



## COMPREHENSIVE PLAN AMENDMENT STAFF REPORT AMENDMENT ROUND 21-A2

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### BCC ADOPTION PUBLIC HEARING, DECEMBER 15, 2021

#### A. Application Summary

##### I. General Data

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<b>Project Name:</b>	<b>Atlantic Avenue Medical (LGA 2021-008)</b>
<b>Request:</b>	<b>AGR to CL-O/AGR</b>
<b>Acres:</b>	2.05 acres
<b>Location:</b>	North side of Atlantic Avenue, approx. 1,500 feet west of Lyons Road
<b>Project Manager:</b>	Melissa Michael, Senior Planner
<b>Applicant/Owner:</b>	Garrett Bender, TG Land LLC
<b>Agent:</b>	Lauren McClellan & Jennifer Morton, JMorton Planning & Landscape Architecture
<b>Staff Recommendation:</b>	Staff recommends <b>approval with conditions</b> based upon the conclusions contained within this report.

##### II. Assessment & Conclusion

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The applicant proposes a future land use amendment on 2.04 acres from AGR to CL-O/AGR in order to develop medical office in the Agricultural Reserve Tier. The site is currently a Preserve Area (with a recorded conservation easement) for the Delray Marketplace Traditional Marketplace Development (TMD), and is requesting that the site be removed from the TMD with a replacement of the preserve area on another property and a removal of the conservation easement.

The subject site meets the commercial location requirements for the Tier and falls within the commercial cap, and the site is constrained to the east and west by commercial uses. The request for commercial future land use is appropriate at this location, and is compatible with surrounding land uses. The inclusion of the staff recommended conditions of approval to limit the commercial development on the site to office or Commercial Low-Office future land use, require connectivity to adjacent parcels when the opportunity arises, and to cap the commercial square footage will ensure that the request is consistent with Comprehensive Plan policies.

Please note: The initial request was for Commercial Low future land use. At the PLC public hearing, the PLC recommended approval of the applicant's modified request to change the future land use designation to Commercial Low-Office to reflect the staff proposed condition limiting the site to office uses. This report was modified prior to the BCC Transmittal public hearing to reflect the change in request.

### III. Hearing History

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**Local Planning Agency/Planning Commission:** *Approval as modified at the hearing*, motion by Evan Rosenberg, seconded by Eric Royal, passed in a 14 to 0 vote at the January 8, 2021 public hearing. The motion reflected the applicant's request at the hearing to change to Commercial Low-Office future land use designation with up to 17,860 square feet of commercial office uses. The CL-O future land use designation limits the site to office uses and is consistent with the staff proposed condition limiting the site to office. These changes have been reflected in Exhibit 1 and throughout the BCC Transmittal Report. Under discussion, the PLC members questioned the access to the site from Atlantic Avenue, inter-connectivity with adjacent properties, the prior text amendment request and the commercial cap, traffic impacts, the attributes of the replacement preserve, and the sequence of removing the site from the AGR-PUD Preserve and granting commercial future land use. There was no public comment.

**Board of County Commissioners Transmittal Public Hearing:** *Transmit*, motion by Vice Mayor Weinroth, seconded by Commissioner Bernard, passed in a 7 to 0 vote at the January 25, 2021 public hearing. Under discussion, Commissioners questioned the access and connectivity proposed for the site, and the timing of the widening of Atlantic Avenue. There was no public comment.

**State Review Comments:** The State Land Planning Agency reviewed this amendment under Round 21-01ESR and issued a letter dated March 3, 2021 stating that the Agency had no comment on the proposed amendment. There were no negative comments received from state agencies.

**Changes Subsequent to Transmittal:** Subsequent to transmittal, the condition requiring concurrent approval of zoning and future land use applications was removed as it is moot with the scheduling of the hearings on the same date. The deletion is shown in ~~double-strike~~through. In addition, on August 20, 2021, the Planning Director notified the Department of Economic Opportunity that the County agreed to extend the adoption date for this amendment to February 28, 2022 (see Exhibit 10).

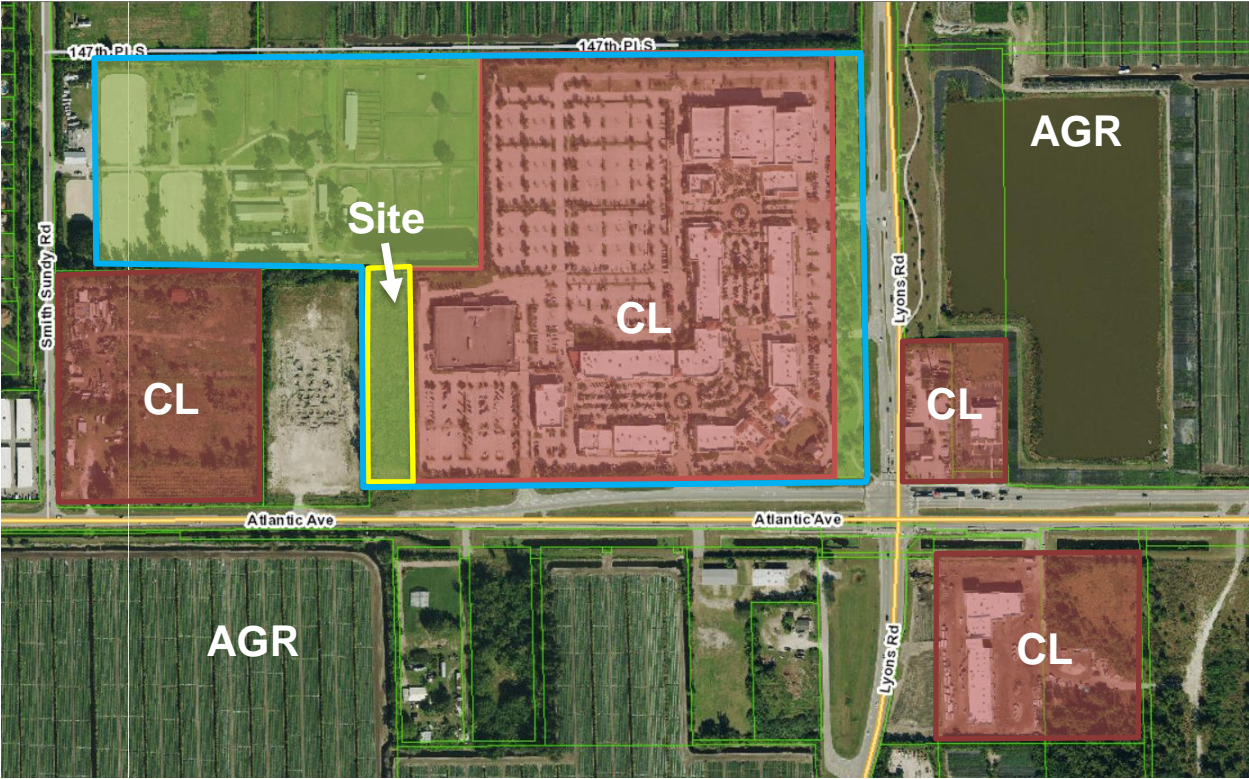
**Board of County Commissioners Adoption Public Hearing:**

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B. Petition Summary

I. Site Data

Current Future Land Use	
Current FLU:	Agricultural Reserve (AGR)
Existing Land Use:	Vacant (Preserve Parcel for Delray Marketplace TMD)
Current Zoning:	Traditional Marketplace Development (TMD)
Current Dev. Potential Max:	Agricultural uses consistent with Preserve Parcel criteria, up to .15 FAR (13,395 sf)
Proposed Future Land Use Change	
Proposed FLU:	Commercial Low-Office with an underlying Ag Reserve (CL-O/AGR)
Proposed Use:	Medical/Professional Office
Proposed Zoning:	Community Low-Office (CLO)
Dev. Potential Max/Conditioned:	Commercial uses up to .10 FAR (8,930) sf or 17,860 square feet (.20 FAR).
General Area Information for Site	
Tier:	Agricultural Reserve Tier – No Change
Utility Service:	Palm Beach County Water Utilities Department
Overlay/Study:	Agricultural Reserve Master Plan
Comm. District:	Commission District 5





## Atlantic Avenue Medical (LGA 2021-008)



### Future Land Use Designations



## C. Introduction

### I. Intent of the Amendment

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**\*\*\*\* Please note:** *The initial request was for Commercial Low future land use. At the PLC public hearing, the PLC recommended approval of the applicant's modified request to change the future land use designation requested to Commercial Low-Office to reflect the staff proposed condition limiting the site to office uses. This report was modified prior to the BCC Transmittal public hearing to reflect the change in request. In addition, prior to the BCC Adoption public hearing, the applicant modified the request to change the zoning district to Commercial Low-Office (previously requested Community Commercial) and this change is reflected in this report\*\*\*\**

The subject site is located in the in the Agricultural Reserve Tier, on the north side of Atlantic Avenue approximately 1,500 feet west of Lyons Road. The 2.05 acre amendment proposes to utilize newly available commercial square footage in the AGR Tier to develop medical office.

**Future Land Use Amendment.** The proposed future land use amendment is a request to amend the future land use designation from Agricultural Reserve (AGR) to Commercial Low-Office with an underlying Agricultural Reserve (CL-O/AGR). The proposed maximum development potential is commercial uses up to 8,930 square feet (.10 FAR) with CC zoning or 17,860 square feet (.20 FAR) with CL-O, MUPD, TMD zoning. Currently, there is 28,000 square feet of commercial available in the Agricultural Reserve's commercial cap. The applicant is proposing to develop medical office uses.

**Background:** The subject site is currently a Preserve Area for the Delray Market Traditional Marketplace Development (TMD).

- **Delray Marketplace TMD.** The initial amendment for the Delray Marketplace TMD was adopted on August 25, 2005, by Ordinance (Ord. 2005-040), which changed the future land use designation on the commercial portion of the site from AGR and Special Agriculture (SA), to Commercial Low-Office with an underlying Agricultural Reserve (CL-O/AGR). Subsequently, the commercial land within the boundaries of the TMD were rezoned to TMD Development Area, and the preserve portions were rezoned to TMD Preserve Area. The Delray Marketplace TMD was subject to several development approvals and amendment revisions. In 2014, the County approved an amendment to add land area to the commercial portion of the TMD by changing the future land use designation on a 3.9 acre Preserve Area from AGR to CL/AGR, retaining the maximum allowable square footage of 320,000 square feet and revising previously adopted conditions of approval to increase the allowable units from 86 to 96, as well as other modifications. This change was accompanied by a zoning application that rezoned the preserve area to development area, with the preserve area relocated elsewhere in the Ag Reserve. Excluding right of way dedications, the Delray Marketplace is currently 92.32 acres total, with 36.72 acres of development area and 55.60 acres of preserve area. The site is approved for 278,940 square feet of commercial uses and 73 residential units.
- **Subject Site Request for Commercial.** Since the adoption of the amendments to implement the Agricultural Reserve Master Plan in 2001, the Plan has limited the amount of commercial retail, service, and office uses in the Tier. By 2019 the commercial cap had been reached. The applicant initially proposed a text amendment to the Comprehensive Plan to consider increasing the commercial cap or to exempt medical office. At the initiation hearing for the request on February 5, 2020, an application presented for transmittal (West Boynton Center, LGA 2020-006) was in process that was seeking to exempt self-storage uses from the commercial cap along with revising the ordinance to allow self-storage rather than commercial office and retail uses on the site. As part of the transmittal of West Boynton Center, the Board modified the request to eliminate 28,000 square feet of retail and office square footage, thereby making that square footage available in the Tier. The request for the subject site was postponed until the adoption of the West Boynton Center amendment on July 30, 2020, at which time the text amendment request was no longer necessary and withdrawn by the applicant.

**Zoning Applications:** The subject site has AGR-TMD zoning as a preserve area (with a recorded conservation easement under Control Number 2004-616). Two concurrent Development Order amendments are in process. The first request is a development order amendment to the TMD to release the preserve area of the subject site and assign to another parcel in order to keep the 60/40 preserve of the TMD intact (DOA/TDD-2020-01444). The graphic on page 3 shows the site in yellow border, with blue border around the TMD. The commercial portion of the TMD is in red shading, and the preserve is in green shading. The second request is to rezone the subject site to Commercial Low Office (CLO) in order to develop

medical office uses (Z-2020-01445). At the PLC hearing, the applicant modified the future land use change to CL-O future land use, which will require a revision to the zoning application to CLO zoning.

## II. Background/History

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### A. Agricultural Reserve Tier

The subject site is located within the Agricultural Reserve Tier, an area of the County with specific limitations on development options in the Comprehensive Plan that were largely established to implement the Agricultural Reserve Master Plan that was completed in 1999 through the adoption of policies in 2001. The purpose of the Tier is captured in the adopted Objective 1.5.

**OBJECTIVE 1.5, The Agricultural Reserve Tier.** *Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.*

### B. Commercial Policies & Approvals in the Agricultural Reserve

The Comprehensive Plan includes specific limitations for both existing and new commercial future land uses and development within the Ag Reserve Tier. Since the adoption of the amendments to implement the Agricultural Reserve Master Plan in 2001, the Plan has limited the amount of commercial retail, service, and office uses in the Tier. The commercial cap in the Tier is 1,015,000 square feet of commercial retail, office, and service uses and there is currently 28,000 square feet available. The subject site has a maximum development potential of 8,930 square feet (.10 FAR) with CC zoning or 17,860 square feet (.20 FAR) with CLO, MUPD, or TMD zoning. The history of the Commercial policies in the Ag Reserve Tier and the list of the approvals are provided in Exhibit 9.

## III. Data and Analysis Summary

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This section of the report provides a summary of the consistency of the amendment with the County's Comprehensive Plan. The chapters in Exhibit 2 detail the consistency of the amendment with Plan policies, including justification, compatibility, public facilities impacts, intergovernmental coordination, and consistency with specific overlays and plans.

**A. Overview of the Area.** The subject site is located in the southern portion of the Agricultural Reserve Tier, on the north side of Atlantic, west of Lyons Road. This portion of Atlantic Avenue is generally the southern 'mixed use center' identified in the Ag Reserve Master Plan. There are currently commercial uses on the northeast, northwest, and southeast corners of Atlantic Avenue and Lyons Road.

**B. Appropriateness of the Amendment.** The proposed future land use amendment for a commercial designation in the Agricultural Reserve Tier is appropriate due to the following:

- The site is located within an existing Traditional Marketplace Development and is within proximity to one of the designated commercial-mixed use centers defined in the Comprehensive Plan for the Agricultural Reserve Tier.
- The proposed amendment is within the 1,015,000 square feet commercial cap available for development as there is currently 28,000 square feet available. The subject site has a maximum development potential of 8,930 square feet (.10 FAR) with CC zoning or 17,860 square feet (.20 FAR) with CLO, MUPD, or TMD zoning.
- The subject site is located between an existing commercial center to the east and a planned veterinary facility with kennel to the west. This location is suitable for the continuation of commercial uses along this corridor, subject to the conditions of approval requiring connectivity.

**C. Compatibility.** The proposed amendment is compatible with the surrounding land uses and the character of the commercial intersection. The site directly abuts the Delray Marketplace TMD to the east, and commercial uses west to Smith Sundry Road. There are no compatibility issues presented by this amendment.

**D. Assessment and Recommendation.** The applicant proposes a future land use amendment on 2.04 acres from AGR to CL-O/AGR in order to develop medical office in the Agricultural Reserve Tier. The site is currently a Preserve Area (with a recorded conservation easement) for the Delray Marketplace Traditional Marketplace Development (TMD), and is requesting that the site be removed from the TMD with a replacement of the preserve area on another property and a removal of the conservation easement.

The subject site meets the commercial location requirements for the Tier and falls within the commercial cap, and the site is constrained to the east and west by commercial uses. The request for commercial future land use is appropriate at this location, and is compatible with surrounding land uses. The inclusion of the staff recommended conditions of approval to limit the commercial development on the site to office or Commercial Low-Office future land use, require connectivity to adjacent parcels when the opportunity arises, and to cap the commercial square footage will ensure that the request is consistent with Comprehensive Plan policies.

Therefore, staff recommends **approval with conditions** based upon the findings within this report.

Exhibits	Page
1. Future Land Use Map & Legal Description	E-1
2. Consistency with Comprehensive Plan	E-3
3. Applicant’s Justification/Consistency with Comprehensive Plan & Florida Statutes	E-11
4. Applicant’s Public Facility Impacts Table	E-24
5. Palm Beach County Traffic Division Letter	E-26
6. Water & Wastewater Provider LOS Letter	E-28
7. Applicant’s Disclosure of Ownership Interests	E-29
8. Urban Sprawl Analysis	E-33
9. Ag Reserve Commercial Background	E-35
10. Correspondence	E-38

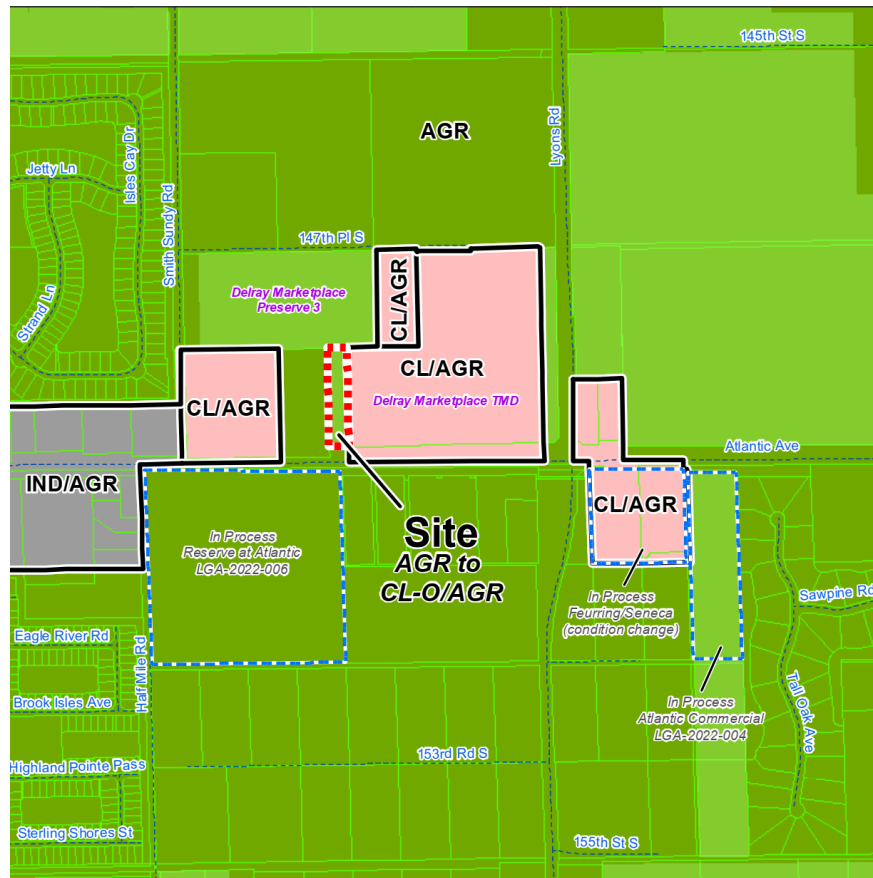


## Exhibit 1

<b>Amendment No:</b>	<b>Atlantic Avenue Medical (LGA 2021-008)</b>
<b>FLUA Page No:</b>	98
<b>Amendment:</b>	From Agricultural Reserve (AGR) to Commercial Low-Office with an underlying Agricultural Reserve (CL-O/AGR)
<b>Location:</b>	North side of Atlantic Avenue, approximately 1,500 feet west of Lyons Road
<b>Size:</b>	2.05 acres
<b>Property No:</b>	00-42-46-18-09-003-0000

**Conditions:** Development of the site under the Commercial Low-Office designation is subject to the following:

- 1) Development is limited up to a maximum of 17,860 square feet (0.20 FAR).
- 2) Vehicular and pedestrian cross access shall be provided to the east and west of the site.
- ~~3) The adoption of the future land use amendment and zoning application shall be held on the same date.~~





## **Legal Description**

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TRACT "C", "DELRAY MARKETPLACE PRESERVE 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111 AT PAGES 95 THROUGH 97 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 2.052 ACRES, MORE OR LESS.

## Exhibit 2

### Consistency with Comprehensive Plan

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This Exhibit examines the consistency of the amendment with the County's Comprehensive Plan, Tier Requirements, applicable Neighborhood or Special Area Plans, and the impacts on public facilities and services.

#### A. Consistency with the Comprehensive Plan - General

1. **Justification - FLUE Policy 2.1-f:** *Before approval of a future land use amendment, the applicant shall provide an **adequate justification** for the proposed future land use and for residential density increases **demonstrate that the current land use is inappropriate**. In addition, the County shall review and make a determination that the proposed future land use is compatible with existing and planned development in the immediate vicinity and shall evaluate its impacts on:*

1. *The natural environment, including topography, soils and other natural resources; (see Public Facilities Section)*
2. *The availability of facilities and services; (see Public Facilities Section)*
3. *The adjacent and surrounding development; (see Compatibility Section)*
4. *The future land use balance;*
5. *The prevention of urban sprawl as defined by 163.3164(51), F.S.; (See Consistency with Florida Statutes)*
6. *Community Plans and/or Planning Area Special Studies recognized by the Board of County Commissioners; and (see Neighborhood Plans and Overlays Section)*
7. *Municipalities in accordance with Intergovernmental Coordination Element Objective 1.1. (See Public and Municipal Review Section)*

The applicant provides a Justification Statement (Exhibit 3) which states that:

- *"The fact that the Property is narrow and bounded by approved developments on both sides indicates that its designation as a preserve parcel is not appropriate."*
- *"...this corridor has changed from an agricultural corridor to a commercial/industrial corridor."*
- *"...the Property is surrounded by commercial uses immediately to the east and west."*
- *"The Board of County Commissioners recently approved a self-storage facility on Boynton Beach Boulevard. Once this project was approved, 28,000 square feet of commercial went back into the commercial cap. The Applicant intends to utilize a portion of this square footage which will eliminate the need to increase the commercial cap of the Agricultural Reserve."*

**Staff Analysis:** This policy is the umbrella policy over the entire FLUA amendment analysis and many of the items are addressed elsewhere in this report as identified above. With regards to justification, there are several themes presented by this amendment that are discussed individually.

The subject site is requesting a future land use amendment from Agricultural Reserve (AGR) to Commercial Low-O with an underlying Agricultural Reserve (CL-O/AGR).

Current development potential is 13,395 square feet of agricultural uses consistent with Preserve Parcel criteria. Proposed development potential is 8,930 square feet (.10 FAR) with CC zoning or 17,860 square feet (.20 FAR) with CLO, MUPD, or TMD zoning of commercial uses. The applicant proposes to develop medical office uses.

Although a major focus of the policies adopted to implement the Agricultural Reserve Master Plan focused on the mechanics of residential Planned Developments with their required preserve areas, and the mixed use form and limitations on commercial land uses, the underlying theme of the Master Plan was to ensure that non-agricultural uses all be developed in a sustainable pattern. The vision in the Master Plan Phase II was to foster sustainable development that would *“serve area residents with respect to providing employment, shopping, recreation, services, and quality of life. Reducing the necessity for area residents to travel outside the area to receive services lessens the impact on surrounding area services and roads.”* This mixed-use, sustainable development was envisioned to promote an efficient pattern of development that would minimize infrastructure costs to reduce impacts on County tax payers. The two primary intersections for mixed use development were established at Lyons Road and Boynton Beach Boulevard, and Lyons Road and Atlantic Avenue as part of the Master Plan. In 2004, the County approved the Delray Marketplace Traditional Marketplace Development (TMD) as the commercial mixed use center for Atlantic and Lyons. The subject site was part of the original parcel, but set aside as a preserve area for the TMD and was not subject to commercial future land use. The request is in the vicinity of the commercial mixed-use center, falls within the commercial cap (see Policy 1.5-n discussion), is suitable at this location along a commercial corridor. Therefore, there is an adequate justification to support the amendment.

2. **County Directions - FLUE Policy 2.1-g:** *The County shall use the County Directions in the Introduction of the Future Land Use Element to guide decisions to update the Future Land Use Atlas, provide for a distribution of future land uses in the unincorporated area that will accommodate the future population of Palm Beach County, and provide an adequate amount of conveniently located facilities and services while maintaining the diversity of lifestyles in the County.*

**Direction 1. Livable Communities.** *Promote the enhancement, creation, and maintenance of livable communities throughout Palm Beach County, recognizing the unique and diverse characteristics of each community. Important elements for a livable community include a balance of land uses and organized open space, preservation of natural features, incorporation of distinct community design elements unique to a given region, personal security, provision of services and alternative transportation modes at levels appropriate to the character of the community, and opportunities for education, employment, health facilities, active and passive recreation, and cultural enrichment.*

**Direction 2. Growth Management.** *Provide for sustainable communities and lifestyle choices by: (a) directing the location, type, intensity, timing and phasing, and form of development that respects the characteristics of a particular geographical area; (b) requiring the transfer of development rights as the method for most density increases; (c) ensuring smart growth, by protecting natural resources, preventing urban sprawl, providing for the efficient use of land, balancing land uses; and, (d) providing for facilities and services in a cost efficient timely manner.*

**Direction 4. Land Use Compatibility.** *Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*

**Staff Analysis:** The proposed amendment is consistent with the above County Directions as it utilizes available square footage in an area already designated for commercial land uses, is compatible with adjacent uses, and encourages the clustering of non-residential uses in the Agricultural Reserve Tier. The intent of the commercial location policies in the Tier is to cluster non-residential development along Atlantic Avenue and Boynton Beach Boulevard. Since the site is seeking zoning approval for medical office uses, and is not proposed to be developed as part of the adjacent Delray Marketplace TMD, staff is recommending a condition of approval to limit the commercial uses on the site to office only. However, the PLC authorized the applicant's request to change to Commercial Low-Office (CL-O) future land use at the PLC hearing. The condition is no longer necessary since the CL-O designation limits commercial uses to office.

3. **Piecemeal Development – FLUE Policy 2.1-h:** *The County shall not approve site specific Future Land Use Atlas amendments that encourage piecemeal development or approve such amendments for properties under same or related ownership that create residual parcels. The County shall also not approve rezoning petitions under the same or related ownership that result in the creation of residual parcels.*

**Staff Analysis:** There are no other parcels under the same or related ownership adjacent to the subject site that are not included in the proposed amendment whereby residual parcels would be created. Therefore, the proposed amendment would not constitute piecemeal development.

4. **Strip Commercial – FLUE Policy 2.2.2-d:** *The County shall not designate additional commercial areas on the Future Land Use Atlas that would result in or encourage the proliferation of strip commercial development.*

**Staff Analysis:** The subject site is currently part of the Delray Marketplace TMD and is requesting to be developed as standalone commercial site. Ideally, the development of the subject site as commercial would be part of the existing TMD. In order to alleviate the creation of strip-commercial development, staff is including a condition of approval requiring that the site provide a stub-out connection to the east and west properties should the opportunity arise for connectivity in the future. This condition is consistent with Transportation Element Policy 1.4-l which states “*The County shall encourage new developments to include: 1) an interconnected system of streets in their development plans which consider appropriate adjacent parcels with potential for future compatible developments; 2) stub streets that connect to adjacent undeveloped parcels with a potential for future developments; and 3) stub streets that tie into existing adjacent stub streets.*”, and FLUE Policy 4.3-k which states “*the County shall require, where feasible, that commercial land uses employ access management techniques, such as shared entrances and vehicular cross access, between adjacent existing and proposed commercial land uses.*”



## B. Consistency with Agricultural Tier Requirements

Future Land Use Element Objective 1.1, Managed Growth Tier System, states that *“Palm Beach County shall implement the Managed Growth Tier System strategies to protect viable existing neighborhoods and communities and to direct the location and timing of future development within 5 geographically specific Tiers....”*

### OBJECTIVE 1.5 The Agricultural Reserve Tier

1. **Objective:** *Palm Beach County shall preserve the unique farmland and wetlands in order to preserve and enhance agricultural activity, environmental and water resources, and open space within the Agricultural Reserve Tier. This shall be accomplished by limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier. The Agricultural Reserve Tier shall be preserved primarily for agricultural use, reflecting the unique farmlands and wetlands within it.*

**Staff Analysis:** The proposed amendment will utilize available commercial square footage within the Ag Reserve Tier. The amendment will not increase commercial square footage or serve as a regional draw, and therefore, is not in conflict with this policy.

### Commercial

1. **Policy 1.5-j:** *“Commercial uses permitted in the Agricultural Reserve Tier shall be limited to those, which serve the needs of the farmworker community, existing residents, and future residents of an AgR-PDD.”*

**Staff Analysis:** The proposed development is for small scale medical office uses. Medical office at the proposed size are generally considered neighborhood serving and not likely to result in a regional draw.

2. **Policy 1.5-m:** *In order to facilitate community growth, reduce traffic, and maintain open space, the County shall limit the locations of new commercial and mixed use future land use designations within the Agricultural Reserve Tier to within two commercial-mixed use centers. These centers are central to the Tier and intended to combine neighborhood shops, community commercial, offices, civic institutions, and housing opportunities. The two commercial-mixed use centers define the areas within 1/4 mile of the intersection of Lyons Road and Boynton Beach Boulevard, and the intersection of Lyons Road and Atlantic Avenue. In addition, the pre-existing commercial properties identified in Policy 1.5-i are allowed, and the County may consider future land use amendments for sites that share a common property line with pre-existing commercial properties identified in Policy 1.5-i to square off those locations.*

**Staff Analysis:** The proposed amendment shares a common boundary with the pre-existing Delray Marketplace TMD which falls within ¼ mile of the intersection of Atlantic Avenue and Lyons Road, and is therefore, consistent with this policy.

3. **Policy 1.5-n:** *The County shall ensure a sustainable development pattern is achieved in the Agricultural Reserve by allowing commercial uses while ensuring that the supply of commercial square footage does not exceed the demand of the farm workers and residents of the Tier. The County may approve a maximum of 1,015,000 square feet of commercial uses (retail, service and office) within the Tier.*

**Staff Analysis:** The proposed amendment is consistent with the commercial cap as it utilizes available commercial square footage within the Ag Reserve Tier. At the time of the writing of the Planning Commission report, there are 28,000 square feet remaining within the cap. This square footage was released with the adoption of the West Boynton Center (LGA 2020-006) amendment adopted on July 30, 2020 as discussed in the Background heading of this report under the “Intent of the Amendment” section.

The Agricultural Reserve is the only Tier in the County where there is a finite cap placed on the amount of development. The cap was identified as a necessity as part of the development of the Agricultural Reserve Master Plan in order to establish that the amount of commercial in the Tier would not exceed the demand projected for the population stemming from the 1 unit per acre residential development potential of the Tier. The Master Plan, and subsequently adopted policies in the Plan, specifically limit commercial development to uses which serve the needs of the farm worker community, existing and future residents, in order to discourage commercial in the Tier from exceeding local demand, thereby drawing customers from outside the Tier. A history of the commercial cap in the Tier is provided in Exhibit 9.

### C. Compatibility

Compatibility is defined as a condition in which land uses can co-exist in relative proximity to each other in a stable fashion over time such that no use is negatively impacted directly or indirectly by the other use. The applicant lists the surrounding uses and future land use designations and provides a compatibility analysis in Exhibit 3.

**Surrounding Land Uses:** Surrounding the subject site are the following:

**North:** To the north of the subject site is the 20 acre Delray Marketplace Preserve 3 with Agricultural Reserve (AGR) and Commercial Low with an underlying Agricultural Reserve (CL/AGR) future land use designations. The preserve currently has equestrian uses. North of the preserve are three large parcels with all with AGR future land use designations. One of the parcels is currently vacant, while the other two have active agricultural production uses.

**East:** To the east of the subject site is the 36 acre Delray Marketplace TMD which was adopted in 2005. The Delray Marketplace TMD has a future land use designation of Commercial Low with an underlying Agricultural Reserve (CL/AGR) and consists of 278,940 square feet of commercial uses.

**West:** To the west of the subject site is a 5 acre parcel with an Agricultural Reserve (AGR) future land use designation. In 2013 the site was approved for a Type II Commercial Kennel, currently the site is vacant. Beyond that parcel to the east is a 10 acre site with a Commercial Low with an underlying Agricultural Reserve (CL/AGR) future land use designation which is currently vacant.

**South:** To the south of the subject site is Atlantic Avenue which merges from a four lane divided highway to a two lane undivided road. Atlantic Avenue west of the Turnpike is classified as an Urban Minor Arterial (U-MA) on the Palm Beach County Comprehensive Plan Map Series Map *TE 3.1 Functional Classification of Roads*. Beyond Atlantic Avenue to the south is an approximately 2 acre site with an Agricultural Reserve (AGR) future land use designation. There is currently a single family home on the site. Also to the south of the subject site is an almost 40 acre site with an Agricultural Reserve (AGR) future land use designation. The site currently has active agricultural production uses.

**FLUE Policy 2.1-f** states that *“the County shall review and make a determination that the proposed future land use is compatible with existing and planned development in the immediate vicinity.”* And **FLUE Policy 2.2.1-b** states that *“Areas designated for Residential use shall be protected from encroachment of incompatible future land uses and regulations shall be maintain to protect residential areas from adverse impacts of adjacent land uses. Non-residential future land uses shall be permitted only when compatible with residential areas, and when the use furthers the Goals, Objectives, and Policies of the Plan.”*

**Staff Analysis:** To the south across Atlantic Avenue is 40 acres of agricultural production as well as a single family home on 2 acres. The Delray Marketplace TMD is adjacent to the east. To the west up to Smith Sundry Road are commercial uses. And to the north is a 20 acre equestrian facility. There are currently no residential uses abutting the site. The proposed amendment will change the future land use to Commercial Low-Office which is compatible with the adjacent uses. The site is also within one of the commercial-mixed use centers as defined in the Comprehensive Plan, which encourages the clustering of non-residential uses in the Agricultural Reserve Tier. There are no compatibility issues presented by this amendment.

#### **D. Consistency with County Overlays, Plans, and Studies**

1. **Overlays – FLUE Policy 2.1-k** states *“Palm Beach County shall utilize a series of overlays to implement more focused policies that address specific issues within unique identified areas as depicted on the Special Planning Areas Map in the Map Series.”*

**Staff Analysis:** The proposed amendment is not located within an overlay.

2. **Neighborhood Plans and Studies – FLUE Policy 4.1-c** states *“The County shall consider the objectives and recommendations of all Community and Neighborhood Plans, including Planning Area Special Studies, recognized by the Board of County Commissioners, prior to the extension of utilities or services, approval of a land use amendment, or issuance of a development order for a rezoning, conditional use or Development Review Officer approval.....”*

**Staff Analysis:** The proposed amendment is not located within a neighborhood plan or study.

#### **E. Public Facilities and Services Impacts**

The proposed amendment was reviewed at the proposed change to allow up to 17,860 square feet (.20 FAR) of general commercial uses. Public facilities impacts are detailed in the table in Exhibit 4.

1. **Facilities and Services – FLUE Policy 2.1-a:** *The future land use designations, and corresponding density and intensity assignments, shall not exceed the natural or manmade constraints of an area, considering assessment of soil types, wetlands, flood plains, wellfield zones, aquifer recharge areas, committed residential development, the transportation network, and available facilities and services. Assignments shall not be made that underutilize the existing or planned capacities of urban services.*

**Staff Analysis:** The proposed amendment has been distributed to the County service departments for review and there are adequate public facilities and services available to support the amendment, and the amendment does not exceed natural or manmade constraints. No adverse comments were received from the following departments and agencies regarding impacts on public facilities:

Zoning (ULDC), Mass Transit (Palm Tran), Potable Water & Wastewater (PBC Water Utilities Dept.), Environmental (Environmental Resource Management), Traffic (Engineering), Historic Resources (PBC Archeologist), Parks and Recreation, Health (PBC Dept. of Health), Community Services (Health & Human Services) and Fire Rescue, School District.

2. **Long Range Traffic - Policy 3.5-d:** *The County shall not approve a change to the Future Land Use Atlas which:*

- 1) *results in an increase in density or intensity of development generating additional traffic that significantly impacts any roadway segment projected to fail to operate at adopted level of service standard “D” based upon cumulative traffic comprised of the following parts a), b), c) and d):.....*

**Staff Analysis:** The Traffic Division reviewed the proposed amendment at a maximum 17,860 square feet of general commercial uses. According to the County’s Traffic Engineering Department (see letter dated September 2, 2020 in Exhibit 5) the amendment would result in an increase of 591 net daily trips and 7 (5/2) AM and 66 (32/34) PM net peak hour trips.

The Traffic letter concludes *“Based on the review, the Traffic Division has determined that the traffic impacts of the proposed amendment **meet** Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan at the **maximum potential** intensity...”*

The Traffic Study dated May 8, 2020 was prepared by Simmons & White, Inc. Traffic studies and other additional supplementary materials for site-specific amendments are available to the public on the PBC Planning web page at:

<http://discover.pbcgov.org/pzb/planning/Pages/Active-Amendments.aspx>

3. **Zoning Issues.** At the time of the drafting of the Planning Commission report, there were outstanding issues raised by the Land Development Division of Engineering related to access that need to be resolved prior to certification of the zoning application. The Concurrent Development Order Amendment and Rezoning Applications being processed will require the submittal of a subdivision variance which will allow the subject site to have direct access on Atlantic Avenue. This subdivision variance will be processed concurrent with the zoning applications and go to the Zoning Commission for approval. Because Atlantic Avenue is a state road, the Traffic/Civil Engineer has requested a pre-application meeting with FDOT for preliminary approval of the driveway access onto Atlantic Avenue. The FDOT pre-application meeting will likely be scheduled in January/February. The



Applicant is also proposing a future connection point to the Delray Marketplace TMD should the existing plaza owner wish to redevelop and provide cross-access in the future. Should the zoning applications not be approved, the adoption of the FLUA amendment will not be possible.

In addition, by proposing to remove this parcel from the Delray Marketplace TMD, commercial development on this site would be exempt from the 60% preserve area requirement. If the site was granted commercial future land use by this text amendment, the amount of land needed for preserve would increase if the site remained within the TMD.

- **Site removed from the TMD.** The applicant would need to add 2.05 acres of preserve to replace the loss of the site as a preserve area, and would be able to develop the site without a preserve area requirement since the Comprehensive Plan exempts parcels less than 16 acres from preserve.
- **Site remains within the TMD.** The applicant would need to add 5.12 acres of preserve to the TMD, since 1) the 2.05 acres of preserve would need to be replaced; and 2) the additional development area would need to be offset by additional preserve area of 3.07 acres. The total acres of the TMD would need to increase to 97.44 acres with 38.77 acres development area and 58.67 acres preserve.

The applicant states that incorporating commercial uses on the site while remaining part of the Delray Marketplace TMD is not possible due to factors such as being unable to meet the block structure design guidelines, exceeding the maximum square footage for free-standing buildings, inability to front on the 'main street', and inability to meet the TMD architectural guidelines such as requiring building transparency and pedestrian arcades.

- E. Florida Statutes Consistency with Urban Sprawl Rule:** Section 163.3177(6)(a)9.a., F.S., establishes a series of primary indicators to assess whether a plan amendment does not discourage the proliferation of urban sprawl. The statute states that the evaluation of the presence of these indicators shall consist of an analysis of the plan amendment within the context of features and characteristics unique to each locality. The analysis in Exhibit 8 indicates that the proposed amendment does not encourage the proliferation of urban sprawl.

## **II. Public and Municipal Review**

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The Comprehensive Plan Intergovernmental Coordination Element **Policy 1.1-c** states that *"Palm Beach County will continue to ensure coordination between the County's Comprehensive Plan and plan amendments and land use decisions with the existing plans of adjacent governments and governmental entities....."*

- A. Intergovernmental Coordination:** Notification of this amendment was sent to the Palm Beach County Intergovernmental Plan Amendment Review Committee (IPARC) for review on December 23, 2020. To date, no comments have been received.
- B. Other Notice:** Public notice by letter was mailed to the owners of properties within 500' of the perimeter of the site on December 18, 2020. On the same date, several interested parties were notified by mail including The Alliance of Delray, the Coalition of Boynton West Residential Association (COBWRA), and the Delray Lakes Estates Homeowners

Association. As of the publication of the Planning Commission staff report, no correspondence has been received. Letters received are added to the Exhibits during the course of the amendment process.

- C. Informational Meeting:** The Planning Division hosted a meeting with area residents and interested parties to relay information regarding the amendment and development approval process on January 5, 2021. This date occurred after the publication of the Planning Commission report. A summary of the meeting will be presented at the Planning Commission public hearing.

### **Exhibit 3**

## **Applicant's Justification/Consistency with Comprehensive Plan**

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### **Introduction**

On behalf of the Applicant, JMorton Planning & Landscape Architecture is requesting a Comprehensive Plan Future Land Use Atlas amendment for the property located on the north side of Atlantic Avenue immediately west of the Delray MarketPlace TMD ("Property").

### **I. PROPOSED FLUA MAP AMENDMENT**

The Applicant is requesting to amend the Future Land Use designation from Agricultural Reserve (AGR) to Commercial Low, with an underlying Agricultural Reserve (CL/AGR) for the 2.05 acre Property. The Property is currently a preserve parcel for the Delray MarketPlace TMD. The Applicant is submitting a concurrent Development Order Amendment application to relocate the 2.05 acres of preserve to another parcel within the Agricultural Reserve. Additionally, the Applicant is submitting a rezoning application to change the zoning designation of the Property from Agricultural Reserve to Community Commercial (CC) in order to develop medical office on the Property.

### **Description of Site Vicinity**

The Property is located on the Atlantic Avenue corridor within the Agricultural Reserve. The 2.05 acre Property is flanked by approved development to the east and west. The Atlantic Avenue corridor has seen recent activity for new development. Several applications for new development have been approved within the industrial corridor to the west of Half Mile Road/Smith Sundry Road. New commercial projects have been approved and constructed at the southeast corner of Atlantic Avenue and Lyons Road. Thus, the Atlantic Avenue corridor has become more developed with a variety of commercial and industrial uses.

Land uses directly abutting the Property include the following:

<b>Adjacent Property</b>	<b>Land Use Designation</b>	<b>Zoning Designation</b>	<b>Existing Use</b>	<b>Control Number</b>
<b>North</b>	AGR	TMD – Preserve Parcel	Equestrian Training Facility	2004-616
<b>South</b>	AGR	AGR	Single Family Residence and Agriculture Uses	N/A
<b>East</b>	CL/AGR	TMD	Delray MarketPlace TMD – 278,940 SF of commercial uses)	2004-616
<b>West</b>	AGR	AGR	Vacant – Approved for Vet Clinic & Kennel – 35,090 SF)	2013-2746

### History

The Property was rezoned to Traditional Marketplace Development (TMD) and designated as a preserve parcel in 2005. The Delray MarketPlace was one of the first two commercial projects developed in the Ag Reserve in accordance with the Agricultural Reserve Master Plan. The Master Plan established two nodes, one at Boynton Beach Boulevard and Lyons Road and the other at Atlantic Avenue and Lyons Road. Since the original approval of this Traditional Marketplace Development, multiple amendments have been made to add land area to the development area, reconfigure the site plan, add/delete uses, and add preserve area. The table below summarizes these changes.

<b>Control No.</b>	<b>Description</b>	<b>Action</b>	<b>Date</b>	<b>Resolution No.</b>
74-061	Special Exception to allow Commercial Stable for the maintenance of training of horses, including grooms housing	Approved	April 25, 1974	R-1974-344
LGA-2005-006	Large Scale FLUA Amendment to change future land use from AGR and SA to CL/AGR	Approved	August 25, 2005	Ord No. 2005-040
2004-616	Rezoning from AGR and CG to AGR-TMD	Approved	August 25, 2005	R-2005-1626
2004-616	Requested Use for indoor entertainment and tenants above 25,000 SF	Approved	August 25, 2005	R-2005-1627
2004-616	Waiver from AGR-TMD requirement that a main street crosses through the entire length and width of TMD	Approved	August 25, 2005	R-2005-1628
74-061	Revoke Special Exception	Approved	May 25, 2006	R-2006-924
LGA-2006-009	Large Scale FLUA Amendment to change future land use from AGR to CL/AGR	Approved	August 21, 2006	Ord No. 2006-034
2004-616	Type II Variance to allow increase in building height and reduce required amount of arcaded sidewalk	Approved	January 5, 2007	ZR-2007-005
2004-616	Rezoning from CG to AGR-TMD	Approved	January 25, 2007	R-2007-082
2004-616	DOA to add land area, reconfigure Master Plan and modify conditions	Approved	January 25, 2007	R-2007-083
2004-616	Requested Use for Type I Restaurant	Approved	January 25, 2007	R-2007-084
2004-616	DOA to modify conditions of approval and add temporary access point	Approved	January 24, 2008	R-2008-112



2004-616	DOA to add land area	Approved	February 28, 2008	R-2008-267
2004-616	Type II Variance to increase building height and increase building frontage	Approved	June 5, 2008	ZR-2008-042
2004-616	DOA to reconfigure site plan and modify conditions of approval	Approved	June 30, 2008	R-2008-1136
2004-616	Requested Use Approval for tenant above 25,000 SF	Approved	June 30, 2008	R-2008-1137
2004-616	Type II Variance to reduce percentage of transparency of building façade	Approved	January 1, 2009	ZR2009-036
2004-616	DOA to add land area	Approved	April 23, 2009	R-2009-709
2004-616	Waiver from structured parking requirement to allow increase of surface parking	Approved	March 3, 2010	R-2010-446
2004-616	DOA to reconfigure the site plan, reduce the number of dwelling units and commercial SF, restart commencement clock, and modify conditions of approval	Approved	March 3, 2010	R-2010-447
2004-616	Type II Variance to allow alternative street sections, eliminate free standing structure limitation, increase in frontage for single tenant, allow streets without on-street parking, allow reduction in number of queuing spaces, and allow increase in height	Approved	July 7, 2011	ZR-2011-015
2004-616	DOA to reconfigure site plan, reduce square footage, and modify conditions of approval	Approved	July 28, 2011	R-2011-1110
2004-616	Waiver to allow reduction in length of main street and block length	Approved	July 28, 2011	R-2011-1111
2004-616	Type II Variance to allow an increase in distance from development entrances to signs	Approved	February 3, 2012	ZR-2012-002
2004-616	Type II Variance to allow internally illuminated signage	Approved	February 3, 2012	ZR-2012-008
2004-616	Type II Variance to allow reduction of building transparency	Approved	August 2, 2012	ZR-2012-025
2004-616	Type II Variance to allow	Approved	October 4, 2012	ZR-2012-028

	increase in wall signage			
2004-616	Type II Variance to allow increase in sign projection from building façade and allow directional signage within the perimeter of the TMD	Approved	January 4, 2013	ZR-2013-001
2004-616	Special Permit to allow Valet Parking	Approved	September 9, 2013	Special Permit # 2013-2069
2004-616	Type II Waiver for structured parking	Approved	April 24, 2014	R-2014-565
2004-616	Rezoning from AGR to AGR-TMD	Approved	April 24, 2014	R-2014-566
2004-616	DOA to add land area and reconfigure Master Plan	Approved	April 24, 2014	R-2014-567

The Applicant originally submitted a text amendment that would allow for development of medical office on the 2.05 acre Property on June 27, 2019. The Applicant proposed two text amendment options: 1) increase the established commercial square footage cap of the Agricultural Reserve; or 2) exempt medical office from the established commercial square footage cap of the Agricultural Reserve. The Planning Commission voted to recommend approval of the first option to increase the commercial cap. This text amendment was then heard at the February 5, 2020 Board of County Commission hearing. At that hearing, another project within the Ag Reserve was on the agenda for transmittal. This project was for approval of a self-storage facility on the northwest corner of Boynton Beach Boulevard and Acme Dairy Road. The Board of County Commissioners discussed the option of approving the proposed self-storage facility and eliminating the commercial square footage previously assigned to the parcel. The purpose for this was to then allow the 2.05 acre Property to “claim” that unused square footage eliminated by the adoption of the self-storage facility.

The Applicant is submitting a concurrent Development Order Amendment application to the Zoning Division to relocate the 2.05 acre preserve area to an available 2.05 acres of a property identified by PCN 00-41-45-12-01-007-0000 owned by West Boynton Farms. Additionally, the Applicant is proposing to submit a concurrent Rezoning Application to Community Commercial (CC) as referenced above.

### **G.1 Justification**

Each proposed FLUA amendment must be found to be consistent with the Goals, Objectives, and Policies (GOPs) of the Comprehensive Plan. Future Land Use Element Policy 2.1.f requires that adequate justification for the proposed future land use be provided. Further, the justification statement must demonstrate that a change is warranted and demonstrate the following two factors:

#### **1. The proposed use is suitable and appropriate for the subject site.**

***Response:** Many changes have been made to the Agricultural Reserve Tier since its original adoption. The commercial square footage cap has been increased in order to meet the demand for retail, restaurants and other services by the residents of the Agricultural Reserve. This has allowed for more commercial parcels to be developed in addition to the two TMDs located at Boynton Beach Boulevard and Lyons Road and Atlantic Avenue and Lyons Road.*

*Small 5-acre preserve parcels are now permitted to meet the preserve requirements for planned developments. This change has allowed for additional acreage to be utilized as development parcels and therefore increased the number of residential units built in the Ag Reserve. The current Ag Reserve Tier reflects a patchwork development pattern. The properties are squeezed in between development and preserve parcels which has resulted in incompatible and unsustainable development patterns. The increasing number of residents moving into the Ag Reserve creates more traffic along the main thoroughfares because the residents are required to drive east for services. In addition, the car and resident traffic conflicts with farm vehicles and other farming activity.*

*The proposed Future Land Use Atlas amendment will allow a 2.05-acre parcel to be developed with office uses. The Property is currently one of the preserve parcels for the Delray MarketPlace TMD and is located immediately to the west of the Delray MarketPlace and east of a vet clinic/kennel. The Applicant intends to remove the Property from the Delray MarketPlace TMD and replace that preserve acreage with 2.05 acres of another property in the Ag Reserve.*

*As a preserve parcel of the Delray MarketPlace TMD, the Property is not consistent with Policy 1.5.1-n. This Policy states that any portion of the preserve area “shall be utilized for crop production; pasture; equestrian purposes; if designated by the South Florida Water Management District as Water Preserve Area, or to serve regional water management purposes as certified by either Lake Worth Drainage District, or for water management purposes not directly related to the AgR-TMD; or, if approved by the Department of Environmental Resources Management, managed for environmental resource values.” This 2.05-acre Property is not utilized for any of the cited uses, thus is not consistent with this preserve parcel policy and never should have been designated as a preserve parcel.*

*The subject Property is currently a small 2.05 acre preserve squeezed in between the Delray MarketPlace TMD to the east and approved kennel currently under construction to the west. Next to the kennel is an additional 10 acre parcel with a Commercial Low (CL) Future Land Use designation. The series of land uses and development along Atlantic Avenue demonstrates a patchwork development pattern. The Property is not appropriate for a farming operation as it is very narrow in width, located between two developed parcels and has been fallow for too long to be farmed. Although the Applicant is able to provide the additional preserve acreage to incorporate the Property into the TMD, it is not appropriate to incorporate this Property into the approved Delray MarketPlace TMD due to the numerous site design requirements for Traditional Marketplace Developments. The proposed office buildings would not be able to meet the block structure design guidelines and would therefore be a free-standing building which is not allowed in the TMD. The existing TMD already exceeds the maximum square footage for free-standing buildings. The requirement for buildings to front on the main street is not possible because the main street terminates approximately 450 feet away and is blocked from being extended by an existing building and the Public parking lot. Additionally, the TMD has strict architectural guidelines such as requiring building transparency and pedestrian arcades.*

*The Applicant would provide cross access and connections to the approved Delray MarketPlace TMD should the developer and Publix agree to providing a connection in the*

*future. In addition, the architectural style and landscape details can be included to create a consistent and cohesive design for the project.*

*Sustainable development patterns are those that keep services located near the residents that utilize those services thus reducing the number and length of trips on the roads and reducing the amount of carbon dioxide released into the air. The proposed Future Land Use Atlas amendment will allow for the development of office uses within the western Atlantic Avenue Corridor, thus meeting the needs of the surrounding communities and reducing their trips east on Atlantic Avenue.*

**2. There is a basis for the proposed FLU change for the particular subject site based upon one or more of the following:**

**a. Changes in FLU designations on adjacent properties or properties in the immediate area and associated impacts on the subject site.**

***Response:** As referenced above, numerous changes to existing future land use and zoning designations have occurred on properties within the Atlantic Avenue corridor since the adoption of the Agricultural Reserve Master Plan adoption in 1999. Originally, the only commercial allowed within the Ag Reserve was to be in the form of a Traditional Marketplace developed at the intersections of Atlantic Avenue and Lyons Road and at Boynton Beach Boulevard and Lyons Road. Changes were adopted to recognize small existing commercial properties as well as allow additional commercial development at these two commercial nodes in order to support the needs of the surrounding communities. Additionally, the property to the west was approved for a veterinary clinic and kennel. Therefore, this Property is the only parcel of land within this section of Atlantic Avenue that does not have an approval for development. The fact that the Property is narrow and bounded by approved developments on both sides indicates that its designation as a preserve parcel is not appropriate.*

**b. Changes in the access or characteristics of the general area and associated impacts upon the subject site.**

***Response:** The characteristics of the area have changed since the adoption of the Agricultural Reserve Master Plan. As referenced above, Atlantic Avenue has changed significantly. Originally, the only commercial development permitted was the Delray MarketPlace TMD. However, comprehensive plan text amendments were adopted to allow smaller infill commercial development. Subsequently the properties at the southeast corner of Atlantic Avenue and Lyons Road were approved for small commercial projects as was the parcel located at the northeast corner of Smith Sundry and Atlantic Avenue. This influx of development has also caused for increased interest for the existing industrial parcels to the west of Smith Sundry and Half Mile Road. Thus, this corridor has changed from an agricultural corridor to a commercial/industrial corridor. This change impacts the viability of the parcel as a preserve parcel. The fact that it does not support an active agricultural use further negates its suitability as a preserve parcel.*

**c. New information or change in circumstances which affect the subject site.**

***Response:** The Board of County Commissioners recently approved a self-storage facility on Boynton Beach Boulevard. Once this project was approved, 28,000 square feet of commercial went back into the commercial cap. The Applicant intends to utilize a portion*



*of this square footage which will eliminate the need to increase the commercial cap of the Agricultural Reserve.*

**d. Inappropriateness of the adopted FLU designation.**

*Response: N/A*

**e. Whether the adopted FLU designation was assigned in error.**

*Response: N/A*

**G.2 Residential Density Increases**

This proposed FLU amendment is not requesting to increase residential density.

**G.3 Compatibility**

Compatible land uses are defined as those which are consistent with each other in that they do not create or foster undesirable health, safety or aesthetic effects arising from direct association of dissimilar activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise vibration, smoke, hazardous odors, radiation, and other land use conditions. The definition of “compatibility” under the repealed Rule 9J-5, FAC, is “a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted, directly or indirectly by another use or condition”. With this definition in mind, the requested change would make the subject property more compatible with the surrounding properties which have undergone land use amendments.

To be compatible, it is not necessary that two uses have the exact same function (e.g. residential, commercial, institutional, etc.). Rather, compatibility is attained when uses do not adversely affect each other. Further, two uses whose functions are different can complement and support each other. For example, an industrial use can provide essential services to residents of surrounding neighborhoods, as well as the community at-large. In addition, buffering, screening, setback, height, and landscaping requirements can further enhance compatibility, and reduce the potential negative effects of functionally different land uses.

Several factors lead to the conclusion that the proposed FLUA Amendment designation will be compatible with neighboring uses.

- Primary access is available from Atlantic Avenue, which is designated as an Arterial roadway, thus directing traffic away from local roads in the vicinity.
- The Property is located at one of the commercial nodes of the Agricultural Reserve (Atlantic Avenue and Lyons Road). Atlantic Avenue is currently developed with a mix of industrial, commercial and agricultural uses. Specifically, the Property is surrounded by commercial uses immediately to the east and west. On this basis, the proposed development concept at this location is determined to be compatible.
- The proposed use is consistent with the existing development pattern and adjacent uses that have occurred along the Atlantic Avenue corridor.

The above factors, coupled with setbacks, buffers and landscaping requirements will dictate that on-site structure(s) will be compatible with the neighboring properties and not create or foster undesirable health, safety, or aesthetic effects.

**G.4 Comprehensive Plan**

The proposed Future Land Use Atlas Amendment is consistent with various goals, objectives, and policies in the Palm Beach County Comprehensive Plan as detailed below.

**Goals** – The proposed FLUA amendment furthers the County’s goals as described below.

- **Balanced Growth** – “...to recognize the diverse communities within the County, to implement strategies to create and protect quality livable communities respecting the lifestyle choices for current residents, future generations, and visitors, and to promote the enhancement of areas in need of assistance.”

***Response:** Approval of this proposed FLU amendment will allow for the development of a medical office project. Residential development in the Agricultural Reserve has been growing substantially without the service and job opportunities needed to protect livable communities and contribute to an overall balanced growth trend. Residents of the Agricultural Reserve continue to travel outside of the Tier for necessary services such as employment, medical needs, restaurants, etc. The proposed FLU amendment will bring additional job opportunities and services to the Agricultural Reserve Tier catering to the residents of the Tier thus enhancing the quality of life for those that have chosen to live within the western Delray Beach area.*

- **Land Planning** – “...to create and maintain livable communities, promote the quality of life, provide for a distribution of land uses of various types, and at a range of densities and intensities, and to balance the physical, social, cultural, and environmental and economic needs of the current and projected residents and visitor populations. This shall be accomplished in a manner that protects and maintains a diversity of lifestyle choices, and provides for the timely, cost-effective provision of public facilities.”

***Response:** The Property is located within the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA) where services and public facilities are already available. The Property’s location at one of the Ag Reserve’s commercial nodes with access/frontage on Atlantic Avenue contributes to timely, cost effective service provision. The proposed medical office project will better serve the immediate and future needs of the community as it will provide employment opportunities and services west of the Florida Turnpike. Traffic on the east-west roadways in the Agricultural Reserve Tier is caused by the number of residents leaving the Tier in the mornings for work and other necessary services. This proposed amendment to CL will allow for the creation of employment and service opportunities thus keeping residents west of the Florida Turnpike and off the major east-west roadways.*

**Objectives** – The proposed FLUA amendment furthers the County’s objectives as further described below.

- **FLUE Objective 1.5 Agricultural Reserve Tier** – “Development areas should be concentrated east of SR7 (in the vicinity of Boynton Beach Boulevard and in the vicinity and south of Atlantic Avenue) in order to protect the environmentally sensitive lands within and surrounding the Loxahatchee National Wildlife Refuge, foster the preservation of agriculture in the center of the Tier, and to reduce infrastructure costs and impacts on tax payers.”

***Response:** The Property is located on Atlantic Avenue and the commercial node. The Atlantic Avenue corridor was identified by the professional consultant of the Agricultural Reserve master plan as the location for non-residential land uses to serve the neighboring*

*residential communities. This proposed amendment will keep development close to transportation nodes and major intersections as described by FLUE Policy 1.5-p. The Agricultural Reserve Master Plan originally intended that more intense uses and development would occur at nodes within the Tier. The Master Plan further intended for lower density residential to develop outside of the higher intensity core eventually transitioning to the environmentally sensitive parcels. This development pattern has not occurred, as the subject 2.05 acre Property has been designated as a preserve parcel while development has been approved and developed on either side.*

- **FLUE Objective 3.1 Service Areas - General** – “Palm Beach County shall establish graduated service areas to distinguish the levels and types of services needed within a Tier, consistent with sustaining the characteristics of the Tier. These characteristics shall be based on the land development pattern of the community and services needed to protect the health, safety and welfare of residents and visitors; and, the need to provide cost effective services based on the existing or future land uses.”

**Response:** *The Property is located within the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA) where services and public facilities are already available. The Property’s location at a major transportation node with access/frontage on Atlantic Avenue contributes to timely, cost effective service provision. The proposed medical office project will better serve the immediate and future needs of the community as it will provide additional medical office which is significantly lacking within this portion of the Ag Reserve. Traffic on the east-west roadways in the Agricultural Reserve Tier is caused by the number of residents leaving the Tier in the mornings for work and service providers traveling into the area. This proposed amendment to CL will allow for the creation of employment and service opportunities thus keeping residents west of the Florida Turnpike and off the major east-west roadways and ultimately having a positive impact on the safety and welfare of the existing residents.*

**Policies** – The proposed FLUA amendment furthers the County’s policies as further described below.

- **FLUE Policy 2.2.2-d:** “The County shall not designate additional commercial areas on the Future Land Use Atlas that would result in or encourage the proliferation of strip commercial development.”

**Response:** *The small 2.05 acre Property is located on Atlantic Avenue, a major east-west arterial roadway. The Property is surrounded by approved and developed commercial uses to the east and west, thus amending the FLUA designation to CL would not result in infill development and not encourage the proliferation of strip commercial development.*

- **FLUE Policy 4.3-g:** “Where appropriate, similar and/or complementary neighboring land uses shall employ access management techniques such as shared entrances (to reduce the number of curb cuts) and vehicular and/or pedestrian cross access between like developments (to encourage inter-connectivity both within and between sites, and reduce the need to use the primary street system to access adjacent sites).

**Response:** *The Applicant is proposing vehicular cross access to the Delray MarketPlace TMD to the east. Should the TMD ever redevelop in the future, cross access would be provided.*

- **FLUE Policy 4.3-k:** “The County shall require, where feasible, that commercial land uses employ access management techniques, such as shared entrances and vehicular cross access, between adjacent existing and proposed commercial land uses.”

**Response:** *The Applicant is proposing vehicular cross access to the Delray MarketPlace TMD to the east. Should the TMD ever redevelop in the future, cross access would be provided.*

## **G.5 Florida Statutes**

Data and analysis demonstrating that the proposed development can be supplied by necessary services without violating adopted LOS standards are presented in Attachment H (Traffic Letter and Study), J (Drainage Statement), K (Fire Rescue Letter), and I (Water and Wastewater Provider Letter). Data and analysis discussing environmental and historical resources impacts are presented in Attachments J (Drainage Statement), M (Wellfield Zone), L (Natural Features Inventory and Map) and N (Historic Resource Evaluation Letter). No negative environmental impacts are identified.

The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below along with the applicant’s descriptions. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment discourages urban sprawl.

- Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single use development or uses.
  - **Response:** *The applicant is requesting to change the FLU of the Property from AGR to CL/AGR which will provide additional services along the Atlantic Avenue corridor of the Agricultural Reserve Tier. The Agricultural Reserve is an existing area of low intensity/density and single-use development, however the proposed amendment will provide a medical office use which will allow for job employment opportunities and provide additional services within the Atlantic Avenue corridor of the Agricultural Reserve Tier.*
- Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.
  - **Response:** *The Property is located in the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA) and within the Atlantic Avenue corridor which is not rural in nature and urban services such as police, fire rescue and water/wastewater/drainage utilities exist in the immediate area.*
- Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.
  - **Response:** *The development is not isolated in nature as development surrounds the Property immediately to the east and west. Specifically, commercial uses have been approved and developed at the intersection of Atlantic Avenue and Lyons Road just to the east of the Property. Several industrial uses have been developed along the corridor further to the west and additional commercial uses have been approved at the intersection of Atlantic Avenue and Lyons Road. The proposed development would be considered infill*

*development as the properties to the east and west of this small 2.05 acre property have been approved and/or developed with commercial uses.*

- Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.
  - **Response:** *This amendment does not fail to protect and conserve natural resources as the proposed development will have no negative impact on any other significant natural system. The Property does not support any environmentally sensitive areas. No listed species were located on the property and it is located outside of any wellfield protection zone. The Property is currently vacant, fallow land.*
- Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.
  - **Response:** *The Property is located within the Agricultural Reserve Tier. Although it is currently designated as a preserve parcel, the Property is not utilized for agricultural purposes. The Property's small size and location on a major right-of-way, bordered by development to the east and west is not an optimal location for agricultural uses. The overall development pattern for this corridor has been determined by the recent County approvals and existing uses (commercial, industrial and residential).*
- Fails to maximize use of existing public facilities and services.
  - **Response:** *Reports and letters are provided with this application to show the availability of roadway capacity, water/sewer service, drainage outfall and fire response. The proposed medical office development will not negatively impact public facilities and services.*
- Fails to maximize use of future public facilities and services.
  - **Response:** *Reports and letters are provided with this application to show the availability of roadway capacity, water/sewer service, drainage outfall and fire response. The proposed medical office development will not negatively impact public facilities and services.*
- Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.
  - **Response:** *Public services and facilities are already available in the immediate vicinity. The proposed amendment will provide for infill development and fit in with the existing land use pattern.*
- Fails to provide a clear separation between rural and urban uses.
  - **Response:** *The Property is located within the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA). The Property is not adjacent to the Rural Tier therefore, the proposal discourages the proliferation of Urban Sprawl by locating goods, services and employment in close proximity to where people live.*
- Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
  - **Response:** *This amendment will allow for infill development as development exists both east and west of the Property. The proposed project will serve the current and future needs for the surrounding communities.*

- Fails to encourage a functional mix of uses.
  - **Response:** *Approval of this proposed amendment will allow the development of a medical office use within an area of the County that has historically only been developed with low intensity/density residential development. This project will contribute to a functional mix of uses within the Atlantic Avenue corridor.*
- Results in poor accessibility among linked or related land uses.
  - **Response:** *The proposed development will be designed with pedestrian connections as required through the site plan approval process.*
- Results in the loss of significant amounts of functional open space.
  - **Response:** *This amendment does not result in a loss of any functional open space as the subject property is currently not utilized as functional open space.*

**Florida Statutes, Section 163.3177.(6).(a).9.b:** Of those criteria listed in this section the subject property will meet the following criteria which shows that it will discourage the proliferation of urban sprawl:

- Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.
  - **Response:** *This amendment does not fail to protect and conserve natural resources as the property is vacant of natural resources. The site is undeveloped and it is located outside of any wellfield protection zone..*
- Promotes the efficient and cost-effective provision or extension of public infrastructure and services.
  - **Response:** *The request for a FLUA amendment will maximize the use of future public facilities and services existing and within a relatively urban corridor. No facilities would be required to be installed in rural or sparsely populated areas, thereby maximizing the use of the existing facilities. Therefore, the proposal discourages the proliferation of Urban Sprawl by locating goods, services and employment adjacent to existing public infrastructure.*
- Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.
  - **Response:** *The development will be designed to provide pedestrian connections, bike racks, and other elements that support a compact development.*
- Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.
  - **Response:** *Approval of this proposed amendment will allow the development of a medical office use within an area of the County that has historically only been developed with low intensity/density residential development. The proposed uses will better serve the surrounding residential community and Agricultural Reserve as it will provide for additional services and employment opportunities.*

### **Conclusion**

As described above, the proposed FLU amendment from Agricultural Reserve (AGR) to Commercial Low, with an underlying Agricultural Reserve (CL/AGR) is consistent with the Goals, Objectives, and Policies of Palm Beach County's Comprehensive Plan and the Florida State Statutes. The proposed amendment is also compatible with the surrounding area. The proposed

amendment does not contribute to urban sprawl. The amendment is consistent with the Agricultural Reserve Master Plan as well as provide a much needed service to the area residents that will not negatively impact service provision.

## **II. ULDC CHANGES**

No ULDC changes are needed in response to this proposed comprehensive plan future land use atlas amendment.



**Exhibit 4**  
**Applicant's Public Facilities Table**

**Part 5. Public Facilities Information**

A. Traffic Information		
	Current	Proposed
Max Trip Generator	Nursery (Garden Center) ITE# 817 108.10 trips/acre	General Commercial ITE# 820 Ln(trips)=0.68Ln(sf)+5.57
Maximum Trip Generation	222 trips per day	813 trips per day
Net Daily Trips:	591 trips per day	
Net PH Trips:	1 AM, 49 PM (maximum)	
Significantly impacted roadway segments that fail Long Range	None.	None.
Significantly impacted roadway segments for Test 2	None.	None.
Traffic Consultant	Simmons & White	
B. Mass Transit Information		
Nearest Palm Tran Route (s)	Route 81 – Delray Beach via Atlantic Avenue	
Nearest Palm Tran Stop	Stop # 6409 - Oriole Plaza, Northeast corner of Hagen Ranch Road & Atlantic Avenue Approximately 2 miles to the east of Property	
Nearest Tri Rail Connection	Via Route 81 - Delray Beach TriRail Station, East side of Congress Avenue, approximately ¼ mile south of Atlantic Avenue Approximately 6.5 miles to the east of the Property	
C. Portable Water & Wastewater Information		
Potable Water & Wastewater Providers	Palm Beach County Water Utilities	
Nearest Water & Wastewater Facility, type/size	A 42” potable water main and a 12” wastewater forcemain are located within Atlantic Avenue right-of-way. See Attachment I for letter from PBCWUD.	

<b>D. Drainage Information</b>	
The Property is located within the boundaries of the Lake Worth Drainage District and South Florida Water Management District C-15 Drainage Basin. Legal positive outfall is available via discharge to the Lake Worth Drainage District L-34 Canal along the south side of Atlantic Avenue. See Attachment J for Drainage Statement.	
<b>E. Fire Rescue</b>	
<b>Nearest Station</b>	Palm Beach County Fire-Rescue Station # 42 14276 Hagen Ranch Road, Delray Beach
<b>Distance to Site</b>	Approximately 2.6 miles
<b>Response Time</b>	7:03 minutes
<b>Effect on Resp. Time</b>	The estimated response time to the Property is 8:30 minutes which is an extended response time. See Attachment K for letter from Fire-Rescue Department.
<b>F. Environmental</b>	
<b>Significant habitats or species</b>	The Property has previously been cleared and does not support any native vegetation or animal habitat. See Attachment L for Natural Feature Map and Inventory.
<b>Flood Zone*</b>	The Property is located within Flood Zone X. Flood Zone X represents areas outside of the 500-year flood plain with less than 0.2% annual probability of flooding.
<b>Wellfield Zone*</b>	The Property is not located within a Wellfield Protection Zone. See Attachment M for Wellfield Zone Map.
<b>G. Historic Resources</b>	
There are no significant structures or identified historic or architecturally significant resources within 500 feet of the Property. See Attachment N for Historic Resources Letter.	

## Exhibit 5

### Traffic Division Letter



**Department of Engineering  
and Public Works**

P.O. Box 21229  
West Palm Beach, FL 33416-1229  
(561) 684-4000  
FAX: (561) 684-4050  
www.pbcgov.com

**Palm Beach County  
Board of County  
Commissioners**

Dave Kerner, Mayor  
Robert S. Weinroth, Vice Mayor

Hal R. Valeche

Gregg K. Weiss

Mary Lou Berger

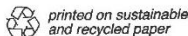
Melissa McKinlay

Mack Bernard

**County Administrator**

Verdenia C. Baker

"An Equal Opportunity  
Affirmative Action Employer"



September 2, 2020

Robert Frederick Rennebaum, P.E.  
Simmons & White  
2581 Metrocentre Boulevard West, Suite 3  
West Palm Beach, FL 33407

**RE: Atlantic Avenue Medical  
FLUA Amendment Policy 3.5-d Review  
Round 2020-21-A**

Dear Mr. Rennebaum:

Palm Beach County Traffic Division has reviewed the Land Use Plan Amendment Application Traffic Statement for the proposed Future Land Use Amendment for the above referenced project, revised August 6, 2020, pursuant to Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan. The project is summarized as follows:

<b>Location:</b>	North side of Atlantic Avenue, west of Lyons Road	
<b>PCN:</b>	00-42-46-18-09-003-0000	
<b>Acres:</b>	2.05 acres	
	<b>Current FLU</b>	<b>Proposed FLU</b>
<b>FLU:</b>	Agricultural Reserve (AGR)	Commercial Low (CL)/Agricultural Reserve (AGR)
<b>Zoning:</b>	Traditional Marketplace Development (TMD)	Community Commercial (CC)
<b>Density/Intensity:</b>	2.05 acre	0.20 FAR
<b>Maximum Potential:</b>	Nursery (Garden Center) = 2.05 acres	General Commercial = 17,860 SF
<b>Proposed Potential:</b>	None	None
<b>Net Daily Trips:</b>	591 (maximum – current)	
<b>Net PH Trips:</b>	7 (5/2)AM, 66 (32/34) PM (maximum)	
<i>* Maximum indicates typical FAR and maximum trip generator. Proposed indicates the specific uses and intensities/densities anticipated in the zoning application.</i>		

Based on the review, the Traffic Division has determined that the traffic



Robert Frederick Rennebaum, P.E.  
September 2, 2020  
Page 2

impacts of the proposed amendment **meet** Policy 3.5-d of the Future Land Use Element of the Palm Beach County Comprehensive Plan at the **maximum potential** density shown above. Please note the proposed change will have no significant impact for both long range and Test 2 analyses.

Please contact me at 561-684-4030 or email to [DSimeus@pbcgov.org](mailto:DSimeus@pbcgov.org) with any questions.

Sincerely,

A handwritten signature in blue ink, appearing to be "DYS", is written below the word "Sincerely,".

Dominique Simeus, P.E.  
Professional Engineer  
Traffic Division

DS/rb

cc: Addressee

Quazi Bari, P.E., PTOE – Manager – Growth Management, Traffic Division  
Steve Bohovsky – Technical Assistant III, Traffic Division  
Lisa Amara – Principal Planner, Planning Division  
Khurshid Mohyuddin – Principal Planner, Planning Division  
Jorge Perez – Senior Planner, Planning Division

File: General - TPS – Unincorporated - Traffic Study Review  
N:\TRAFFIC\Development Review\Comp Plan\21-A\Atlantic Avenue Medical.docx

## Exhibit 6

### Water & Wastewater Provider LOS Letter

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**Water Utilities Department  
Engineering**

8100 Forest Hill Blvd.  
West Palm Beach, FL 33413  
(561) 493-6000  
Fax: (561) 493-6085  
www.pbcwater.com



**Palm Beach County  
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Mary Lou Berger  
Melissa McKinlay  
Mack Bernard

**County Administrator**

Verdenia C. Baker

"An Equal Opportunity  
Affirmative Action Employer"



March 24, 2020

Morton  
3910 RCA Boulevard  
Palm Beach Gardens, FL 33410

RE: TG Land Office  
00-42-46-18-09-003-0000  
Service Availability Letter

Dear Ms. McClellan:

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. PBCWUD has the capacity to provide the level of service required for the existing Agricultural reserve (AGR) and the proposed Commercial Low with an underlying Agricultural Reserve (CL/AGR). The proposed land use change will allow for a maximum development 17,860 SF of commercial users.

A 42" potable water main and a 12" wastewater forcemain are located within Atlantic Ave. Extensions to the existing infrastructure may be required. The property is located in a Mandatory Reclaimed Area and there is a 12" reclaimed water main located within Atlantic Ave..

Please note that this letter does not constitute a final commitment for service until the final design has been approved by PBCWUD.

If you have any questions, please give me a call at (561)493-6116.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jackie Michels".

Jackie Michels, P.E.,  
Plan Review Manager

## Exhibit 7

### Disclosure of Ownership Interests

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PALM BEACH COUNTY - ZONING DIVISION

FORM # 09

#### 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  
Garrett Bender, 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 ☒ Manager *[position - e.g., president, partner, trustee]* of TG Land LLC *[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: 506 Andrews Avenue  
Delray Beach, FL 33483
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.



Garrett Bender, Affiant

(Print Affiant Name)

The foregoing instrument was acknowledged before me this 17th day of September, 2019, by Garrett Bender, [ ☒ ] who is personally known to me or [ ☐ ] who has produced N/A as identification and who did take an oath.



Notary Public

Sheree Katzman

(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 9/17/2023



**EXHIBIT "A"**

**PROPERTY**

Lot Tract C, Delray Market Place Preserve 3, as recorded in Plat Book 111, Page(s) 95-97, according to the plat thereof on file in the Clerk of the Circuit Court in and for Palm Beach County, Florida.



## Exhibit 8

### Urban Sprawl Analysis

Primary Indicators that an amendment does not discourage urban sprawl	Staff Assessment	Sprawl Indicated?
<b>Criteria Related to Land Use Patterns</b>		
Promotes, allows or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.	This amendment does not promote, allow or designate a substantial area of the County to develop as low-intensity, low-density, or single-use development or uses.	No
Promotes, allows or designates urban development in radial, strip, isolated or ribbon patterns generally emanating from existing urban developments.	This amendment does not designate urban development emanating from existing urban development. The site is within a Limited Urban Service area where urban services are provided and in allocation that is appropriate for additional neighborhood serving commercial.	No
Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.	This amendment does not discourage or inhibit infill development or the redevelopment of existing neighborhoods and communities.	No
Fails to encourage functional mix of uses.	This amendment will introduce additional commercial uses that are neighborhood serving	No
Results in poor accessibility among linked or related land uses.	The proposed amendment does not result in poor accessibility among related land uses. The subject site is at a node where commercial is intended to be allowed.	No
Results in the loss of significant amounts of functional open space.	The proposed amendment on this site will not result in the loss of significant amounts of functional open space. A portion of this single parcel is already developed with and adopted as commercial and allowed to expand.	No
<b>Criteria related to sites located outside or at the edge of the Urban Service Area</b>		
Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development	The site is located within in the Agricultural Reserve, a Limited Urban Service Area (LUSA) which allows for a mix of urban and rural levels of service, and therefore, does not promote, allow, or designate a significant amount of urban development to occur in rural areas at substantial distances from existing urban areas.	No
Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems	The property does not contain any environmentally sensitive areas. The site is not within a Wellfield Protection Area.	No

Primary Indicators that an amendment does not discourage urban sprawl	Staff Assessment	Sprawl Indicated?
Fails adequately to protect adjacent agricultural areas and activities, including silviculture, and including active agricultural and silvicultural activities as well as passive agricultural activities and dormant, unique and prime farmlands and soils.	Appropriate buffering will be required through the zoning process for adjacent property to north that is currently in Agriculture and this amendment will not impact adjacent agricultural nursery areas.	No
Fails to provide a clear separation between rural and urban uses.	The AGR Tier is intended to support and preserve agricultural while allowing low density development and limited commercial development. Institutional uses are restricted from locating west of State Road 7. The Agricultural Preserve provisions therefore allow for a mix of uses to support the allowed residential, commercial, and other non-residential development while protecting and preserving other areas within the Tier and west of State Road 7. The ULDC provides for regulations that are intended to allow for continuation of agriculture and implement the provisions in the Plan for the Tier.	No
<b>Criteria Related to Public Facilities</b>		
Fails to maximize use of existing public facilities and services.	Public facilities and services will be provided and water and wastewater will be available.	No
Fails to maximize use of future public facilities and services.	The AGR LUSA allows for a mix of urban and rural levels of service. Development would be expected to utilize existing public facilities and services. The subject site would maximize the use of future public facilities available in the area.	No
Allows for land use patterns or timing which disproportionately increase the cost in time, money and energy, of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.	The site is within the AGR LUSA, which intends that urban levels of service serve development. There are no adverse impacts to public facilities and services as indicated by service providers through department review.	No
<b>Overall Assessment:</b> As demonstrated above, the proposed amendment does not meet any of the indicators of urban sprawl, and would not contribute to urban sprawl in the county.		

## Exhibit 9

### AGR Commercial Background

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#### A. Agricultural Reserve Tier

In order to understand the context of the Agricultural Reserve policies in the Comprehensive Plan, it is essential to have an understanding of the history and documents associated with the entire Ag Reserve Master Planning effort. Many of the fundamental principles and objectives were well established within the Ag Reserve Master Planning documents and generally understood by the Board, staff, and the public upon the completion of the Final Master Plan document in 1999. Consequently, the 2001 amendments that incorporated the Master Plan recommendations into the Comprehensive Plan focused on establishing the regulatory aspects of the Final Master Plan rather than reiterating or incorporating the fundamental framework of principles that established the true objective and policy concepts behind each of these regulatory items. The result has been that the County and public must rely on referring to the Final Master Plan to identify the objectives of these regulatory Plan policies. Even then, in order to trace the Board direction and consultants' data and analysis, often it is necessary to trace further back through the initial Master Planning documents (Phase I and Phase II). In summary:

- **1998.** The Board of County Commissioners (BCC) directed the development of a Master Plan with purpose statement: *To preserve and enhance agricultural activity and environmental and water resources in the Ag Reserve, and produce a master development plan compatible with these goals.* Intent was to address the current 60/40 options in place and explore future development options that would meet this objective, which also lead to the bond referendum.
- **1998, Phase I.** During 1998, the Consultants prepared Phase I with significant stakeholder input through workshops and a charrette, laid out three alternative development scenarios for the Agricultural Reserve, Status Quo, Bond Alternative and No Bond Alternative. Each alternative was developed and evaluated considering the following objectives which were developed through the course of Phase I:
  - Preserve and Enhance the Potential for Agriculture, including Equestrian Uses
  - Enhance Environmental Resource Value
  - Enhance Water Management Capability
  - Enhance Accessible Open Space
  - Create a Functional, Self-Sustaining Form of Development
  - Minimize Cost/Impacts to Countywide TaxpayersUpon completion, the BCC directed a bond referendum on land acquisition and the Consultants to continue with Phase II. The \$150 million Conservation Bond Referendum was passed in March 1999 with \$100 million for the Ag Reserve.
- **1999, Phase II.** Phase II “built upon the assumptions used in Phase I, seeking to refine the Bond Alternative and suggest the programs and regulatory revisions to implement”. Upon completion, the BCC directed staff to research and return with additional information on several issues. This document included all of the final consultant recommendations
- **2000, Addendum.** Staff presented the Addendum which summarized and recommended modifications to the Consultants recommendations. The BCC reviewed each recommendation and provided direction.

- **2000, Final Master Plan.** The document often referred to as “The Master Plan” is dated October 2000. The document is a summary of all of the recommendations and Board direction made to date.
- **2001, Adoption of Plan Amendments.** The Final Master Plan was never adopted by the Board. The staff recommendations and Board direction, contained within the Final Master Plan were incorporated into the Comprehensive Plan in Amendment Round 01-1. Each proposed policy was supported by a justification largely tracing back to the findings of the Consultants (established in the Phase I and Phase II reports) or, in some cases, to staff findings (in the Addendum) or to Board direction (as summarized in the Final Master Plan). The Final Master Plan was provided as an attachment to the amendment as supporting documentation. However, since the Final Master Plan was just a summary of the data and analysis prepared by the consultants, the bulk of the actual data and analysis for the concepts and recommendations is located within the Phase I and Phase II documents.
- **2016, Adoption of Commercial Amendments.** In 2014, the BCC directed a “Roundtable” to consider changes to the Tier policies following a set of proposed changes presented by a group of property owners. At a workshop in March 2015, the BCC considered the input received during the Roundtable and directed staff to proceed with several different actions, including a text amendment to allow additional opportunities for neighborhood serving commercial projects at a smaller scale within the Tier. The County adopted commercial policy changes by Ordinance 2016-28 to this end that eliminated the requirement for commercial to be developed as Traditional Marketplace Developments, eliminated the preserve requirement for small commercial sites, and increased the commercial cap from 750,000 s.f. to 980,000 s.f., and eliminated the maximum number of acres for commercial in the Tier. Over the following 18 months, the County approved several privately proposed future land use amendments up to the commercial cap. In 2017, the BCC adopted a privately proposed text and site specific amendment, Three Amigos LGA 2017-018, to increase the cap by 35,000 s.f. in order to accommodate the expansion of another one of the ‘pre-existing’ commercial sites.
- **2020, West Boynton Center.** In 2020, the Board of County Commissioners adopted revisions to the commercial policies in the Tier to exempt self-storage from the commercial cap, to allow commercially designated sites at major intersections to achieve a higher floor area ratio for self-storage, and a site specific amendment to eliminate 28,000 square feet of approved commercial square footage (by ordinance) for the West Boynton Center project.

The table below identifies the commercially designated properties in the Agricultural Reserve Tier, including the acreage and square footage approved reflecting the above changes over time.

**Table 1 - Commercial Approvals in the Ag Reserve**

<b>Site</b>	<b>Adoption</b>	<b>Acres</b>	<b>Built Sq. Ft.</b>	<b>Approved/ Proposed Retail &amp; Office Sq. Ft.</b>
Canyons Town Center	2004	26.75	195,494	211,933
Delray Marketplace	2004	33.20	278,940	278,940
Small CL Sites	Pre-1999	1.83	22,712	22,712
Pre-existing Commercial	Pre-1999	19.29	28,007	76,625
	<b>Pre-2016</b>	<b>81.07</b>	<b>525,153</b>	<b>590,210</b>
Alderman	2016-B	15.34	112,779	133,642
Homrich	2016-B	13.44	0	29,400
Delray Growers	2016-B	11.15	0	86,744
Feurring	2016-C	4.91	34,885	42,776
Smigiel (additional)	2016-C	4.35	0	26,670
Stop & Shop (additional)	2016-D	5.11	32,818	32,020
Seneca Commercial	2017-A	4.51	0	38,538
Three Amigos (additional)	2017-D	3.60	0	35,000
	<b>2016-2017</b>	<b>62.41</b>	<b>180,482</b>	<b>424,790</b>
West Boynton Center (Smigiel) (reduction in sf of prior acreage)	20-A2	0	0	-28,000
	<b>Total</b>	<b>143.48</b>	<b>705,635</b>	<b>987,000</b>



## Exhibit 10 Correspondence



August 20, 2021

**Department of Planning,  
Zoning & Building**  
2300 North Jog Road  
West Palm Beach, FL 33411-2741  
(561) 233-5000

Planning Division 233-5300  
Zoning Division 233-5200  
Building Division 233-5100  
Code Enforcement 233-5500  
Contractors Certification 233-5525  
Administration Office 233-5005  
Executive Office 233-5228  
[www.pbcgov.com/pzb](http://www.pbcgov.com/pzb)

■  
**Palm Beach County  
Board of County  
Commissioners**

Dave Kerner, Mayor  
Robert S. Weinroth, Vice Mayor

Maria G. Marino

Gregg K. Weiss

Maria Sachs

Melissa McKinlay

Mack Bernard

**County Administrator**

Verdellia C. Baker

*"An Equal Opportunity  
Affirmative Action Employer"*

Official Electronic Letterhead

D. Ray Eubanks, Planning Processing Administrator  
State Land Planning Agency  
Caldwell Building  
107 East Madison - MSC 160  
Tallahassee, Florida 32399  
Email: [ray.eubanks@deo.myflorida.com](mailto:ray.eubanks@deo.myflorida.com)

**RE: Palm Beach County Comprehensive Plan Amendment  
Atlantic Avenue Medical (LGA 2021-008) Time Extension**

Dear Mr. Eubanks:

The purpose of this letter is to notify the Department of Economic Opportunity (DEO) that Palm Beach County has agreed to extend the adoption for a privately proposed site specific Future Land Use Atlas (FLUA) amendment known as the Atlantic Avenue Medical (LGA 2021-008). The amendment was transmitted as part of Amendment Round 21-A2 / 21-01ESR. The DEO issued a review letter for this Round dated March 5, 2021 stating that the Department had *"no comment on the proposed amendment"*. Pursuant to Section 163.3184(3)(c)1, F.S., the second hearing is required to be held within 180 days of receipt of DEO comments or shall be considered withdrawn unless extended by agreement with notice to DEO.

This proposed amendment was transmitted with by the Board of County Commissioners with a condition of approval to return for adoption at the same hearing as the associated zoning application. Delays with the zoning application have prevented the amendment from proceeding to an adoption hearing within the allocated 180 days of receipt of the State comments (by Wednesday, September 1, 2021). The applicant has requested, and the County has agreed, to extend the adoption time frame for an additional 180 days (through February 28, 2022).

If you have any questions, please contact me at (561) 233-5332 or Stephanie Gregory, Principal Planner, at (561) 233-5388.

Sincerely,

A handwritten signature in blue ink, appearing to read "P. Behn".

Patricia Behn, Planning Director

cc: Patrick Rutter, Assistant County Administrator  
Ramsay J. Bulkeley, PZB Executive Director  
Robert Banks, Chief Land Use County Attorney  
Jon MacGillis, Zoning Director  
Lisa Amara, Principal Planner  
Stephanie Gregory, Principal Planner  
Lauren McClellan, Agent  
Melissa Michael, Senior Planner

T:\Planning\AMEND\21-A2\Memos-Letters\DEO-AtlanticMed-Extension.docx