87-07, Project Number 0664-014), Saturnia Isles (aka Sussman PUD, Petition PDD2000-032, Project Number 0780-003) and The Oaks (aka Rainbow PUD/FoxHill Estates, Petition DOA1997-104C, Project Number 0730-000). The other residential developments in the same geographic area of Hyder AGR-PUD are not 60/40 AGR-PUDs; these include Stone Creek Ranches, Delray Lake Estates, La Rivage, Horseshoe Acres and La Rivage.

Mizner Country Club, Saturnia Isles and The Oaks were all approved during a time wherein the ULDC permitted so-called flexible regulations (aka "Flex Regs", ULDC Section (at the time) 6.8.A.4). Each of these projects obtained Flex Regs that included a Lot Coverage deviation of 10% for all units; meaning Single Family units were permitted a maximum lot coverage of 44% and Zero Lot Line units were permitted a maximum lot coverage of 55%. Hyder is asking for the same lot coverage as permitted for these projects, except that the requested lot coverage deviation would apply to only the single story Single Family and Zero Lot Line units (whereas the lot coverage deviations for Mizner Country Club, The Oaks and Saturnia Isles applied to both single story and two story units in both product types). In 2010, the ULDC was amended (Ordinance 2010-005), Section 5.G.1.E.4.h.(1).(3), to provide a ten percent (10%) deviation for lot coverage associated with Workforce Housing Program ("WHP") projects. The WHP program does not apply to the Ag Reserve Area.

As for similar Type II variances approved by the Zoning Commission since removal of Flex Regs from the ULDC, The Bridges was approved for a lot coverage variance permitting 44% lot coverage for all single story Single Family units and 55% lot coverage for all single story Zero Lot Line units via ZR-2011-025 (application ZV-2011-1420), approved by the Zoning Commission on September 1, 2011. Valencia Cove PUD (aka Valencia Assemblage PUD) was approved to permit 44% lot coverage for all single family lots within Pod C and 2

single family lots in the model row, via ZR-2013-004 (application ZV-2012-03383) on February 7, 2013. The Trails at Canyon PUD was approved to permit 44% lot coverage for all single family lots, via ZR-2012-015 (application ZV 2012-015) on June 7, 2012. The Type II variances referenced above have been approved by the Zoning Commission since removal of the Flex Regs from the ULDC.

2 Story Streetscape (mitigating the “canyon effect”):

As the largest residential developer in Palm Beach County, with numerous built projects having been completed in the Palm Beach County market, GL Homes has attempted to control the so-called “canyon effect” in many ways. The “canyon effect” occurs when the predominance of units sold are two story units, thereby creating a streetscape dominated by two story units. These controls include offering single story units for sale within each residential development pod, alternative building facades for two story units, placed open spaces, and multiple coloring options (roof, base and trim).

Single story units provide the most effective solution to the “canyon effect”. The problem is that in up-scale residential family developments, the buyers are looking for the most value per square foot and largely buy plans that provide that value while still offering a suitable and desirable amount of livable square footage. Up-scale family buyers are looking for multiple bedrooms for children and guests, office/den areas, play rooms, etc. which require many square feet. This most often results in these types of communities with a large percentage of two story homes being sold as the single story homes simple cannot yield that desirable square footage. Having the ability to build larger single story footprints will allow a more attractive unit to the buyer, as it will provide additional square footage while keeping to a single story footprint. Having attractive single story units will result in the sale of more single story units, and thus provide a natural mitigation to the “canyon effect”.

The most comparable project to Hyder AGR-PUD is The Bridges PUD, located directly to the east of Hyder AGR-PUD, which is also being developed by GL Homes. As of May 6, 2103, The Bridges has sold a total of 375 of the 591 total units. The following is a summary of sale of single story units within each product category:

- (a) 50' x 130' Zero Lot Line (2 of 5 models are single story) – 123 total sales, of which 44 are single story, representing 35.77% of sales.
- (b) 55' x 140' Zero Lot Line (2 of the 5 models are single story) – 119 total sales, of which 43 are single story, representing 36.14% of sales.
- (c) 75' x 140' Single Family (2 of the 6 models are single story) – 102 total sales, of which 46 are single story, representing 45.10% of sales.

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(d) 90' x 145' Single Family (2 of the 5 models are single story) – 31 total sales, of which 14 are single story, representing 45.16 of sales.

Therefore, of the total 375 sales to date, a total of 147 have been single story units; which single story units represent 39.2 percent of the total sales in the community. Clearly, the sales at The Bridges demonstrates that the prior lot coverage variance has reduced the canyon effect as approximately 40% of sales to date have been single story units.

In a related note, In the Trails at Canyon PUD, there are a total of 57 single family lots. Of the 57 lots, a total of 13 have sold as of 5/6/13. Of the 13 sold, 7 are single story floorplans. Therefore, 53.85% of sales (over ½ of the total lots sold to date) have been for single story units.

All units within Valencia Cove are single story units.

Adherence To All Other Setbacks:

The owner/developer is not seeking variance relief to any other code required setbacks. In other words, the proposed units will still be required to adhere to the code mandated front, side, side street and rear setbacks, even if the lot coverage variance is approved. In effect, the variance requested is to allow a larger building footprint within the confines of the ULDC adopted usable building footprint after adherence to the required setbacks, and again only for single story units.

Other Items of Note:

Many of the lots within Hyder AGR-PUD will not need the deviation for the above proposed units as the additional lot area square footage yields a lot coverage of less than 50% (ZLL) or 40% (SF). We do not, however, want to restrict the ability of a purchaser to buy a single story unit to only the larger lots. We want single story units to be available for any purchaser on any lot for which that product type is available, thus the requested variance.

We also want the flexibility to add product in the future based on what we see selling in the market place. Therefore, we have requested the deviation to 55% and 44% respectively, even though in many cases the initial sales product (plans as noted above) are below ULDC mandated lot coverage on most of the lots already.

One could argue that the simple solution is to take some square footage out of the single story homes proposed to achieve the 50% (ZLL) and 40% (SF) requirement. That solution, however, makes the resulting unit unattractive to the buyer as it removes desirable square footage and value per square foot, and

thus results in less sales of the single story homes and more sales of two story units...in effect promulgating the less desirable "canyon effect".

**STANDARDS:**

Section 2.B.3.E. of the Palm Beach County ULDC states that in order to authorize a variance, the Board of Adjustment shall and must find that the seven criteria listed below have been satisfied.

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

As noted earlier in the Justification Statement, other existing 60/40 AGR-PUDs approved and built in proximity to Hyder AGR-PUD were approved with Lot Coverage Flex Regs allowing 44% for single family and 55% for zero lot units (one or two story), inclusive of Mizner Country Club, The Oaks and Saturnia Isles. In addition, the Zoning Commission has approved Type II variances for lot coverage for The Bridges PUD (44% single story Single Family and 55% single story Zero Lot Line units); The Trails at Canyon PUD (44% single story Single Family) and Valencia Cove (44% lot coverage single story Single Family units in Pod C and 2 lots in model row).

- 2. Special circumstances and conditions do not result from the actions of the applicant:**

Special circumstances and conditions are not the result from the actions of the applicant, in contrary they are circumstances that are market driven in an effort to meet the needs of the home buyers by offering viable single story floor plan options. We could easily meet the 40% and 50% respectively on all units, but the resulting single story product would likely not sell, resulting is a significant number of two story units dominating the streetscape, promulgating the "canyon effect". As evidenced by the sales track record at The Bridges, 39.2% of sales have been single story units, clearly the similar lot coverage variance granted for that project has resolved the potential for the canyon effect. As evidenced by the sales track record at The Trails at Canyon (for single family units, subject of prior variance approval), 53.85% of sales have been for single story single family units. The removal of Flex Regs as applying in the AGR tier are not the result of the applicant and allowing 10% lot coverage deviation for WHP projects in the urban/suburban tier are not the result of the applicant. The fact that the only three neighboring 60/40 AGR-PUDs that were

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approved and built to date utilized Flex Regs for 10% deviation of permitted lot coverage is not the result of actions of applicant. The fact that the Zoning Commission has approved three similar variances (The Bridges, Valencia Cove and The Trails at Canyon), is further evidence that the Zoning Commission also believes that lot coverage variances for single story product are an appropriate deviation from the 40% and 50% standards of the ULDC.

**3. Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district:**

The granting of this variance does not confer any special privilege denied by the comp plan or the ULDC to other parcels of land in the same zoning district and will not be disruptive to the surrounding area. It is simply providing future home buyers the opportunity to choose from more floor plans and elevations with the desired goal of having more viable single story floor plans. As noted previously, the approval of the variance will confer upon the applicant the same privilege that has already been approved for other neighboring built 60/40 AGR-PUDs (Mizner Country Club, Saturnia Isles, The Oaks, The Bridges, Valencia Cove, and The Trails at Canyon).

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

As also noted previously, the approval of the variance will confer upon the applicant the same privileges that have already been approved for other neighboring built 60/40 AGR-PUDs (Mizner Country Club, Saturnia Isles and The Oaks). The communities were permitted to develop at 44% and 55% lot coverage for all product types (single story and two story, single family and zero lot line), whereas the applicant is only seeking 44% and 55% percent for single story units only. The fact that the only three neighboring 60/40 AGR-PUDs were approved and built to date utilized Flex Regs for 10% deviation of permitted lot coverage is not the result of actions of applicant. The fact that the Zoning Commission has approved three similar variances (The Bridges, Valencia Cove and The Trails at Canyon), is further evidence that the Zoning Commission also believes that lot coverage variances for single story project are an appropriate deviation from the 40% and 50% standards of the ULDC.

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Lot Coverage Variance  
Submittal: May 15, 2013  
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The granting of the variance would provide a greater diversity in the community by allowing additional viable models in which to choose from to compete against two story product and reducing the promulgation of the "canyon effect". As evidenced by the sales track record at The Bridges, 39.2% of sales have been single story units, clearly the similar lot coverage variance granted for that project has resolved the potential for the canyon effect. As evidenced by the sales track record at The Trails at Canyon (for single family units, subject of prior variance approval), 53.85% of sales have been for single story single family units.

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

The granting of the variance will make possible the reasonable use of the parcel to accommodate viable single story product. It allows the applicant the flexibility to adjust product type over time to adjust to the needs of the buyer.

**6. Granting of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this Code:**

The Goals, Objectives and Policies of the Comprehensive Plan are consistent with the granting of this variance. The granting of the variance would provide a greater diversity in the community by allowing additional models in which to choose from to compete against two story product and reducing the promulgation of the "canyon effect". As evidenced by the sales track record at The Bridges, 39.2% of sales have been single story units, clearly the similar lot coverage variance granted for that project has resolved the potential for the canyon effect. As evidenced by the sales track record at The Trails at Canyon (for single family units, subject of prior variance approval), 53.85% of sales have been for single story single family units.

**7. The granting of this variance will not be injurious to the area involved or otherwise detrimental to the public welfare:**

The granting of the variance will not be injurious to the area or detrimental to the public welfare. In holding to the ULDC mandated setbacks, the units will not get any closer to surrounding properties.

Boynton Beach Associates XXIV, LLLP and Boca Raton Associates VII, LLLP respectfully request approval of this request. The Project Manager for this application is Gladys Digirolamo, and can be reached at (954) 753-1730.

Hyder AGR-PUD  
Lot Coverage Variance  
Submittal: May 15, 2013  
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