



## FUTURE LAND USE ATLAS AMENDMENT STAFF REPORT AMENDMENT ROUND 23-A

### DEO TRANSMITTAL REPORT, NOVEMBER 28, 2022

#### A. Application Summary

##### I. General Data

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<b>Project Name:</b>	<b>SR7 Business Plaza (LGA 2023-006)</b>
<b>Request:</b>	<b>AGR to CMR/AGR</b>
<b>Acres:</b>	40.00 acres
<b>Location:</b>	North side of Happy Hollow Road, approx. 0.3 miles west of Smith Sundry Road
<b>Project Manager:</b>	Travis Goodson, Senior Planner
<b>Applicant:</b>	BBX Logistics Properties, LLC (Mark Levy) – Contract Purchaser
<b>Owner:</b>	Diane Mulvehill, James Mulvehill, Joseph Mulvehill & Suzanne Mulvehill
<b>Agent:</b>	JMorton Planning & Landscape Architecture
<b>Staff Recommendation:</b>	Staff recommends <b>denial</b> based upon the conclusions contained within this report

##### II. Assessment & Conclusion

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The subject site is located east of State Road 7, approximately 0.3 miles west of Smith Sundry Road and approximately 0.75 miles north of Atlantic Avenue. The amendment proposes to change the future land use (FLU) designation from Agricultural Residential (AGR) to Commerce with an underlying Agricultural Reserve (CMR/AGR) in order to develop up to 763,000 square feet of warehouse and accessory office. The site currently supports a wholesale nursery.

This amendment was submitted in May 2022 requesting the Industrial (IND) future land use designation. Following the Board's adoption of the newly established Commerce FLU designation on August 25, 2022, the applicant revised their request. The new Commerce FLU and implementing policies provide a framework for the location and extent of future light industrial uses within the Agricultural Reserve Tier, for which there were previously no guiding policies in the Comprehensive Plan. Although this site is eligible to apply for the CMR FLU, development of the site under this designation would allow for a 40 acre isolated industrial use that is removed from other existing industrial and commercial nodes situated elsewhere in the Tier and resulting in an inconsistent development pattern along this portion of State Road 7. In addition, the applicant has failed to demonstrate that the proposed use is not regional in nature and that the proposed development is intended to serve only Agricultural Reserve residents and farmworkers, as directed by the objective of the Tier for all non-residential uses.

Therefore, staff is recommending **denial**. However, should the Board move to transmit the request, staff recommends it be subject to the conditions indicated in Exhibit 1.

### III. Hearing History

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**Local Planning Agency: *Approval with conditions***, motion by Glenn Gromann, seconded by Rick Stopek, passed in a 7 to 3 vote (with Dagmar Brahs, Barbara Roth, and David Serle dissenting) at the November 4, 2022 public hearing. The motion included staff's proposed conditions to cap the trips to meet Policy 3.5-d as shown in Exhibit 1 and to require the adoption of the FLUA and zoning applications to be held concurrently. Board discussion included comments and questions regarding the proposed building height, preserve calculation, traffic condition limiting the square footage, whether the use would serve regional needs, and proposed access to State Road 7. Three members of the public spoke in support, citing the site's location along State Road and opportunity to provide needed services.

**Board of County Commissioners Transmittal Public Hearing: *Transmit***, motion by Commissioner Bernard, seconded by Commissioner Kerner, passed in a 6 to 1 vote (with Vice Mayor Sachs dissenting) at the November 28, 2022 public hearing. Board discussion included concerns regarding whether the proposed use would be considered a distribution center, and asked for clarification as to the reason for staff's recommendation of denial. Five members of the public, including representatives of the Coalition of Boynton West Residential Association (COBWRA), the Sierra Club Loxahatchee Group, Save the Agricultural Reserve for Agriculture (SARA) and 1,000 Friends of Florida, spoke in opposition citing concerns regarding intensity, incompatibility with surrounding uses, traffic and noise impacts, loss of agricultural land, and whether the use would support only the local residents and businesses of the Tier. Eight members of the public, including two of the applicants, spoke in support citing the proposed development would support the needs of residents and workers within the Tier, and the developer's intent to address existing and perceived impacts on adjacent properties.

#### **State Review Comments:**

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

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## B. Petition Summary

### I. Site Data

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#### Current Future Land Use

<b>Current FLU:</b>	Agricultural Reserve (AGR)
<b>Existing Land Use:</b>	Agriculture
<b>Current Zoning:</b>	Agricultural Reserve (AGR)
<b>Current Dev. Potential Max:</b>	Agricultural uses, up to 261,360 square feet (.15 FAR)

#### Proposed Future Land Use Change

<b>Proposed FLU:</b>	Commerce with an underlying Agricultural Reserve (CMR/AGR)
<b>Proposed Use:</b>	Warehouse with Accessory Office
<b>Proposed Zoning:</b>	Multiple Use Planned Development (MUPD)
<b>Dev. Potential Max/Conditioned:</b>	Warehouse Office, up to 763,000 square feet (by condition)

#### General Area Information for Site

<b>Tier:</b>	Agricultural Reserve Tier – No Change
<b>Utility Service:</b>	Palm Beach County Water Utilities Department
<b>Overlay/Study:</b>	Agricultural Reserve Master Plan
<b>Comm. District:</b>	Maria Sachs, Commission District 5

# Future Land Use Atlas Amendment

SR 7 Business Plaza (LGA 2023-006)



## Site Data

Size: 40 acres  
 Existing Use: Agricultural  
 Proposed Use: Light Industrial  
 Current FLU: AGR  
 Proposed FLU: CMR/AGR

## Future Land Use Designations

AGR Agricultural Reserve  
 CL/AGR Commercial low, underlying AGR  
 CL-O/AGR Commercial Low Office, underlying AGR  
 MLU Mixed Land Use  
 IND/AGR Industrial, underlying AGR

Date: 9/13/2022  
 Contact: PBC Planning  
 Filename: T:\Planning\Amend\23-A\SiteSpecific  
 Note: Map is not official, for presentation purposes only.

Site  
 Amendments in Process  
 AGR Preserves

320 0 320 640 Feet



Planning, Zoning & Building  
 2300 N. Jog Rd, WPB, FL 33411  
 Phone (561) 233-5300





## C. Introduction

### I. Intent of the Amendment

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The 40.00-acre subject site is located in the Agricultural Reserve Tier, on the north side of Happy Hollow Road, approximately 0.3 miles west of Smith Sundry Road and 0.75 miles north of Atlantic Avenue.

**Future Land Use Amendment:** The proposed future land use amendment is a request to change the future land use designation from Agricultural Reserve (AGR) to Commerce with an underlying Agricultural Reserve (CMR/AGR). Currently, the site can be utilized for agricultural uses up to 261,360 square feet. Under the CMR designation, the maximum development potential would allow up to 784,080 square feet of light industrial uses (.45 FAR). However, in order to meet the requirements of Future Land Use Element (FLUE) Policy 3.5-d, the proposed maximum development potential on the site will be limited by the maximum net daily trips equating to 700,000 square feet of warehouse and 63,000 square feet of accessory office. The site currently supports a wholesale nursery.

**Background:** The site has not been the subject of a previous land use amendment. According to the applicant, the site currently supports a nursery with 13,050 square foot greenhouse, two 975 square foot storage buildings, and an 800 square foot office. Access to the site is currently provided via Happy Hollow Road.

**Zoning Application:** There is a concurrent Zoning application in process (PDD-2022-1469) to rezone the subject site from Agricultural Reserve (AGR) to Multiple Use Planned Development (MUPD). The Control Number is 202-00057. A conceptual plan is included in Exhibit 10. The applicant indicates in the Zoning application that the site will be developed to support approximately 670,000 square feet (.38 FAR) of warehouse with accessory office and a 9.6-acre preserve parcel.

### 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. The Master Plan was completed in 1999 and implemented through the adoption of Comprehensive Plan policies in 2001. The purpose of the Tier is captured in 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.*

The Tier was formally designated as the Agricultural Reserve in the 1980 Comprehensive Plan with an emphasis on the preservation of agriculture. In 1998, the BCC directed development of

a Master Plan for the Agricultural Tier which established a goal to *preserve and enhance agricultural activity and environmental and water resources in the Agricultural Reserve, and produce a master development plan compatible with this goal*. The BCC did not adopt the Master Plan, but adopted amendments to the Comprehensive Plan in Round 01-1 incorporating the majority of the recommendations of the final Master Plan. The surrounding area has therefore stayed primarily in agricultural uses and low density single-family residential with limited commercial uses serving the Tier.

## **B. Agricultural Reserve Master Plan Industrial Recommendations**

At the time of the creation of the Agricultural Reserve Master Plan, the consultants recommended that industrial uses be allowed in the Agricultural Reserve, using the Economic Development Center future land use designation. The consultants identified two locations, within 1/4 mile of the Florida Turnpike interchanges with Boynton Beach Boulevard and Atlantic Avenue, as appropriate locations for these Economic Development Centers. The consultants recommended requiring developers set aside preserve areas in the same 60/40 ratio of preserve area to open space as the Traditional Marketplace, which had locations identified at the intersections of Lyons Road with Boynton Beach Boulevard and Atlantic Avenue. The Master Plan Phase II Report recommended that two employment centers shared a maximum of 330,000 square feet of industrial development between the two locations, and that there be an additional 245,000 square feet of office park uses in the Tier. Master Plan Phase II, Section 4.3.4.5 Economic Centers, states that allowing employment centers in the Tier would provide the following:

- *“A greater variety in job opportunities for the residents of the Ag Reserve than are likely to be found elsewhere in the Ag Reserve. These opportunities could reduce traffic impacts outside of the Ag Reserve.*
- *A location for businesses that can offer farmers a second job if they need to supplement their income.*
- *Light industrial uses in two locations that will have the least negative impact on agricultural uses.”*

The Consultants identified the following uses as appropriate within the Employment Centers:

Automobile Rentals	Laboratories
Auto Repair, Detailing, Paint and Body Shop	Landscaping Services
Bottling Plant	Light Fabrication
Brewery	Lumber yards
Broadcasting Stations for Radio or TV	Machine or Welding Shops
Cabinet Working and Carpentry	Mini Warehouse/Self Storage
Catering Services	Motion Picture production Studios
Contractor's Storage Yards	Ornamental Metal Workshops
Farm Equipment Repair	Printing Shops
Glass Installation Services	Technical Trade Schools
Gun Clubs, Enclosed	Utility Work Centers, Power & Communications

The staff recommendation in the Addendum supported this concept, stating: *“The Plan should be amended to acknowledge the ability to utilize the Economic Development Center category for industrial uses in the locations recommended by the Consultant.”*

### **C. Agricultural Reserve Policies – Board Direction**

Upon the conclusion of the Master Planning effort, the BCC did not concur with the consultant's recommendations on industrial land use, and directed that no new industrial future land use designations be permitted in the Agricultural Reserve. Consequently, the 2001 Comprehensive Plan amendment to adopt policies implementing the Master Plan did not establish any policies for new industrial lands. The only provision was related to the .45 floor area ratio for the 64 acres of land with industrial future land use that predated the Master Plan, located along the north and south sides of Atlantic Avenue, east of State Road 7.

Since 2016, there have been several requests for future land use amendments seeking an industrial future land use designation in the Agricultural Reserve Tier, which are summarized below in Section II.E. More recently, on May 5, 2021, the BCC transmitted a future land use amendment request for industrial in the Tier, known as Sunflower Light Industrial (LGA 2021-016). Staff consistently recommended denial of new Industrial FLU requests as there were no policies in the Comprehensive Plan directing the appropriate uses, locations, and intensity for industrial in the AGR Tier. Under discussion of the item, the BCC directed staff to explore the concept of a new light industrial future land use designation and to return for a workshop to discuss additional industrial future land uses in the Tier. Subsequently, the Board adopted the Sunflower amendment on July 28, 2021 with additional conditions as summarized under Section II.E. (Industrial FLUA Amendments in the Agricultural Reserve). The Board transmitted another amendment request for industrial in the Tier known as Las Farms Landscape (LGA 2022-001) on November 3, 2021. The Las Farms amendment was adopted by the BCC at the February 2, 2022 public hearing subject to the same conditions as the Sunflower amendment.

### **D. County-Initiated Text Amendment**

Following the Board's direction on May 5, 2021 for staff to explore a new light industrial future land use designation, staff returned to the Board on October 26, 2021 and continued on November 3, 2021 for a workshop regarding the Agricultural Reserve Tier. The discussion of a new industrial future land use was one of many topics discussed that day. At the workshop, the Board expressed support for the Commerce (CMR) future land use designation within the Tier that would be limited to "light industrial" uses. On February 2, 2022, the Board initiated text amendments to the Comprehensive Plan for staff to proceed with the review and analysis of the new Commerce future land use designation. Subsequently, staff returned on May 4, 2022 with proposed text amendments that included policy guidance for future industrial requests to define the appropriate site attributes for requests to CMR FLU and to add a preserve requirement. The text amendment was transmitted by the Board and subsequently adopted on August 25, 2022. Therefore, the newly-established policies have been incorporated into this staff report for review and analysis of this site-specific request for Commerce future land use designation.

### **E. Industrial FLUA Amendments in the Agricultural Reserve**

There are approximately 64 acres of industrially designated properties fronting the north and south sides of Atlantic Avenue east of State Road 7 that pre-date the Master Plan. Since the adoption of the Master Plan implementing policies in 2001, the County has processed several privately proposed future land use amendments for industrial, including the subject request, as summarized below:

- **Homrich Commercial (LGA 2016-019).** In 2016, the BCC adopted an amendment to the Future Land Use Atlas on a 13.44-acre site with Agricultural Reserve (AGR) future land use to Commercial Low (CL) with underlying Industrial (IND). A voluntary condition of approval limited development of the site to a maximum of 29,400 square feet of Commercial and 197,100 square feet of Light Industrial uses. Staff recommendation for denial was based in part on a lack of a comprehensive analysis and policy direction considering appropriate locations, uses, extent, and intensity established for new industrial uses in the Tier. At the January 15, 2016 public hearing, the Planning Commission recommended approval of the FLUA in a 7 to 5 vote.
- **West Atlantic Industrial (LGA 2017-017).** The West Atlantic Industrial amendment was privately proposed, and requested to change the future land use designation on a 2.51 acres parcel from AGR future land use to IND/AGR. The site is located on the south side of Atlantic Avenue, approximately 1,100 feet west of Lyons Road. Staff recommended denial due to lack of policy direction for new industrial in the Tier and since the establishment of industrial uses mid-block on a small, isolated parcel would not be compatible with surrounding agricultural uses. At the June 16, 2017 public hearing, the Planning Commission recommended denial in a 10 to 1 vote. The amendment was denied by the BCC at the July 26, 2017 Transmittal Hearing.
- **Boynton Technology Park Text (2020).** This privately proposed text amendment for initiation was requesting to allow the Economic Development Center (EDC) future land use in the Tier as a multiple use commercial, industrial and residential Planned Industrial Park Development (PIPD), increase the commercial cap and to allow for 3 units per acre with no preserve requirement and including a workforce housing requirement. The 140 acre site is located on the north and south sides of Atlantic Avenue, adjacent to the Florida's Turnpike. At the June 12, 2020 public hearing, the Planning Commission recommended denial of initiation in an 11 to 2 vote. The text initiation was withdrawn by the Applicant prior to the June 29, 2020 BCC Transmittal Hearing.
- **Boynton Parc Plaza Text (2021):** This privately proposed text amendment for initiation was requesting to allow the Multiple Land Use future land use designation with Industrial and High Residential, 8 units per acre (MLU, IND/8) in the Tier; provide exemption from preserve requirements; add policy language for a Workplace, Employment & Economic Development in the Tier; and, add a requirement for workforce housing. The associated FLUA requested to change the future land use from Agricultural Reserve (AGR) to Multiple Land Use with underlying Industrial and High Residential, 8 units per acre (MLU, IND/8). The 47.21-acre site is located on the north side of Boynton Beach Boulevard, west of Florida's Turnpike. At the April 9, 2021 public hearing, the Planning Commission recommended denial of initiation in a 13 to 0 vote. The application was withdrawn by the applicant prior to the May 5, 2021 BCC Transmittal Hearing.
- **Star Key Industrial (LGA 2021-015).** This privately proposed text and future land use amendment was withdrawn by the applicant on September 30, 2021 prior to scheduling of a Planning Commission hearing. The applicant proposed to change the future land use designation for 50.99 acres of land to change from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (999,506 square feet). The site is located on the north side of Atlantic Avenue, between Starkey Road and the Turnpike. The Zoning application (PDD-2021-00445) requested Planned Industrial Park (PIPD) zoning and was submitted in 2021.



- **Sunflower Light Industrial (LGA 2021-016).** The application proposed a future land use amendment for 8.19 acres of land from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (160,540 square feet). The site is located on the west side of State Road 7, approximately a quarter mile south of Atlantic Avenue. At the April 23, 2021 public hearing, the Planning Commission recommended denial in a 6 to 6 vote. The Board adopted the amendment on July 28, 2021 with conditions of approval limiting the site to:
  - Uses shall exclude heavy industrial uses which engage in the basic processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions as described in Future Land Use Element Policy 2.2.4-d of the Palm Beach County Comprehensive Plan; and
  - Uses identified as Commercial in Article 4 of the Unified Land Development Code are prohibited on the site, with the exception of Landscape Service, Self-Service Storage, and accessory uses.
- **Las Farms (LGA 2022-001).** On February 2, 2022, the BCC adopted a future land use amendment request for 6.95 acres of land from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio (136,234 square feet). The site is located on the west side of State Road 7, approximately one half mile north of Boynton Beach Boulevard. The amendment includes the same conditions of approval as the Sunflower Light Industrial amendment. At the October 1, 2021 public hearing, the Planning Commission recommended approval in a 9 to 4 vote.
- **West Atlantic Industrial Fina (LGA 2022-018).** The application proposed a future land use amendment for 10.11 acres of land from the AGR future land use designation to IND/AGR in order to develop industrial uses, with a maximum potential of .45 floor area ratio. The site is located on the north side of Atlantic Avenue, approximately one half mile west of State Road 7. The amendment proposed the same conditions of approval as the Sunflower Light Industrial and Las Farms amendments. At the April 8, 2022 public hearing, the Planning Commission recommended denial in an 8 to 1 vote. On May 4, 2022, the BCC denied transmittal of the amendment.

In addition to the subject request, the following FLUA amendment applications were submitted requesting for Industrial FLU in May of 2022, prior to the adoption of the Commerce FLU and related Industrial policies in August of 2022. These applications amended their requests to the Commerce FLU in September 2022 and a map of all these proposed amendments can be found in Exhibit 9. In total, these amendments add up to 114 acres and 2,324,087 square feet of proposed light industrial uses in the Tier.

- **Boynton Land Commerce (LGA 2023-001).** The application currently in process proposes a future land use amendment on 15 acres of land from AGR to CMR/AGR in order to develop light industrial uses, with a maximum potential of 294,030 square feet (.45 floor area ratio). The site is located on the west side of State Road 7, approximately 1.25 miles south of Hypoluxo Road. As of the writing of this report, this amendment is scheduled for the October 14, 2022 Planning Commission and November 16, 2022 Board of County Commissioners Transmittal public hearings.
- **Morin/Connolly Commerce (LGA 2023-002).** The application currently in process proposes a future land use amendment on 3.41 acres of land from AGR to CMR/AGR in

order to develop light industrial uses, with a maximum potential of 66,843 square feet (.45 floor area ratio). The site is located on the west side of State Road 7, approximately 0.20 miles north of Boynton Beach Boulevard. As of the writing of this report, this amendment is scheduled for the October 14, 2022 Planning Commission and November 16, 2022 Board of County Commissioners Transmittal public hearings.

- **BC Commerce Center (LGA 2023-003).** The application currently in process proposes a future land use amendment on 42.71 acres of land from AGR to CMR/AGR in order to develop light industrial uses, with a maximum potential of 925,410 square feet (.45 floor area ratio). The site is located on the north side of Boynton Beach Boulevard, between Acme Dairy Road and the Florida's Turnpike. As of the writing of this report, the amendment is tentatively scheduled for the 23-A2 Round (January 2023 PLC and February BCC Transmittal public hearings).
- **EJKJ Industrial (LGA 2023-004).** The application currently in process proposes a future land use amendment on 7.93 acres of land from AGR to CMR/AGR in order to develop light industrial uses, with a maximum potential of 155,444 square feet (.45 floor area ratio). The site is located on the west side of State Road 7, approximately 0.15 miles south of Atlantic Avenue. As of the writing of this report, this amendment is scheduled for the October 14, 2022 Planning Commission and November 16, 2022 Board of County Commissioners Transmittal public hearings.
- **LTG Sports Turf (LGA 2023-007).** The application currently in process proposes a future land use amendment on 40 acres of land from AGR to CMR/AGR in order to develop light industrial uses, with a maximum potential of 98,280 square feet (.45 floor area ratio). The site is located on the north side of 100<sup>th</sup> Street S (Boynton Beach Boulevard), approximately 0.13 miles west of State Road 7. As of the writing of this report, this amendment is scheduled for the October 14, 2022 Planning Commission and November 16, 2022 Board of County Commissioners Transmittal public hearings.

### **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 eastern side of State Road 7 primarily supports many agricultural and residential uses along its entire stretch through the Agricultural Reserve. Uses include landscape services, nurseries row crops, single-family homes and preservation parcels associated with development as AGR-PUDs, and other uses allowable in the Agricultural Reserve future land use designation. Additional sites with Commercial, Institutional, and Industrial predating the adoption of the 1989 Comprehensive Plan also exist in the vicinity of the State Road 7 and Atlantic Avenue corridors. More specifically, the site is adjacent to AGR preserve parcels supporting agricultural uses in all four cardinal directions, and is located approximately three quarters of a mile north of commercial and industrial designated sites at the intersection of Atlantic Avenue and State Road 7.
- B. Appropriateness of the Amendment.** The Commerce FLU designation and implementing policies provide a framework guiding the extent and location of light industrial uses within the Agricultural Reserve Tier, for which there were previously no

guiding policies in the Comprehensive Plan. While the subject site is eligible to request the Commerce FLU designation, it is located along a segment of State Road 7 in the Agricultural Reserve which primarily supports agricultural and generally low-density residential uses. The introduction of an industrial land use in this area, with 670,000 square feet of warehouse office would be out of character with the existing and surrounding land uses, presenting concerns regarding compatibility and the creation of an industrial pocket removed from other existing industrial and commercial nodes situated elsewhere in the Tier.

- C. Compatibility.** The site is located on the east side of State Road 7, approximately 0.75 miles north of Atlantic Avenue. As detailed above, the area surrounding the subject site consists primarily of agricultural uses and parcels designated as AGR preserves with an AGR future land use designation. Directly abutting the site to the north, east and south are preserve parcels which currently support various agricultural uses, including some which support single-family homes. To the west, across State Road 7, is a packing plant facility for Pero Farms with large tracts of active agricultural lands to the north, west, and south of the facility under preservation.

The applicant indicates the site will be utilized to support a light industrial use. The Commerce FLU and implementing policies establish specific requirements for the size, location, frontage and access, and submittal of a conceptual site plan, thereby providing a framework for where these types of industrial uses may be considered. Although the site is eligible to request the Commerce FLU designation, the location for such a use is out of character with the adjacent and surrounding land uses. The introduction of an industrial land use at this location would create an isolated industrial pocket with a development potential of up to 763,000 square feet of warehouse and office uses (or equivalent trips of other uses allowed in CMR), an intensity exceeding those of the surrounding area.

- D. Assessment and Recommendation.** The subject site is located east of State Road 7, approximately 0.3 miles west of Smith Sundry Road and approximately 0.75 miles north of Atlantic Avenue. The amendment proposes to change the future land use (FLU) designation from Agricultural Residential (AGR) to Commerce with an underlying Agricultural Reserve (CMR/AGR) in order to develop up to 763,000 square feet of warehouse and office uses. The site currently supports a wholesale nursery.

This amendment was submitted in May 2022 requesting the Industrial (IND) future land use designation. Following the Board's adoption of the newly established Commerce FLU designation on August 25, 2022, the applicant revised their request. The new Commerce FLU and implementing policies provide a framework for the location and extent of future light industrial uses within the Agricultural Reserve Tier, for which there were previously no guiding policies in the Comprehensive Plan. Although this site is eligible to apply for the CMR FLU, development of the site under this designation would allow for a 40 acre isolated industrial use, removed from other existing industrial and commercial nodes situated elsewhere in the Tier and resulting in an inconsistent development pattern along this portion of State Road 7. In addition, the applicant has not demonstrated that the proposed use is not regional in nature and intended to serve only Agricultural Reserve residents and farmworkers as directed by the objective of the Tier for all non-residential uses.

Therefore, staff is recommending **denial**. However, should the Board move to transmit the request, staff recommends it be subject to the conditions indicated in Exhibit 1.

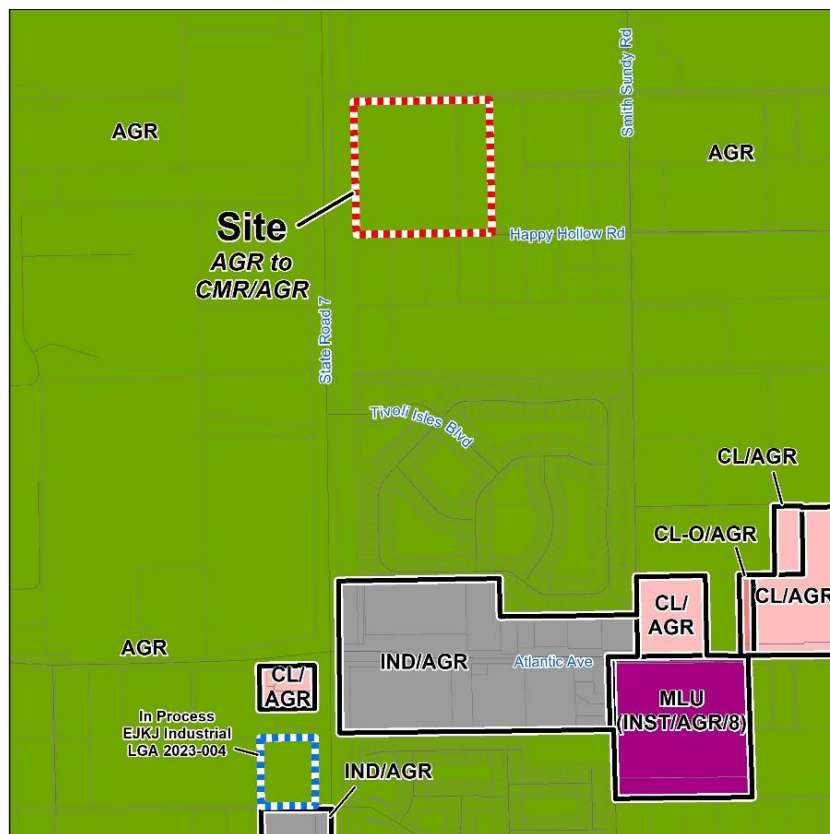
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## Exhibit 1

<b>Amendment No:</b>	<b>SR7 Business Plaza (LGA 2023-006)</b>
<b>FLUA Page No:</b>	98
<b>Amendment:</b>	From Agricultural Reserve (AGR) to Commerce with an underlying Agricultural Reserve (CMR/AGR)
<b>Location:</b>	North side of Happy Hollow Road, approx. 0.3 miles west of Smith Sundry Road
<b>Size:</b>	40.00 acres
<b>Property No:</b>	00-42-46-18-01-000-0140 and 00-42-46-18-01-000-0132

**Conditions:** Development of the site under the Commerce future land use designation shall be subject to the following:

1. A maximum of 700,000 square feet of warehouse and 63,000 square feet of general office, or equivalent trips.
2. The proposed future land use amendment and the proposed rezoning shall be considered for adoption by the Board of County Commissioners at the same public hearing.



## Legal Description

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PARCEL 1:

ALL OF TRACTS 14, 15 AND 16, LESS THE NORTH 33.00 FEET OF SAID TRACTS 14, 15 AND 16, AND ALL OF TRACTS 17, 18 AND 19, THE PALM BEACH FARMS CO. PLAT NO. 1, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2:

ALL OF TRACT 13, LESS THE NORTH 33.00 FEET THEREOF AND ALL OF TRACT 20, THE PALM BEACH FARMS CO. PLAT NO. 1, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID PARCEL BEING 1,742,453 ± SQUARE FEET OR 40.001± 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:

- *“Within the vicinity of the Property are multiple agricultural uses including row crops, nurseries, agriculture sales and service, and a significant packing / distribution facility. Within the area are also a Florida Power and Light facility on the west side of SR 7, a charter school approximately 0.5 miles to the east on Happy Hollow Road and a large residential Planned Unit Development (PUD) known as “Four Seasons in Delray Beach”, consisting of 315 dwelling units, approximately 0.25 miles to the south of the property.”*
- *“As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, coupled with a global shift towards e-commerce to support the residential population, certain appropriately located commerce services are needed and should be located close to the need.”*

- *“All of these changes and the recent direction from the Board of County Commissioners regarding additional light industrial uses in the Agricultural Reserve are evidence that additional land and opportunities for light industrial projects is needed and appropriate for properties fronting on State Road 7.”*
- *“Approval of additional industrial land will allow for needed services to be located near existing agricultural operations and housing, thus reducing vehicle trips outside of the Agricultural Reserve and ultimately contributing to less traffic congestion and better access throughout 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 has a current development potential of a maximum 261,360 square feet (.15 FAR) of non-residential uses allowed in the AGR future land use designation. The applicant proposes to change the land use designation to Commerce with an underlying Agricultural Reserve (CMR/AGR) in order to allow warehouse and general office uses up to 763,000 total square feet or equivalent trips. The conceptual site plan demonstrates the applicant's intent to develop warehouses with accessory office up to a maximum 670,000 square feet (.38 FAR).

With regard to the justification, the applicant states that there is a need for light industrial uses to be located within the Agricultural Reserve, which is being driven primarily by the increasing residential population in the area. The applicant further indicates that the ability to locate these types of services in close proximity to the population they serve is a motivating factor considered by the business owners, and that the site's location along State Road 7 north of the Atlantic Avenue corridor will provide for these types of uses near the customers it serves.

As discussed in the Background, the newly established Commerce FLU designation and implementing policies provide a framework for the future of light industrial uses within the Agricultural Reserve Tier, for which there were previously no guiding policies in the Comprehensive Plan. However, as discussed later in this report, while the subject site is eligible to request the Commerce designation, its location presents concerns regarding compatibility and lends to an inconsistent development pattern as development of the site under this designation would allow for a 40 acre isolated industrial use, removed from other existing industrial and commercial nodes situated elsewhere in the Tier. In addition, the applicant has not demonstrated that the proposed use is not regional in nature and intended to serve only Agricultural Reserve residents and farmworkers as directed by the objective of the Tier for all non-residential uses.

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.*

**Direction 8. Economic Activity Centers.** *Encourage the development of Planned Industrial Developments primarily designed to accommodate and promote manufacturing industry and other value-added activities.*

**Direction 15. Agricultural and Equestrian Industries.** *Support and enhance agriculture and equestrian-based industries.*

**Staff Analysis:** The County Directions are the basis for the goals, objectives, and policies of the Future Land Use Element, and are implemented within the framework of the Managed Growth Tier System, with its diverse areas and objectives. As a result, the County Directions will not necessarily be applied uniformly throughout all Tiers, but will reflect the intent of each Tier. The intent of the Agricultural Reserve Tier is to preserve and enhance agricultural activity, environmental and water resources, and open space. The adopted Agricultural Reserve provisions implement that objective by limiting development to generally low densities, requiring clustering of development and preserve areas, and limiting the location and amount of non-residential development to serve the existing and future residents of the Tier. These provisions primarily promote the “Agricultural and Equestrian Industries” Direction, while balancing this direction with “Livable Communities,” “Growth Management,” “Land Use Compatibility,” and other County Directions.

The newly established CMR FLU and related industrial policies, however, provide opportunities for low-trip generating light industrial and/or employment generating uses, thus balancing the objectives of the Agricultural Reserve while responding to increased residential growth and the corresponding needs of support services. Although the proposed amendment will allow for the development of a light industrial use, the 40 acre property is located in a predominately agricultural area of the Ag Reserve, with adjacency and proximity to preserve parcels and lands under active agriculture, and a residential AGR-PUD one-quarter mile to the south. The compatibility concerns and potential for disruption of the current development in the surrounding area are counter to County Directions 2 and 4, and have the potential to negatively impact surrounding agricultural uses and preservation intended for the Tier.

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 parcels under the same or related ownership and no residual parcels that would be created. This proposed amendment would not encourage piecemeal development as defined in the Introduction and Administration Element of the Comprehensive Plan which describes ‘piecemeal’ as the development of “small portions of a larger, undeveloped property is developed in a sequential manner, such that land use decisions are being made for individual sub-areas of the original parent tract independent from the whole.”

4. **Residual Parcel – FLUE Policy 2.1-i:** *As a means of promoting appropriate land development patterns the County shall discourage the creation of residual parcels within or adjacent to a proposed development. If such a situation is identified, and the residual parcels cannot be eliminated, then the development shall be designed to allow for inter-connectivity with the residual parcels through various techniques including, but not limited to, landscaping and pedestrian and vehicular access. In addition, the future land use designation and/or zoning district of the residual parcel shall also be considered by the Board of County Commissioners, concurrently with the development, to ensure that an incompatibility is not created.*

**Staff Analysis:** The Comprehensive Plan’s Introduction and Administration Element defines residual parcels as “a property under the same or related ownership that has been left out of a development area, resulting in a parcel which has limited development options and connections to surrounding properties.” There are no residual parcel issues with this amendment.

5. **FLUE Policy 2.2.4-c: Industrial Future Land Use Designations.** *The three Industrial future land use designations are intended to accommodate industrial uses which are defined as uses engaged in the manufacturing, assembly, processing, research and development, wholesale distribution, or storage of products, related uses and services, including Office of an Industrial Nature (as defined by the Introduction and Administration Element).*

1. **Industrial.** *The Industrial (IND) future land use designation allows the full range of industrial activities ranging from light to heavy industry.*
2. **Economic Development Center.** *The Economic Development Center (EDC) future land use designation is intended to accommodate employment opportunities, research parks, and Employment Centers (as defined by the Introduction and Administration Element). Properties with an EDC designation are intended to be developed as planned developments in order to promote internal circulation and buffering from surrounding land uses. Industrial uses allowed shall be limited to those that demonstrate Light Industrial characteristics.*
3. **Commerce.** *The Commerce (CMR) future land use designation is intended to accommodate light industrial uses to provide an option for low-trip generating non-residential and/or employment generating uses on arterial roadways. Industrial uses allowed shall be limited to those that demonstrate Light Industrial characteristics.*

**Staff Analysis:** Until the recent adoption of the Commerce future land use designation, the Comprehensive Plan recognized two Industrial land use designations – Industrial (IND) and Economic Development Center (EDC). The IND FLU allows for a full range of Industrial uses, and the EDC FLU is intended for larger, campus-like industrial uses as part of a planned development. While the EDC FLU is limited to the Urban/Suburban Tier and uses that exhibit Light Industrial characteristics, the IND FLU was the only allowable Industrial FLU in the Agricultural Reserve. As there were no specific policies to guide the location and intensity of Industrial uses, applications seeking the IND FLU could open up a site to a wide array of industrial uses, including heavy, intense uses that may not be appropriate for the location. With the addition of the CMR FLU, the Comprehensive Plan provides a land use designation that allows opportunities for light industrial and limited nonresidential uses to locate, subject to specific criteria intended to minimize potential negative externalities. However, while the amendment is eligible to request Commerce, it has the potential to negatively impact the established development pattern of the surrounding area, regardless of the industrial category.

**6. FLUE Policy 2.2.4-d: Industrial Uses.** *Industrial uses shall be considered either Light or Heavy as defined below.*

**Light Industrial.** *Light industrial development's typical operation is not likely to cause undesirable effects, danger or disturbance upon nearby areas and typically does not create negative impacts on immediately adjoining uses. These uses typically do not cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is conducted. Examples of Light Industrial uses include: storage, warehouse, research, laboratories, dispatch, landscape service, flex space, media production, and light manufacturing and processing.*

**Heavy Industrial.** *Heavy industrial development's typical operation may cause or result in the dissemination of dust, smoke, fumes, odor, noise, vibration, light, or other potentially objectionable effects beyond the boundaries of the lot on which the use is conducted. These effects will be minimized through the application of performance standards established in the Unified Land Development Code. Heavy industrial uses include those that engage in the processing, manufacturing, or storage of flammable, hazardous, or explosive materials or products, or processes which potentially involve hazardous or commonly recognized offensive conditions. Examples of heavy industrial uses include, but are not limited to, salvage and junkyards, storage of regulated substances, asphalt and concrete mixing and product manufacturing, heavy manufacturing, construction and demolition recycling, and equestrian waste management.*

**Staff Analysis:** The Comprehensive Plan establishes that there are two overall classifications of Industrial uses as provided in Policy 2.2.4-d – Light Industrial and Heavy Industrial. However, only the Industrial future land use designation, which allows the full range of industrial uses, was previously allowed within the Agricultural Reserve Tier. Through the recent text amendment, this policy now includes specific examples of each Industrial category, further refining what is Light Industrial versus Heavy Industrial. As the CMR FLU is limited to specific nonresidential uses, or industrial uses categorized as Light Industrial defined by FLUE Policy 2.2.4-c, the proposed site-specific amendment for a light industrial use (warehouse) is consistent with this policy.

## B. Consistency with Agricultural Tier Policies

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 primary objective of the Agricultural Reserve Tier is the preservation of agricultural and environmental lands, while allowing for development in a planned manner that is consistent with the Master Plan and associated policies within the Comprehensive Plan that direct the locations and amounts of allowable development.

Although an intent of the adopted Commerce future land use designation is to allow for low trip generating uses and employment generators to serve the residents and farmworkers of the Tier, each site-specific amendment is subject to additional criteria contained within the Comprehensive Plan designed in part to mitigate potential negative impacts and promote the County’s goals and objectives. The subject site currently supports operations of an agricultural nature and is directly adjacent and in proximity to additional agricultural uses and residential units. The introduction of an industrial land use in this area is inconsistent with the current development pattern; contrary to the vision of the Master Plan including limiting nonresidential development to serve the needs of the Tier; and, introduces an intensity that may generate negative impacts on adjacent land uses.



2. **Policy 1.5-v: Industrial.** *The County shall foster employment opportunities in the Agricultural Reserve Tier by allowing light industrial uses at appropriate locations to provide a balance of land uses for current and new residents of the Tier. All new future land use amendments requesting industrial type uses in the Agricultural Reserve Tier shall meet the following requirements:*

1. *Limited to the Commerce (CMR) future land use designation;*
2. *Located with frontage and access on State Road 7 (north of Rio Grande Avenue), Atlantic Avenue, Boynton Beach Boulevard or have access to these roadways through an existing commercial or industrial site. Sites located west of State Road 7 must share a common border with a property with commercial or industrial future land use;*
3. *Be accompanied by a concurrent zoning application and conceptual site plan in order to demonstrate that the proposal meets the design, scale, and character requirements of the Tier;*
4. *Have a minimum of 3 acres and a maximum of 50 acres (with the exception of lands dedicated to rights of way); and*
5. *Preserve shall be required for Commerce sites utilizing Light Industrial, Multiple Use Planned Development, or Planned Industrial Park Development zoning pursuant to FLUE Policy 1.5.1-q and subject to the following:*
  - a. *The preserve area requirements shall be based upon the acreage over 16 acres, shall be a minimum of 40% of the total land area over 16 acres, and allow water management tracts in preserve areas contiguous to the development area that provide enhanced environmental features and improved water quality as demonstrated through the future land use amendment process.*

**Staff Analysis:** New Policy 1.5.-v establishes requirements for new industrial future land use requests within the Ag Reserve Tier. New applications requesting a FLU amendment to develop industrial uses shall be limited to the Commerce FLU designation only and satisfy the minimum requirements of this policy. The site is 40 acres in size with frontage on and access from State Road 7. In accordance with part 5 of this Policy, a preservation area is provided that equates to forty percent of the site's acreage over 16 acres. As the site is 40 acres, the minimum preserve parcel based on information provided shall be approximately 9.6 acres (40 acres – 16 acres = 24 acres; 24 acres X 40% = 9.6 acres). The preliminary site plan indicates a 9.6-acre preserve parcel located on the south side of the site along Happy Hollow Road. This preserve also proposes a water management tract and a wetland area to provide enhanced environmental features. An environmental statement regarding the preserve's environmental enhancement features has been included in Exhibit 11. There is a concurrent Zoning application in process (PDD-2022-1469) requesting to rezone the site from Agricultural Reserve (AGR) to Multiple Use Planned Development (MUPD), which includes a preliminary site plan that is provided in Exhibit 10. The conceptual site plan depicts 670,000 square feet of warehouse office split amongst three buildings. While the site is eligible to request Commerce future land use, the proposed site-specific amendment, with a potential for up to 763,000 square feet of warehouse and general office uses (or equivalent trips of other uses allowed in CMR), introduces an intensity out of balance and character with the surrounding area, and therefore does not demonstrate design, scale and/or character consistent with the surrounding area within the Agricultural Reserve Tier.

### 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 are preserve parcels with an AGR future land use designation. Directly north is a 277-acre preserve parcel under ownership of Palm Beach County, which currently supports agricultural row crops. Additional row crops on parcels owned primarily by the County extend further east to the Florida's Turnpike. Further to the north of the preserve parcel is a Solid Waste Authority Transfer Station (Control No. 2005-00140) and the residential development of Valencia Sound AGR-PUD (Control No. 2005-00014).

**East:** To the east of the subject site are preserve lands with an AGR future land use supporting various agricultural uses. Directly adjacent to the site on the east is Preserve 3 for the Tivoli Isles (n/k/a Four Seasons) 60/40 AGR-PUD (Control No. 2004-00206). Further east are preserve parcels associated with the Valencia Cove 60/40 AGR-PUD (Control No. 2004-00369). Each of these aforementioned preservation parcels currently support agricultural uses including nurseries. Further east, beyond Smith Sundry Road and extending to the Florida's Turnpike, are additional AGR-PUD preservation parcels supporting agricultural uses.

**South:** To the south of the subject site across Happy Hollow Road are parcels with an AGR future land use designation. Directly south are four, 5-acre parcels supporting single-family homes and/or agricultural uses including nurseries and equestrian activities. Two of these parcels are preserves for the Valencia Cove 60/40 AGR-PUD (Preserves 22 and 32, Control No. 2004-00369). Further south is an approximately 40-acre parcel supporting cultivation of row crops and is under preservation as part of the Canyon Springs 60/40 AGR-PUD (Pres 3 Bailey, Control No. 2002-00069). Further south is the residential development of Tivoli Isles (n/k/a Four Seasons) supporting approximately 315 residential dwelling units, and at the northeast corner of Atlantic Avenue and State Road 7 are industrially designated lands predating the 1989 Comprehensive Plan and subsequent creation of the AGR Tier.

**West:** To the west of the site across State Road 7 are large swaths of land with an AGR future land use designation. Directly west is an approximately 62,000 square foot warehouse distribution center for Pero Farms. Further west and north of the facility are lands that support active agricultural under public ownership through Palm Beach County and South Florida Water Management District for preservation purposes. Also to the west are the northern portions of Preserve 1 for Tivoli Isles (nka Four Seasons) AGR-PUD (Control No. 2004-00206) and the West Delray Regional Park (Bridges-Mizner AGR-PUD Preserve 8, Control 2004-00250). Further west is the eastern boundary of the Arthur R. Marshall Loxahatchee National Wildlife Refuge with a Conservation (CON) future land use designation.

**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.”*

**Applicant’s Comments:** The applicant states that the request for Industrial land use is compatible with existing and planned development in the immediate vicinity due to the industrial nature of nearby agricultural uses, such as the packing and distribution facility for Pero Farms on the west side of State Road 7, and a waste management and Florida Power & Light facility located in close proximity to the site. Access to the site is available from State Road 7, and the proposed light industrial use is consistent with the development pattern and uses along the State Road 7 corridor. An industrial use can provide essential services to residents of the surrounding area, and that the ULDC can reduce potential negative impacts of development through the use of buffering, screening, setbacks, height and landscaping requirements.

**Staff Analysis:** The site is located on the east side of State Road 7, approximately 0.75 miles north of Atlantic Avenue. As detailed above, the area surrounding the subject site consists primarily of agricultural uses and parcels designated as AGR preserves with an AGR future land use designation. Directly abutting the site to the north, east and south are preserve parcels which currently support various agricultural uses, including some which support single-family homes. To the west, across State Road 7, is a packing plant facility for Pero Farms with large tracts of active agricultural lands to the north, west, and south of the facility under preservation.

The applicant indicates the site will be utilized to support a light industrial use. The Commerce FLU and implementing policies establish specific requirements for the size, location, frontage and access, and submittal of a conceptual site plan, thereby providing a framework for where these types of industrial uses may be considered. Although the site is eligible to request the Commerce FLU designation, the location for such a use is out of character with the adjacent and surrounding land uses. The introduction of an industrial land use surrounded by preserve parcels, active agriculture, and nearby low-density single family residential development would create an isolated industrial pocket of 670,000 square feet of office warehouse proposed, an intensity exceeding those of the surrounding area.

#### **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 subject site is not located within a Neighborhood Plan recognized by FLUE Policy 4.1-c of the Comprehensive Plan.

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

The proposed amendment will change the future land use designation from Agricultural Reserve to Commerce with an underlying Agricultural Reserve (CMR/AGR). For the purposes of the public facilities impact analysis, the maximum intensity is based on the proposed change to allow up to 784,080 square feet. 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.

**Fire Rescue:** In a letter dated October 13, 2021 Fire Rescue noted that the estimated response time from Fire-Rescue Station 42 is 11 minutes 30 seconds, and that *“this land use change will have a significant impact on Fire Rescue. It will cause approximately 212 additional calls/year to this station, with a response time ... which is greater than our standard 7 minutes 30 seconds.”*

**Land Development:** Through comments provided on July 18, 2022, the Land Development Division noted that while access to State Road 7 is available with a bridged connection, *“a Subdivision Variance and improvements will be required for Happy Hollow Road.”*

- 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 this amendment at a maximum potential of 784,080 square feet of industrial uses, flex space, or 40.00 acre Landscape Service; as well as at the proposed potentials of 700,000 square feet of Warehouse and 63,000 square feet of General Office. According to the County’s Traffic Engineering Department

(see letter dated October 25, 2022 in Exhibit 5), the amendment at the proposed potential would result in an increase of 468 net daily trips over the current maximum potential of a 5-acre Nursery Garden Center and 35-acre Wholesale Nursery.

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 Future Land Use Element of the Palm Beach County Comprehensive Plan at the **proposed potential**... Therefore, this amendment requires a condition of approval to cap the project at the proposed development potential or equivalent trips.”*

The Traffic Study dated April 1, 2021 (as revised) was prepared by Bryan G. Kelley, P.E. 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>

## **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 September 23, 2022. To date, no comments have been received.
- B. Other Notice:** Public notice by letter was mailed to the owners of properties within 500 feet of the site on October 14, 2022. On the same date, several interested parties were also notified by mail including the Four Seasons HOA, Dakota HOA, and the Alliance of Delray Residential Association. Notification of this amendment, and other amendments related to the Ag Reserve Tier, was provided to the Agricultural Reserve email list of interested parties. Letters received are added to Exhibit 12 during the course of the amendment process.

## Exhibit 3

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

#### Introduction

On behalf of the Applicant, JMorton Planning & Landscape Architecture is requesting a Comprehensive Plan Future Land Use Atlas amendment for the property located at 9773 & 9863 Happy Hollow Road, Delray Beach ("Property").

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

The Commerce Land Use designation was recently adopted by the Board of County Commissioners (BCC) at their meeting of August 25, 2022. In anticipation of the Commerce Land Use Designation Ordinance becoming effective, the Applicant is proposing to amend the Future Land Use designation from Agricultural Reserve (AGR) to Commerce, with an underlying Agricultural Reserve (CMR/AGR).

#### Description of Site Vicinity

The Property is located on the east side of State Road 7, approximately 0.75 miles north of Atlantic Boulevard at 9773 & 9863 Happy Hollow Road. The Property has a Future Land Use designation of Agricultural Reserve. Within the vicinity of the Property are multiple agricultural uses including row crops, nurseries, agriculture sales and service, and a significant packing / distribution facility. Within the area are also a Florida Power and Light facility on the west side of SR 7, a charter school approximately 0.5 miles to the east on Happy Hollow Road and a large residential Planned Unit Development (PUD) known as "Four Seasons in Delray Beach", consisting of 315 dwelling units, approximately 0.25 miles to the south of the property.

Land uses directly abutting the Property include the following:

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number
North	Agricultural Reserve (AGR)	Agricultural Reserve (AGR)	Agriculture	2005-035
South	Agricultural Reserve (AGR)	Agricultural Reserve (AGR) & Agricultural Reserve PUD (AGR-PUD)	Single Family Homes and Nursery / Landscape Service	2005-335
East	Agricultural Reserve (AGR)	Agricultural Reserve PUD (AGR-PUD)	Warehouse / Storage and Agriculture	2004-206
West	Agricultural Reserve (AGR)	Agricultural Reserve (AGR) & Agricultural Reserve PUD (AGR-PUD)	Pero Family Farms Packing Facility, Offices and Agriculture	1999-014; 1984-146; 1985-070; 2004-206; 2010-176

#### **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:** *The proposed Commerce Future Land Use designation is suitable and appropriate for the subject site. The Commerce designation establishes a third industrial destination which will correspond to the Light*

*Industrial zoning designation allowing for light industrial uses. The Board of County Commissioners (BCC)*

*has recently determined that it is appropriate to locate light industrial uses along the State Road 7 through*

*policy direction as well as through the approval of multiple map amendments to the Comprehensive Plan. Several of the uses surrounding the Property are either industrial in nature, including the large Pero Farms packing / distribution facility on the west side of State Road 7 and the Solid Waste Authority facility to the north of the Property, or have been approved for Industrial land use and zoning designations such as the properties at the intersections of Atlantic Avenue and State Road 7.*

*As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, coupled with a global shift towards e-commerce to support the residential population, certain appropriately located commerce services are needed and should be located close to the need. In addition, to effectively support and maintain the agricultural base in the County, there is a need for modern distribution and short-term storage facilities (including modern cold storage) to be located near current agricultural production facilities in order to provide for more efficient supply chain management. The subject Property is of a comparable size (38.69 acres) to other industrial uses in the immediate area, including the Pero Farms packing / distribution facility (36.56 acres) immediately to the west on State Road 7 and the Solid Waste Authority facility (40.91 acres) to the north.*

*The proposed change would allow light industrial uses to provide a needed service to the ongoing productivity of the local agricultural community, as well as providing a location to efficiently service neighboring residential communities without being directly adjacent to those uses. The Property is located on the east side of State Road 7, which has previously been identified by the County as a location within the Agricultural Reserve that is well suited to accommodate commerce uses. The State Road 7 corridor is already an established essential north-south route for agricultural products and other goods. This transportation corridor links key points throughout the region and provides an important alternative local route west of the Florida Turnpike, meaning less traffic on the east-west arterials of Atlantic Avenue and Boynton Beach Blvd.*

**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:** *The Agricultural Reserve Tier has recently been the subject of numerous changes. The Future Land Use designation of the Homrich Nursery located at the southwest corner of Boynton Beach Boulevard and State Road 7 was changed to Commercial Low, with an underlying Industrial designation in 2016. Since then, the Homrich Nursery property has been developed with a landscape service business and a dispatch office/contractor storage yard for a waste management hauler. This Future Land Use amendment was the first change that spurred the Board of County Commissioners to re-examine the opportunity for industrial type development on the west side of State Road 7. Further, the Board of County Commissioners recognized the changing characteristics of the area and the compatibility concerns for certain agriculture uses that are industrial in nature on multiple properties throughout the Agricultural Reserve.*

*Earlier this year, the Board of County Commissioners also approved the adoption of a Future Land Use Amendment for the LAS Farms Property from Agricultural Reserve (AGR) to Industrial*

*(IND/AGR) subject to conditions limiting the property to light industrial uses. The Board of County Commissioners also approved the Sunflower Industrial project on the west side of State Road 7 south of Atlantic Avenue in 2020. This project was also the subject of a Future Land Use Amendment from Agricultural Reserve (AGR) to Industrial (IND/AGR) subject to conditions limiting the property to light industrial uses.*

*All of these changes and the recent direction from the Board of County Commissioners regarding additional light industrial uses in the Agricultural Reserve are evidence that additional land and opportunities for light industrial projects is needed and appropriate for properties fronting on State Road 7.*

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

**Response:** *As mentioned above, the characteristics of State Road 7 within the Agricultural Reserve have changed since the Agricultural Reserve Master Plan's inception. Multiple residential and commercial projects have been developed between State Road 7 and Florida's Turnpike. The Bethesda Hospital located to the north of the Property on Boynton Beach Blvd. was constructed in the early 2000's and an expansion was recently approved by the Board of County Commissioners that will nearly double the size and intensity of the facility. Secondary impacts resulting from the expansion of this facility will be an increase in demand for goods and services to supply the ongoing operations of the Hospital.*

*The residential and commercial development that has been constructed within the central part of the Tier along Atlantic Avenue, Boynton Beach Blvd. and Lyons Road has forced several agricultural operations to relocate. The Alderman Farms Packing Plant relocated from the northeast corner of Boynton Beach Boulevard to the west side of State Road 7 after approval of the CobbleStone Commons retail plaza. The Thomas Packing Plant closed and relocated out of the area after approval of the comprehensive plan amendment removing that property located at the northeast corner of Clint Moore Road and State Road 7 from the Agricultural Reserve Tier and designating it as Commercial Low, with an underlying 2 units per acre (CL/2).*

*Additionally, the intersection of Atlantic Avenue and State Road 7 which has been identified in the Comprehensive Plan as a node for development within the Agricultural Reserve is becoming built out, including commercial uses on the south-east corner.*

*Other recent Future Land Use amendments approved along State Road 7 include Stop and Shop (LGA 2016-023) to allow for gas sales and service and retail uses, Homrich Commercial (LGA 2016-019) to allow for industrial and commercial uses, Sunflower Light Industrial (LGA 2021-016) to allow for light industrial uses, and most recently LAS Farms (LGA 2022-001) to allow light industrial uses.*

*All of these changes recognize the changed conditions in the Agricultural Reserve and allow for additional businesses to serve the needs of the surrounding agricultural community and the growing number of residents moving to the area.*

*These changes indicate the Agricultural Reserve has continued to change from a predominantly rural agricultural area to include a suburban community with a growing population that needs various services and goods within proximity of their homes. A sustainable community is a community that is planned, built, and modified to promote a living environment that focuses on urban infrastructure, social equity, efficient provision of utility services and economic sustainability. Sustainable communities incorporate principles that improve access to services,*

*affordable housing, increase transportation options, and lower transportation costs while protecting the environment.*

*Approval of additional industrial land will allow for needed services to be located near existing agricultural operations and housing, thus reducing vehicle trips outside of the Agricultural Reserve and ultimately contributing to less traffic congestion and better access throughout the Agricultural Reserve.*

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

**Response:** *The consultants that prepared the Agricultural Reserve Master Plan recognized the industrial corridor along Atlantic Avenue between State Road 7 and Smith Sundry Road/Half Mile Road. Furthermore, the consultant recommended 330,000 square feet of additional industrial square footage within the Agricultural Reserve. When the Board of County Commissioners reviewed the Agricultural Reserve Master Plan and directed Staff to prepare additional Comprehensive Plan policies for the Agricultural Reserve Tier however, the addition of industrial land and industrial uses was not included. Twenty years have passed since these Agricultural Reserve policies were incorporated into the Comprehensive Plan and the Agricultural Reserve Tier is close to being “built out”. Of the 22,000 acres within the Agricultural Reserve, only 1,700 acres remain without any development approvals. This represents a total of 5% of the Agricultural Reserve that is not entitled for development or preservation.*

*The consultants that developed the Agricultural Reserve Master Plan anticipated that the Agricultural Reserve would be a place where people can live, work and play without having to travel to the Urban/Suburban Tier. Contrary to the intent of the Master Plan, the Agricultural Reserve has become an exclusive community comprised mainly of expensive single family homes. Most of the employment opportunities available within the Tier are generated by the commercial centers, farming activities, and industrial corridor along Atlantic Avenue. The proposed Future Land Use amendment to Commerce will create another opportunity for a service not currently located in the Tier. This opportunity would ultimately meet the intent of the Master Plan that has yet to be realized by the current limited development pattern.*

*On August 25, 2022, the Board of County Commissioners adopted a text amendment that created the new Commerce Future Land Use designation. As indicated in the Staff Report to the Planning Commission Public Hearing (March 11, 2022) for the proposed Commerce Future Land Use designation, Industrial lands in unincorporated Palm Beach County largely fall into four geographic locations, with all but 3% of the industrial land, or 383 acres, located within one of the below four areas:*

- **United Technology Corporation (Pratt-Whitney) Protection Overlay.** *Approximately 6,700 of the 8,848 acres in the Overlay are set aside as preserve lands.*
- **Glades.** *Of the 3,052 acres in the Glades Urban Suburban Tier, approximately 1,600 acres are part of the Sugar Cane Cooperative Protection Overlay. The rural community of Lake Harbor holds approximately 63 acres.*
- **Southern/Turnpike.** *The Southern Boulevard and Florida Turnpike area, including up to the Vista Center, contain approximately 1,600 acres.*
- **Blue Heron/I-95.** *Approximately 230 acres of industrial land use are located east of I-95 in the Blue Heron Boulevard area surrounded by municipalities.*

*With only 3% of industrial lands located elsewhere throughout the County, and a rapidly growing population increasing demand for access to goods and services, the importance of providing more appropriately zoned light industrial land in closer proximity to residential uses is becoming more apparent.*

*Recognition for the need for light industrial/commerce uses in the Agricultural Reserve is supported by data, particularly as logistics and community needs have changed recently. Throughout all of Palm Beach County, vacancy rates for the commerce related uses are at historical lows (+/-3%). In Delray Beach and the surrounding Western Palm County communities, the vacancy rate is even lower, (+/-1%).*

*To understand the impacts of this issue, Dr. David Menachof, an Associate Professor at the School of Business at Florida Atlantic University, studied the impacts to both consumers and the business community due to the lack of available inventory. His assessment is that the lack of industrial space has been exacerbated by the COVID-19 pandemic, which has driven a number of changes, including a shift to e-commerce, a need for greater localized inventories of medical supplies and equipment to be provided in close proximity to medical facilities to respond to high demand, and the ability for businesses to establish local operations to support the growth of the residential communities. Essentially, Dr. Menachof is of the view that this change has created a need for light industrial / commerce related uses in a location such as the subject property to support the local community.*

*Additionally, to effectively support and maintain the agricultural base in the County, there is a need for modern distribution and short-term storage facilities (including modern cold storage) to be located near existing agriculture production facilities. Given the lack of such inventory, growers are forced to move produce to distant facilities, which substantially increases costs, making continued operations in the Agricultural Reserve less viable.*

*Effective light industrial uses provide distribution for area hospitals, contractors, local businesses, and agricultural interests, among others. As an example, before the pandemic, medical supplies were routinely stored at regional warehouses and distribution facilities in distant locations, such as Atlanta and Dallas. The ability to source these supplies often requires a delivery time of 1-2 weeks. This has changed since the start of the COVID-19 pandemic and the need to have flexibility in communities to respond to changing needs has never been more evident. This is part of the resiliency planning that each community must undertake and is evident throughout the country.*

*Continuing with the healthcare industry as an example, hospitals, medical, and long-term care facilities have all revamped their strategy to require supplies be stored in near proximity to their facilities to prevent shortages. These facilities all depend on steady and timely deliveries of equipment and supplies, often on short notice, which requires delivery within hours, rather than days or weeks. In addition, demand for home healthcare is expected to continue to increase, thereby creating a need for services in close proximity to the demand. Per data from the US Centers for Medicaid and Medicare Service (CMS) published on the CMS website, in 2020 home health care spending reached \$123.7 billion involving equipment, supplies and medicine. The CMS recently estimated that home health expenditure would rise to \$172 billion by 2026 and \$226 billion by 2030.*

**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 a request 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, 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 will maintain the subject Property’s compatibility with the surrounding properties and not create any adverse amenity impacts on the locality.

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 State Road 7, a right-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity.
- The Property is located on a major north/south transportation route (State Road 7). Many uses along this transportation route are industrial or commercial in nature even though they are technically agricultural uses. For example, there is a large produce packing / distribution facility to the west, multiple agriculture sales and service establishments, agricultural storage locations for farm equipment and materials, a waste management facility and a Florida Power & Light facility all located within close proximity to the subject site along State Road 7. 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 State Road 7 corridor and is in close proximity to the existing industrial uses in the Agricultural Reserve at Atlantic Avenue / State Road 7.

As mentioned, many uses that are permitted and currently exist on the agriculture land within the Agricultural Reserve have similar impacts on adjacent properties. Farming activities often include: pesticide and herbicide spraying, heavy equipment storage and operation, produce packing activities, truck deliveries and loading including refrigeration trucks, 24 hour operations, noise, dust, and outdoor storage of materials and dead plants/vegetation. Agriculture activities are often not buffered from adjacent properties and uses. Additionally, the County code requires setbacks, buffers, and landscaping for all on-site structures to ensure compatibility.

Finally, the proposed Commerce Future Land Use designation adopted by the Board of County Commissioners, any future development will be compatible and consistent with those nearby intense uses.

#### **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.

**Principles** – The proposed FLUA amendment furthers the following principles established in the Introduction of the FLU element.

- Promote sustainable economic development initiatives in the County to diversify its economic base and enhance the quality of life of current and future County generations.

***Response:** Approval of this proposed FLU amendment will provide additional employment opportunities and services, promoting a more diverse economic base within the County.*

**County Directions** – The proposed FLUA amendment furthers the following County Directions, as described below:

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.
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.
3. **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.

***Response:** The proposed amendment will further the above County Direction by establishing a light industrial, employment-based use at suitable location along a major thoroughfare (State Road 7), ensuring land use compatibility and providing a balance of uses to support agricultural uses and the growing residential population in the area. With the adopted Commerce (CMR) Future Land Use designation, the proposed amendment will foster modern light industrial style development with opportunities for efficient use of land to support changing logistics and community needs.*

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

- **Strategic Planning** – “...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 light industrial use on a Property with access to State Road 7, a major north/south transportation route. The area surrounding the Property is a mix of agricultural, industrial, and commercial uses. Residential PUDs are prohibited from being located on the west side of State Road 7. This use will ensure that the Agricultural Reserve Tier remains a diverse community that can meet the needs of existing agricultural operations and the existing and future residents located on the east side of State Road 7 and within the Tier.*

- **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 proposed amendment will further the County’s Goals by establishing criteria for light industrial uses in the Agricultural Reserve Tier, allowing employment based uses at suitable locations, along major thoroughfares, ensuring land use compatibility. 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 on a major transportation route with access/frontage on State Road 7 contributes to timely, cost effective service provision. The proposed Commerce designation will allow for development of a use that will better serve the immediate and future needs of the community as it will provide additional services and employment opportunities.*

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

- **FLUE 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.”

***Response:** The primary objective of the Agricultural Reserve Tier is the preservation of agricultural and environmental lands, while allowing for development in a planned manner that is consistent with the Master Plan and associated policies within the Comprehensive Plan that direct the locations and amounts of allowable development. The recently adopted Commerce Land Use designation established a third category for industrial uses, specifically light industrial uses. Development of a light industrial use on the Property would be consistent with the existing development pattern along State Road 7. A change to the Future Land Use designation would allow for the development of a project that would provide an employment opportunity and additional services to the surrounding community.*

- **FLUE Objective 2.2 Future Land Use Provisions - General** – “Palm Beach County shall ensure development is consistent with the County's diverse character and future land use designations. All public and private activities concerning the use, development and redevelopment of a property, and the provisions of facilities and services shall be consistent with the property's future land use designation, and the applicable Goals, Objectives, and Policies of this Element.”

***Response:** The newly adopted Commerce Future Land Use designation establishes a third category allowing industrial uses; it allows an opportunity for light industrial uses in appropriate locations in order to allow employment based uses at suitable locations along major thoroughfares while protecting adjacent residences from more intense uses. A change to the Commerce Future Land Use designation would allow for the development of light industrial uses to support the growing residential communities within the Agricultural Reserve by providing additional services to the residents within the Tier and without further impacting the roadway network leading to the Urban/Suburban Tier.*

- **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) with services and public facilities available to the Property. The recently adopted Commerce Land Use designation established a third category for industrial uses, specifically light industrial uses. Development of a light industrial use on the Property would be consistent with the existing development pattern along State Road 7. A change to the Future Land Use designation would allow for the development of a project that would provide an employment opportunity and additional services to the surrounding community.*

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

- **FLUE Policy 2.2.4-a:** “The County shall apply Industrial future land use categories at appropriate locations and intensities to satisfy the need for industrial space, provide opportunities for the retention and expansion of industrial and employment based economic activities, and to promote economic development consistent with the County’s economic development directives. The County shall also encourage a broad range of employment opportunities and shall discourage Future Land Use Atlas amendments that result in the loss of industrially designated land.”

***Response:** The recently adopted Commerce Land Use designation establishes a third category allowing industrial uses, specifically light industrial uses and provides policy guidance on location requirements, limiting to major corridors. Providing additional industrial land within the Agricultural Reserve ensures the availability of employment opportunities and needed services to the residents of the Agricultural Reserve Tier. By adding valuable industrial land to the Agricultural Reserve Tier, economic diversity is ensured within the Tier and Palm Beach County. The County has already determined that the west side of State Road 7 is an appropriate location for industrial as evidenced by the approval of the Homrich Nursery, LAS Farms Industrial, and Sunflower Industrial Comprehensive Plan amendments.*

- **FLUE Policy 2.2.4-c:** “The three Industrial future land use designations are intended to accommodate industrial uses which are defined as uses engaged in the manufacturing, assembly, processing, research and development, wholesale distribution, or storage of products, related uses, and services, including Office of an Industrial Nature (as defined by the Introduction and Administration Element).

1. **Commerce.** The Commerce (CMR) future land use designation is intended to accommodate light industrial uses to provide an option for low-trip generating non-residential and/or employment generating uses on arterial roadways. Industrial uses allowed shall be limited to those that demonstrate Light Industrial characteristics.

***Response:** Development of a light industrial use on the Property would be consistent with the existing development pattern along State Road 7. A change to the Future Land Use designation would allow for the development of a project that would provide an employment opportunity and additional services to the surrounding community.*

### **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 CMR with an underlying future land use of AGR for the purpose of providing additional services along the State Road 7 corridor. The amendment does not promote low intensity/density or single-use development.*



- 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 within the State Road 7 corridor which is not rural in nature as evidenced by urban services such as police, fire rescue and water/wastewater/drainage utilities that are existing in the immediate area. The proposed Industrial designation is consistent with the surrounding commercial, industrial and agricultural uses and activities.*
- Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.
  - **Response:** *The Property is not isolated in nature and currently supports a nursery. The Property is within an area that includes various industrial, commercial, residential, and institutional uses and would essentially be considered infill development within a major north/south transportation corridor.*
- 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. As required by the ULDC, any native plant material will be addressed during the zoning approval process.*
- 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 currently utilized as a nursery. Several changes have already been granted to properties within the area that allow the development of commercial and industrial uses. The area has been changing from agriculture to commercial and industrial uses since 2006. Since the proposed request is for Commerce, no negative impacts to agricultural uses are anticipated with the land use change. The location of the Property is consistent with the County's proposed policy for the appropriate siting of industrial development with the Agricultural Reserve Tier and the proposal will not impact adjacent parcels supporting agriculture operations.*
- Fails to maximize use of existing public facilities and services.
  - **Response:** *This amendment will maximize the use of existing facilities and services. The Property's location within a Limited Urban Service Area (LUSA) means that services and public facilities are available to serve the Property.*
- 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. This amendment will maximize the use of any future facilities proposed or constructed in the future and provide additional tax base. Therefore, the proposal will maximize the existing public services in the area.*
- 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:** *Approval of a Commerce Future Land Use designation will be consistent with the type of development to the west. While the property is located within the Agricultural Reserve Tier of the County, this major roadway corridor has been changing as new commercial and industrial uses are approved and developed. The surrounding residential developments are supporting and*

*increasing the demand for these uses. Therefore, the proposal discourages the proliferation of Urban/Sprawl.*

- Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.
  - **Response:** *This amendment will allow for the development of the Property that supports the existing neighborhoods and communities in the area. Future development on the Property 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 light industrial uses that will provide services to the surrounding existing agricultural operations, residential communities, businesses and institutions (e.g. hospitals and health care facilities) rather than allowing the current single use development pattern that has occurred in the Agricultural Reserve to continue. Development of the Property will allow the community needs to be met within the Tier which will cause trips to remain in the Agricultural Reserve Tier.*
- 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 does not contain natural resources. The site is located outside of any wellfield protection zone. As required by the ULDC, any native plant material will be addressed during the zoning approval process.*
- Promotes the efficient and cost-effective provision or extension of public infrastructure and services.
  - **Response:** *The proposed Future Land Use amendment will maximize the use of public facilities and services. Public infrastructure already exists within the area and 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.*
- 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 with pedestrian connections to State Road 7 as required through the site plan approval process.*
- 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 light industrial uses that will allow for the additional employment opportunities within an area of the County that has historically only been developed with low density single family residential development. In order to meet the growing demand, additional industrial land is needed in this area. Therefore, the proposed amendment would contribute to livable communities and help balance the land uses within the Agricultural Reserve while maintaining the character of the community.*

**Conclusion**

As described above, the proposed FLU amendment from Agricultural Reserve (AGR) to Commerce (CMR) 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, does not contribute to urban sprawl and is consistent with the Comprehensive Plan and 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

A. Traffic Information		
	Current	Proposed
Max Trip Generator	Nursery (Garden Center) ITE #817 108.10 trips/acre Nursery (Wholesale) ITE #818 19.5 trips/acre	Warehouse - ITE 150: T = 1.71x Office – T = 10.84x
Maximum Trip Generation	1224 daily trips	5547 daily trips (maximum potential) 1692 daily trips (restricted potential)
Net Daily Trips:	4323 daily trips (maximum minus current) 468 daily trips (restricted minus current)	
Net PH Trips:	1376 AM, 854 PM (maximum) 193 AM, 195 PM (restricted)	
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)	There is no Palm Tran Route within close proximity of the Property. Route 81 is the closest route.	
Nearest Palm Tran Stop	There are no Palm Tran Stops within close proximity of the Property. Stop 7650 is the closest Palm Tran Stop located at Gateway Road at Oriole Huntington which is approximately 2.54 miles from the Property.	
Nearest Tri Rail Connection	Route 81 provides a connection to the Delray Beach Tri-Rail Station.	
C. Potable Water & Wastewater Information		
Potable Water & Wastewater Providers	Palm Beach County Water Utilities Department. Service capacity is available for the proposed development. See Attachment I for letter from Palm Beach County Water Utilities Department.	

<b>Nearest Water &amp; Wastewater Facility, type/size</b>	A 12" potable water main and 8" sanitary sewer forcemain are located within the State Road 7 right-of-way adjacent to the Property.
<b>D. Drainage Information</b>	
The Property is located within the boundaries of the LWDD and SFWMD C-15 Drainage Basin. Legal positive outfall is available via discharge to the adjacent Canal along the west side of the Property. See Attachment J for Drainage Statement.	
<b>E. Fire Rescue</b>	
<b>Nearest Station</b>	Palm Beach County Fire-Rescue Station # 42, located at 14276 Hagen Ranch Road
<b>Distance to Site</b>	4.50 miles
<b>Response Time</b>	Average response time 7:15
<b>Effect on Resp. Time</b>	The proposed amendment will increase the response time to 11:30 minutes for Station # 42 and have a significant impact on Fire Rescue. When the new fire station is built, it will serve the Property and lower the response time to approximately 8 minutes. See Attachment K.
<b>F. Environmental</b>	
<b>Significant habitats or species</b>	The Property has been used for agricultural purposes. As such, there are no significant habitats or species on-site. Please see Attachment L for the Natural Feature Inventory Map.
<b>Flood Zone*</b>	Zone X – The Property is not located within a Flood Zone.
<b>Wellfield Zone*</b>	The Property is not located within a Wellfield Protection Zone. See Attachment M.
<b>G. Historic Resources</b>	
There are no significant historic resources present on the Property. See Attachment N for letter.	

## Exhibit 5

### Traffic Division Letter



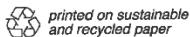
**Department of Engineering  
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**Palm Beach County  
Board of County  
Commissioners**

Robert S. Weinroth, Mayor  
Gregg K. Weiss, Vice Mayor  
Maria G. Marino  
Dave Kerner  
Maria Sachs  
Melissa McKinlay  
Mack Bernard

**County Administrator**  
Verdenia C. Baker

"An Equal Opportunity  
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October 25, 2022

Bryan G. Kelley, P.E.  
Simmons & White  
2581 Metrocentre Boulevard West, Suite 3  
West Palm Beach, FL 33407

**RE: BBX Park at Delray FKA State Road 7 Business Plaza - Revised  
FLUA Amendment Policy 3.5-d Review  
Round 2022-23-A**

Dear Mr. Kelley:

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 on October 24, 2022, 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>	Northeast corner of State Road 7 and Happy Hollow Road, approximately 0.76 miles north of Atlantic Avenue	
<b>PCN:</b>	00-42-46-18-01-000-0140 ( <i>other on file</i> )	
<b>Acres:</b>	40 acres	
	<b>Current FLU</b>	<b>Proposed FLU</b>
<b>FLU:</b>	Agricultural Reserve (AGR)	Commerce (CMR)/Agricultural Reserve (AGR)
<b>Zoning:</b>	Agricultural Reserve (AG)	Light Industrial (IL) or Multiple Use Planned Development (MUPD)
<b>Density/ Intensity:</b>	0.15 FAR	0.45 FAR
<b>Maximum Potential:</b>	Nursery (Garden Center) = 5 acres Nursery (Wholesale) = 35 acres	Light Industrial = 784,080 SF OR Flex Space – IND FLU = 784,080 SF OR Landscape Services = 40 acres
<b>Proposed Potential:</b>	None	Warehouse = 700,000 SF AND General Office = 63,000 SF
<b>Net Daily Trips:</b>	4,323 (maximum – current) 468 (proposed – current)	
<b>Net PH Trips:</b>	1,376 (550/826) AM, 854 (342/512) PM (maximum) 193 (159/34) AM, 195 (46/149) PM (proposed)	



Bryan G. Kelley, P.E.  
October 25, 2022  
Page 2

*\* **Maximum** indicates typical FAR and maximum trip generator. **Proposed** indicates the specific uses and intensities/densities anticipated in the zoning application.*

Based on the review, the Traffic Division has determined that the traffic 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 **proposed potential** density shown above. Therefore, this amendment requires a condition of approval to cap the project at the **proposed** development potential or equivalent trips.

Please note the proposed amendment will have an insignificant impact on both long-range and Test 2 analyses.

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

Sincerely,

A handwritten signature in blue ink, appearing to read "DS", followed by a horizontal line.

Dominique Simeus, P.E.  
Professional Engineer  
Traffic Division

DS  
ec:

Quazi Bari, P.E., PTOE – Manager – Growth Management, Traffic Division  
Lisa Amara – Director, Zoning Division  
Bryan Davis – Principal Planner, Planning Division  
Stephanie Gregory – Principal Planner, Planning Division  
Khurshid Mohyuddin – Principal Planner, Planning Division  
Kathleen Chang – Senior Planner, Planning Division  
David Wiloch – Senior Planner, Planning Division  
Alberto Lopez Tagle – Technical Assistant III, Traffic Division

File: ...General - TPS – Unincorporated - Traffic Study Review  
N:\TRAFFIC\Development Review\Comp Plan\23-A\BBX Park at Delray FKA State Road 7 Business Plaza.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  
Board of County  
Commissioners**

Robert S. Weinroth, Mayor

Gregg K. Weiss, Vice Mayor

Maria G. Marino

Dave Kerner

Maria Sachs

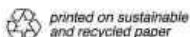
Melissa McKinlay

Mack Bernard

**County Administrator**

Verdenia C. Baker

"An Equal Opportunity  
Affirmative Action Employer"



April 5, 2022  
Morton  
3910 RCA Boulevard  
Palm Beach Gardens, FL 33410

RE: Mulvehill Property  
PCN 00-42-46-18-01-000-0140 & 00-42-46-18-01-000-0132  
Service Availability Letter

Ms. Velasco,

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. Based on a review of current PBCWUD infrastructure and existing customers within the general vicinity of the referenced property, PBCWUD currently has the capacity to provide the level of service required for the proposed land use amendment from Agricultural Reserve to Industrial on 39 acres subject to a Capacity Reservation Agreement with PBCWUD.

The nearest point of connection to potable water is a 12" water main and an 8" sanitary sewer forcemain located within SR7 adjacent to the subject property. This property is located within the Mandatory Reclaimed Area.

Please note that this letter does not constitute a final commitment for service until the final design has been approved by PBCWUD. In addition, the addition of new developments/customers prior to service initiation to the property may affect the available capacity. PBCWUD does not make any representations as to the availability of capacity as of the future service initiation date.

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.  
Project Manager



## Exhibit 7

### Disclosure of Ownership Interests

---

PALM BEACH COUNTY - ZONING DIVISION

FORM # 8

#### DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

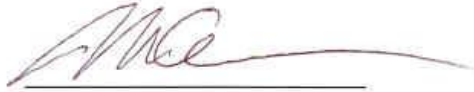
*[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]*

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  
Mark Levy, Manager, 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 BBX Logistics Properties, LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]*, (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 201 East Las Olas Boulevard, Suite 1900  
Fort Lauderdale, Florida 33301
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



Mark Levy, Manager, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or  
☐ online notarization, this 27 day of April, 2022 by  
MARK LEVY (name of person acknowledging). He/she is personally  
known to me or has produced \_\_\_\_\_ (type of identification) as  
identification and did/did not take an oath (circle correct response).

URSALINE M. PARENTO  
(Name - type, stamp or print clearly)

Ursaline M. Parento  
(Signature)

My Commission Expires on: 2/12/23



**EXHIBIT "A"**

**PROPERTY**

**PARCEL 1:**

ALL OF TRACTS 14, 15 AND 16, LESS THE NORTH 33.00 FEET OF SAID TRACTS 14, 15 AND 16, AND ALL OF TRACTS 17, 18 AND 19, THE PALM BEACH FARMS CO. PLAT NO. 1, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

**PARCEL 2:**

ALL OF TRACT 13, LESS THE NORTH 33.00 FEET THEREOF AND ALL OF TRACT 20, THE PALM BEACH FARMS CO, PLAT NO. 1, SECTION 18, TOWNSHIP 46 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 26, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID PARCEL BEING 1,749,055 ± SQUARE FEET OR 40.153± ACRES MORE OR LESS.

## EXHIBIT "B"

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name

Address

BBX Capital, Inc. 201 East Las Olas Blvd., Suite 1900

Fort Lauderdale, FL 33301

a publicly traded company registered with the  
Federal Securities & Exchange Commission,  
100% owner of BBX Logistics ("Affiant")

**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 Diane Mulvehill, 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 [x] Member [position - e.g., president, partner, trustee] of JDS Delray, 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. and individu
2. Affiant's address is: 1908 SW Aladdin Street  
Port St. Lucie, FL 34953
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.

Diane Mulvehill  
 — Diane Mulvehill, Affiant  
 (Print Affiant Name)

## NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
 COUNTY OF ~~PALM BEACH~~ BROWARD

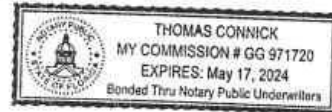
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 30 day of April, 2022 by Diane Mulvehill (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

Thomas Connick  
 (Name - type, stamp or print clearly)

Thomas Connick  
 (Signature)

My Commission Expires on: 5/17/24

NOTARY'S SEAL OR STAMP



**EXHIBIT "A"****PROPERTY****Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

Brief legal description: All of Tracts 14 and 15, Tract 16 less the North 33 feet of said Tracts 14, 15 and 16, and all of Tracts 17, 18 and 19, PALM BEACH FARMS CO., PLAT NO. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 2, Pages 26 through 28, inclusive, of the Public records of Palm Beach County, Florida.

Ownership: Joseph Mulvehill, Jr. - 5/8<sup>th</sup> interest

JDS, LLC - 3/8<sup>th</sup> interest

- James Mulvehill - 1/3 interest in JDS LLC
- Diane Mulvehill - 1/3 interest in JDS LLC
- Suzanne Mulvehill - 1/3 interest in JDS LLC

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

Ownership: Joseph Mulvehill, Jr. - 100% interest

**EXHIBIT 'B'****DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the property. Affiant must identify individual owners. For example, If Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's 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.

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**Ownership:** Joseph Mulvehill, Jr. - 5/8<sup>th</sup> interest. **Address:** 18359 181<sup>st</sup> Circle South, Boca Raton, FL 33498  
 JDS, LLC - 3/8<sup>th</sup> interest. **Address:** 19 Royal Palm Way, #105, Boca Raton, FL 33446  
 -James Mulvehill - 1/3 interest in JDS LLC - **Address:** 19 Royal Palm Way, #105, Boca Raton, FL 33446  
 -Diane Mulvehill - 1/3 interest in JDS LLC - **Address:** 1908 SW Aladdin Street, Port St. Lucie, FL 34953  
 -Suzanne Mulvehill - 1/3 interest in JDS LLC - **Address:** 9821 Happy Hollow Rd., Delray Beach, FL 33446

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

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**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  
James Mulvehill, 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 [x] Manager [position -  
e.g., president, partner, trustee] of JDS Delray, 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. and individually
2. Affiant's address is: 19 Royal Palm Way  
Unit 105  
Boca Raton, FL 33446
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
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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.

James Mulvehill  
James Mulvehill, Affiant  
(Print Affiant Name)

## NOTARY PUBLIC INFORMATION:

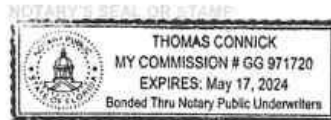
STATE OF FLORIDA  
COUNTY OF ~~PALM BEACH~~ BROWARD

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29 day of April, 2022 by James Mulvehill (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did not take an oath (circle correct response).

Thomas Connick  
(Name - type, stamp or print clearly)

Thomas Connick  
(Signature)

My Commission Expires on: 5-17-2022



**EXHIBIT "A"****PROPERTY****Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

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JDS, LLC - 3/8<sup>th</sup> interest

- James Mulvehill - 1/3 interest in JDS LLC
- Diane Mulvehill - 1/3 interest in JDS LLC
- Suzanne Mulvehill - 1/3 interest in JDS LLC

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

Ownership: Joseph Mulvehill, Jr. - 100% interest

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**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**

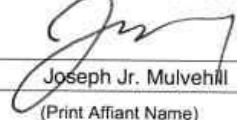
STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Joseph Jr. Mulvehill, 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 ☐ OWNER OWNER [position - e.g., president, partner, trustee] of OWNER [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.
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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.

  
 \_\_\_\_\_  
 Joseph Jr. Mulvehill Affiant  
 (Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
 COUNTY OF PALM BEACH

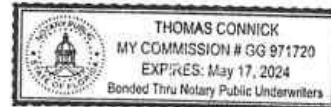
The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29 day of April, 2022 by Joseph Mulvehill, Jr (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did not take an oath (circle correct response).

Thomas Connick  
 (Name - type, stamp or print clearly)

  
 (Signature)

My Commission Expires on: 5-17-2024

NOTARY'S SEAL OR STAMP



**EXHIBIT "A"****PROPERTY****Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

Brief legal description: All of Tracts 14 and 15, Tract 16 less the North 33 feet of said Tracts 14, 15 and 16, and all of Tracts 17, 18 and 19, PALM BEACH FARMS CO., PLAT NO. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 2, Pages 26 through 28, inclusive, of the Public records of Palm Beach County, Florida.

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JDS, LLC - 3/8<sup>th</sup> interest

- James Mulvehill - 1/3 interest in JDS LLC
- Diane Mulvehill - 1/3 interest in JDS LLC
- Suzanne Mulvehill - 1/3 interest in JDS LLC

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

Ownership: Joseph Mulvehill, Jr. - 100% interest

**EXHIBIT 'B'****DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the property. Affiant must identify individual owners. For example, If Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's 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.

**Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

Brief legal description: All of Tracts 14 and 15, Tract 16 less the North 33 feet of said Tracts 14, 15 and 16, and all of Tracts 17, 18 and 19, PALM BEACH FARMS CO., PLAT NO. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 2, Pages 26 through 28, inclusive, of the Public records of Palm Beach County, Florida.

**Ownership:** Joseph Mulvehill, Jr. - 5/8<sup>th</sup> interest. **Address:** 18359 181<sup>st</sup> Circle South, Boca Raton, FL 33498

JDS, LLC - 3/8<sup>th</sup> interest. **Address:** 19 Royal Palm Way, #105, Boca Raton, FL 33446

-James Mulvehill - 1/3 interest in JDS LLC - **Address:** 19 Royal Palm Way, #105, Boca Raton, FL 33446

-Diane Mulvehill - 1/3 interest in JDS LLC - **Address:** 1908 SW Aladdin Street, Port St. Lucie, FL 34953

-Suzanne Mulvehill - 1/3 interest in JDS LLC - **Address:** 9821 Happy Hollow Rd., Delray Beach, FL 33446

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

**Ownership:** Joseph Mulvehill, Jr. - 100% interest. **Address:** 18359 181<sup>st</sup> Circle South, Boca Raton, FL 33498



**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 Suzanne Mulvehill, 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 ☒ Member *[position - e.g., president, partner, trustee]* of JDS Delray, 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. and individual
2. Affiant's address is: 9821 Happy Hollow Rd  
Delray Beach, FL 33446
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

Suzanne Mulvehill  
 Suzanne Mulvehill, Affiant  
 (Print Affiant Name)

NOTARY PUBLIC INFORMATION:

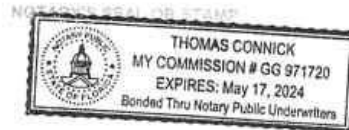
STATE OF FLORIDA  
 COUNTY OF ~~PALM BEACH~~ BROWARD

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29 day of April, 2022 by Suzanne Mulvehill (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did not take an oath (circle correct response).

Thomas Connick  
 (Name - type, stamp or print clearly)

Thomas Connick  
 (Signature)

My Commission Expires on: 5-17-2022



**EXHIBIT "A"****PROPERTY****Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

Brief legal description: All of Tracts 14 and 15, Tract 16 less the North 33 feet of said Tracts 14, 15 and 16, and all of Tracts 17, 18 and 19, PALM BEACH FARMS CO., PLAT NO. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 2, Pages 26 through 28, inclusive, of the Public records of Palm Beach County, Florida.

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- Diane Mulvehill - 1/3 interest in JDS LLC
- Suzanne Mulvehill - 1/3 interest in JDS LLC

**Parcel #2:**

Parcel Control Number: 00-42-46-18-01-000-0132

Location Address: 9773 Happy Hollow Road

Brief Legal Description: All of Tract 13, Less the North 33.00 feet thereof and all of Tract 20, The Palm Beach Farms Co. Plat No. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof as recorded in Plat Book 2, Page 26, of the Public Records of Palm Beach County, Florida.

Ownership: Joseph Mulvehill, Jr. - 100% interest

**EXHIBIT 'B'****DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

Affiant must identify all entities and individuals owning five percent or more ownership interest in the property. Affiant must identify individual owners. For example, If Affiant is an officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's 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.

**Parcel #1:**

Parcel Control Number: 00-42-46-18-01-000-0140

Location Address: 9863 Happy Hollow Road

Brief legal description: All of Tracts 14 and 15, Tract 16 less the North 33 feet of said Tracts 14, 15 and 16, and all of Tracts 17, 18 and 19, PALM BEACH FARMS CO., PLAT NO. 1, Section 18, Township 46 South, Range 42 East, according to the Plat thereof, recorded in Plat Book 2, Pages 26 through 28, inclusive, of the Public records of Palm Beach County, Florida.

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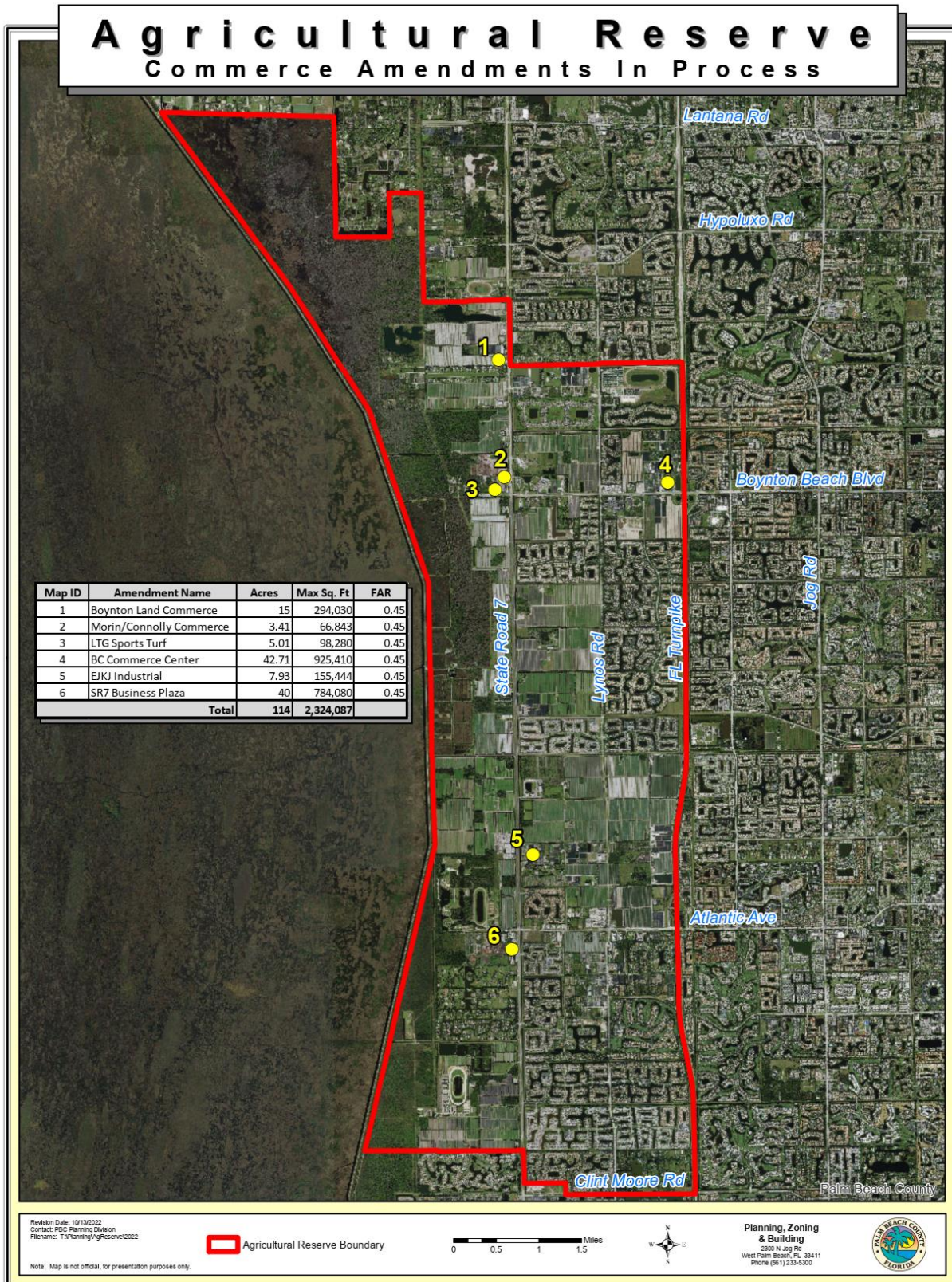
## Exhibit 8 Urban Sprawl Analysis

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.	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 industrial uses in an area with primarily Agricultural Reserve FLUs.	No
Results in poor accessibility among linked or related land uses.	The proposed amendment would not result in poor accessibility among related land uses.	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. The site currently operates as a nursery business.	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
Fails to adequately 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.	The proposed amendment may result in compatibility concerns with adjacent agriculture. However with adequate buffering through the zoning process, significant adverse impact could be addressed. Therefore the proposed amendment does not fail to adequately protect adjacent agricultural areas.	No

Primary Indicators that an amendment does not discourage urban sprawl	Staff Assessment	Sprawl Indicated?
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.	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 lines are currently available within State Road 7 adjacent to the subject property.	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. Future development east would be expected to utilize 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 Ag Reserve Commerce Amendments in Process



## SR7 Business Plaza (LGA 2023-006)





# Exhibit 11

## Preserve Environmental Statement

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Bohler Engineering FL, LLC  
1900 NW Corporate Boulevard, Suite 101E  
Boca Raton, FL 33431  
PHONE 561.571.0280

October 21, 2022

**Re: BBX Park at Delray**

9863 Happy Hollow Road, Delray Beach, Florida 33446

PCN: 00-42-46-18-01-000-0140 & 00-42-46-18-01-000-0132/Section 18, Township 46S, Range 42E

The project site contains approximately 39 acres and is generally located on the north side of Happy Hollow Road and in the southeast corner of the LWDD E-1 and L-32 canals in unincorporated Palm Beach County. The proposed project includes the development of three industrial buildings with related amenities inclusive of parking, utilities, enhanced landscaping, stormwater management facilities with enhanced water quality elements, and enhanced environmental aspects that promote natural habitat conditions for wildlife to flourish.

The applicant proposes to incorporate a wetland area within the 8.94 acre Preserve/Retention Area. The wetland creation area will include a forested and herbaceous component and will be contoured and graded to appropriate elevations based on surrounding normal pool and seasonal high water elevation data. The required stormwater retention area will be designed such that the seasonal high water elevations will be established to provide an appropriate hydrological regime to support the success of the wetland creation area.

The wetland creation area will be designed with three zones (Zones A and B, and C) of specific elevations at and below the seasonal high water elevations of the retention area. These zones will be planted with appropriate native wetland vegetation.

Zones A and B will include tree species such as bald cypress (*Taxodium distichum*), red maple (*Acer rubrum*), laurel oak (*Quercus laurifolia*). Shrub species will include a variety of wax myrtle (*Morella cerifera*), buttonbush (*Cephalanthus occidentalis*) and myrsine (*Myrsine guianensis*). The ground cover species may include maidencane (*Panicum hemitomon*), sawgrass (*Cladium jamaicense*) spike rush (*Eleocharis interstincta*). Zone C will be at the lowest elevation and support the longest hydroperiod. Zone C will be comprised predominantly of marsh species such as spike rush, pickerelweed (*Pontedaria cordata*), and arrowhead (*Sagittaria lancifolia*).

Given the close proximity to the Arthur R. Marshall Loxahatchee National Wildlife Refuge, the creation of the forested and herbaceous wetland area will provide optimal (year-round) foraging opportunities for various species of wading birds including listed species such as the state and federally threatened wood stork (*Mycteria americana*) as well as the state threatened little blue heron (*Egretta caerulea*), tricolored heron (*Egretta tricolor*), and roseate spoonbill (*Platalea ajaja*).

Other than creating habitats for fish, birds, and wildlife, the wet retention area will incorporate littoral shelves and be oversized to provide added water quality treatment. In addition, the stormwater system throughout the site will incorporate exfiltration trench designs to further promote water quality by removing any impurities prior to out falling into the Lake Worth Drainage canal and infiltrating into the aquifer. The retention area will also provide an additional layer of flood control for not only our site but the adjacent sites as well by acting as a stormwater storage area.

WWW.BOHLERENGINEERING.COM



## Exhibit 12

### Correspondence

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Correspondence provided at the 11/28/22 BCC Hearing

#### Stephanie Gregory

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**From:** Joe O'Donnell <joe.odonnell1@gmail.com>  
**Sent:** Friday, November 25, 2022 11:32 AM  
**To:** Dave Kerner M.; Gregg Weiss; Maria Sachs; Mack Bernard; Maria Marino G.; Sara Baxter; Marci Woodward  
**Cc:** Lisa Amara A.; 'Judy Hill'; 'Denise Bedner'; 'Steven Wallace'; vinikoor@bellsouth.net; rothcosys@comcast.net; 'Beth Rappaport'; 'Norm Brahs'; 'Arthur Goldzweig'; Wendy Hernandez N.; Stephanie Gregory; Kevin Fischer; Pat O'Bryant; gillvmd@aol.com; kevin costello; ctritsch@aol.com; 'Barbara O'Donnell'; 'Lindsey O'Donnell'; craig peschl  
**Subject:** SR 7 Business plaza LGA 2023-006 BCC Meeting 11/28/2022  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

#### This Message Is From an External Sender

This message came from outside your organization.

Dear Commissioners,

First, allow me to congratulate and Welcome Commissioners Baxter and Woodward to the Board of County Commissioners

On 8/25/2022 the BCC established zoning rules for the new Commercial FLU designation in the Agriculture Reserve. Included in the vote was a prohibition not allowing distribution centers in the Ag. Res. Yet here we are, with the 40-acre landowner and developer proposing a 750,000 SF regional distribution facility. Both the landowner and developer participated in the meeting on 25<sup>th</sup> and witnessed the BCC vote barring distribution centers.

Knowing all this, why would they be here on 8/28/22, asking to build a distribution center after the BCC publicly voted just three months ago that distribution centers do not belong in the Ag. Res.? Is it because the BCC has given the landowner zoning variances before, allowing them to sell land for a higher price? Was it because the developer, in the meeting

on the 25<sup>th</sup>, was allowed to reduce preserve requirements from the long standing 60% to 25%? Whatever the reason, they are back at the county's feed trough, confident the county will give them what they want. Apparently zoning regulations do not apply to them.

### IMPACT OF DISTRIBUTION CENTER

- 1) Credibility - Approving this would send a clear message to all developers, it is business as usual and the BCC will disregard existing rules and the impact upon residents to continue giving developers whatever they want. It is clear voters in the last election sent a message, they want the Ag. Res. and open space protected in the county. This is a new BCC with an opportunity to build credibility with voters and businesses.
- 2) Traffic - Over 2,600 semi-trailer truck and 1,200 automobile trips would be added to an already inadequate infrastructure. It is even worse; a Texas A&M engineering study shows congestion created by 2,600 trailer trucks is equal to 3,100 cars. Just imagine adding this to an already fractured infrastructure.  
The traffic Dept has given the BCC a traffic analysis that is not based on reality. It assumes traffic is currently at the maximum allowed by current zoning which is 1,224 trips. The reality is closer to 100. Secondly, it talks about restricted traffic verse what the facility is being built to handle. Traffic has not provided the BCC an analysis of how much additional traffic would be added to today's volume, which already strains the infrastructure. The answer is at least 3,800 trips per day. The developers' own calculations are even higher at 5,547 trips.
- 3) Regional not local - All you need to do is look at the proposed building, as opposed to the developer and his advisors' words, to

know this is a regional not local facility. There are 108 high door loading docks for trailer trucks. There are only 10 ground level docks that would be used for local delivery vans. The semi-trailers are not for serving the Ag. Res.

4) Impact on local businesses and residents -

- Extreme traffic congestion

- Insufficient infrastructure

- Noise pollution

- Air pollution

- Safety

- Inconsistent with intent of Commerce FLU to not negatively impact surrounding businesses and residents

- Equine farms in the immediate area would be forced to relocate or go out of business

- History shows approving this project would result in distribution centers throughout the Ag. Res.

### RECOMMENDATION

Reject proposal out of hand. The BCC voted just three months ago to not have distribution centers in Ag. Res. This would be a meaningful step in reestablishing the BCC's credibility with voters.

Thank You

JOE

Irish Acres Horse Farm

Member SARA (Save the Agriculture Reserve for Agriculture)