

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

Application No.: Z-2019-01612
Application Name: Young Property South
Control No./Name: 2003-00830 (Young Property South)
Applicant: Southeast Inv. of P B Cty., Inc.
Owners: Southeast Inv. of P B Cty., Inc.
Agent: JMorton Planning & Landscape Architecture –
 Jennifer Morton and Lauren McClellan
Telephone No.: (561) 371-9384 and (561) 721-4463
Project Manager: Ryan Vandenburg, Senior Site Planner

TITLE: an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Light Industrial (IL) Zoning District.

APPLICATION SUMMARY: Proposed is an Official Zoning Map Amendment for the Young Property South development. The 14.23 acre parcel has no prior Zoning approvals, and is currently utilized for agriculture row crops.

The applicant is proposing to rezone from the Agricultural Reserve (AGR) to the Light Industrial (IL) Zoning District, which is consistent with the subject site's Industrial with underlying Agricultural Reserve Future Land Use designation. The Applicant indicates that there is no proposed development at this time. Subsequently, a Site Plan is not required and the location of any access points will be determined at the time a development application is made.

This application was reviewed for consistency with Unified Land Development Code (ULDC) Ord. 2003-067, Supplement 26.

SITE DATA:

Location:	Southeast corner of Atlantic Avenue and State Road 7.
Property Control Number(s)	00-42-46-19-01-000-0132
Existing Future Land Use Designation:	Industrial, with an underlying AGR (IND/AGR)
Proposed Future Land Use Designation:	Industrial, with an underlying AGR (IND/AGR)
Existing Zoning District:	Agricultural Reserve District (AGR)
Proposed Zoning District:	Light Industrial (IL)
Total Acreage:	14.23 acres
Affected Acreage:	14.23 acres
Tier:	AG Reserve
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A

RECOMMENDATION: Staff recommends approval of the request subject to a Conditional Overlay Zone (COZ) and the Conditions of Approval as indicated in Exhibit C.

ACTION BY THE ZONING COMMISSION: At the January 8, 2020 ZC Hearing, this item was moved from the Regular Agenda to the Consent Agenda, as there was no one from the public that wished to speak on the application, and the applicant had agreed to the all of the Conditions of Approval. Commissioner Caliendo made a motion to recommend approval (as amended), seconded by Commissioner Beatty. The motion carried by a vote of 7-0-1.

PUBLIC COMMENT SUMMARY: At the time of publication, staff had received three contacts from the public regarding this project. Staff received an email from Lori Vinikoor, Executive Vice President & Program Chair for the Alliance of Delray Residential Associations, Inc. Mrs. Vinikoor noted that she

had no objection to the rezoning, but stated that she had concerns regarding uses that the rezoning could allow for, which include a Manure Processing Facility (Equestrian Waste Management Facility), Chipping and Mulching, and Radio & Communication Towers. It was noted by staff and the applicant that a Equestrian Waste Management Facility is not a permitted use in the Agricultural Reserve. Regarding a Chipping and Mulching Use, this use would be subject to Board approval through a Class A Conditional Use. For a Communication Tower, it should be noted there is an existing tower to the north-east of the subject site, and any new communication towers are subject to the separation requirements of the ULDC.

Staff also received two Courtesy Notice responses, both in opposition to the rezoning. The first letter in opposition provided no reasoning, while the second response stated that the individual had learned there would be a storage facility and body shop, and that would bring unwanted noise and lighting concerns. The applicant has provided no plans for future development of the subject site at this time.

PROJECT HISTORY: The subject site has no prior Zoning approvals.

SURROUNDING LAND USES:

SOUTH:

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

WEST (across SR 7/US 441):

FLU Designation: Commercial Low, with an underlying AGR (CL/AGR)
Zoning District: Multiple Use Planned Development (MUPD)
Supporting: Commercial (Convenience Store with Gas Sales, Control No 1999-00029)

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Industrial (Propane Storage, Control No. 1990-00025)

EAST:

FLU Designation: Industrial, with an underlying AGR (IND/AGR)
Zoning District: Multiple Use Planned Development (MUPD)
Supporting: Commercial (Broward Rentals MUPD, Control No 2016-00130)

NORTH (across Atlantic Avenue):

FLU Designation: Industrial, with an underlying AGR (IND/AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Agriculture

FINDINGS:

Rezoning Standards:

When considering a Development Order application for an Official Zoning Map Amendment to a Standard Zoning District, the BCC and ZC shall consider Standards a - g listed under ULDC Article 2.B.7.A.2, Standards. The Standards and Staff Analyses are indicated below. An Amendment, which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

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

PLANNING DIVISION COMMENTS:

Consistency with the Comprehensive Plan: The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

Intensity: The maximum Floor Area Ratio (FAR) of .45 is allowed for Industrial project with an IND/AGR FLU designation in the Agricultural Reserve Tier (619,858.80 surveyed square feet or 14.23 acres x .45 maximum FAR = 278,936.46 square feet maximum). The request is for a rezoning with no proposed site plan. Currently the site is vacant with an agricultural use making the existing intensity consistent with the proposed zoning district(s).

Special Overlay District/ Neighborhood Plan/Planning Study Area: The site is not located within any neighborhood plans, overlays or plan study areas as identified in the 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 proposed rezoning from AGR to IL is consistent with the stated purpose and intent of the County Unified Land Development Code.

The rezoning of the subject site will meet the minimum Property Development Regulations for an Light Industrial zoned parcel of land, as required in Table 3.D.1.A – Property Development Regulations. The subject site exceeds the minimum requirements for minimum size (1 acre), width and frontage (100 ft.) and depth (200 ft.). The future use of the subject site will be required to meet the requirements of Art. 5.B.1.A.3.e. - Outdoor Storage and Activities, for lands that are designated or zoned Industrial, or has an industrial use. The requirements of this section of the code are to protect more sensitive neighboring land uses from the activities that take place on an industrial parcel of land.

As the Applicant is not proposing a specific use for the Property concurrent with the rezoning application, all additional Property Development Regulations (max building coverage, minimum setbacks) will be applied when a development proposal is made.

In accordance with Art. 3.C.1.F.1, IL, Light Industrial District, the proposed rezoning will provide for a Light Industrial Zoning classification in a location that has previously been recognized as an Industrial area, and has frontage on an arterial road (State Road 7/US 441 and Atlantic Ave.). The proposed IL Zoning District is the least intense Industrial Zoning Designation that can be assigned to the Property.

Staff is recommending a Conditional Overlay Zone (COZ) with a Condition of Approval requiring additional buffering along the south property line as further detailed below. Per Art. 3.B.3.A, Purpose and Intent, a COZ District is to modify or restrict the use and site development regulations authorized in the underlying standard zoning district to prevent, minimize or mitigate adverse impacts upon the surrounding land uses. The residential development to the south (Sussman PUD, Control No 2000-00032) has an existing 50 ft. Landscape Buffer abutting the south property line of the subject site. Any additional landscaping on the southern property line will contribute to providing additional buffering to the existing residences. Staff is recommending a Condition of Approval at this time for certain uses that are permitted as of right or only subject to Administrative Approval, which staff would not have to ability to request additional buffering over and above the requirements of the Code prior to development approvals. The only way the BCC would see those uses were if the development was over 100,000 sq. ft., as per Table 4.A.9.B – Thresholds for Projects Requiring Board of County Commission Approval. If the owner were to subdivide the subject site, Table 4.A.9.B would apply to each parcel of land. These uses include Contractor Storage Yard, Heavy Repair and Maintenance, Machine or Welding Shop, Manufacturing and Processing, or Towing Service and Storage. The uses listed could generate more of a visual and noise impact on the neighboring residences (per Table 4.B.5.A – Industrial Use Matrix), and as such, staff are requiring a larger buffer. Staff are requesting three additional Conditions on the rezoning for the purposes of providing an extra layer of protection to those homes to the south. As noted under the subheading ‘Site Design’ under Conditions of Approval, staff have requested a Condition for minimum setbacks for specific uses to the south property line, building height limitations, and minimum distance for garbage enclosures to the south property line. All conditions are being requested to protect current property owners to the south in the event that a use is proposed that is permitted as of right, and staff are unable to provide conditions at a later time.

c. Compatibility with Surrounding Uses - *The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate*

zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.

The proposed rezoning from AGR to IL is compatible and consistent with the existing uses and surrounding zoning districts along Atlantic Ave. The proposed rezoning to IL is an appropriate zoning district for the subject site as it has already been designated with an Industrial Future Land Use designation. The Atlantic Ave. corridor to the east of US 441 has a mix of industrial, commercial and institutional uses. This section of Atlantic Avenue has been designated as Industrial since the adoption of the 1989 Comprehensive Plan. To the east of the Property are various industrial uses including an irrigation parts and contracting company, a golf cart sales and repair establishment, an auto body repair facility and the Blue Bell Creamery.

An AGR-PUD is approved to the south of the Property. A 50 foot incompatibility buffer currently exists along the north boundary of the approved PUD and any future industrial development on the Property will be required to provide an additional incompatibility buffer to ensure that the approved residential development will not be negatively impacted in the future. As previously noted, staff are recommending a Condition of Approval regarding Landscape Buffering.

- 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.*

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The property is under agricultural production.

WELLFIELD PROTECTION ZONE: The property is not located within 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.

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

The lands to the east of US 441 on the north and south side of Atlantic Avenue have a FLU designation of IND with underlying AGR. As such, the properties along this corridor have a mix of uses, including industrial and commercial. The applicant has another Official Zoning Map Amendment in for the lands directly north of the subject site, on the north side of Atlantic Avenue. The lands to the east of the subject site have Industrial, Commercial and Institutional uses as noted under Compatibility with Surrounding Uses. Lands along Atlantic Ave. have transitioned to more industrial uses over the years, including the subject site directly east of the site, which was recently approved for a range of uses, including a Heavy Industrial Use. A number of properties along Atlantic Ave. to the northeast of this site are already zoned IL.

As such, the rezoning of the subject site to IL will result in a logical development pattern with the neighboring uses.

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

ENGINEERING COMMENTS:

The Property Owner shall configure the property into a legal lot of record prior to the issuance of the first building permit.

PALM BEACH COUNTY HEALTH DEPARTMENT: No Staff Review Analysis.

FIRE PROTECTION: No Staff Review Analysis.

SCHOOL IMPACTS: No Staff Review Analysis.

PARKS AND RECREATION: This is a non-residential application and Parks and Recreation Department ULDC requirements do not apply.

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

The proposed rezoning from AGR to IL is appropriate as per the changed conditions that have occurred in the surrounding area. As previously noted, the lands along Atlantic Avenue have various industrial, commercial and institutional uses, and a number of properties to the east of US 441 are already zoned IL. The adopted 1989 Comprehensive Plan formally established this area as industrial by identifying it as such on the Future Land Use map.

This industrial corridor is continuing to be developed. An industrial MUPD was recently approved by the Board of County Commissioners on August 22, 2019 for the property directly to the east of the subject site. The Applicant has stated as part of their justification that they have decided to change the zoning designation of the Property at this time to prepare the Property for future industrial development seeking to create or expand their business within this area.

Staff are satisfied that there are changed conditions and circumstances that allow for the rezoning of the subject site.

CONCLUSION:

Staff has evaluated the standards listed under Article 2.B.7.B.2, Standards, and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff are recommending approval as per the Conditions of Approval in Exhibit C.

CONDITIONS OF APPROVAL

Exhibit C: Official Zoning Map Amendment with a Conditional Overlay Zone

ENGINEERING

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

LANDSCAPE - PERIMETER-BUFFER ALONG SOUTH PROPERTY LINE (ABUTTING RESIDENTIAL)

1. In addition to Code requirements, the Landscape Buffer along the south property line shall be upgraded as indicated below, where any of the following uses are located within 200 feet of the south property line: Contractor Storage Yard, Heavy Repair and Maintenance, Machine or Welding Shop, Manufacturing and Processing, or Towing Service and Storage.

- a. a minimum of fifty (50) foot in width;
- b. a six (6) foot high concrete panel wall to be located in the middle of the buffer width;
- c. one (1) Canopy tree for each ten (10) lineal feet of the length of the buffer. Trees shall be planted on both sides of the wall;
- d. one (1) palm for each fifteen (15) lineal feet of the length of the buffer;
- e. one (1) medium shrub per two (2) lineal feet of the buffer length;
- f. one (1) small shrub per one lineal foot of the buffer length; and,
- g. shrubs shall be planted on both sides of the wall. (ONGOING: ZONING - Zoning)

SITE DESIGN (SOUTH PROPERTY LINE OF PROJECT ABUTTING RESIDENTIAL)

1. The following uses shall be setback a minimum of 150 feet from the south property line: Composting Facility, Contractor Storage Yard, Heavy Repair and Maintenance, Towing Service and Storage, Machine or Welding Shop and Manufacturing and Processing. (BLDGPM/ONGOING: ZONING - Zoning)
2. Any building or structure within 150 feet of the south property line shall be limited to a maximum of 35 feet in height, measured from finished grade to the highest point of the building or structure. (BLDGPM/ONGOING: ZONING - Zoning)
3. Dumpster enclosures shall not be located within 100 feet of the south property line. (BLDGPM/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; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
 - b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
 - c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
 - d. Referral to Code Enforcement; and/or
 - e. Imposition of entitlement density or intensity.

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

DISCLOSURE

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

Figure 1: Future Land Use Map:

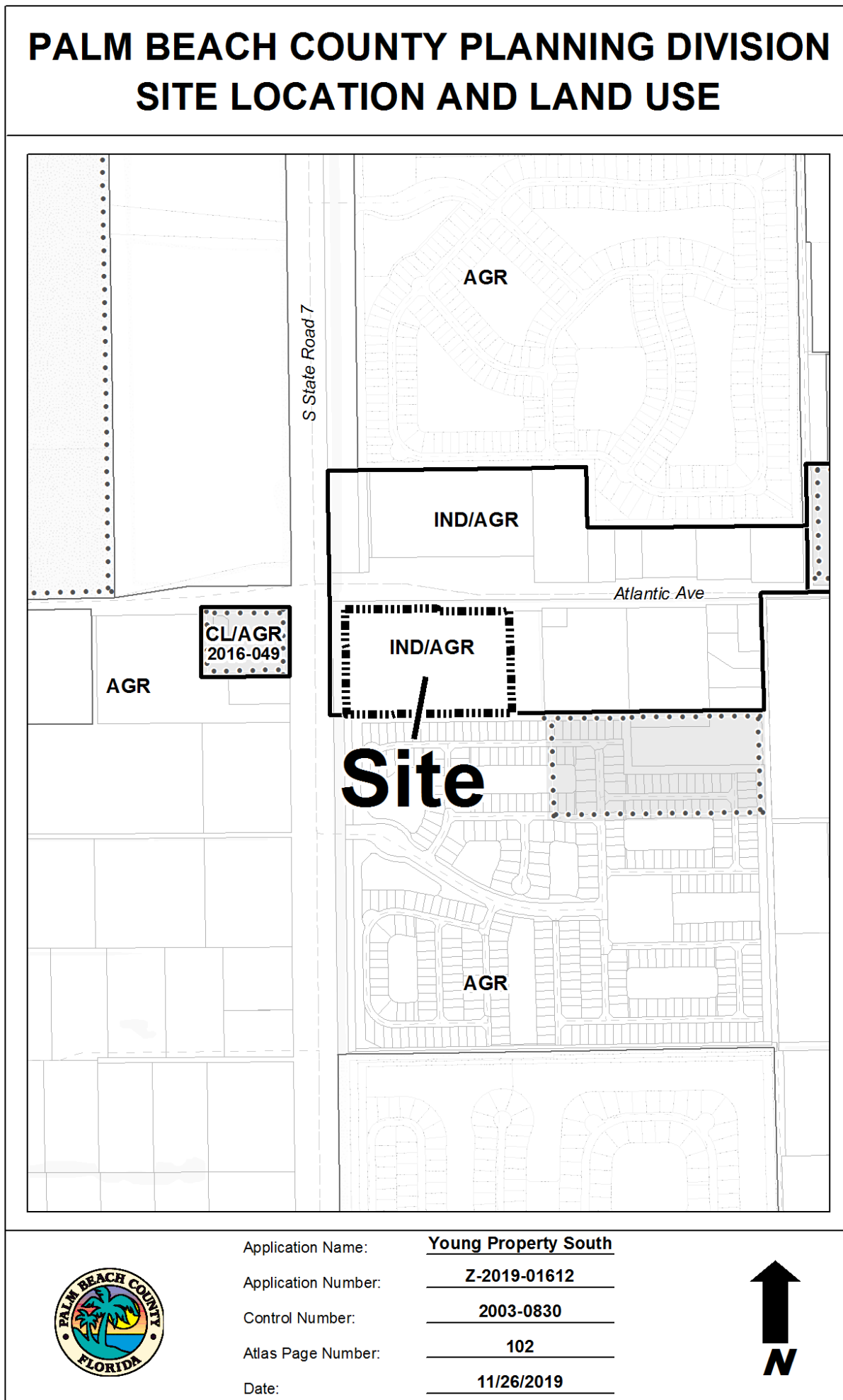


Figure 2: Zoning Map:



Figure 3: Aerial



Exhibit D: Disclosures:

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 John Bruce Young, 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 [] President *[position - e.g., president, partner, trustee]* of Southeast Investments of PBC, Inc. *[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: 8219 Sawpine Road
Delray Beach, Florida 33446
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.

John Bruce Young
John Bruce Young, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 30th day of August, 2019, by John Bruce Young, who is personally known to me or who has produced _____ as identification and who did take an oath.

Lauren L. McClellan
Notary Public

Lauren McClellan
(Print Notary Name)

NOTARY PUBLIC
State of Florida at Large
My Commission Expires: 2/28/21



EXHIBIT "A"
PROPERTY

TRACTS 13, 14, 15 AND 16, SECTION 19, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH FARMS CO. PLAT NO. 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA. LESS THE EAST 200.00 FEET OF TRACT 13; LESS THAT PORTION OF SAID TRACT 13 AND 14 LYING WITHIN 100 FEET OF THE CENTER LINE OF DELRAY WEST ROAD AND LESS THAT PORTION OF TRACTS 15 AND 16 LYING WITHIN 83 FEET OF THE CENTERLINE OF DELRAY WEST ROAD, AND LESS THAT PORTION OF TRACT 16 LYING WITHIN 95 FEET OF THE WEST SECTION LINE OF SAID SECTION 19.

CONTAINING 619,733.287 SQUARE FEET/14.227 ACRES MORE OR LESS.

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
<u>Roy T. Young Irrevocable Trust</u>	<u>939 Tropic Boulevard, Delray Beach, FL 33483</u>
<u>Bruce Young Irrevocable Trust</u>	<u>8219 Sawpine Road, Delray Beach, FL 33446</u>
<u>Bruce Young</u>	<u>8219 Sawpine Road, Delray Beach, FL 33446</u>
<u>Edwin W Young Sr Irrevocable Trust 2012</u>	<u>8219 Sawpine Road, Delray Beach, FL 33446</u>