

***Palm Beach Park of Commerce PIPD – Surf Ranch  
Florida***

**JUSTIFICATION STATEMENT**

**Request: Class A Conditional Use Approval to Allow an Outdoor Entertainment Use with Concurrent Variances**

**Control Number:** 1981-190

**Application Number:** DOA/CA-2017-00572

Initial Submittal March 15, 2017

Resubmittal April 24, 2017

Resubmittal May 26, 2017

Revised June 26, 2017

Revised July 24, 2017

Revised August 10, 2017



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Urban Planning and Design  
Landscape Architecture  
Communication Graphics

**OVERVIEW OF REQUESTS & PROPERTY INTRODUCTION**

On behalf of the applicant, AW Asset Management, LLC, Urban Design Kilday Studios (UDKS) has prepared and hereby respectfully submits this application for the approval of a Class A Conditional Use to allow an Outdoor Entertainment use within the Palm Beach Park of Commerce PIPD. The request is for the 78.91±-acre (Parcel Control Number [PCN] 00-41-41-17-00-000-3020) parcel located in the northwest portion of the Palm Beach Park of Commerce (POC) PIPD. The subject property is not platted. A final subdivision plan will be submitted as part of the Final DRO approval process. The specific public hearing approval requests and future DRO approval requests are listed below.

- Development Order Amendment to change the Pod Designation on 46.66± acres from IG – General Industrial to REC Regional Recreation within the PIPD, delete internal access points (three), and delete conditions of approval (landscape).
- Class A Conditional Use Approval to Allow for the use Outdoor Entertainment for a man-made surf lagoon and supporting accessory structures on the 46.66 acres.
- Development Review Officer (DRO) Approval of Type 2 Excavation to remove more than ten percent (10%) of extracted material from the site pursuant to Article 4.B.10.C.4.f.2.
- Request to Utilize Method Type III – Projects Requiring DRO or Site Plan Approval to allow for the determination of compliance with Article 5.C. Design Guidelines to be made at final DRO. This is consistent with the current conditions.
- Variances to eliminate the requirement for a six-foot wall within the portion of the site which requires a Type III Incompatibility buffer (west approximately 2,040 feet along the north property line); allow an eight-foot (8') chain link fence in the front setback; and eliminate the requirement for cross-access to the balance of the PIPD, both vehicular and non-vehicular.

This application is being requested in conjunction with a privately initiated text amendment (PIA) to the Unified Land Development Code (ULDC), which will be discussed in further detail later in this justification statement. Please know that a different direction in regard to the text amendment was discussed at a May 24, 2017 meeting with Zoning staff that will result in revisions to the approach contained in the May 8, 2017 amended privately initiated ULDC text

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amendment. Staff has indicated that the preferred approach is to designate the Pod as a Regional Recreation Pod, and this request has been revised accordingly. The PIA was presented to the Land Development Regulation Advisory Board (LDRAB) on July 26, 2017 and is currently scheduled for Request for Permission to Advertise on August 24, 2017.

The site plan was previously revised from the original March 15, 2017 submittal to remove the proposed two 50,000 square foot industrial buildings and this area is now depicted as Future Development Area. As users have not yet been defined, concern arose in regard to complications with future revisions to the design after the plan had been presented to the Board of County Commissioners (BCC) in a public hearing process. As such, it is anticipated that the future industrial uses will be those permitted in an IG Pod and processed as a final site plan through the DRO as all other permitted industrial development in the PIPD has historically been approved. If necessary, a condition of approval making clear that this area of the PIPD is not subject to public hearing review for permitted uses could be considered.

### **PALM BEACH PARK OF COMMERCE PIPD**

The POC is located on the north side of Beeline Highway and the east side of Seminole Pratt Whitney Road and is approximately 1,322 acres in size. The land use on the overall property is Industrial (IND) and the Zoning Designation is Planned Industrial Park Development (PIPD). A portion of the subject property is located within the boundaries of the United Technologies Corporation Protection Area (UT) Overlay and the Bioscience Research Protection Overlay (BRPO) and is also a Limited Urban Service Area.

The POC was originally approved as a Development of Regional Impact (DRI) by the Palm Beach County (PBC) Board of County Commissioners (BCC) on January 26, 1982. The most recent amendment to the DRI Development Order was approved on November 27, 2006 via Resolutions R-2006-2560, R-2006-2561 and R-2006-2562. This approval amended the master plan to add approximately 80 acres to the northwest of the PIPD, as well as an additional access point. This land area has since received subdivision plan approval, as well as a subdivision variance in regard to access requirements. However, the variance approval for a reduced right of way width of 67' granted via Resolution ZR-2013.035 was valid for one year and it appears the approval for that variance has lapsed. As such, a status of conditions was not submitted for that resolution. However, it appears that the subdivision plan is still valid, but could not be implemented unless a variance was re-requested and approved, or it was revised to comply with subdivision regulations. With the approval of the site plan associated with the Outdoor Entertainment use, it is anticipated that the subdivision plan would then be voided or at a minimum be required to be amended through the DRO approval process as it would no longer be consistent with the approved site plan.

Undeveloped land with Conservation Future Land Use designations (a.k.a. Pine Glades Natural Area) is located to the north of the site. Single-family residences; orchard groves and parcels of land with cattle farming activities are located to the south, across Beeline Highway. Single-family residences of the Jupiter Farms and Caloosa subdivisions are to the northeast and east of the boundary of the PIPD. Vacant land with Conservation Industrial and RR-20 Future Land Use designations is located to the west of the site.

Under the original approval of this PIPD, there is a 900-foot wide Limited Development Zone (LDZ) established along the PIPD's property lines that are adjacent to residentially zoned land. The intent of this LDZ is to restrict certain types of uses from being located in close proximity to the adjacent residences. No revisions to the LDZ are proposed as part of this request.

**Privately Initiated Text Amendment to the Unified Land Development Code (ULDC) in Process:**

A privately initiated text amendment (PIA) was submitted to the Palm Beach County Zoning Division on February 8, 2017. The request was presented to the Land Use Regulation Advisory Board (LDRAB) on February 22, 2017. The Board's recommendation was to move the item forward to the Board of County Commissioners (BCC) with a recommendation for the amendment to be initiated so that staff could further review the best approach in regard to the code amendments. The text amendment initiation was presented to the BCC on March 23, 2017. The Board directed staff to move forward in processing the application and additional meetings/coordination in regard to the actual text amendment approach has taken place between the architect and the applicant since. It was presented to LDRAB on July 26, 2017 and is scheduled for Request for Permission to Advertise on August 24, 2017.

The latest meeting summary, inclusive of the currently proposed language for the text amendment is included in these materials. The revisions include an exception to the PIPD Purpose and Intent to allow for regional serving recreation uses within the Regional Recreation Pod and provides for clarification in the design objectives for regional serving recreational uses, with the creation of the Regional Recreation Pod. A limitation of no more than five percent (5%) of the overall PIPD is provided to assure that the main purpose and intent of the PIPD is maintained for any potential user in the future.

Frontage is also proposed to be required on an arterial or collector road. A confirmation email from Scott Cantor of the Land Development Division was previously provided attesting to the determination that the proposed to be platted 80' right of way meets this requirement.

Additionally, notification of the request is proposed to be required to be provided to the Business Development Board and a copy of that letter was also previously provided. Finally, an increased setback of 1,000 feet has been included in the supplemental regulations from land with a residential FLU designation or use.

The proposed text amendment requires the proposed use to be processed as a Class A Conditional Use. It is anticipated that the DOA and Class A requests will move concurrently through the approval process. The current schedule anticipated the second reading of the text changing being on the same BCC agenda as the DOA and Class A requests in October.

## PRE-APPLICATION CONFERENCE

The applicant submitted a pre-application conference request to the Zoning Division which was heard at the February 8, 2017 DRO meeting (PA-2017-00191). A copy of the result letter was included in initial application submittal.

A subsequent meeting took place with attendees from Zoning (Community Development and Code Revision), ERM, Landscape and Land Development on May 24, 2017.

## DEVELOPMENT PROPOSAL/SITE DESIGN

The applicant is proposing to obtain approvals for the use of an Outdoor Entertainment Use on the easterly 46.66± acres of the un-platted 78.91±-acre parcel. The 11.9 acre water management tract would be included in the first construction phase of development, as would the landscape buffers and the 80-foot non-plan collector road right of way. The balance of the property to the west will remain as future development area for industrial development as previously mentioned. At the May 24, 2017 meeting, direction was given that the property will be required to be subdivided to reflect two parcels and the water management tract. This will be done through the Final DRO process after the use approval. It is the applicant's intent to provide for a solar energy component which is permitted via a DRO approval. At the request of staff, it is the applicant's intent in this narrative to make clear that the solar component is not a part of this request and no such facilities are depicted on the application plans. The project will be required to go through the appropriate approval process for the solar energy once the final design and program has been determined.

The proposed use will consist of a concrete man-made lagoon approximately 16.6± acres in size and is proposed to be 2,600 feet in length with the majority of the lagoon being approximately 299 feet in width. The project, named Surf Ranch Florida, will be proposing to construct a world-class, man-made surfing lagoon which will provide consistent waves and a safe environment for public recreational and competition purposes. The applicant is proposing to comply with the special event approval process contained in the ULDC in regard to number of events and requirements and the concurrent ULDC text amendment does not propose any revisions to that section of the code.

The site design of the portion of the site associated with the Surf Ranch Florida includes additional buildings proposed as part of the development will total 31,915 square feet in size and consist of the following:

Learning Center/Surf Club	10,121
Board Room	2,476
Clubhouse	3,566
Training Center	5,392
Maintenance Building	5,000
Water Treatment Building	2,000
Mechanical Buildings	<u>3,360</u>
Total	31,915

The Final Development Plan (Master Plan) for the PIPD is being revised to change the Pod on 46.66 acres from IG – General Industrial to REC – Regional Recreation within the PIPD. The balance of the existing 78.91± pod will remain as a IG Pod, that being 32.25 acres in size.

A 11.9-acre water management tract included in the IG pod will serve the entire development, as well as accept drainage from Pratt Whitney Road, and is proposed to be included in the initial construction phase. An 80-foot roadway proposed to provide access to the development that will be platted as part of the development. As alternative road cross-section is being requested for approval by the County Engineer as part of this application, as permitted pursuant to the Land Development Design Standards Manual.

Emergency access is being proposed via a stabilized base over the 20' adjacent to the southern property line. The 20' will also be encumbered by a piped 20' drainage easement. The project engineer has been consulted and sees no issue with this approach. The required 5' perimeter buffer will then be provided internal to that easement.

## **SPECIAL EVENTS AND OPERATIONS**

The opportunity to locate the first facility of this kind within Palm Beach County will provide for not only great economic impact to the area overall, but will serve to focus worldwide attention on the County. The prototype of this use was constructed in California by Kelly Slater, 11x world surf champion, who was born in Florida and lives in Coco Beach.

The World Surf League, which operates the professional surfing tour, is invested with the project and plans to hold league sanctioned events and surfing competitions utilizing the man-made wave. It is anticipated that two to three special events may be held on a yearly basis attracting up to 50,000 people, anticipated at approximately 5,000 per day. The events would be planned to be held in the late summer / early fall, providing for an opportunity to aid in tourism and fill hotel rooms in a typically slower time of the year and it is anticipated it would be televised on a national network which would include the use of speakers (also normal operations below). These events will follow the procedures and processes required for special events within the ULDC and the applicant is also willing to comply with the limitations as to number included in the code (three per year of 14-day duration with extension of up to seven days to 21 approved by the zoning division). These provisions would include off-site parking and shuttle buses to the venue during the events. Hours of the special event on a daily basis would be the same as normal operations 6:00 to 11:00 allowing early morning setup and time to secure site and visitors to be transported back to the parking areas.

Specifically, the applicant would intend on utilizing the following process from Article 6 as currently contained in the ULDC:

### **Temporary Parking**

- a. The Zoning Director may consider a Special Permit for temporary off-site parking. **[Ord. 2017-007]**

- 1) Off-site parking shall not be located more than 600 feet from the Temporary Use site, measured from access point to access point. The Zoning Director may approve a distance greater than 600 feet when the applicant demonstrates that the attendees or temporary use participants are transported to the site by other means; [Ord. 2017-007]
- 2) Parcels used for off-site parking shall include access for vehicles to enter and exit the site in a forward motion; and, [Ord. 2017-007]
- 3) Off-site parking shall not be separated by a street with a width of more than 80 feet, unless traffic assistance is provided to guide pedestrians or measures are in place to assist pedestrian safety. [Ord. 2017-007]

Additionally, the traffic division has suggested a condition of approval for this specific user that would require the use of off-duty Sheriff personnel to aid in traffic management as part of any such special event approval and the applicant is in agreement with the commitment. Finally, due to concerns expressed during public input meetings to date, the applicant would have no issue with accepting a condition of approval that no musical concerts would be included as any special event request. A schematic of the viewing and vendor areas has been provided on the Preliminary Regulating Plan submitted herewith.

### **NORMAL DAY TO DAY FACILITY OPERATIONS**

Although the hours of operation have not yet been determined by the operator we have no issue with complying with the limitations associated with recreational uses within 250 feet of residential FLU designation or uses, that being limited to between 6:00 a.m. to 11:00 p.m. Again, the way the lake functions limits the amount of people at the facility on any given day.

The operations of the facilities will also include public access, inclusive of a surf school associated with the learning center and programs associated with water safety. Focus will also be provided on the natural environment, including a partnership with ERM in regard to education about the adjacent Pine Glades Natural Area. Three access points for ERM's use are proposed on the plan, consistent with the previously approved subdivision plan.

The facility will also offer corporate retreats and a high performance training center for elite athletes and competitive junior surfers. Finally, the intention is to create a recurring program to provide access to underprivileged children who would not otherwise be able to utilize the facility.

In order to manage the intensity of the use and provide the best visitor experience, reservations for access to the facility will be required in advance. Drive up access will not be permitted. In this case where only a few surfers can be in the water enjoying waves at a time, the day to day operation will be of very minimal impact.

In regard to noise on a daily basis, there will be some use of a speaker system for safety purposes, but the applicant is anticipating that the noise created by this use will not exceed that already produced at the property line by existing industrial uses in the area within the RTO. A study prepared by ED+A Acoustics is provided in these application materials which provides information on the current noise levels on the parcel, even as vacant.

In regard to lighting, the applicant will comply with the maximum foot candles permitted at the property line per code (that being .33 foot candles. A photometric plan will be provided at the time of final DRO as required by a proposed condition of approval.

## **COMPREHENSIVE PLAN OVERLAYS**

As mentioned above, the project is located within the boundaries of both the United Technologies Corporation Protection Area (UT) Overlay and the Bioscience Research Protection Overlay (BRPO).

The UTC overlay prohibits incompatible uses including the following:

1. Residential (excluding Caretakers quarters);
2. Hotels, motels;
3. Medical and dental offices; and
4. Hospitals, medical centers.

As such, the use is not inconsistent with the provisions of this overlay.

The BRPO does not limit the uses currently allowed consistent with the property's existing land use designation and zoning designation including uses allowed pursuant to planned development approvals and development of regional impact approvals. The County's Comprehensive Plan also includes the following policy for this overlay:

**Policy 1.9-c:** Within the Overlay, residential uses shall be prohibited, and commercial uses shall be prohibited unless clearly accessory or ancillary to bioscience research/biotechnology uses or as have been or may be approved in connection with a land use mix for a planned development and/or development of regional impact.

Based on prior interaction with the Planning Division, the determination has been made that the proposed use is also not inconsistent with the provisions of this overlay and a determination of consistency has been included in the staff report for the July 26, 2017 LDRAB meeting.

## **ULDC OVERLAYS**

The provisions of the RTO-Research and Technology Overlay are addressed below. This zoning overlay was created to address the UT overlay of the Plan.

### **A. Purpose and Intent**

The purpose and intent of the RTO is to protect critical industrial, manufacturing, research and development activities from the encroachment of incompatible land uses and activities; provide opportunities to locate accessory, auxiliary and supporting industrial land uses in close proximity to existing facilities; and ensure the location of land uses and activities in the district that are compatible with or complement manufacturing and high-tech operations that are related to the continuation and expansion of PBC's manufacturing and industrial base. The RTO is specifically included in this Code to meet provisions in the Plan related to the United Technologies Corporation (Pratt-Whitney Overlay). **[Ord. 2005 – 002**

*The proposed use is not inconsistent with this policy as it would not create an incompatible use and is not incompatible with manufacturing operations within the PIPD or Pratt Whitney.*

### **Use Regulations**

Development in the RTO shall comply with the use regulations of the underlying district.

#### **b. Prohibited Noise Sensitive Uses:**

- 1) Residential (excluding caretaker quarters);
- 2) Hotels, motels;
- 3) Medical and dental offices; and
- 4) Hospitals, medical centers.

*This request does not include any of these prohibited uses.*

#### **c. Accessory Uses**

Uses not listed above, which generally would not be allowed within the RTO may be permitted as accessory uses to a permitted principal use.

*No accessory uses are proposed as part of this request.*

#### **D. Property Development Regulations (PDRs)**

All development within the RTO shall be subject to the property development regulations of the underlying district. However, development proposed in the NEO shall be subject to the development regulations of the NEO district.

*The proposal will comply with PDR's.*

#### **E. Performance Standards**

All development within the RTO shall comply with the rules and regulations of all governmental agencies having appropriate jurisdiction, and with all applicable requirements of this Code.

*The proposal will comply with all agency requirements and with the Code based on the approval of text amendment(s) to the ULDC.*

### **No SUBSTANTIAL DEVIATION**

The change of the Pod designation from IG to REC being requested as part of the DOA is presumed to not be a substantial deviation to the DRI as no increase to the number of vested trips is being proposed in order to allow same. The applicant has provided correspondence from the Department of Economic Opportunity and the Treasure Coast Regional Planning Council in the application materials that the proposed use is not determined to be a substantial deviation.

### **CONCURRENCY**

A traffic equivalency statement has been submitted prepared by Kimley Horn and Associates. As the PIPD is approved as a DRI, the trips required are pulled from the overall pool of the park. Additionally, a drainage statement has been provided from



Kimley Horn that provides for legal positive outfall to the canal adjacent to the southern property line of the parcel. The project will not outfall to the natural area to the north. Water and wastewater will be provided through the Park from Seacoast and a capacity letter has been provided with the application materials from the Park.

An additional traffic report was prepared in support of the variance requested herein to eliminate the three potential access points to the parcel from the balance of the PIPD as depicted on the approved master plan.

## **PLATTING**

Based on zoning's direction at the May 24, 2017 meeting, the applicant will now plan on platting to create the two legal lots of record per the standard process. This will require a subdivision plan be processed through the full DRO review process in the future. No such plan currently accompanies this request.

While the industrial Pod designation includes the lake area which will provide for an on-site storm water management system for the entire development, as well as complying with the condition to accept drainage for Pratt Whitney Road, it will be included in the first construction phase of development associated with the Surf Ranch use.

## **ARCHITECTURAL REVIEW**

As provided for in Article 5.C., Design Standards, an applicant may request review for compliance with these standards via any of the available methods. This application is requesting to utilize Method Type III – Projects Requiring DRO or Site Plan Approval. This will allow the applicant to obtain the necessary entitlements prior to closing on the property and expending the considerable funds associated with final architectural design. However, representative renderings prepared by Glidden Spina Partners have been submitted for informational purposes only to provide a theme for the Surf Ranch portion of the development associated with the Class A Approval request. The applicant is aware the buildings will need to either comply with Article 5.C. or utilize one of the avenues to obtain relief from same as contained in the code. This approach is not inconsistent with the architectural review condition currently contained in the development order.

Likewise, the future industrial buildings proposed for the IG Pod land area will need to comply with the design standards at the time of final DRO unless exempted under the provisions of the code.

## **LANDSCAPE**

The proposed plan provides for a 25 foot PIPD perimeter right of way buffer is being provided along the west frontage of Pratt Whitney Road and a Type III Incompatibility Buffer is provided along the west 2,040±' of the north property line. A code required buffer of five feet (5') along the east, south and east 3,155 feet of the north property line. The Perimeter Incompatibility Buffer requirement is only applicable to industrial pods located at the boundary of PIPD. Based on the Rec Pod designation for the use, that requirement does not apply and a compatibility buffer is proposed. However, along that area of the

property line, a 20' existing access road for ERM is proposed to remain, and an additional 20' of landscape area is proposed to the south of that road, in effect providing an area of 45' in total width with substantial more landscape than required. This will serve to screen any mechanical equipment from the Pine Glade Natural Area. A note has been added to the details that the fence in this area may be field adjusted to accommodate existing plant material, but the goal would be for it to be placed on the north property line with shrubs installed at a height of six feet interior to the fence to allow the fence to blend into the shrub material from the view from the natural area. A 15' right of way buffer is proposed along the south side of the 80 right of way.

Please note that the applicant is requesting that the right of way buffer along Pratt Whitney Road be included in the future construction phase associated with the industrial parcel. This area currently is heavily screened. While there is a right turn lane into the site proposed with this request, it is anticipated that there will still remain sufficient buffering along the roadway until such time as the industrial parcel is constructed.

A meeting was held with Meredith Leigh of Zoning, Mark Godwin and Bob Kraus of ERM, and Jon Powers of the landscape division on March 9, 2017 with Joni Brinkman, Scott Mosul and Kevin Kroll of UDKS in attendance. It was discussed at the meeting that the majority of the native pines appears to be located along the north property line based on the 2014 tree survey provided as part of the Pre-Application Conference submittal. It was also discussed that the native palms (cabbage) would be relocated on site. A revised updated tree survey and Existing Tree Plan with proposed tree disposition chart is being provided with this submittal. Due to proposed grade changes, the existing material is significantly impacted.

## **PROPOSED DELETION OF CONDITIONS OF APPROVAL**

1. Landscape: Landscape Conditions of Approval specific to the 80 Acre Parcel were included in Resolution R-2006-2561. The applicant would like to delete all these conditions justified as follows:

The applicant is now proposing to provide not only the 25' Perimeter PIPD buffer referenced in the 2006 BCC staff report dated November 27, 2006, but also a 25' Perimeter PIPD buffer along the north property line. This is an increase from the buffer on the north in comparison to the master plan approval associated with the current subdivision plan for the parcel (Exhibit 258). The requirement for the upgrade of native canopy percentage and increase tree height and diameter are no longer warranted via recent acknowledgments by staff due to availability issues, which actually resulted in waivers being written into the ULDC to the code minimum requirements. Finally, as credits are allowed by code, it appears the final portion of the condition would not be required either. As such, we would propose to strike the following condition in its entirety.

- ~~1. The required 25-foot perimeter buffer and interior right-of-way buffer shall be upgraded to provide a minimum seventy-five (75%) percent of canopy trees as native and shall meet the following minimum standards at installation:
  - a. tree height: fourteen (14) feet;~~

- ~~b. trunk diameter: three and one-half (3.5) inches measured at four and one-half (4.5) feet above grade;~~
- ~~c. canopy diameter: seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of three and one-half (3.5) feet in length~~
- ~~d. an alternative landscape plan may be provided meeting or exceeding these requirements, and;~~
- ~~e. credit may be given for existing or relocated trees provided they meet ULDC requirements. (BLDG PERMIT: LANDSCAPE Zoning)~~

## **DRO APPROVAL TO REMOVE MORE THAN 10 PERCENT OF EXCAVATION MATERIAL FROM THE SITE**

As part of the final DRO site plan approval process, the applicant intends that the project be permitted to remove more than 10% of the excavated for the Type 2 Excavation associated with the construction of the on-site drainage facilities. The applicant believes the project qualifies based on the following code language. Please note that discussion took place between Robert Kraus of the Environmental Resources Management department and Joni Brinkman of Urban Design in this regard. Mr. Kraus clarified that the materials excavated in conjunction with the man-made surf lagoon is not included in the 10% limitation as the wave lagoon requires permitting through the Health Department. While the exact amount of material that will be associated with the 12-acre lake is not known at this time, the request is being included for informational purposes and clarification that a conditional use approval would not be required.

### **f. Use Approval and Procedures**

#### **d. DRO Approval**

Prior to initiating Type II excavation activities, DRO shall review the final site development plan for compliance with the standards of this Section and may approve with or without conditions. **[Ord. 2016-016**

#### **e. Off-site Removal of Excess Fill - DRO**

DRO may approve removal of more than ten percent of the extracted material from the site if:

- 1) The applicant demonstrates that the makeup of the natural soil contains an excessive amount of silt, rock, or muck and construction of required drainage structures or construction of required structural foundations require removal of an excessive amount of silt, rock or muck; **or**
- 2) The removal of the material is the minimum necessary to accommodate on-site drainage requirements or structural fill requirements; and
- 3) The impact of the excavated material will not cause adverse effects to internal property owners or internal streets. **[Ord. 2016-016]**

*The code section indicated that either 1 or 2 must be met, as well as 3. In this case, the project would comply with 2 as the removal of the excess fill associated with the lake excavation is a result of the on-site drainage requirements for the project as well as compliance with the condition of approval to accept drainage for the existing and future expansion of Pratt Whitney Road. The project is also in compliance with 3 as fill will be utilized for the roadway and building pads and the removal of any excess will not cause any adverse effects to the owners or*

*internal streets. The removal will also serve to avoid impacting trees to be preserved by avoiding unnecessary grade changes which could be detrimental to their survival.*

## **CONCURRENT VARIANCE REQUESTS**

The following variances are being requested in conjunction with the use approval:

<b>Variance No.</b>	<b>ULDC Code Section</b>	<b>Required</b>	<b>Proposed</b>	<b>Variance</b>
V1	3.E.1.C.1.b	Design Objective: Continuous non-vehicular circulation system in a PDD	Eliminate non-vehicular circulation system between parcel and balance of the PDD	Eliminate non-vehicular circulation system between parcel and balance of the PDD
V2	3.E.1.C.2.h.4.	Cross Access: Cross access required between adjacent internal uses or properties if required by the DRO	Eliminate Cross access to the balance of the PDD	Eliminate Cross access to the balance of the PDD
V3	3.E.5.B.2.a.	Performance Standard: Industrial Pods adjacent to the boundary of a PIPD to provide a 25' Type 3 Incompatibility Buffer	Waive Requirement for six foot (6') wall in the Incompatibility Buffer along the IG Pod	Waive Requirement for six foot (6') wall in the Incompatibility Buffer along the IG Pod
V4	5.B.1.A.2.b.2.	Maximum six-foot (6') height fence in front setback.	Allow eight-foot (8') chain link fence in front setback.	Allow eight-foot (8') chain link fence in front setback.

### **Variance V1 & V2:**

These variances will be addressed together in regard to the variance standards below. The applicant is requesting variances to this to reflect and take into account the bifurcation of this parcel from the balance of the PIPD by the 100-foot-wide canal under the control of the Northern Palm Beach County Improvement District (NPBCID). As the history section of the justification indicates this parcel was added into the PIPD in 2006 concurrently with the creation of the Bioscience Research Protection Overlay (BRPO) at the time when the County was striving to locate Scripts within the area. At that time, three access points across the canal were depicted on the master plan. Since then, Palm Beach County did approve a Final Subdivision Plan for the 80± parcel (Exhibit#259

approved 9/10/14). The subdivision plan was approved with the three access points as shown on the master plan as 'future potential 80' ROW canal crossings'.

The location of these three access points are, from east to west, Corporate Circle, Guild Court, and Mercantile Court. Neither Corporate Circle or Guild Court have right of way platted within their subdivisions (Plat 1 and Plat 3). This was the case when the land area was added to the PIPD in 2006. There is a platted 'lot' at the terminus of the Mercantile Court cul-de-sac that was platted as part of Plat 10 (Plat Book 110/1 Recorded 5/31/07). That land area which did not exist prior to that plat, was designated as Tract C and was reserved for International Trade Center LLC, Florida Limited Liability Company, for canal access and was the perpetual maintenance obligation of said company, its successors and assigns, without recourse to Palm Beach County. It was not platted as right of way at the time the land area was added into the park, nor is it today.

The land was also the subject of a water and wastewater line utility easement agreement (ORB 23925/1 recorded 6/28/10). That instrument granted to First Park South Florida Association, Inc. (the POA) it granted the POA a temporary construction easement to install water and wastewater lines and a permanent easement to repair, restore, maintain and replace the water utility improvements. In none of the documents located was the area ever referred to as right of way. As such at the time of the land area being incorporated into the overall PIPD and since, there have been no rights of ways available to provide for these connections. The requirement for the applicant to obtain land area for right of way to provide for these connection(s), re-plat, transfer the ownership to Northern, and construct bridge(s) to provide for the connections is a hardship and not of the applicant's doing. Additionally, with the site design, the location of all the proposed access points is in conflict with the use and the requirement for the use to be secured. As such, the variances are being requested and adequate access for the parcel will still be provided via Pratt Whitney Road. The current text amendments to the code will also be reflecting the uniqueness of the use and the non-necessity to provide the use only for the residents (which there are none) or workforce of the park.

Additionally, staff requested a historical analysis of the approvals in regard to these access points since the parcel was incorporated into the DRO and this has been provided via a separate Historical Chart. The information contained therein is expanded below:

A historical analysis chart and supporting material has also been included as requested by staff to try and determine the initial and subsequent rationale in regard to the requirement for these access points. These materials includes a copy of the approved subdivision plan for the parcel which depicted these access points as Future Potential 80' ROW canal Crossings. Also included are a historical range of the approved master plans for the PIPD since the parcel was incorporated into the DRI in 2006, and the September 18, 2013 insufficiency letter response and subdivision and master plan justification statements that were included in the approved subdivision plans for the parcel.

Item 4 in that letter included an issue about vehicular connections to the PIPD and the response that the connections were for informational purposes only and it was not clear if these would be constructed in the future. The May 29, 2014 justification statement for the agency review associated with the Master Plan amendment also stated that the

access points were not required but were available options for secondary access if desired.

Finally, the September 11, 2014 justification for the subdivision plan referenced the three access points, but they were not required for the subdivision plan to be approved. Instead it references the access points to the proposed lots that meet the property development regulations via access points to Lot 1 from the right of way street and Lot 2 from the cul-de-sac. So, that subdivision plan, which is still valid today, could be recorded and implemented without access from the balance of the PIPD. (The variance for the right of way width has expired but it could be re-requested, or a code compliant 80 right of way provided.)

In addition to the approval history, it is also important to note that the three streets to the south within the PIPD which line up to these proposed access locations were already platted at the time the parcel was added to the PIPD. None of those areas had platted right of way available in order to implement the construction of such connections. There has been a replat of the area north of Mercantile Court (the easternmost access location) since, but it did not create a right of way, only access to the canal.

### Variance 3:

The variance associated with the required Type 3 Incompatibility Buffer along the north property line within the IG pod is requesting to eliminate the requirement for a 6-foot wall.

This development was originally approved in 1981 and the provision for the perimeter buffer was outlined in the staff report from the November 27, 2006 BCC hearing where this parcel was added to the PIPD. There was no requirement under the original DRI approval for this type of buffer which was added to the ULDC after the DRI was vested. The addition of the 80 acre parcel did not affect the vesting of the DRI as no new trips were being added. Additionally, the current approved subdivision plan for the parcel does not provide for an incompatibility buffer or wall. Only a PIPD Perimeter buffer is labeled on the plan, as well as on the master plan associated with that application. The current code requirement for the Type 3 Incompatibility buffer results in the wall requirement.

A wall in this area will serve no screening purpose as the use is not adjacent to residential uses and will actually serve to block the view of the natural area for patrons entering the site, in direct conflict to the naturalistic environment desired for the use. Additionally, the applicant is making efforts to preserve in place as much of the existing plant materials along the northern property line adjacent to the natural area and simply supplement with additional planting where required to meet buffer planting requirements. The installation of a wall would also be in direct conflict with this goal as damage to the material could result during the construction process. Again, the wall requirement was not depicted on the approved landscape details associated with the previously reference approved subdivision plans and the applicant relied upon the presumption that the approval was granted in that manner based on the staff report and that no other plans had ever been required to call out the PIPD perimeter buffer as a Type 3 Incompatibility Buffer which requires a wall.

Please note that the approval of this variance will not prohibit the applicant from administratively amending the site plan to reflect the installation of a chain link fence in compliance with the location and screening requirements of the code in this buffer.

Variance 4:

A variance is being requested to allow an eight-foot (8') chain link fence within in the front setback for the proposed lot containing the Outdoor Entertainment use. This request is being made due to security concerns regarding the facility. It is imperative that all measures be taken to ensure that unauthorized persons cannot access the site during, and most importantly, after operational hours.

The literal interpretation of the code would treat the new parcels land area adjacent to the cul-de-sac as the property frontage. This variance request is being made as the code section could be interpreted in the future to apply this fence restriction to the parcel's entire western property line. However, the property is somewhat unusual and the frontage on the cul-de-sac is far removed from the view of the parcel from Pratt Whitney Road. In fact, a position could be taken that the west property line of the proposed parcel, as it is not adjacent to a right of way, could be considered a side property line. The allowance for the increase in fence height along this property line will not be detrimental to the public and will serve to provide the added security measures necessary to provide for the public's safety.

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 district;

**V1 & 2:** *A special circumstance exists where the requirement for vehicular and non-vehicular circulation can only be achieved by implementing the construction of connections where no right of way is currently platted or available. A review of the history does not indicate any time certain or threshold condition that would have required the construction of the connections. The two most eastern access locations are portions of platted lots that are currently ready for industrial development. The parcel on the east side of Guild Court is already developed and its access would be impact with the creation of any right of way. The land area on Mercantile Court is under separate ownership and is not platted as a right of way, but a canal access for the POA for water and sewer infrastructure. Typically, these types of requirements are met with the planning of new development for a PDD when the land area is under unified control and vacant so the access issues could have been accommodated. The current land structure and ownership is a special circumstance not applicable to other parcels of land, structures or buildings in the same district.*

**V3:** *A special circumstance exists in that the industrial pod is not adjacent to any residentially land used area and the use on the adjacent property is for the Pine Glades Natural Area. This is a special condition not applicable to other parcels of land in the PIPD zoning district.*

**V4:** *A special circumstance exists associated with the site design and remoteness of the proposed recreation pod of the PIPD from the Pratt Whitney*

*Road right of way. Additionally, the frontage for the proposed lot is located only along the cul-de-sac, not along the balance of the remainder of the western property line.*

2. Special circumstances and conditions do not result from the actions of the applicant;

**V1 & 2:** *The special circumstance is not the result of the actions of the applicant, but the result of the imposition of code requirement on a development that had already been planned without the necessary land area/rights of way being in place to allow for the construction of the connections.*

**V3:** *The special circumstance is not the result of the applicant, but a result of the efforts of Palm Beach County to provide for the protection of this natural area. As such, no development will ever take place on the adjacent property.*

**V4:** *The special circumstance is not the result of the applicant's actions, but a result of the configuration of the narrow land area. Additionally, the previously approved subdivision plan also provided for a similar, although narrower, right of way entering the parcel, also ending in a cul-de-sac. The site configuration and the impact on site design is not the result of the actions of the applicant.*

3. Granting the variance shall not confer upon the applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;

**V1, 2, 3, & 4:** *The granting of the variances will not confer any special privilege denied by the plan or the code to other parcels of land in the same zoning district. Should any other use in the PIDP zoning district wish variances to code requirements, they would simply need to adequately address the seven criteria contained herein on a project specific basis in order to have the variance granted.*

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;

**V1 & 2:** *The literal interpretation of the code would require the applicant to obtain right of way, re-plat and construct bridge(s) at the access point(s) and would work an unnecessary hardship. The intent of the interconnection is achievable on parcels of vacant land under unified ownership at the initial point of planning for a planned development. That is not the case here where the original approval was granted in 1981 and the addition of the land area was done in 2006 in part to further the realization of bringing Scripts to the County. Additionally, there are no residents within the PIPD who would use the interconnectivity and the current workforce still has adequate access provided via the access from Pratt Whitney Road.*

**V3:** *The literal interpretation of the code would not only work a hardship on the applicant, but could also create negative impacts to the existing natural landscape*



*in this area of the site. The applicant is working to preserve as much of the natural vegetation as possible along the north property line. There are 34 trees within this area currently depicted on the site plan as to be preserved in place. The construction associated with installing a six-foot wall within the buffer area creates the potential for damage to these trees which should be avoided. Additionally, the intent of the code to screen the industrial use will be met via the installation of additional plant material to comply with the incompatibility buffer planting requirements. Also, a 15' right of way buffer is also proposed along the south side of the 80' road right of way which will provide additional buffering between the natural area and future industrial uses on the western portion of the site. This results in 120' separation between the future industrial lot and the natural area. Finally, the eastern portion of the buffer is also adjacent to the proposed 11.9-acre lake to the south of the 80' right of way, where no structures will ever be constructed. With all the buffering provided, the negligible impact of the proposed lake, and the fact that the adjoining property will never be developed, the intent of the code has been met with the proposed plan.*

**V4:** *The literal interpretation of the code would work a hardship on the applicant as it would leave the site vulnerable to access after-hours. The intent of the code is still met as this facility will not be easily visible from the Pratt Whitney Road right of way.*

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

**V1 & 2:** *The variances to the interconnectivity requirement is the minimum necessary to make reasonable use of the parcel. The requirement to construct bridge(s) would impact not only the applicant, but any potential future user/purchaser of the land. Without the variance, the requirement is a large impediment to any development on the parcel as right of way would need to be acquired from other land owners.*

**V3:** *The variance is the minimum necessary to make reasonable use of the land and to provide the highest level of survivability for the existing trees within the buffer area.*

**V4:** *The variance requested is the minimum necessary to provide for a secured site when the facility is not open to the public.*

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

**V1 & 2:** *The granting of the variance is not inconsistent with the goal, objectives and policies of the plan. The concurrent text amendment will address the provision that recreation pods be accessed only internally from the PDD as the provision is intended to allow ease of access from residential pods to recreational amenities. Likewise, the removal of the access points is not inconsistent with the provisions of the BRPO or the UT overlays applicable to the property. Also, the request is not*

*inconsistent with Policy 4.4.8-1 as non-industrial uses are expected to occur and the policy is silent in regard to recreational uses that are not located within a commercial pod. Finally, the traffic study indicated that the elimination of the access points does not negatively impact the driveway trip distribution, thus not being inconsistent with the traffic performance standards.*

**V3:** *The granting of the variance is not inconsistent with the goal, objectives and policies of the plan. The intent of providing sufficient buffering and separation distance between the future industrial use and the natural area. The site design that includes the lake in this area also serves to support this premise.*

**V4:** *The granting of the variance is not inconsistent with the goal, objectives and policies of the plan. The implementation of the Plan via the Code allows for variances to be granted based on specific criteria unique to the site. In this case, the uniqueness of the use also results in the necessity for the provision of a secured site after hours which the increased fence height will further.*

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

**V1 & 2:** *The granting of the variance will not be injurious to the area or detrimental to the public welfare as adequate access to the parcel will be maintained via Pratt Whitney Road.*

**V3:** *The granting of the variance will not be injurious to the area or detrimental to the public welfare as sufficient buffering and separation distance to the future industrial lot is provided. Additionally, based on the narrow configuration of the lot, combined with the impact of the provision of the 25' buffer, 80' right of way, and 15' right of way buffer on the industrial lot's width, it is anticipated that the smaller types of uses that may be constructed in the future on the industrial lot will be of a less intensive nature than those typically associated with an IG Pod of a PIPD.*

**V4:** *The granting of the variance will not be injurious to the area or detrimental to the public welfare and will serve to secure the site after hours, furthering the goal of protecting the public welfare.*

The standards for both the development order amendment and the Class A Conditional Use approval for Entertainment, Outdoor are addressed below as required by the ULDC.

### **Planned Development Standards**

Planned developments shall comply with the following objectives:

- a. Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design;  
*No change to the approved PDD is proposed in regard to land area, frontage, depth or access.*

- b. Provide a continuous, non-vehicular circulation system which connects uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD;  
*The approved master pedestrian circulation plan (Exhibit 262) has been provided and no changes are proposed with this development. However, as a cautionary measure, a variance is being requested to clarify that non-vehicular connection to the balance of the PIPD (over the canal) is not required.*
- c. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses;  
*A five-foot sidewalk is proposed with the alternative cross-section design along with right of way will provide for a future connection to the industrial future development area.*
- d. Preserve existing native vegetation and other natural/historic features to the greatest possible extent;  
*The applicant has provided a tree survey/inventory and work with ERM and Landscape to incorporate existing native vegetation into the site plan. The proposal to maintain the existing ERM access road in its current location will aid in this regard.*
- e. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound;  
*These areas will be screen from where visible from public view and the use will comply with the noise regulations in Article 5. See response to comments in that the applicant is of the opinion the wave track should not be considered typical mechanical equipment. It will be screened from view from the users of the adjacent natural area by the landscape proposed in the additional 20 feet of planted landscape area above and beyond code requirements. All actual mechanical equipment to create the wave will be housed within the proposed mechanical buildings.*
- f. Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs and other primary elements to minimize the potential for any adverse impact on adjacent properties; and  
*The proposed use is not adjacent to any residential properties/uses and the drainage system has been designed to outfall to the canal to the south, with no impact to the natural area to the north.*
- g. Minimize parking through shared parking and mix of uses.  
*Parking will be supported on site within the individual Pods has consistently done throughout the PIPD.*
- h. For PDD only, a minimum of one pedestrian amenity for each 100,000 square feet of GFA or fraction thereof shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to: **[Ord. 2009-040]**
  - a. public art; **[Ord. 2009-040]**

- b. clock tower; [Ord. 2009-040]
- c. water feature/fountain; [Ord. 2009-040]
- d. outdoor patio, courtyard or plaza; and [Ord. 2009-040]
- e. tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e. restaurant) or outdoor furniture. [Ord. 2009-040]

*Based on the use of the facility and the goals of the applicant to provide a natural setting, the site plan now depicts picnic tables with umbrellas to the east of the learning center as well as a tiki hut by the training building at the east portion of the site. These may increase in number in the future if warranted, and the applicant wishes to reserve the ability to modify via a DRO approval in the future should more of a permanent shade structure or pavilion be desired.*

### **Performance Standards**

Planned developments shall comply with the following standards:

#### **a. Access and Circulation**

##### **1) Minimum Frontage**

PDDs shall have a minimum of 200 linear feet of frontage along an arterial or collector street unless stated otherwise herein; [Ord. 2010-022] [Ord. 2012-027]

*The PIPD meets this standard.*

##### **a) Type II Waiver - Infill Development – Not Applicable.**

##### **b) PUD Minimum**

The BCC shall not reduce the frontage requirements below the following thresholds:

**[Ord. 2005-002] - Not Applicable**

2) PDDs shall have legal access on an arterial or collector street;

*PIPD meets this requirement.*

3) Vehicular access and circulation shall be designed to minimize hazards to pedestrians, non-motorized forms of transportation, and other vehicles. Merge lanes, turn lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate the need for such controls;

*The PIPD is already approved and is also proposing a right turn in and left turn out to accommodate special events.*

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

*The PIPD is already approved and is also proposing a right turn in and left turn out to accommodate special events.*

**5) Cul-de-sacs - Not applicable as cul-de-sac will provide access to less than four lots and the parcel was previously granted approval for a cul-de-sac which is depicted on an approved master plan of record.**

#### **b. Street Lighting**

Streetlights shall be a maximum of 25 feet in height and shall be installed along all streets 50 feet in width or greater. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with [Article 5.E, PERFORMANCE STANDARDS](#).

*Street lighting will be provided meeting county requirements. The applicant is working with a lighting consultant and may propose lesser height lighting. It is anticipated this will be discussed in greater detail during the formulation of the conditions of approval for the project.*

### **c. Median Landscaping**

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

*The project will comply with code as required.*

### **d. Street Trees**

*A 25' perimeter PIPD buffer will be provided on the north side of the 80 ROW and a 15' ROW buffer on the south side of the ROW.*

### **e. Bike Lanes**

Bike lanes shall be provided in all streets 80 feet in width or greater, unless an alternative is approved by the County Engineer in accordance with [Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS](#).

*This requirement will be accommodated in the 80 ROW section.*

### **f. Mass Transit**

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

*PalmTran has reviewed the application and have no comments.*

### **g. Utilities**

All utility services located in a utility easement, such as telephone, cable, gas, and electric, shall be installed underground or combination/alternative acceptable to the DRO.

*The development plan will comply.*

### **h. Parking**

#### **2) Nonresidential Uses**

Nonresidential uses located within a PDD may apply the parking standards indicated in Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements or the minimum/maximum parking standards below. The site plan shall clearly indicate which parking standards are being utilized for the entire site. **[Ord. 2009-040]**

*The applicant is proposing to comply with Table 6.A.1.B. based on the area associated with the outdoor entertainment use, equating to 15.1 acres. This include the wave lagoon area and beach, and land area associated with the learning center and board room/clubhouse/training buildings. An exhibit has been included in the submittal materials defining the area.*

#### **3) Design**

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

*The parking area is proposed to be located near the learning center and clubhouse connected via 30 patron collector walkways. They are not adjacent to each other so are not required to have cross access.*

#### **4) Cross Access**

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

*Cross access would be provided to the future development area via the 80 ROW. There are no conditions requiring access to the south, and the approved subdivision plan as only 'future potential 80 ROW access'. However, based on staff direction, the applicant is formally requesting to remove the three internal access points from this parcel to the balance of the PDD to the south as currently depicted on the master plan. These proposed access points required bridging a canal and a variance is being requested to this cross-access requirement.*

#### **5) Location-Non-residential PDDs**

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

*The applicant's review of recently approved site plans within the PIPD indicates that this has not historically been required of development within the park and is targeted to apply to commercial PPD's.*

#### **6) Distance**

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

*The parking complies in relations to the buildings proposed for the development, although parking is calculated by the Entertainment, Outdoor use itself.*

##### **i. Way Finding Signs**

Off-site directional signs, consistent with the on-site directional sign standards in [Article 8, SIGNAGE](#), may be allowed along internal streets in the R-O-W, subject to approval by the County Engineer.

*No off-site signs are being proposed.*

##### **j. Emergency Generators – Not Applicable.**

### **Planned Industrial Park Development Standards**

#### **1. Design Objectives**

A PIPD shall comply with the following objectives: **[Ord. 2014-025]**

- a. Provide a balanced mix of land uses to provide for the needs of the residential population (if proposed) and the projected work force;
- b. Be designed as a predominantly industrial development, with exception to: **[Ord. 2014-025]**

1) the SR-7 EDO, which shall allow for larger percentages of business or professional office uses, or other similar uses that are identified in [Art. 3.B.18, SR-7 EDO](#); and, **[Ord. 2010-022] [Ord. 2014-025]**

2) the EDC FLU designation, which shall be primarily utilized by office and research parks, but may also include manufacturing and processing, research and development, wholesale distribution and storage of products. **[Ord 2014-025]**

*The applicant is proposing a text amendment to allow for consideration via a public hearing approval process for uses other than those that meet only the needs of the residents and workforce within a PIPD. Uses that qualify would need to further the intended economic development of the PIPD by providing value added activities to further the development of the PIPD.*

c. Preserve natural features, scenic areas and native vegetation to the extent possible;

*The site plan is striving to preserve as many of the trees along the north property line to buffer the project from the natural area to the north. Grade change with construction will impact the viability of trees internal to the parcel. No clearing is proposed on the industrial pod at this point and will be addressed at the time of site plan approval for that land area.*

d. Encourage the co-location of industrial processes, products, and services;

*The applicant is maintaining the IG Pod on the portion of the parcel fronting on Pratt Whitney Road in an effort to promote associated industrial type uses which would have a relationship with the proposed Conditional Use.*

e. Provide on-site essential services for industries, employees, and clients;

*The Conditional Use would provide an additional recreational activity to the PIPD workforce and could aid in attracting additional users to the Park.*

f. Protect nearby existing and future non-industrial land uses and activities;

*The development is not adjacent or nearby to any residential uses. All code requirements within Article Five will be met in regard to lighting, noise, etc. and a 25' Type 3 Incompatibility Buffer is being proposed along the north property line where the IG pod is located and along the Pratt Whitney Right of Way.*

g. Arrange buildings and land use intensities to minimize and mitigate negative impacts;

*The conditional use and associated buildings are located to the eastern portion of the site and are setback a minimum of 65' from the north property line, adjacent with the natural area, again, with the 25' buffer.*

h. Be located near convenient access to transportation facilities such as interstate highways, major trucking routes, shipping and/or railroad lines; and

*The parcel is located adjacent to Pratt Whitney Road, connecting to the Beeline Highway.*

i. Encourage the expansion to PBC's economic base through new industrial investment.

*The proposed use will focus national and worldwide attention to the County and provide another tool in the tool box to attract new businesses and industries to the County. As mentioned, the narrow width of this particular parcel is not of sufficient size to meet the needs of the industrial users in the area of the County.*

## **2. Performance Standards**

A PIPD shall comply with the following standards:

### **a. Perimeter Buffers**

Industrial pods adjacent to the boundary of a PIPD shall provide a minimum 25-foot-wide Type 3 incompatibility landscape buffer along the perimeter.

*The staff report from the November 27, 2006 BCC hearing where this parcel was added to the PIPD there was no requirement under the original DRI approval for this type of buffer which was added to the ULDC after the DRI was vested. The addition of the 80 did not affect the vesting of the DRI as no new trips were being added. Additionally, the current approved subdivision plan for the parcel does not provide for an incompatibility buffer, but only a PIPD Perimeter buffer is labeled on the plan, as well as on the master plan associated with that application.*

*However, the applicant has revised the request to include a variance to the wall requirement for the Incompatibility Buffer within the IND pod. With the proposed designation of Rec for the pod for the proposed use, this requirement is not applicable to that portion of the site as it is no longer an industrial pod.*

**b. Residential - Proximity to Other Uses – Not applicable – no residential units in the PIPD.**

### **c. Internal Trip Capture**

A PIPD with commercial or residential pod shall demonstrate the ability to achieve a ten percent internal trip capture concurrent with the build-out of the PIPD.

*The traffic engineer has submitted an equivalency statement as no increase to trips to the PIPD's vested amount is proposed. Based on staff's direction to remove the internal access points, a meeting will be scheduled with traffic and land development with the project engineer to confirm internal trip capture is not impacted with the removal of these unconstructed access points.*

## **DOA STANDARDS**

### **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. **[Ord. 2007-001]**

*The development order amendment to the Final Development Plan for the PIPD only requests the Pod Designation on 46.66 acres be changed from IG to REC. If any inconsistencies are identified within the property development regulations for the recreation use site requirements, it is anticipated it will be addressed as part of the PIA process. In regard to the consistency with the plan and the overlays, please see the section regarding compliance with the applicable overlays previously outlined in the justification statement.*

### **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](#). **[Ord. 2007-001]**



*The Preliminary Site Plan provided in support of the Pod change in conjunction with the development order amendment is in compliance with the supplemental regulations for the Outdoor Entertainment.*

### **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. **[Ord. 2007-001]**

*The DOA amendment to the Final Development Plan for the Pod change does not change the underlying Industrial (IND) land use designation of the property or the official zoning district of PIPD. The proposed use is will be allowed to be requested in the REC pod of the PIPD based on the concurrent ULDC text amendments. The overall PIPD has been deemed compatible with the surrounding uses via the original granting of the PIPD approval.*

### **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 DOA itself is only to amend the Pod designation. This criterion is more applicable to the Class A request and is addressed below.*

### **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. **[Ord. 2007-001]**

*Again, the DOA for the Final Development Plan is only for a use change, which does not affect the natural environment. See discussion below for the Class A use in regard to site design.*

### **Development Patterns**

The proposed use or amendment will result in a logical, orderly and timely development pattern. **[Ord. 2007-001]**

The Pod change will continue to promote a logical, orderly and timely development program. The PIPD has been in existence since 1981, with the subject parcel being rezoned and brought into the park in 2006. The existing configuration of the IG Pod land area, with a width of 660 feet, creates obstacles in attracting the type of industrial development suited for the Park and this area of Palm Beach County, such as warehouse distribution and/or manufacturing and processing. This is evidenced by the recent approval of Project Osprey (McLane) and the current Project Beach Ball approval moving through the zoning system now. The approval of the DOA will permit development to be realized on the parcel.

### **Adequate Public Facilities**

The extent to which the proposed use complies with [Art. 2.F, Concurrency](#). **[Ord. 2007-001]**

*Traffic and Drainage reports evidencing compliance with those concurrency items have been submitted as part of these application materials. A capacity letter from the Park is*

*being requested in regard to water and sewer and the non-residential nature of the project has no impact to the County schools.*

### **Changed Conditions or Circumstances**

There are demonstrated changed conditions or circumstances that necessitate a modification. **[Ord. 2007-001]**

*A special circumstance exists in regard to the subject parcel which is the subject of the DOA to change the Pod designation. The existing configuration of the IG Pod land area, with a width of 660 feet, creates obstacles in attracting the type of industrial development suited for the Park and this area of Palm Beach County, such as warehouse distribution and/or manufacturing and processing. This is evidenced by the recent approval of Project Osprey (McLane) and the current Project Beach Ball approval moving through the zoning system now, both Business Development Board (BDB) projects. The approval of the DOA will permit development to be realized on land area that has seen no interest in development for a considerable amount of time. It has been within the PIPD since 2006 with no proposals to date.*

*Project Beach Ball, a BDB project of the caliber which has been sought after for the County, is a proposed 409,054 s.f. manufacturing and processing use. The building dimensions are 460' by 884' feet with dock high loading, trailer storage and truck apron area/circulation. This type of building is not possible to be development on a parcel only 660 feet in width.*

*Likewise, Project Osprey is approved for a total square footage of 631,000 s.f. with building dimensions of 427.5' x 836', again with the same loading and circulation requirements in order to function. The goals of the county of attracting these calibers of business to the industrial sector is not consistent with the site's narrow configuration and is a circumstance that has come to light since the parcel was brought into the park.*

## **CLASS A CONDITIONAL USE –OUTDOOR ENTERTAINMENT**

### **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. **[Ord. 2007-001]**

*Based on the DOA request to change the use designation on the land area associated with the requested use, the proposed use is consistent with the plan. In fact, the use is permitted by right today within the commercial Pod of a PIPD and therefore permitted in the underlying IND land use designation. Although code amendments are currently under consideration by staff to make a project of this magnitude subject to the Class A approval process, the underlying consistency has been established. Additionally, this proposal was reviewed by staff as part of a PAC process and no issues of inconsistency with the plan have been identified by the Planning Division. The preliminary site plan proposes to comply with all intensity limitation of the Plan as well.*

### **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](#). **[Ord. 2007-001]**

*The Preliminary Site Plan provided in support of the Pod change in conjunction with the development order amendment is in compliance with the supplemental regulations for the Outdoor Entertainment use. See assessment below.*

### **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. **[Ord. 2007-001]**

*The property is surrounded by natural areas to the north, east and west, across Pratt Whitney Road. The Pine Glades Natural area is the north and west. Discussions have already taken place with ERM and the application is not only proposing to continue to depict access points into the natural area to the north as request by ERM, but also in integrate aspects of the natural area into the functions of the learning center/surf school. The area to the east is a wetland area within the PIPD. To the south, is a 100-foot canal right of way, with IL and IG Pod pods within the PIPD, which would not be incompatible. The PIPD requires and the applicant is proposing a 25' incompatibility perimeter buffer along the north property line adjacent to the IG pod.*

### **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.

*In additional to the above justification, the goal of the applicant in the design of the facility is to utilize reuse materials, solar energy and the creation of a development that fits into the natural surroundings of the environmental area adjacent to the property. The location of the surf lagoon was specifically chosen in the eastern portion of the site to create a 'remoteness' from the Pratt Whitney major thoroughfare. The required secondary fire access has been relocated to the southern portion of the property compared to where depicted during the PAC review to allow for the expanded buffer adjacent to the natural area. This also allows for preserving the pines in this area. Locating the storm water management lake to the west of the facility, rather than the east, also serves to create a natural transition from the potential future smaller industrial uses proposed along the Pratt Whitney frontage. The applicant also continues to show the connection points to the natural area to the north.*

### **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. **[Ord. 2007-001]**

*As stated above, the design aspects were crafted to not only minimize adverse impact on adjacent land, but also the environment. While the use itself requires a certain land area, the drainage easement previously proposed along the north property line has been relocated to the south, allowing for preservation of native trees along that line, adjacent to the natural area, where the prior easement would have had a much greater impact.*

*The relocation of the drainage easement also results in all storm water received from Pratt Whitney Road entering the site along the southern property line, further from the Pine Glades Natural Area.*

### **Development Patterns**

The proposed use or amendment will result in a logical, orderly and timely development pattern. [Ord. 2007-001]

*The proposal for the Class A use, as well as the reservation of IG land in the western portion of the property for future, smaller industrial spin-off development, will to promote a logical, orderly and timely development program. The PIPD has been in existence since 1981, with the subject parcel being rezoned and brought into the park in 2006. The existing configuration of the parcel, with a width of 660 feet, creates obstacles in attracting the type of industrial development suited for the Park and this area of Palm Beach County, such as warehouse distribution and/or manufacturing and processing. This is evidenced by the recent approval of Project Osprey (McLane) and the current Project Beach Ball approval moving through the zoning system now. The approval of the DOA will permit development to be realized on the parcel.*

### **Adequate Public Facilities**

The extent to which the proposed use complies with [Art. 2.F, Concurrency](#). [Ord. 2007-001]

*Traffic and Drainage reports evidencing compliance with those concurrency items have been submitted as part of these application materials. In regard to drainage concerns expressed during public meetings, Michael Schwartz of Kimley Horn & Associates has estimated that the proposed water control elevation of the project will be set between 17-18.5' based on the gradient between the wetlands and the canals to the south. A capacity letter from the Park has also been provided in regard to water and sewer and the non-residential nature of the project has no impact to the County schools.*

### **Changed Conditions or Circumstances**

There are demonstrated changed conditions or circumstances that necessitate a modification. [Ord. 2007-001]

*A special circumstance exists in regard to the subject parcel which is the subject of the DOA to change the Pod designation. The existing configuration of the IG Pod land area, with a width of 660 feet, creates obstacles in attracting the type of industrial development suited for the Park and this area of Palm Beach County, such as warehouse distribution and/or manufacturing and processing. This is evidenced by the recent approval of Project Osprey (McLane) and the current Project Beach Ball approval moving through the zoning system now, both Business Development Board (BDB) projects. The approval of the DOA will permit development to be realized on land area that has seen no interest in development for a considerable amount of time. It has been within the PIPD since 2006 with no proposals to date.*

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Likewise, Project Osprey is approved for a total square footage of 631,000 s.f. with building dimensions of 427.5' x 836', again with the same loading and circulation requirements in order to function. The goals of the county of attracting these calibers of business to the industrial sector is not consistent with the site's narrow configuration and is a circumstance that has come to light since the parcel was brought into the park.

The approval of the Class A Outdoor Entertainment use will allow for a use that respects the natural environmental areas adjacent to the property, while permitting a use on a property undesirable for the industrial type uses sought by the County.

## ENTERTAINMENT OUTDOOR SUPPLEMENTARY STANDARDS

### a. Entertainment, Outdoor

#### Definition

An establishment offering recreational opportunities or games of skill to the general public where any portion of the activity takes place in the open for a fee, excluding golf courses and public parks.

*Discussions with staff to date and input from the PAC are that this is the appropriate use designation for the proposed surf lake.*

#### Typical Uses

Typical uses include athletic fields, batting cages, golf driving ranges, water skiing facilities, tennis courts, go-cart tracks, miniature golf courses, paintball fields, jet skiing, and wind surfing,

*Discussions with staff to date and input from the PAC are that this is the appropriate use designation for the proposed surf lake.*

#### Location

Access to an Outdoor Entertainment use shall be from a Collector or Arterial Street.

*The proposed plan, as required for access to industrial or commercial development, provides for an 80' right of way to be dedicated via plat, complying with this requirement. Recreational Pods within PIPD's require that access be internally from the PIPD only. The text amendment will address this issue rather than a variance being requested.*

#### Setbacks

No building, structure, trailer, vehicle mechanical device, or outdoor area shall be located closer to the property line than as follows:

Table 4.B...3.C – Outdoor Entertainment Setbacks

Adjacent Use	Minimum Setback
Non-residential & Streets	50 Feet

Residential Use or District	100 Feet
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The proposed conditional use is in compliance with these required setbacks.

On behalf of the applicant AW Asset Management LLC UDKS respectfully requests favorable review and consideration of these requests. The agents at Urban Design Kilday Studios are Joni Brinkman Scott Mosolf who can be reached at the numbers above or via email [jbrinkman@udkstudios.com](mailto:jbrinkman@udkstudios.com). And [smosolf@udkstudios.com](mailto:smosolf@udkstudios.com) Please feel free to contact the agent with any questions or for additional information in support of the requested applications.