

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



Application No.: ZV/PDD/R/TDR-2011-02634
Control No.: 1981-00013
Applicant: Behavioral Health of the Palm Beaches Inc
Owners: Florida Gardens Land and Development Co
Agent: Urban Design Kilday Studios - Joni Brinkman
Telephone No.: (561) 689-5522
Project Manager: David McGuire, Site Planner II

Location: Northeast corner of Lake Worth Road and the Florida Turnpike. (Lake Worth Road CLF)

TITLE: a Type II Variance **REQUEST:** to allow a reduction in the right-of-way buffer for two segments of Lake Worth Road: 172 feet of the eastern-most buffer and 72 feet of buffer beginning 70 feet east of the western corner and one segment of Hadjes Drive: 106 feet of the southern-most buffer; and to eliminate the small shrubs, medium shrubs, groundcover and allow the planting pattern to be non-linear. **TITLE:** an Official Zoning Map Amendment to a Planned Development District **REQUEST:** to allow a rezoning from the Commercial High Office (CHO) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District **TITLE:** a Requested Use **REQUEST:** a allow Type III Congregate Living Facility. **TITLE:** Transfer of Development Rights **REQUEST:** to allow a Transfer Development Rights (TDRs) for 18 units.

APPLICATION SUMMARY: Proposed are requests for a Zoning Map Amendment, Requested Uses, Type II Concurrent Variances and the purchase of Transfer Development Rights (TDRs) for the Lake Worth Road Congregate Living Facility (CLF) development. The 6.05-acre site was previously approved by the Board of County Commissioners (BCC) on February 24, 1981, for an expansion to the existing hotel and a rezoning to Specialized Commercial District (CS) through Resolution R-81-221 and R-81-220. A subsequent resolution R-2000-1091 revoked R-81-221, the expansion of the hotel at the owners request.

The applicant is requesting to rezone the subject site from the CS Zoning District to the MUPD Zoning District in order to allow for Requested Uses for TDRs (18 units) and Type II Congregate Living Facility with 165 residents. Additionally, 2 Type II Variances are requested to allow a reduction in the right-of-way buffer along segments of Lake Worth Road and Hadjes Drive; to eliminate the small and medium shrubs, and groundcover; to allow plantings in a linear pattern; A total of 154 parking spaces will be provided. Two access points will remain from Hadjes Drive (2).

ISSUES SUMMARY:

o History

On May 27, 1971 the Board of County Commissioners (BCC) rezoned the subject parcel from Agricultural (A-1) to Limited Commercial District (C-1A) via Resolution R-71-159. On April 24, 1973, the building permit plans were approved via Building Permit Number B-65245 for a two-story motel. Under the 1972 code, the C-1A zoning district classified hotels and motels as permitted uses. As such, a special exception subject to the BCC's approval was not required as is currently required.

There were a number of building permits that have been recorded since that time. On December 27, 1977 Building Permit B-112972 was approved for a storage garage located near the northern property line. On October 2, 1980 Building Permit B-80024617 was approved for tennis courts located on the northwest corner of the property via. On November 4, 1995 Building Permit B-95026338 was approved for a shed located adjacent to the storage garage via. Each of these building permits vests the constructed item provided it was legally constructed at that time.

On February 24, 1981 the BCC granted a rezoning from Neighborhood Commercial (CN) to Specialized Commercial (CS) District via Resolution R-81-220. The CS Zoning district now corresponds to the Commercial High Office (CHO) zoning district. Note that while the ULDC specifies that CS zoned properties shall adhere to the CHO regulations, this request is specifically noted as a rezoning from the CS zoning district to the Multiple Use Planned Development (MUPD) Zoning District.

Also granted on that date was Resolution R-81-221 approved a Special Exception to allow an expansion of the existing motel. On July 27, 2000 the BCC revoked the Special Exception through Resolution R-00-1091 and reverted the property back its previous approvals - an existing hotel with outbuildings and a pool with no Special Exception approval. The current ULDC establishes this use as an existing legal non-conformity. Therefore, all previously obtained building permits would be considered prior Development Orders and vested any information clearly shown.

o Consistency with Comprehensive Plan

The Planning Division has reviewed the request to convert the existing use from a hotel with a restaurant to a Type III Congregate Living facility. Planning staff has found no inconsistencies regarding the request and the CH/8 Land Use designation.

The project utilizes Policy 2.2.1-e of the Future Land Use Element for the conversion from hotel to Type III CLF. The proposal implements the policy's intent to redevelop smaller-sized, urbanized sites consistent with the character, density and intensity of the existing and future development of the planned developments. The proposed project is consistent with the surrounding character, density and intensity. See Staff Review Analysis for additional Planning Division comments.

o Consistency with Unified Land Development Code

The proposed rezoning from CS to MUPD is consistent with all the objectives and standards of the MUPD Zoning District, the criteria for the granting of the variances, and the supplementary use standards in Article 4 and all other articles of the ULDC. As such, the proposed zoning district is consistent with the Code.

As the applicant stated, the property contains 4 two-story concrete block structures comprising approximately 54,180 square feet. An existing single-story, 4,800 square foot restaurant is connected to the hotel building and is an accessory use to the hotel. The proposed site plan corrects what appears to be an error with regard to the second story square footage in the gross square footage. The original approval did not appear to reflect the actual existing square footage on site as the square footage associated with the second floor of each building was not included in the square footage calculations. The current approval corrects that square footage issue. An existing maintenance and storage building are located along the north property line consisting of 1,055 square feet, with existing tennis courts to the west of these structures, also on the north property line. No physical expansion or changes to the square footage is planned as a part of this application, rather, the project seeks a conversion of use from a hotel with an accessory restaurant to a Type III CLF. Pursuant to the ULDC, a Type III CLF is permitted as a Requested Use if approved by the BCC within the proposed MUPD zoning district. The Requested Use was prepared in accordance with Article 4.B.1.A.34 Congregate Living Facility, Type III.

o Compatibility with Surrounding Land Uses

NORTH:

FLU Designation: High Residential (HR-12)

Zoning District: Multi-Family Residential (Medium Density) District (RM)

Supporting: Single Family, Multi Family (Meed Racquet Club/Willow Bend, Control No 1981-069 and 1973-121)

SOUTH:

FLU Designation: Low Residential (LR-3)

Zoning District: Single-Family Residential District (RS)

Supporting: Single Family, Church or Place of Worship (Victory Baptist Church, Control No 1980-033)

EAST:

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)

Zoning District: General Commercial District (CG)

Supporting: Retail Center and Gas Station (Nassau Square and Mobil Oil, Control No 1973-220)

WEST:

FLU Designation: Utilities and Transportation (U/T)

Zoning District: Varies

Supporting: Florida Turnpike

To the south of the property are single family residences and an approved place of worship known as the Victory Baptist Church (Control 80-033) and locate din a single family residences. To the north of the property is an approved PUD known as Meed Racquet Club/Willow Bend Control 80-69 and Control 73-121). The PUD consists of single family and multi-family units with the highest density of multifamily being located just north of the subject property and known as Lake Worth Gardens Senior Living. The parcel directly north of the site is a vacant Civic pod. East of the property across Hadjes Road is a Commercial, General retail center and gas station known as Nassau Square (Control 73-220). To the west of the property is the Florida Turnpike.

o Traffic

See Staff Review and Analysis for additional information from the Traffic and Land Development Divisions.

o Transfer of Development Rights (TDR) Program

Pursuant to Article 5.G.3.K.3.c, TDR: Receiving Area Procedure, the applicant is requesting 18 Transfer Development Rights (TDRs). The proposed re-zoning request consists of 6.05 acres. A total of 6.05 acres is subject to the rezoning request; however, for density calculation purposes, the adjacent 0.56 acre- right-of-way of Hadjes Drive was included for a total of 6.61 acres. The property is located within the Urban/Suburban Tier with a CH land use with an underlying High Residential – eight (8) units per acre (CH/8) land use designation.

The maximum occupancy for a Type III Congregate Living Facility within a Planned Development is 123 beds (6.61ac x 18.72=123.7). The applicant is requesting a total of 165 beds. The additional 42 beds could be accomplished through the purchase of 18 TDRs (18 x 2.34 = 42). Since the request is for a PDD (MUPD) the 123 beds with the additional 18 TDRs is consistent with the parameters allowed for a site with an HR-8 FLUA designation. (Per ULDC Article 4.B.34 including Table 4.B.1.A. page 42 and 43).

The applicant states that the request for the additional TDRs does not have an adverse impact on the design of the site as no additional structures are being constructed to accommodate the additional 42 residents. They will be accommodated within the existing buildings. The vacant parcel to the north is residential and appears to be a civic site within the PUD. However, the residential uses are compatible. At the requests of the neighbors, the facility is proposed to be fenced and the applicant will employ extensive security measures for the safety of their clients and to comply with licensure requirements. These include security cameras, a computerized system that employees are required to 'register' or swipe security cards when making rounds, and hourly bed checks. As previously mentioned, the applicant is also willing to install a rolling electronically accessed gate at the main entrance to the facility off of Hadjes Drive, as well as a secured gate at the second access off of Hadjes Drive to the north as a Condition of Approval. See Condition Landscape 1.

o Landscape/Buffering

Staff has determined that the entire site area is to be considered ‘affected area’ as defined in Article 1 of the ULDC. As such, the ULDC requires the right-of-way (ROW) buffers to be brought into compliance with the current ULDC requirements to the greatest extent possible. This would include the ROW buffers for Lake Worth Road, Hadjes Drive, and the Florida Turnpike. Each of the proposed buffers includes existing trees that may be utilized towards the tree requirement for each of the individual buffers. There are limited existing shrubs. Sections of the proposed buffers will be less width than the current ULDC requirements as there are encumbered by existing non-conformities. These include portions of the buffer adjacent to the parking lots along Lake Worth Road and Hadjes Road and the tennis court along the Florida Turnpike.

ROW Buffer

The applicant has requested an allowance for a 6-foot high vinyl chain link fence within the right-of-way buffers along the east and south property frontages as permitted by Article 7.F.3.E and an eight foot (8’) vinyl coated chain link fence within the north incompatibility buffer. Additional security issues have been addressed through the use of an eight foot security fence located within all the buffers with self-closing gates and electronic access control. See condition Landscape 1.

North Buffer

The ULDC requires a standard 20 foot wide Type 3 Incompatibility buffer when adjacent to a residential zoning district. However, an alternative buffer is permitted as a condition of approval by the Board of County Commissioners. In this case, the applicant proposes to provide a buffer ranging in width from 13’ to 20’, with a proposed eight foot (8’) vinyl coated chain link fence. The 13 foot reduction in width is in the northwest corner of the property where the courts are adjacent to the buffer. There is existing well-established plant material that may be utilized within the buffer area. However, additional plantings will be required and exotics shall be removed.

o Signs

By current ULDC standards in Article 4.B.1.A.34.i, the proposed Type III CLF would be limited to a single freestanding identification sign no more than 32 feet in sign face area and a maximum of 8 foot in height. The applicant has committed to no freestanding signs and the building numbers shall be displayed on the building.

o Traffic

The current requested use is for a Type III CLF which is required to front on and have access on a collector or an arterial street. The property use does front on an arterial street, Lake Worth Road; and has access onto a non-plan collector street, Hadjes Drive, as confirmed by the Palm Beach County Traffic Division.

o Architectural Review

No exterior modifications are proposed at this time.

o Variances

A summary chart illustrating the variance requests are provided below:

Variance	Code Section	Required	Proposed	Variance
1.a	Art. 7.F.7.A.	ROW buffer 20’ in width along a ROW 100’ or greater.	Five Foot (5’) ROW buffer along the Lake Worth Road frontage adjacent to portions of the existing parking areas.	15’ along Lake Worth Road frontage adjacent to portions of the existing parking areas.

1.b	Art. 7.F.7.A.	ROW buffer 20' in width along a ROW 100' or greater.	Five Foot (5') ROW buffer along the Florida's Turnpike frontage adjacent to the existing tennis courts.	15' along the Florida's Turnpike frontage adjacent to the existing tennis courts.
1.c	Art. 7.F.7.A.	ROW buffer 15' in width along a ROW 0-99'.	Five Foot (5') ROW buffer along the Hadjes Drive frontage adjacent to the existing parking area.	10' along Hadjes Drive frontage adjacent to the existing parking area.
2	Art. 7.F.7.B. & C.	Three tiers of shrubs and groundcover planted in a naturalistic meandering Pattern.	Waive requirement for the Small, Medium shrubs and Groundcover and to plant in a linear pattern along the five foot buffer areas.	Waive requirement for the Small, Medium shrubs and Groundcover and to plant in a linear pattern along the five foot buffer areas.

Requested are two (2) Type II Concurrent Variances. The first Variance is requested from Article 7.F.7.A. for a reduction to the required right-of-way buffers along Lake Worth Road, Hadjes Road and the Florida's Turnpike. The Lake Worth Road and Florida turnpike request is from 20' to a five foot (5') right-of-way buffer for areas adjacent to the existing, vested parking areas and tennis courts and Hadjes road is from a 15' to a five (5') foot right-of-way buffer for areas adjacent to the existing, vested parking lots. The granting of the variances to allow for the five foot width of the right of way buffers is supported by the fact that the existing parking lot layout is vested under Article 1 via the aforementioned building permit associated with the construction of the tennis courts in 1980. However, a 20' right-of-way buffer will be provided were possible along Lake Worth Road and the Florida's Turnpike, and a 15' right-of-way buffer will be provided were possible along Hadjes Drive, meeting current ULDC requirements.

The second Variance is to request a Type II Concurrent Variance from Article 7.F.7.B & C to waive the requirement for the small, medium shrubs and groundcover and to plant in a linear pattern in the areas of the buffer being requested to be reduced to a width of five feet to accommodate the existing parking areas. The aforementioned shrubs and groundcover shall be planted in other locations in the site so there is no net lost of required plant materials. See Condition Variance 4.

TABULAR DATA

	EXISTING	PROPOSED
Property Control Number(s)	00-42-43-27-05-023-1140 00-42-43-27-05-023-1151	Same
Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)	Same
Zoning District:	General Commercial District (CG)	Multiple Use Planned Development (MUPD)
Tier:	Urban/Suburban	Same
Use:	Hotel, Motel, SRO, Rooming and Boarding	Congregate Living Facility, Type 3
Acreage:	6.06 acres	Same
Parking:	154 spaces	154 spaces
Access:	Hadjes Drive (2)	Same

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received 10 contacts from the public regarding this project and attended a community meeting with the Summer Chase development. Generally, the residents were concerned with the security measures being taken to protect their communities.

RECOMMENDATION: Staff recommends approval of Type II Zoning Variances subject to 6 Conditions of Approval as indicated in Exhibit C-1, approval of the rezoning subject to 5 Conditions of Approval as indicated in Exhibit C-2, approval of the Requested Use subject to 10 Conditions of Approval as indicated in Exhibit C-3, and approval of the Transfer of Development Rights subject to 5 Conditions of Approval as indicated in Exhibit C-4.

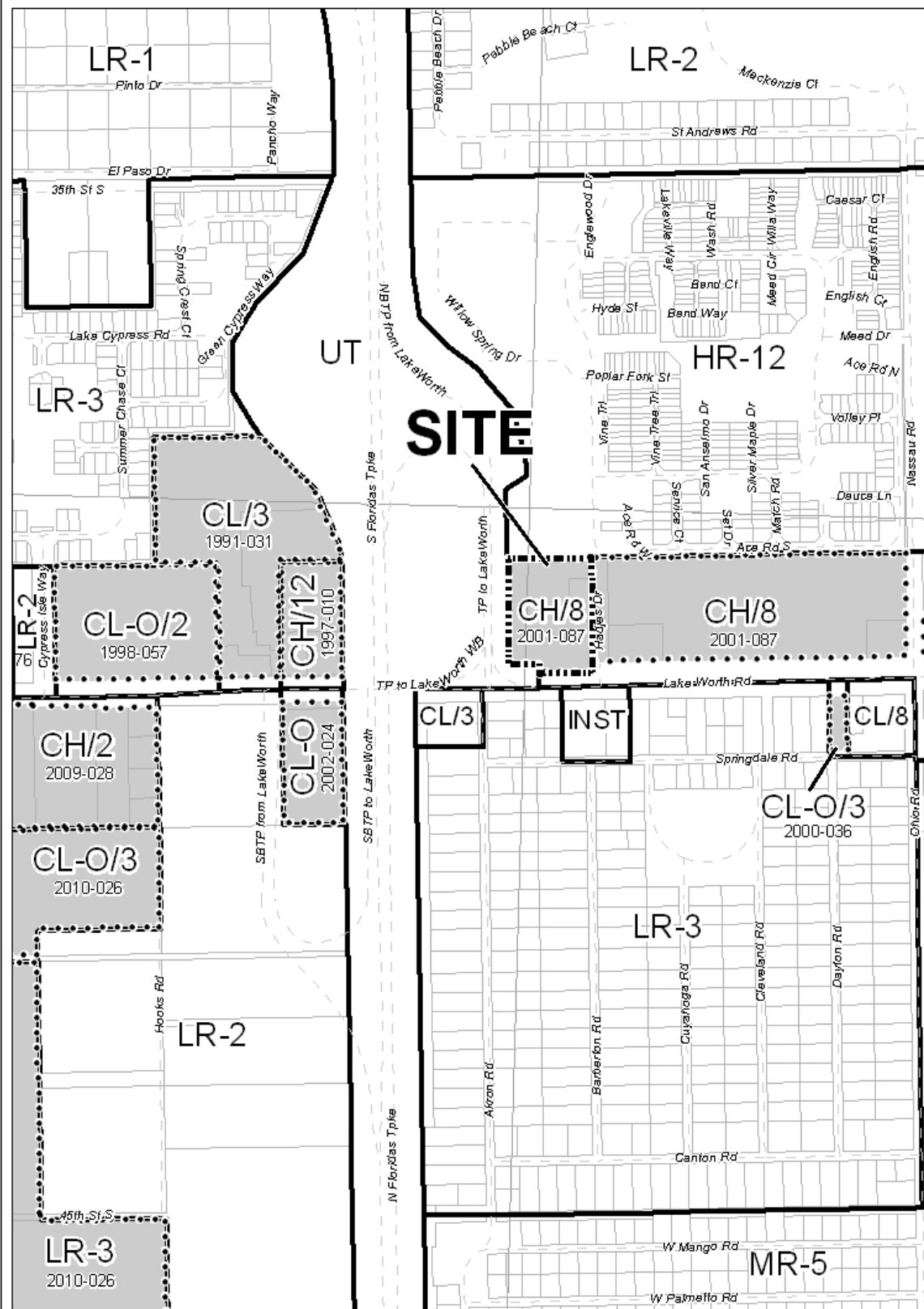
MOTION: To adopt a resolution approving a Type II Zoning Variance to allow a reduction in the right-of-way buffer for 171 feet of Lake Worth Road; and to eliminate the small shrubs, medium shrubs, groundcover and to allow to be planted in a linear pattern subject to the Conditions of Approval as indicated in Exhibit C-1.

MOTION: To recommend approval of an Official Zoning Map Amendment to a Planned Development District to allow a rezoning from the Specialized Commercial (CS) Zoning District to the Multiple Use Planned Development (MUPD) subject to the Conditions of Approval as indicated in Exhibit C-2.

MOTION: To recommend approval of a Requested Use to allow Type III Congregate Living Facility subject to the Conditions of Approval as indicated in Exhibit C-3.

MOTION: To recommend approval of a Transfer of Development Rights to allow a Transfer Development Rights (TDRs) for 18 units subject to the Conditions of Approval as indicated in Exhibit C-4.

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION AND LAND USE



Application Number: ZV/PDD/R/TDR-11-2634
 Control Number: 1981-013
 Land Use Atlas Page: 76
 Date: 02/22/2012



Figure 1 Land Use Map

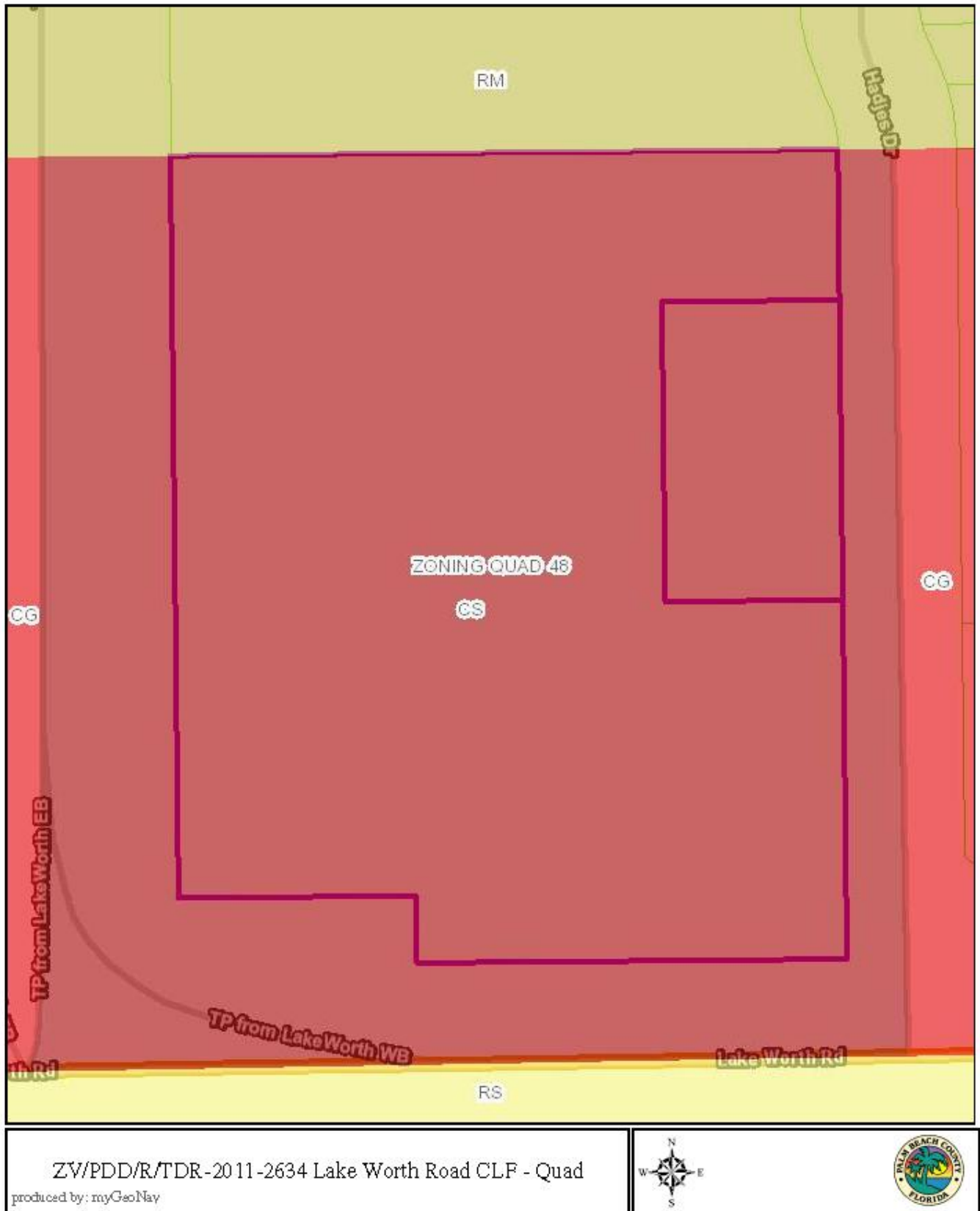
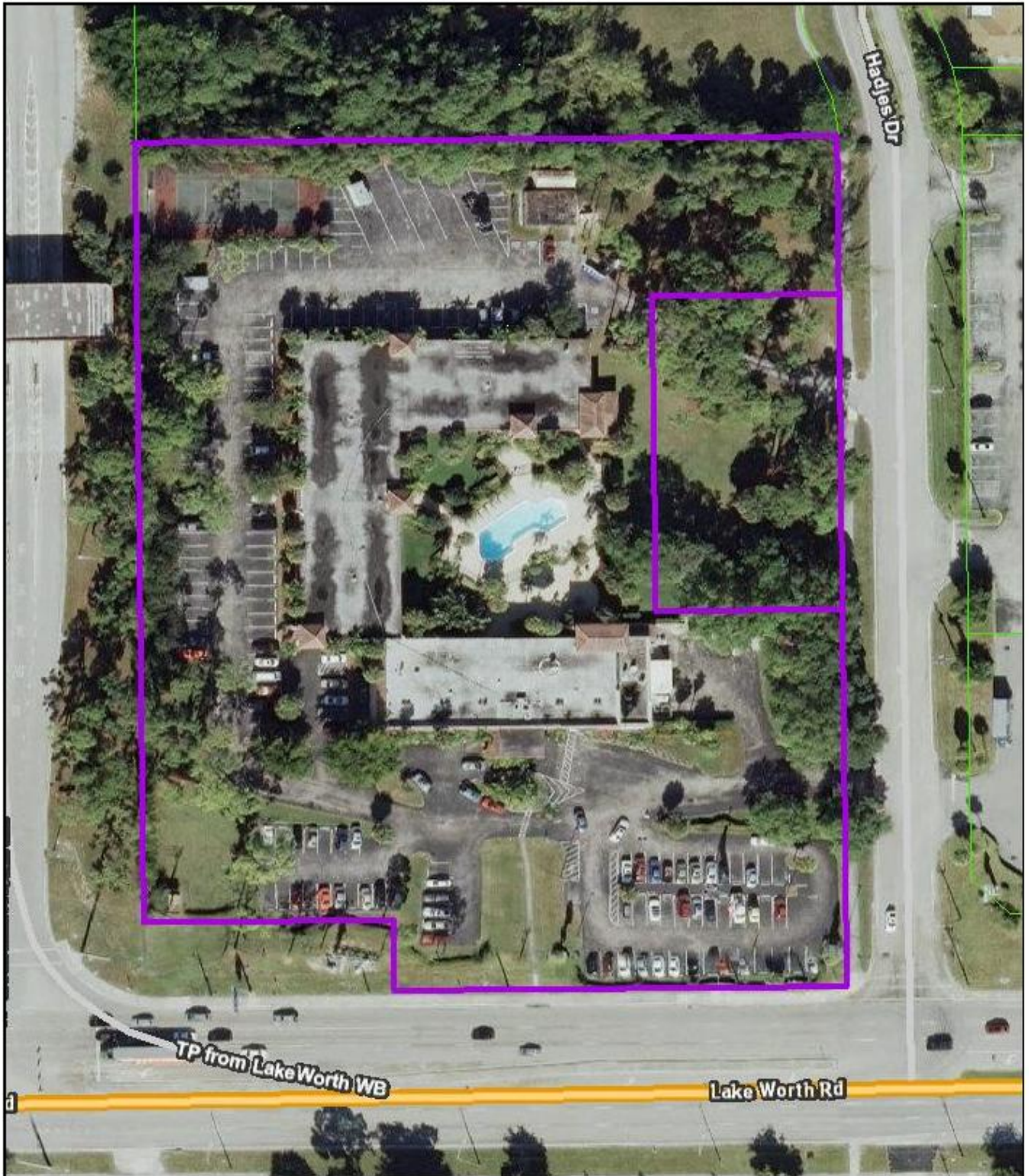


Figure 2 Zoning Map





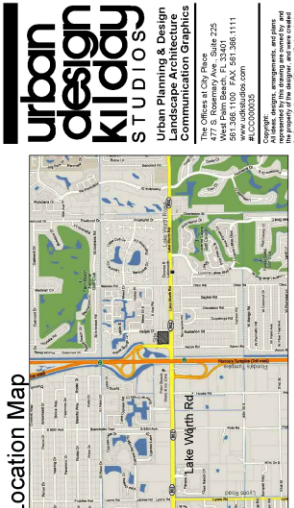
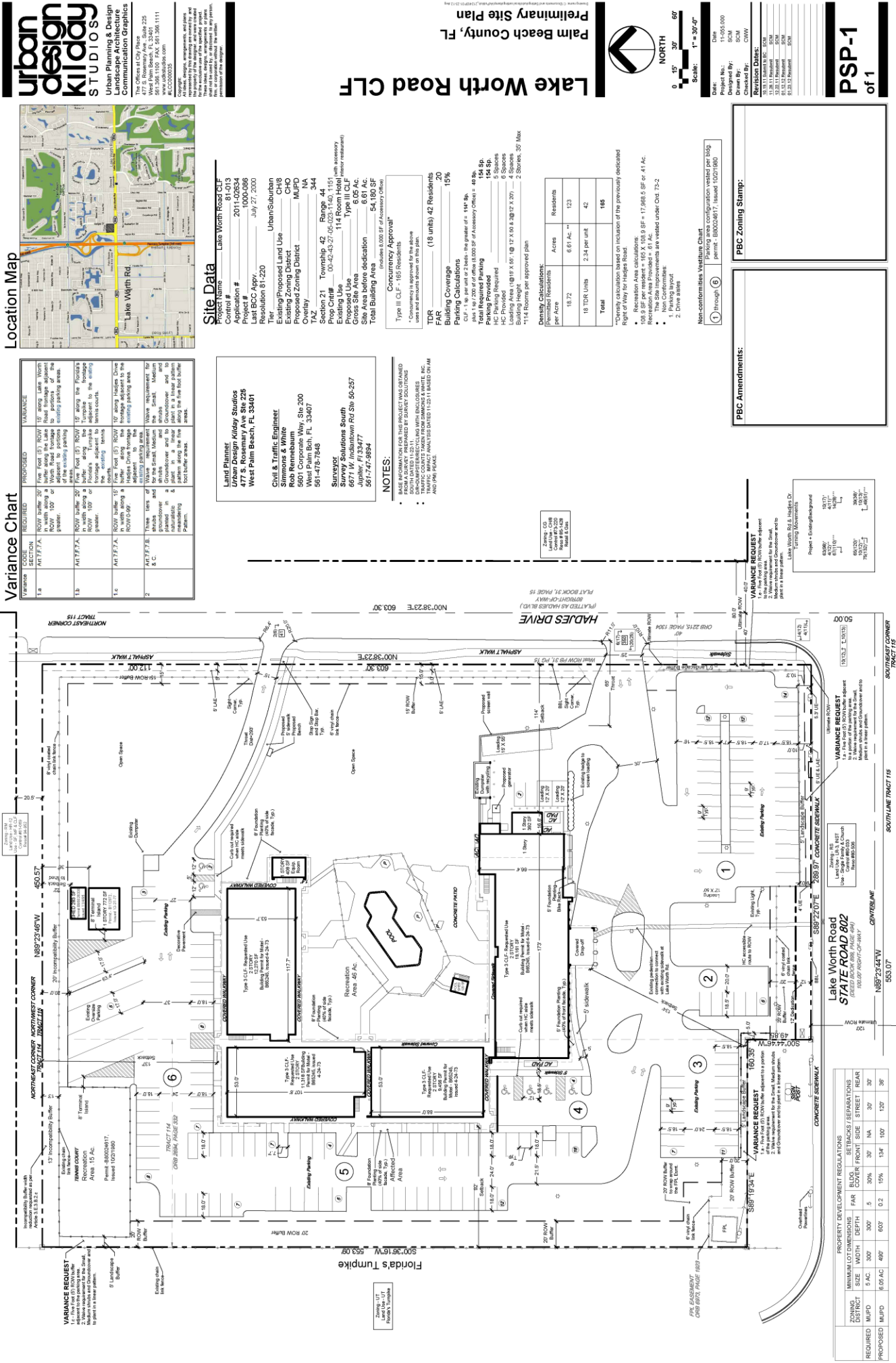
<p>ZV/PDD/R/TDR-2011-2634 Lake Worth Road CLF - Aerial produced by: myGeoNav</p>		
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Figure 3 Aerial

Figure 5 Preliminary Site Plan dated January 23, 2012



Variance Chart

VARIANCE SECTION	REQUIRED	PROPOSED	VARIANCE
1A	ROW buffer 20' (Five Foot (5') ROW buffer 100' or greater)	ROW buffer 20' (Five Foot (5') ROW buffer 100' or greater)	10' along Lake Worth Road for parking area.
1B	ROW buffer 20' (Five Foot (5') ROW buffer 100' or greater)	ROW buffer 20' (Five Foot (5') ROW buffer 100' or greater)	10' along the Florida Turnpike for parking area.
1C	ROW buffer 10' (Five Foot (5') ROW buffer 100' or greater)	ROW buffer 10' (Five Foot (5') ROW buffer 100' or greater)	10' along the Florida Turnpike for parking area.
2	Three feet of groundcover in rear setback area.	Three feet of groundcover in rear setback area.	None.

Site Data

Project Name: Lake Worth Road CLF
 Control #: 81-013
 Application #: 2011-02634
 Project #: 1000-086
 Last BCC Appv. July 27, 2010
 Termination: 01-220
 Existing Zoning: Urban/Suburban
 Existing Proposed Land Use: CH8
 Existing Zoning District: CHO
 Proposed Zoning District: MUD
 County: Palm Beach
 TAZ: 344
 Section 21 Township: 42 Range: 44
 Prop Cont'd #: 00-40-45-27-00-029-140-110
 Existing Use: 114 (with accessory use)
 Existing Zoning: Type III CLF
 Site Area before dedication: 6.05 AC.
 Total Building Area: 54,180 SF
 Total Building Area: 1,005 SF of Accessory (2000)

Density Calculations

Permitted Residents per Acre	Acres	Residents
18.72	6.61 Ac.	123
18 TDR UNITS	2.34 per unit	42
Total		165

Notes:

- BASE INFORMATION FOR THIS PROJECT WAS OBTAINED FROM A SURVEY CONDUCTED BY SURVEY SOLUTIONS, INC. ON 01/23/12. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, CHAPTER 409, F.S. THE SURVEY IS BEING PROVIDED FOR INFORMATIONAL PURPOSES ONLY. THE USER OF THIS SURVEY SHALL BE RESPONSIBLE FOR VERIFYING THE ACCURACY OF THE SURVEY DATA.
- TRAFFIC IMPACT ANALYSIS DATED 11/21/11 BASED ON AM 400 PM 400.

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Variance Request

- Five foot (5') ROW buffer
- Setback requirements for the rear
- Setback requirements for the side
- Setback requirements for the front

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PROPERTY DEVELOPMENT REGULATIONS

ZONING DISTRICT	MINIMUM LOT SIZE	MINIMUM LOT WIDTH	MINIMUM LOT DEPTH	FAR COVER	FRONT SETBACK	REAR SETBACK	STREET SEPARATIONS
REQUIRED MUPD	8,05 AC	400'	600'	0.2	15%	134'	102'
PROPOSED MUPD	8,05 AC	400'	600'	0.2	15%	134'	102'

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STAFF REVIEW AND ANALYSIS

PLANNING DIVISION COMMENTS:

FUTURE LAND USE (FLU) PLAN DESIGNATION: Commercial High with an underlying High Residential 8 units per acre (CH/8).

TIER: The subject site is in the Urban/Suburban Tier.

FUTURE ANNEXATION AREAS: The subject site is not within a future annexation area of any municipality.

INTERGOVERNMENTAL COORDINATION: The subject site is not within 1 mile of any municipality.

CONSISTENCY WITH FUTURE LAND USE (FLU) PLAN DESIGNATION: The Planning Division has reviewed the request to convert the existing use from a hotel with a restaurant to a Type III Congregate Living facility. Staff has found no inconsistencies regarding the request and the CH/8 Land Use designation.

The maximum occupancy for a Type III Congregate Living Facility is Standard District: 92 beds (6.61ac x 14.04=92.8) and as a Planned Development: 123 beds (6.61ac x 18.72=123.7). The site plan proposes 165 beds. The applicant is also requesting 18 TDRs which equates 42 beds (18 x 2.34 = 42). Since the request is for a PDD (MUPD) the 123 beds with the additional 18 TDRs is consistent with the parameters allowed for a site with HR-8 FLUA designation. (Per ULDC Article 4.B.34 including Table 4.B.1.A. page 42 and 43).

The TDRs will be subject to a cost of \$7,560 per dwelling unit for a total of \$136,080 dollars (18 TDRs x 7,560 = 136,080) Per ULDC Article 5.G.3.G.4.b.2) page 80; which states, "for multi-family units the price shall be ten percent of the median sales price of Florida Realtors Association (FRA) existing condominiums data." The current 2011 pricing for existing condominiums data is \$75,600. Per ULDC Article 5.G.3.K. 6., the \$136,080 dollars is to be paid prior to Final DRO approval.

The following Comprehensive Plan policies are relevant to the request.

The Future Land Use Element Implementation section III:7 states that for Institutional and Public Facilities, "Institutional and Public Facilities shall be permitted in all Future Land Use Atlas designations provided such uses are consistent with the Comprehensive Plan and the Unified Land Development Code."

FLUE Policy 2.2.8-a (formerly 2.2.8-b): Institutional and Public Facility uses may be allowed in all future land use designations, provided the uses are consistent with the provisions of the Comprehensive Plan and ULDC. (Omitted for brevity)

FLUE Permitted Uses. Uses permitted in the Institutional and Public Facilities future land use designation include a full range of regional and community uses such as .congregate living facilities; (Omitted for brevity)

SPECIAL OVERLAY DISTRICT/NEIGHBORHOOD PLAN/PLANNING STUDY AREA:

The request is not located within an Overlay or Neighborhood planning area that is identified within the Comprehensive Plan.

FINDINGS: The request is consistent with the CH/8 future land use designation of the Palm Beach County Comprehensive Plan.

ENGINEERING COMMENTS:

REQUIRED ENGINEERING RELATED PERMITS

The property owner shall obtain an onsite Drainage Permit from the Palm Beach County Engineering Department, Permit Section, prior to the application of a Building Permit for additional impervious area.

The property owner shall obtain a Turnout Permit from the Palm Beach County Engineering Department, Permit Section, for modifications to existing access connections onto Hadjes Drive.

RIGHT OF WAY CONVEYANCE

Pursuant to Policy 1.4-d in the Transportation Element of the Comprehensive Plan, the Property Owner shall convey additional right-of-way along a portion of the project frontage on Lake Worth Road to allow for future planned construction of a westbound right turn lane at the Lake Worth/Turnpike East intersection.

TRAFFIC IMPACTS

The Property Owner has estimated the build-out of the project to be December 31, 2014. Previously approved traffic from this project was 1263 trips per day, 102 trips in the PM peak hour. Total traffic expected from the proposed project is 391 trips per day, 48 trips in the PM peak hour, for decrease of 872 daily and 54 PM peak hour trips. Additional traffic is subject to review for compliance with the Traffic Performance Standard.

There are no improvements to the roadway system required for compliance with the Traffic Performance Standards because this project is equivalent to previously approved uses on the site.

PALM BEACH COUNTY HEALTH DEPARTMENT:

No Staff Review Analysis

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The site has been previously developed as a motel.

WELLFIELD PROTECTION ZONE: The property is not located with a Wellfield Protection Zone.

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

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

OTHER:

FIRE PROTECTION: The Palm Beach County Department of Fire Rescue will provide fire protection.

SCHOOL IMPACTS: No Staff Review Analysis

PARKS AND RECREATION: Based on the proposed 165 CLF beds .41 acres of on site recreation is required. The plan submitted indicates there will be .61 acres of recreation provided, therefore, the Parks and Recreation Department standards have been addressed

CONCURRENCY: With the approval of this application, the project shall have concurrency for a 165 bed CLF with associated uses.

WATER/SEWER PROVIDER: The project is within the Palm Beach County Water Utilities Service Area and will utilize their services.

FINDING: The proposed Zoning Map Amendment complies with Article 2.F of the ULDC, Concurrency (Adequate Public Facility Standards).

FINDINGS:

Type II Concurrent Variance Standards:

The Zoning Commission shall consider and find that all 7 criteria pursuant to Article 2.B.-3.E and listed below have been satisfied by the applicant prior to making a motion for approval, of a zoning variance:

The Palm Beach County Unified Land Development Code, Article 2.B.3, requires a statement of special reason or that the basis for the variances required be provided. An application for the variances shall be written demonstrating all of the following to qualify for a variance:

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:**

Variance 1 & 2 – YES Special conditions and circumstances exist that are peculiar to this parcel of land, which are not applicable to other parcels of land in the same zoning district. The special conditions involved the difficulties of re-use of an existing viable building and facilities within the Urban/Suburban Tier of the County. The requirement to provide for the Utility Easement (for which the existing utilities are located off-site) without the requested variance for the easternmost 171 feet along Lake Worth Road would cause extensive site redesign to the existing parking lot area. The current configuration of the existing parking areas vested under the prior building permit and the existence of the tennis courts, which would provide a recreational amenity to the residents, are also unique to this property and reflect an existing condition.

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

Variance 1 & 2 – YES The special circumstances and conditions are not the result of the applicant but a result of existing site conditions. The hotel has been at this site in since 1974, and was approved under the County's 1972 Zoning Code. The difficulties associated with the special conditions applicable to re-use projects are not the result of the actions of the applicant, but of existing site conditions.

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 district:**

Variance 1 & 2 – YES The granting of the variances will not confer any special privilege denied by the plan or code to other parcels, as both documents allow for the granting of variances based on meeting the criteria set forth in the code. Granting these variances will further the goals of the Comprehensive Plan and ULDC, as it will allow for the re-use of an existing structure within the Urban/Suburban Tier.

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 district, and would work an unnecessary and undue hardship:**

Variance 1 & 2 – YES Literal interpretation of the ULDC requirement would create an unnecessary hardship for the applicant if these variances are not approved. Generally, a landscape buffer is intended to provide a visual barrier between a two uses. The least buffer is a minimum five foot (5') buffer between compatible uses. An incompatible buffer and a ROW buffer may be 20 feet in width. While most of the buffers along Lake Worth road and the Florida Turnpike shall be maintaining a minimum 20 foot width, segments shall be reduced to five feet (5'). The applicant will be providing the large shrubs and shade trees in the sizes and quantities required for ROW buffers within the proposed 5' landscape buffer. These plant materials will provide adequate screening of the parking lot from Lake Worth Road and improve the screening currently in place and accomplish on of the goals for a ROW landscape buffer. Literal interpretation of the ULDC would require destruction of existing parking spaces and the tennis courts. The existing parking is accessed through internal parking travel lanes. Therefore, the intent of the code is being met and

the literal enforcement of the provisions of the Code would be an unnecessary and undue hardship upon the applicant.

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

Variance 1 & 2 – YES These variance requests are the minimum necessary to make reasonable use of the land. The applicant will be providing a large shrub and shade trees within the available 5' landscape buffer areas, in addition to the existing plant material proposed to remain in the area to be encumbered by the utility easement, and requested areas adjacent to the other parking area and existing tennis courts that can't meet the required width. Again, these variances would not be required if not for the provision of the utility easement and the impact of the existing site conditions.

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

Variance 1 & 2 – YES As demonstrated above, these variances are consistent with the purposes, goals, objectives, and policies of the Plan and the Code, as the intent of the code is to provide adequate screening from a right-of-way. The parking lot areas and site improvements will be adequately screened from the right-of-ways with the proposed plant material within the proposed 5' buffer and with the enhancement of the existing plant material.

The applicant adds, Objective 1.2 of the Urban/Suburban Tier states that 'it is imperative that land, services and facilities be used efficiently and effectively'. The allowance to the reduced buffer requirements meets this objective as it allows for the reuse of an existing facility to provide a service greatly needed within the community, and the nation overall. Also, the Future Land Use Element Implementation section III: 7 states that for Institutional and Public Facilities, "Institutional and Public Facilities shall be permitted in all Future Land Use Atlas designations provided such uses are consistent with the Comprehensive Plan and the Unified Land Development Code."

7.) **Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare:**

Variance 1 & 2 – YES Granting these variances will not be injurious to the area involved or detrimental to the public welfare. The site has been operating for many years with the existing buffer for the current use. A greater aesthetic benefit will be provided to the public as additional landscape material will be installed within the five foot buffer areas and with the installation of the required right of way buffers in the other areas of the site.

FINDINGS:

Rezoning Standards:

When considering a development order application for rezoning to a standard zoning district, the BCC and ZC shall consider standards 1-8 indicated below. In addition the standards indicated in section 2.B shall also be considered for rezoning to a standard zoning district with a conditional use, and rezoning to a PDD or TDD with or without a requested use or waiver. An amendment, which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. Staff has reviewed the request for compliance with the standards that are expressly established by Article 2.B.1.B and provides the following assessment:

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

The Planning Division has found the requested Rezoning and Requested Use consistent with the CH/8 FLU designation of the Palm Beach County Comprehensive Plan.

2. **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.*

The Zoning Division has reviewed the request Rezoning and Requested Use and has found no inconsistencies regarding the request and the CH/8 Land Use designation and the property development regulations noted in Table 3.E.3.D or Article 3.E.

3. **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 amendment is consistent with the surrounding properties with commercial and residential land use designations, and those currently being utilized for commercial and residential uses. The properties to the north and south are currently zoned RM, RS and INST which is consistent with this amendment. Also, the property to the East has a commercial zoning, CG, which is consistent with the MUPD. This proposal has no effect on surrounding uses or property owners as the property will have a less impact based on the less intensive use from a hotel to a Type 3 CLF.

4. **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, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*

The proposed rezoning shall have no effect on the natural environment as the structures already exist.

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

The proposed rezoning will follow the logical, orderly and timely development patterns established within this community.

6. **Consistency with Neighborhood Plan** – *The proposed zoning district is consistent with applicable neighborhood plans in accordance with BCC policy.*

The property is not located within a Neighborhood Plan area.

7. **Adequate Public Facilities** – *The proposed amendment complies with Art. 2. F, Concurrency.*

The proposed project will meet the requirements of the Palm Beach County Traffic Performance Standards Ordinance; a Drainage Statement providing evidence of storage and legal positive outfall is also included in this application; and water and sewer service will be provided by the Palm Beach County Water Utilities Department.

8. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate the amendment.*

FINDINGS:

Conditional Uses, Requested Uses and Development Order Amendments:

When considering a development order application for a conditional or requested use, or a development order amendment, the BCC and ZC shall consider standards 1 – 9 indicated below. A conditional or requested use or development order amendment which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved. Staff has reviewed the request for compliance with the standards that are expressly established by Article 2.B.-2.B and provides the following assessment:

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

The Planning Division has found the requested Rezoning and Requested Use consistent with the CH/8 FLU designation of the Palm Beach County Comprehensive Plan.

2. **Consistency with the Code** - *The proposed use or amendment complies with all applicable standards and provisions of this Code for use, layout, function, and general development characteristics. The proposed use also complies with all applicable portions of Article 4.B, SUPPLEMENTARY USE STANDARDS.*

The Zoning Division has reviewed the request Rezoning and Requested Use and has found no inconsistencies regarding the request and the CH/8 Land Use designation and the property development regulations noted in Table 3.E.3.D or Article 3.E.

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

The proposed Requested Use is consistent with the surrounding properties with commercial and residential land use designations, and those currently being utilized for commercial and residential uses. The properties to the north and south are currently zoned RM, RS and INST which is consistent with this Requested Use. Also, the property to the East has a commercial zoning, CG, which is consistent with the MUPD. This proposal has no effect on surrounding uses or property owners as the property will have a less impact based on the less intensive use from a hotel – a commercial use - to a Type 3 CLF – a residential use. The traffic study indicates a lesser road demand than the current hotel use.

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

The proposed Requested Use shall have minimal adverse impact of the adjacent lands as the 2-story structure is in existence and the proposed buffers should further screen the activities associated with the Type III CLF.

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

The proposed Requested Use shall have no effect on the natural environment as the structures already exist and limited redevelopment has been proposed.

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

The proposed rezoning will follow the logical, orderly and timely development patterns established within this community. The existing structures will continue to appear as a hotel in nature consistent with the surrounding areas and the new use will actually reduce the maximum density/intensity allowed on the site.

7. **Consistency with Neighborhood Plans** – *The proposed development or amendment is consistent with applicable neighborhood plans in accordance with BCC policy.*

The Proposed CLF is not located within a Neighborhood Plan.

8. **Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2. F, Concurrency.*

The proposed project will meet the requirements of the Palm Beach County Traffic Performance Standards Ordinance. A Drainage Statement providing evidence of storage and legal positive outfall is also included in this application. Water and sewer service will be provided by the Palm Beach County Water Utilities Department. An Equivalency Determination Application for the proposed program is included in this application.

9. **Changed Conditions or Circumstances** – *There are demonstrated changed conditions or circumstances that necessitate a modification.*

A changed condition that necessitates a modification from the hotel use to Type III CLF 3 is due to the current economic situation in Palm Beach County regarding the viability of a hotel given the loss to the tourism industry and to address a critical health care need in Palm Beach County - Prescription drug abuse and recovery. The ability to locate this use in a commercial corridor with minimal impact to the area makes the reuse of the existing hotel site ideal for the proposed CLF use. These are changed conditions which warrant consideration of this request. In addition, this type of use necessitates a need for normalcy and privacy, which can only be accommodated in a typical residential environment, such as proposed.

CONDITIONS OF APPROVAL

EXHIBIT C-1

Type II Variance - Concurrent

VARIANCE

1. The Development Order for this variance shall be tied to the Time Limitations of the Development Order for ZV/PDD/R/TDR-2011-02634 (ONGOING: MONITORING - Zoning)

2. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved site plan to the Building Division. (BLDG PERMIT:ZONING-Landscape)

3. At time of submittal for final approval by the Development Review Officer (DRO), the approved Variance and any associated Conditions of Approval shall be reflected on the site plan. (DRO:ZONING-Zoning)

4. The planting requirement for the medium and small shrubs required within the variance areas shall be relocated to an adjoining green space. The shrubs shall provide additional screening from the roadway, if possible. (BUILDING PERMIT: BLDG - Landscape)

5. 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)

6. 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 (CO); 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; 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 (ULDC) 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)

EXHIBIT C-2
Non Residential Planned Development District

ALL PETITIONS

1. Development of the site is limited to the uses approved by the Board of County Commissioners. The approved Preliminary Site Plan is dated January 23, 2012. All modifications to the Development Order must be approved by the Board of County Commissioners or Zoning Commission, unless the proposed changes are required to meet Conditions of Approval. (DRO: ZONING - Zoning)

ENGINEERING

1. The property owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Lake Worth Road for a future right turn lane at the Florida Turnpike. All right of way deed(s) and associated documents shall be provided and approved prior to April 26, 2013. Right of way conveyance shall be 12 feet in width, shall extend along the project's western 120 feet of frontage abutting Lake Worth Road and shall be free and clear of all encumbrances and encroachments unless otherwise approved by the County Engineer and FDOT. Property owner shall provide FDOT with sufficient documentation, typically including a sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from tax collector of delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Grantor must warrant that the property being conveyed to FDOT 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 Grantor, the Grantor agrees to hold the County and FDOT 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 clean up. 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 coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (DATE: MONITORING-Eng)

2. Prior to April 26, 2013, the property owner shall create a lot of record in accordance with provisions of Article 11 of the Unified Land Development Code. (DATE: MONITORING-Eng)

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 (CO); 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; 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 (ULDC) 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)

EXHIBIT C-3
Requested Use

LANDSCAPE – GENERAL

1. At time of submittal for final approval by the Development Review Officer, the property owner shall submit a Landscape Plan to the Landscape Section for review and approval. The Plan shall be prepared in compliance with all landscape related conditions of approval as contained herein. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE SOUTH AND WEST PROPERTY LINES (FRONTAGE OF THE FLORIDA TURNPIKE AND LAKE WORTH ROAD)

2. In addition to the code requirements, the landscaping and buffer width along the south and west property lines shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip except in areas where Variances are approved; and,
- b. a six (6) foot high metal railing fence on the south property line. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF HADJES ROAD)

3. In addition to the code requirements, the landscaping and buffer width along the east property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip except in areas where Variances are approved; and,
- b. a six (6) foot high metal railing fence with gates at each access point along Hadjes Road. Gates shall be provided with controlled access (call-box, key access pad, or card reader) to provide security for the facility. (DRO: LANDSCAPE - Zoning)

LANDSCAPE - PERIMETER-LANDSCAPING ALONG THE NORTH PROPERTY LINE

4. The landscaping and buffer width along the north property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip. Buffer width may be reduced to thirteen (13) feet adjacent to the existing tennis courts, subject to an alternative buffer approval by the Board of County Commissioners;
- b. an eight (8) foot high opaque fence or wall; and,
- c. All plant materials shall comply with a Type III Incompatibility Buffer. (DRO:LANDSCAPE-Zoning)

SIGNS

1. Ground mounted freestanding signs fronting on Lake Worth Road shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point eight (8) feet;
- b. maximum sign face area per side: eight (8) square feet;
- c. maximum number of signs - one (1);
- d. style - monument style only; and,
- e. only adress information shall be provided on the sign. (BLDG PERMIT: BLDG - Zoning)

2. No Ground mounted freestanding signs fronting on Hadjes Road shall be allowed. (BLDG PERMIT: BLDG - Zoning)

SITE DESIGN-SHERIFF SUBSTATION

1. If a substation is warranted by the Sheriff's office, the Final Site Plan shall be revised to indicate the location. (ONGOING: ZONING - Zoning)

USE LIMITATIONS

1. The Type III Congregate Living Facility shall be limited to a maximum of 165 residents. (ONGOING: ZONING - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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; 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 (ULDC) 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)

EXHIBIT C-4
Transfer of Development Rights

TRANSFER OF DEVELOPMENT RIGHTS

1. At time of submittal for final approval by the Development Review Officer (DRO), an official Contract for Sale and Purchase of Transfer of Development Rights (TDR) Units and TDR Deed shall be submitted by the Property Owner to the Zoning Division for final review and execution. (DRO: ZONING – Cty Atty)

2. Prior to final approval by the Development Review Officer (DRO), one (1) recorded copy of the Contract for Sale and Purchase of Transfer of Development Rights (TDRs) shall be provided to the Zoning Division. (DRO: ZONING - Zoning)

3. Prior to July 2, 2012, the Property Owner shall pay one hundred (100) percent of the Transfer of Development Right Funds to the Zoning Division. Upon payment of the funds, the Transfer of Development Rights (TDR) Deed shall be recorded by the Property Owner, and a copy shall be provided to the Zoning Division. (DATE: MONITORING - Zoning)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the property owner/applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance condition of this approval. (ONGOING: MONITORING - Zoning)

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

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy (CO); 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; 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 (ULDC) 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 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 Jack Coscia, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

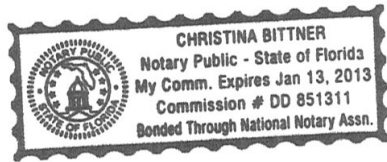
1. Affiant is the [] individual or Managing Member [position - e.g., president, partner, trustee] of The Cottages of the Palm Beach [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (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: 631 US Highway 1 #304
N. Palm Beach, FL 33408
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.

Jack Coscia
Mr. Jack Coscia, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 10 day of January, 2012, by Jack Coscia, who is personally known to me or who has produced _____ as identification and who did take an oath.



Christina Bittner
Notary Public

Christina Bittner
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 01/13/2013

EXHIBIT "A"**PROPERTY**

Commencing at the intersection of the North Right OF Way line of State Road no. S-802 (Lake Worth Road) and the East line of Tract 115, Block 23, PALM BEACH FARMS COMPANY, Plat No. 3, as recorded in Plat Book 2, Pages 45 thru 54, Palm Beach County, Florida; said point being 56.70 feet North of the South East corner of Tract 115, Block 23, the Point of Beginning; thence N 00°38'23" E (assumed bearing) 603.30 feet to the North East corner of Tract 115, thence N 89°23'46" W (assumed bearing), a distance of 330.0 feet to the North West corner of Tract 115 and the North East corner of Tract 114, Block 23, continue West along the same line a distance of 160.57 feet to a point which is 490.57 feet west of the North East corner of Tract 115, Block 23; thence S 00°36'16" W a distance of 553.09 feet to a point 100 feet North of the center line of Lake Worth Road; thence S 89°19'34" E a distance of 160.35 feet to a point; thence S 00°44'46" W a distance of 49.85 feet to a point which is a point on the East line of Tract 114, Block 23, and 50 feet North of the center line of State Road S-802; thence S 89°22'07" E a distance of 329.97 feet to the point of beginning.

Less and Except the East 40 Feet as dedicated to Palm Beach County in the Plat No.1 Meed Racquet Club P.U.D.

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
Jack Coscia	
Deborah Mullaney	6031 US Hwy 1, #304
	N. Palm Beach, FL
	33408

- 8. Adequate Public Facilities:** The proposed project will meet the requirements of the Palm Beach County Traffic Performance Standards Ordinance. A Drainage Statement providing evidence of storage and legal positive outfall is also included in this application. Water and sewer service will be provided by the Palm Beach County Water Utilities Department. An Equivalency Determination Application for the proposed program is included in this application.
- 9. Changed Conditions or Circumstances:** A changed condition that necessitates a modification from the hotel use to CLF, Type 3 is necessitated in part due to the impacts of the current economic situations in the county on the tourism industry and viability of hotel uses, as well as a result to address a critical health care need in Palm Beach County as evidenced by recent pill mill legislation and enforcement proceedings, it is clear that prescription drug abuse is a situation that is affecting people from all walks of life. The ability to locate this use in a commercial corridor with minimal impact to the area makes the reuse of the existing hotel site ideal for the proposed CLF use. These are changed conditions which warrant consideration of this request. In addition, this type of use necessitates a need for normalcy and privacy, which can be accommodated in a typical residential environment, such as proposed.

TYPE II VARIANCE REQUESTS

A request for two (2) Type II Concurrent Variances is being requested. The first Variance is from Article 7.F.7.A. A reduction is requested for the right-of-way buffers along Lake Worth Road and the Florida's Turnpike from 20' to a five foot (5') right-of-way buffer for areas adjacent to the parking areas and tennis courts. Secondly for this code section a reduction for a five foot (5') right-of-way buffer on Hadjes Drive for the area adjacent to the parking area on the southeast corner of the property is being requested. The granting of the variances to allow for the five foot width right of way buffers are supported by the fact that the existing parking lot layout in these areas are vested under Article 1 via the aforementioned building permit associated with the construction of the tennis courts in 1980. However, a 20' right-of-way buffer will be provided were possible along Lake Worth Road and the Florida's Turnpike, and a 15' right-of-way buffer will be provided were possible along Hadjes Drive, meeting today's code requirements.

The second Variance is to request a Type II Concurrent Variance from Article 7.F.7.B & C to waive the requirement for the small, medium shrubs and groundcover and to plant in a linear pattern in the areas of the buffer being requested to be reduced to a width of five feet to accommodate the existing parking areas.

In the instance of the area affected by the proposed right of way dedication, we are able to provide for a code compliance 20' landscape buffer in this area. Utilities have determined that an easement is not required to the north of this area as the utilities are

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located within the existing right of way for Lake Worth Road. However, Adam Galicki from PBCWUD has requested that the applicant provide a utility easement along the right-of-way buffer for Lake Worth Road, to the east of the area being dedicated to roadway for a width of approximately 171'. The green space in this area, to the south of the existing non-affected parking area, ranges in width with it being nine feet (9') at the narrowest point to the west. Adam Galicki has request a four foot (4') minimum utility easement due to the fact that the utilities already exist and the four foot (4') allows them enough room to enter onto the site if they need to access the lines. The existing parking lot and tennis courts along Lake Worth Road, the Florida's Turnpike and Hadjes Drive limits the inclusion of a 20' and 15' ROW buffer and therefore Variances are being requested for the width, the plant material required, and the planting pattern in the reduced buffer areas five feet in width. Again, the existing parking lot configuration and the existing location of the tennis court in relation to the west property line is vested per the prior building permit.

VARIANCE STANDARDS

A summary chart illustrating the variance requests are provided below:

Variance	Code Section	Required	Proposed	Variance
1.a	Art. 7.F.7.A.	ROW buffer 20' in width along a ROW 100' or greater.	Five Foot (5') ROW buffer along the Lake Worth Road frontage adjacent to portions of the existing parking areas.	15' along Lake Worth Road frontage adjacent to portions of the existing parking areas.
1.b	Art. 7.F.7.A.	ROW buffer 20' in width along a ROW 100' or greater.	Five Foot (5') ROW buffer along the Florida's Turnpike frontage adjacent to the existing tennis courts.	15' along the Florida's Turnpike frontage adjacent to the existing tennis courts.
1.c	Art. 7.F.7.A.	ROW buffer 15' in width along a ROW 0-99'.	Five Foot (5') ROW buffer along the Hadjes Drive frontage adjacent to the existing parking area.	10' along Hadjes Drive frontage adjacent to the existing parking area.

2	Art. 7.F.7.B. & C.	Three tiers of shrubs and groundcover planted in a naturalistic & meandering Pattern.	Waive requirement for the Small, Medium shrubs and Groundcover and to plant in a linear pattern along the five foot buffer areas.	Waive requirement for the Small, Medium shrubs and Groundcover and to plant in a linear pattern along the five foot buffer areas.
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The Palm Beach County Unified Land Development Code, Article 2.B.3, requires a statement of special reason or that the basis for the variances required be provided. An application for the variances shall be written demonstrating all of the following to qualify for a variance:

- 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:** Variance 1 & 2 - Special conditions and circumstances exist that are peculiar to this parcel of land, which are not applicable to other parcels of land in the same zoning district. The special conditions involved the difficulties of re-use of existing viable buildings within the Urban/Suburban Tier of the County. The requirement to provide for the Utility Easement (for which the existing utilities are located off-site) without the requested variance for the easternmost 171 feet along Lake Worth Road would cause extensive site redesign to the existing parking lot area. The current configuration of the existing parking areas vested under the prior building permit and the existence of the tennis courts, which would provide a recreational amenity to the residents, are also unique to this property and reflect an existing condition.
- 2.) **Special circumstances and conditions do not result from the actions of the applicant:** Variance 1 & 2 - The special circumstances and conditions are not the result of the applicant but a result of existing site conditions. The hotel has been at this site in since 1974, and was approved under the County's 1972 Zoning Code. The difficulties associated with the special conditions applicable to re-use projects are not the result of the actions of the applicant, but of existing site conditions.
- 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 district:** Variance 1 & 2 – The granting of the variances will not confer any special privilege denied by the plan or code to other parcels, as both documents allow for the granting of variances based on meeting the criteria set forth in the code. Granting these variances will further the goals of the Comprehensive Plan and ULDC, as it will allow for the re-use of an existing structure within the Urban/Suburban Tier.

- 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 district, and would work an unnecessary and undue hardship:** Variance 1 & 2 - Literal interpretation of the ULDC requirement would create an unnecessary hardship for the applicant if these variances are not approved. The intent of this code provision is to provide adequate screening of the parking lots and site improvements from public right-of-ways. As previously discussed, there is a 9'-10' buffer currently existing along the right of way with shrubs and palm trees in the area abutting the easternmost parking lot along Lake Worth Road. The applicant will be providing a large shrub and shade trees in the sizes and quantities required for ROW buffers within the proposed 5' landscape buffer. These plant materials will provide adequate screening of the parking lot from Lake Worth Road and improve the screening currently in place. Providing for a 20' buffer in this area, as well as the areas to the west which are the subject of this request, would greatly affect the site layout. This rationale also applied to the existing parking lot area in the southern portion of the site adjacent to the Hadjes Drive right-of-way. Again the applicant will be providing a large shrub and shade trees in the sizes and quantities required for ROW buffers within the proposed five foot (5') landscape buffer. Therefore, the intent of the code is being met and the literal enforcement of the provisions of the Code would be an unnecessary and undue hardship upon the applicant.
- 5.) **Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure:** Variance 1 & 2 - These variance requests are the minimum necessary to make reasonable use of the land. The applicant will be providing a large shrub and shade trees within the available 5' landscape buffer areas, in addition to the existing plant material proposed to remain in the area to be encumbered by the utility easement, and requested areas adjacent to the other parking area and existing tennis courts that can't meet the required width. Again, these variances would not be required if not for the provision of the utility easement and the impact of the existing site conditions.
- 6.) **Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:** Variance 1 & 2 - As demonstrated above, these variances are consistent with the purposes, goals, objectives, and policies of the Plan and the Code, as the intent of the code is to provide adequate screening from a right-of-way. The parking lot areas and site improvements will be adequately screened from the right-of-ways with the proposed plant material within the proposed 5' buffer and with the enhancement of the existing plant material.

Additionally, Objective 1.2 of the Urban/Suburban Tier states that "it is imperative that land, services and facilities be used efficiently and effectively". The allowance to the reduced buffer requirements meets this objective as it allows for the reuse of an existing facility to provide a service greatly needed within the community, and the nation overall.

Also, the Future Land Use Element Implementation section III:7 states that for Institutional and Public Facilities, "Institutional and Public Facilities shall be permitted in all Future Land Use Atlas designations provided such uses are consistent with the Comprehensive Plan and the Unified Land Development Code."

- 7.) **Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare:** Variance 1 & 2 - Granting these variances will not be injurious to the area involved or detrimental to the public welfare. The site has been operating for many years with the existing buffer for the current use. A greater aesthetic benefit will be provided to the public as additional landscape material will be installed within the five foot buffer areas and with the installation of the required right of way buffers in the other areas of the site.

Conclusion

On behalf of Behavioral Health of the Palm Beaches, Inc., Urban Design Kilday Studios respectfully requests favorable review and consideration of this Zoning Map Amendment with a Requested Use and Type II Concurrent Variances with the purchase of Transfer Development Rights (TDRs). The project managers at Urban Design Kilday Studios are Scott Mosolf and Nicole Simpson. Please feel free to contact either of these project representatives with any questions or for additional information in support of these applications.

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