



**FUTURE LAND USE ATLAS AMENDMENT  
SMALL SCALE AMENDMENT**

**BCC ADOPTION PUBLIC HEARING, JUNE 24, 2013**

**I. General Data**

<b>Project Name:</b>	<b>Atlantic Commons Commercial (SCA 2013-004)</b>
<b>Request:</b>	<b>MR-5 to CL/5</b>
<b>Acres:</b>	4.99 acres
<b>Location:</b>	North side of Atlantic Avenue, east of the Florida Turnpike
<b>Project Manager:</b>	Bryce Van Horn, Senior Planner
<b>Agent/Applicant:</b>	Atlantic Commons Associates, LLLP
<b>Staff Recommendation:</b>	Staff recommends <b>approval</b> based upon the findings and conclusions contained within this report.

**II. Site Data**

**Current Future Land Use**

<b>Current FLU:</b>	Medium Residential, 5 units per acre (MR-5)
<b>Existing Land Use:</b>	Vacant
<b>Current Zoning:</b>	Planned Unit Development (PUD)
<b>Current Potential:</b>	19 units

**Proposed Future Land Use Change**

<b>Proposed FLU:</b>	Commercial Low with underlying 5 units per acre (CL/5)
<b>Proposed Zoning:</b>	Community Commercial (CC)
<b>Dev. Potential:</b>	Commercial Retail, 43,473 square feet at .20 FAR (maximum) Proposed 24,000 square feet

**General Area Information**

<b>Tier:</b>	Urban/Suburban
<b>Utility Service:</b>	Palm Beach County Water Utilities
<b>Annexation Area:</b>	None
<b>Plan/Overlay/Study:</b>	None
<b>Commission District:</b>	Mary Lou Berger, District 5

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**III. Hearing History**

**Local Planning Agency:** *Approval as recommended by staff*, motion by Judy Daversa, seconded by Roberta Levitt-Moccia, passed in an 8-0 vote. There was minimal discussion and no public comment. A letter of objection received following mail out was presented (see Exhibit 8)

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





## IV. Background

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The subject site is comprised of two parcels totaling 4.99 acres located in the Urban/Suburban Tier on the north side of Atlantic Avenue, just east of the Florida Turnpike, and on the east side of the Lake Worth Drainage District (LWDD) E-2-E canal. The site has a Medium Residential, 5 unit per acre (MR-5) future land use designation (FLU). The subject site is under the same ownership as the properties to the north and west. The property to the west of the subject site, although designated as CH, is utilizing its underlying MR-5 designation for residential development as part of Atlantic Commons PUD, which extends north of the subject site.

The properties immediately surrounding the site have FLU designations of residential, and commercial with MR-5 to the north and east, and Commercial High with underlying MR-5 (CH/5) to the west between the subject site and the Turnpike. All the properties on the north side of Atlantic Boulevard immediately surrounding the subject site are currently vacant but have development approvals (Atlantic Commons PUD and Villaggio Isles PUD). Just east, at the NW and NE corners of the intersection of Atlantic Avenue and Hagen Ranch Rd. are large existing, or approved but not built, commercial centers with CH/5 or CH/8 FLU designations. To the south of the subject site, across Atlantic Avenue and across from the Turnpike entrance, are primarily built residential multifamily developments with MR-5 and HR-8 FLU. A smaller (1.7 acres) vacant parcel has a CH/5 designation adjacent to the Turnpike. The residential developments to the south are Lexington Club, Waterways of Delray, Homewood Residence Senior Living, with Eagle Point, and Glen Eagle further east.

The subject site is currently vacant but was rezoned in 2005 from the Agricultural Residential (AR) Zoning District to the Planned Unit Development (PUD) District as part of the 124 acre Atlantic Commons PUD. Since 2005, The Atlantic Commons PUD development approval has been the subject of numerous changes, three of these changes being Development Order Amendments (DOA's) approved by the BCC. The first DOA since the original 2005 approval and rezoning occurred in 2006 (DOA/EAC 2006-286) and reconfigured the PUD to add land area (1.1 acres) on Atlantic Blvd. in order to realign the access to the PUD to align with an existing access opening for a residential development on the south side of Atlantic Blvd. known as Lexington Club. Access from the subject site to Atlantic Avenue, a major arterial, is proposed via the realigned access, a private non-planned collector road known as Stone Quarry Boulevard which is already constructed. Stone Quarry Blvd. is approved as the sole access to Atlantic Commons PUD and is proposed to be signalized. The applicant's concurrent zoning applications are requesting, in part, the removal of the subject site from the Atlantic Commons PUD and a rezoning of the subject site to a commercial Zoning District to correspond with the CL amendment request.

## V. Intent of the Amendment

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The applicant is proposing to change the existing FLU designation from Medium Residential, 5 units per acre (MR-5) to Commercial Low with an underlying MR-5 (CL/5) on this 4.99 acre site.

There are two concurrent Zoning applications, one of which includes a request to delete the subject site from the Atlantic Commons PUD (PDD/DOA-2012-3375). This request also includes adding other land area and units to the Atlantic Commons PUD and a public civic site adjacent to the Turnpike proposed for government services. The other Zoning application is for a rezoning of the subject site to the Community Commercial (CC) Zoning District with a proposal for a 24,000 square feet of commercial (Z/COZ 2012-3376).

## VI. Data and Analysis Summary

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This section of the report examines the consistency of the amendment with the County's Comprehensive Plan, Tier Requirements, applicable Neighborhood or Special Area Plans, and for 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, and 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 9J-5.006(5)(g), Florida Administrative Code (F.A.C.);* (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)

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 regard to the 'adequate justification', the applicant provides a justification statement (Exhibit 2) as summarized below.

- There are changed assumptions that have occurred since the adoption of the 1989 Palm Beach County Comprehensive Plan regarding commercial development in the area.
  - There will be a net reduction of commercial in the immediate vicinity given that the 32.21 acres to the west, designated as Commercial High, with and underlying Medium Residential 5 units per acre, is not proposed for commercial development but proposed and approved for a residential planned unit development known as Atlantic Commons PUD utilizing the underlying residential MR-5 FLU designation. The property will remain with a CH/5 FLU. However, the proposed amendment on the subject site and development of residential within the CH/5 designated lands within the Atlantic Commons PUD would result in a net reduction of commercial potential by 27.22 acres (32.21 acres of CH/5 - 4.99 acres on subject site = 27.22 acre net reduction).
- Residential is no longer appropriate as the primary use for this parcel.
  - There is a lack of neighborhood commercial within one mile and the proposed amendment will allow the site to be developed more efficiently and will promote balanced growth in the area given the site's location along a major transportation network and proximity to several large residential communities (e.g. Lexington Club, Glen Eagles, Murano, Villages of Oriole).
  - This amendment would create a functional and integrated relationship between the existing and proposed communities as common access to Stone Quarry Blvd would provide the residents of Atlantic Commons PUD direct access to neighborhood commercial without adding additional trips to Atlantic Avenue and also provide a relatively small commercial center within walking and biking distance.

**Staff Assessment:** The applicant has provided an adequate justification to change the future land use designation based on several factors. Regarding changed assumptions, the applicant is correct that the development of CH/5 designated lands within the Atlantic Commons PUD as residential instead of commercial will result in a reduction of over 27 acres planned for Commercial at this location since the adoption of the 1989 Comprehensive Plan. In addition, three other commercially designated properties within a half mile that were designated with commercial FLU in 1989 have been developed or approved alternatively with residential development since then utilizing their alternative residential designations. The result has further reduced what was anticipated for commercial in the area. Only one prior amendment to convert from a residential FLU to a commercial FLU has been approved to date.

- A 6.7 acre property designated as CH/5 at the northwest corner of Atlantic Ave. and Hagen Ranch Road has been incorporated into the residential Villaggio Isles PUD (R-2013-0001) utilizing the underlying 5 units per acre (MR-5) designation instead of the property's Commercial designation.
- Two properties on the south side of Atlantic Avenue were Commercially designated but developed residentially, resulting in County initiated amendments to remove their commercial designations.
  - A 16.75 acre property with a CH/5 designation located southwest of the intersection of Atlantic Avenue and Hagen Ranch Road was developed as the

Eagle Point community. In 2000, the County adopted an amendment to remove CH by amendment Eagle Point, 00-102 CHX 1 (Ord. 2000-035).

- A 2.41 acre property with a C/8 designation located southeast of the intersection of Atlantic Avenue and the Turnpike was developed with the Homewood Residence at Delray Beach assisted living facility. In 2001, the County adopted an amendment, Arc at Delray West, 01-102 Res 1 (Ord. 2001-058), to remove the C designation.
- Only one property was approved to add commercial, a 2.03 acre property located on the south side of Atlantic Avenue on the east side of the Turnpike. This site's commercial designation was adopted in 1991, amendment 91-102 COM 1 (Ord. 1991-031).

The overall net reduction of commercial in the area when including these properties and the amendment site is approximately 51 acres. The proposed amendment would therefore have little impact on the Future Land Use balance within this area.

Regarding the functional and integrated relationship with regard to Atlantic Commons and shared access, staff concurs that commercial on the subject site would provide convenient and functional neighborhood commercial for 733 homes currently approved in the Atlantic Commons PUD. The Atlantic Commons PUD primary access road is Stone Quarry Boulevard, which is also the sole access for the subject site. The coordinated access through Stone Quarry Boulevard will allow residents to access the subject site's proposed neighborhood commercial without being required to utilize Atlantic Avenue.

- 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.*

**Staff Analysis:** The proposed amendment would not conflict with any of the County directions. Thus, there are no policy issues regarding the County Directions relevant to this proposed amendment.

- 3. Piecemeal Development - 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 the 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:** The subject site is under the same or related ownership (Atlantic Commons Associates, LLLP) as the Atlantic Commons PUD. It is currently within the PUD approval and therefore has not historically been left out of the development area. This parcel has been previously proposed, in part, for civic purposes and currently simply designated as additional open space. A civic site is being proposed within the PUD and adjacent to the Turnpike as part of the concurrent Zoning application. However, given the realignment of Stone Quarry Blvd. further east in 2006 and the resulting configuration of the subject site with Stone Quarry surrounding it on two sides, with a canal to the west, and with shared access proposed to Stone Quarry Boulevard, which would provide functional connections to the surrounding properties, the subject site would not be considered a residual parcel. Additionally, as land use decisions are being made concurrently, considering the development approved and proposed for the Atlantic Commons PUD, coordinated access, and with a coordinated overall plan to provide for convenient and efficient access to neighborhood commercial, the proposed amendment would not encourage piecemeal development. Therefore, the proposed amendment is not inconsistent with this policy.

## **B. Consistency with Urban/Suburban Tier Requirements for the Specific FLU**

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.....”*

**Policy 2.2.2-a:** *In order to discourage strip commercial development, to limit commercial development to nodes, to foster interconnectivity, and to promote the development of innovated mixed use projects inside the Urban Service Area, all new commercial future land use designations shall meet one of the following location requirements:*

- *Intersection Location:*
  - *Commercial Low, High Office, or High future land use designations shall have frontage on built roadway segments identified as an arterial road and a collector road, or two arterial roads.*
- *Contiguous Location – All new commercial future land use designations shall be contiguous to a lot(s) with a commercial future land use designation. Contiguous is defined as lot(s) that share a common border. Lots that touch point-to-point, and lots which are separated by waterways, streets, or major easements are not considered contiguous.; or*
- *Flexible Location – Mixed-use development patterns identified in the Future Land Use Element (e.g. LCC, TMD, TND) or Commercial Low-Office future land use designations may be allowed in any location along all arterial or collector roads.*

*Roadway classifications are listed in Figure TE 3.1, Functional Classification of Roads.*

**Staff Analysis:** The proposed amendment is consistent with this policy and its location requirements.

### **C. Compatibility**

**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.*

Compatibility is defined by Chapter 163, F.S.:

**Chapter 163, F.S.: (9) "Compatibility"** *means 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.*

This section of the report examines compatibility of the proposed amendment, considering the above definition, with regard to the proposed future land use change and surrounding future land uses.

The subject is on the north side of Atlantic Blvd. east of the Florida Turnpike, more specifically at the NW corner of Atlantic Blvd., and arterial roadway, and Stone Quarry Blvd., a non-planned collector roadway. Access to the site is not proposed from Atlantic Boulevard but from Stone Quarry Boulevard which will also provide access to the planned Atlantic Commons PUD to the north and west. The Turnpike interchange north bound on/off ramps are located on the east side of the Turnpike here with the south bound on/off ramps on the west side. The subject site is located at the western edge of the Urban/Suburban Tier in this part of the County with the Ag Reserve Tier located west of the Turnpike. In the immediate vicinity, east of the Turnpike, there is a mix of residentially designated lands from Low Residential, 3 units per acre, to High Residential, 12 units per acre (LR-3 to HR-12) and some commercial property both developed or approved but not developed with CH/5 and CH/8 FLU's. Most of the commercial is concentrated at the intersection of Atlantic Blvd. and Hagen Ranch Road.

- **West:** Adjacent to the west of the subject site is the Lake Worth Drainage District E-2-E Canal (approximately 110 feet). Between the canal and the Turnpike lies a 32 acre property designated with CH/5 FLU. The majority of this property lies to the north with only a narrow portion of it between the Turnpike and the subject site. This property has been incorporated into the Atlantic Commons PUD approval utilizing its underlying MR-5 FLU designation. Atlantic Commons PUD is the subject of a concurrent zoning application for a Development Order Amendment (DOA) to delete the subject site from its approval, add other land area, and add units to the PUD for approximately 950 units. Lessing out the subject site, the Atlantic Commons PUD is proposed on over 164 acres. The land area within the Atlantic Commons PUD between the subject site and the

Turnpike is proposed as part of the concurrent zoning application for Public Civic use as Government Services.

- **North:** Stone Quarry Boulevard, an already constructed non-planned collector road, borders the site to the east and north. Non-planned collector roads are roadways that are not identified on the County's Thoroughfare Right of Way Identification Map. Atlantic Commons PUD is to the north and is the subject of a concurrent zoning application as described above. This portion of the PUD is designated with MR-5 FLU. All of Atlantic Commons PUD is currently un-built.
- **East:** Directly bordering the site on the east, between the site and Stone Quarry Boulevard, is a .39 acre parcel that is to remain within the Atlantic Commons PUD and is designated as open space. The parcel is designated with MR-5 FLU. To the east and northeast, across Stone Quarry Blvd. is property also designated with MR-5 FLU. This property is approved but un-built as the Villaggio Isles PUD with 598 approved units on approximately 92 acres. Further east, at the northwest corner of Atlantic Blvd. and Hagen Ranch Rd., is the approved but un-built Villaggio Isles MUPD with a CH/5 FLU and 175,800 square feet of approved commercial (retail and office) on 17.6 acres. There is another 4.22 acres of CH/5 designated property at this corner, a portion of which is built with a gas station. There is also an additional 6.7 acres at this corner designated as CH/5 however it is not proposed to be utilized for commercial development. The 6.7 acres has been incorporated into the approval of the Villaggio Isles PUD for residential development, instead of commercial, utilizing the underlying residential MR-5 FLU.
- **South:** To the south across Atlantic Ave., beginning on the east side of the Turnpike and across from the Turnpike entrance, is a 2 acre vacant property with a CH/5 FLU designation, a multifamily residential community (Waterways at Delray) with MR-5 FLU and a 4.6 acre HR-8 designated property developed with an assisted living facility (Homewood Residence at Delray Beach). Directly south of the subject site and east are the built residential communities of Lexington Club, Eagles Point, and Glen Eagles Country Club with FLU designation of MR-5 and LR-3.

**Staff Analysis:** This site is surrounded on three sides by roadways and one by a canal, and will not immediately abut any residentially designations or properties. The 80 foot Stone Quarry Boulevard right of way borders the site to the north and east, separating the subject site from the MR-5 designated Atlantic Commons PUD. The LWDD E-2-E canal borders the site to the west and Atlantic Avenue, a major arterial roadway, is to the south. Given the FLU's and conditions surrounding the subject site, the proposed future land use of Commercial Low is compatible with the future land uses, and existing and planned development in the immediate vicinity. The proposed FLU is not considered an encroachment of an incompatible future land use into a residential area. Therefore, the proposed amendment is consistent with these policies.

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

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

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

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

**Staff Analysis:** The proposed amendment is not located within a Community/ Neighborhood Plan, or Planning Area Special Study.

## E. Public Facilities and Services Impacts

The proposed amendment will increase the maximum development potential on the site from 19 residential development units to 43,473 square feet of commercial retail uses. Public facilities impacts are detailed in the Public Facilities table in the exhibits.

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:

Parks and Recreation Dept., Potable Water and Wastewater (PBCWUD), Historic Resources (PBC archeologist), ULDC (Zoning), School Board, Fire Rescue, Community Services, Office of Community Revitalization (OCR).

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 the MPO’s 2025 Long Range Transportation Plan dated March 18, 2002. Significant impact shall be as defined in Table 3.5 -1.” (Table omitted for brevity) “or; results in a project that fails Test 2 regulations adopted to implement TE Policy 1.1-b. This policy shall not be applicable to an Agricultural Enclave pursuant to Florida Statutes section 163.3162(5). This policy shall not be applicable to the area designated as SR-7 Economic Development Overlay (EDO).”*

**Staff Analysis:** The Traffic Division reviewed this amendment as a proposed increase from an existing maximum potential of 19 single family units to a proposed maximum potential of 43,472 square feet. According to the County’s Traffic Engineering Department (see letter dated November 1, 2012 in Exhibit 4) the amendment would result in an increase of 1,981 net daily trips (based on maximum potential), and 10 (11/-1) AM and 177 (83/94) PM net peak hour trips.

The Traffic letter concludes *“the Traffic Division has determined that the proposed amendment complies with Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan at the maximum potential use.”*

The Traffic Study (see Exhibits) was prepared by Simmons & White, 5601 Corporate Way, Suite 200, West Palm Beach, FL 33407. Traffic studies and other additional supplementary materials for site-specific amendments are available to the public on the PBC Planning web page at: <http://www.pbcgov.com/pzb/planning/activeamend/>

## F. Florida Statutes

1. **Data and Analysis Applicable to Florida Statutes:** Chapter 163, Florida Statutes, requires that local governments’ future land use plans be based on a number of factors. As such, the applicant has provided Justification Statement (see Exhibit 2) with the basis for the proposed CL/5 FLU being that residential is no longer appropriate as primary land use, that it will not increase commercial in the area (will result in a net reduction), there is a lack of neighborhood commercial within a mile, it will result in more efficient development of the site, it will provide a functional and integrated relationship with residential community, and it is compatible.



2. **Data and Analysis Applicable to Florida Statutes – Urban Sprawl Rule:** The proposed amendment is not considered sprawl as it is within the Urban/Suburban Tier and within the Urban Service Area Boundary, which provides an array of urban services and public facilities. This Tier is also the target of the County's redevelopment and revitalizations strategies with the purpose of redirecting growth to older unincorporated areas, promoting mixed use development concepts, and transit-oriented development, where feasible, all with the explicit purpose of reducing sprawl.

**VII. Public Notice 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 April 22, 2013. To date, no objections through the IPARC process to this amendment have been received. No municipal notices were sent as the subject site is not within a future annexation area or within one mile of any municipality.
- B. **Other Notice:** Public notice by letter was mailed to the owners of properties within 500' of the perimeter of the site and within 500' of adjacent lands owned by the same owner on April 23, 2013. Additional notification was provided to interested parties including the Alliance of Delray Residential Associations, and several homeowner associations within close proximity (Eagle's Point and Delray Lakes Estates). Several phone calls have been received from area homeowners inquiring about the proposed amendment. As of May 10th, one letter of objection had been received (see Exhibit 8).

**VIII. Conclusions and Recommendation**

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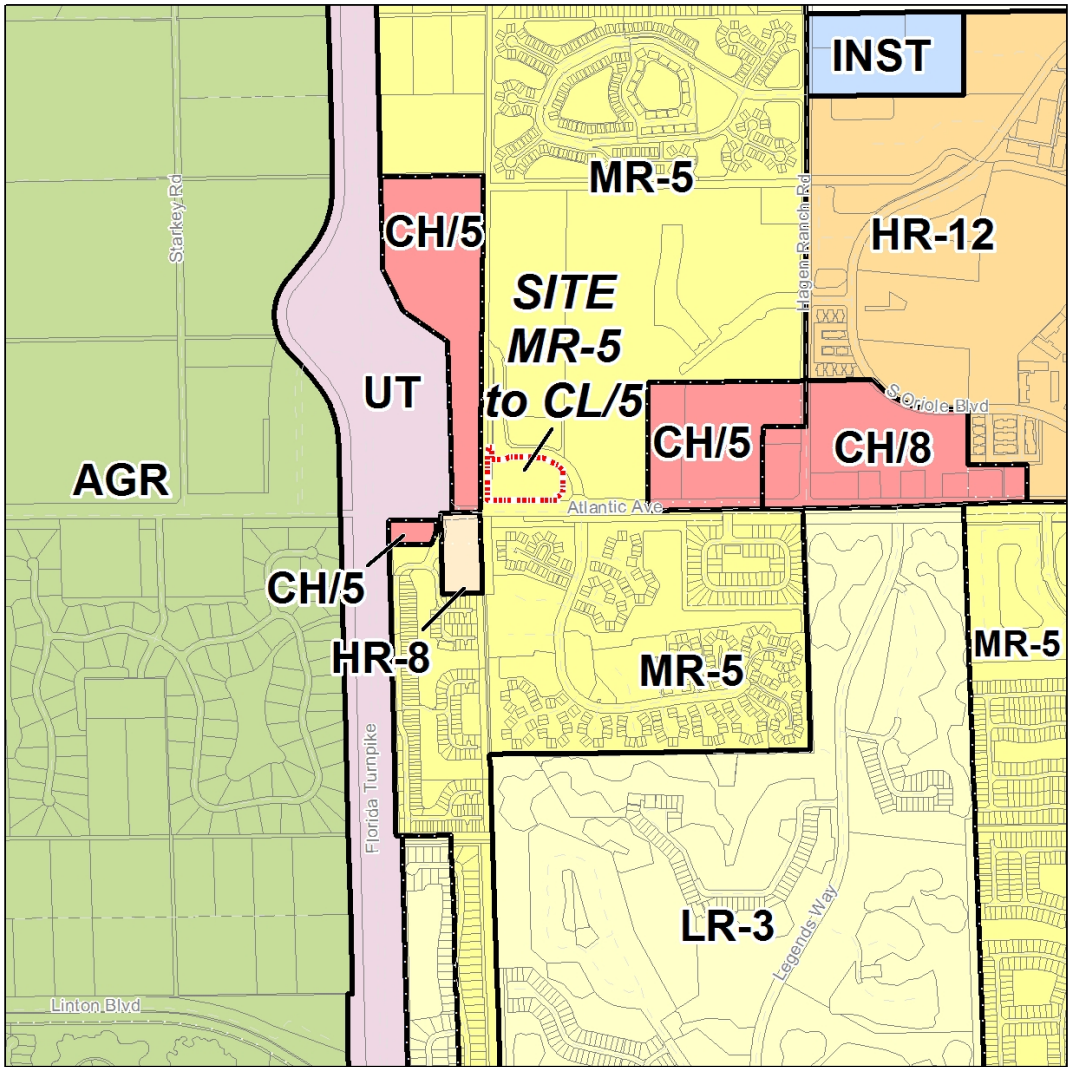
As demonstrated in this report, the applicant has provided an adequate justification and the proposed amendment is consistent with the policies in the Comprehensive Plan. Given the changes in the immediate vicinity since adoption of the 1989 Comprehensive Plan regarding commercial FLU's and development approvals, that the subject site will provide neighborhood serving commercial functionally integrated with the surrounding community, the request for Commercial Low is appropriate. The proposed amendment is compatible with adjacent existing and planned development. Finally, the proposed amendment does not violate any facility or service standards.

As such, staff recommends **approval** of the applicant’s request.

Exhibits		Page
1.	Future Land Use Map & Legal Description	E-1
2.	Applicant’s Justification, Consistency & Compatibility Statements	E-2
3.	Applicant’s Public Facility Impacts Table	E-16
4.	Palm Beach County Traffic Division Letter	E-18
5.	Applicant’s Traffic Study <i>(available to the LPA/BCC upon request)</i>	E-19
6.	Water & Wastewater Provider LOS Letters	E-20
7.	Applicant’s Disclosure of Ownership Interests	E-21
8.	Correspondence	E-25

Exhibit 1

Amendment No.:	Atlantic Commons Commercial (SCA 2013-004)
FLUA Page No.:	98
Amendment:	Medium Residential, 5 units per acre (MR-5) to Commercial Low, with an underlying MR-5 (CL/5)
Location:	North side of Atlantic Avenue, east of the Florida Turnpike
Size:	4.99 acres
Property No.:	00-42-46-16-27-001-0000, 00-42-46-16-27-002-0000
Conditions:	N/A



Legal Description

LEGAL DESCRIPTION

TRACT A AND TRACT F, ATLANTIC COMMONS – PLAT ONE, AS RECORDED IN PLAT BOOK 115, PAGES 135-137.

SAID LANDS ALL SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 4.988 ACRES, MORE OR LESS.

## Exhibit 2

### Applicant's Justification & Demonstration of Need

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#### Consistency with the Comprehensive Plan and Florida Statutes

##### INTRODUCTION:

Atlantic Commons Associates, LLLP (hereinafter "ACA") is the owner/developer of the subject 4.99 acre parcel and will act as agent for the proposed small-scale Future Land Use Atlas (FLUA) Amendment attached herewith. The property is located on the north side of Atlantic Avenue, just east of the Florida's Turnpike, east of the LWDD E-2-E canal, and lying within what is currently known as the Atlantic Commons PUD. The request is to change the adopted land use plan designation of the subject 4.99 acre site from Medium Residential 5 (MR-5) to Commercial Low (CL) with an underlying residential designation of MR-5 (CL/5). Concurrent with the small-scale amendment process, ACA will amend the Development Order for Atlantic Commons PUD through the Development Order Amendment process to delete the subject 4.99 acre site from the boundaries of the PUD. Also concurrent with the small-scale amendment process, ACA will process a rezoning of the 4.99 acre site from the Planned Unit Development (PUD) zoning district to the Community Commercial (CC) zoning district. The 4.99 acre site is located within the Urban/Suburban Tier of Palm Beach County and a Tier change is not required.

The overall Atlantic Commons PUD project contains 124.203 acres. Approximately 32.21 acres of the Atlantic Commons PUD project has an adopted land use of CH/5 and the balance, or approximately 92 acres, has an adopted land use of MR-5. The portion which includes the CH/5 land use lies west of the E-2-E LWDD canal and east of the Florida Turnpike. None of the subject 4.99 acres is located within the portion of the property which presently has an adopted land use plan designation of CH/5. In effect, the 32.21 acres of CH/5 will not be developed for commercial purposes as it will remain part of the Atlantic Commons PUD residential project (utilizing the underlying MR-5 land use) and the 4.99 acres will be removed from the Atlantic Commons PUD project and developed commercially. While it is not a transfer of the commercial development rights as the 32.21 acres will remain with an adopted land use of CH/5, in effect the end result will be a net reduction of commercial potential by 27.22 acres (32.21-4.99=27.22). ACA herewith agrees to stipulate that the 32.21 acres (with an adopted land use of CH/5) will develop residentially utilizing the underlying residential density and will not utilize the commercial potential of the existing land use of CH.

The Atlantic Commons PUD project was originally approved by the Board of County Commissioners (hereinafter "BCC") via Resolution No. R-2005-2291 on November 17, 2005. In addition a cul-de-sac waiver, Resolution No. R2005-2292, was approved to allow more than 25% of the local streets to terminate in a cul-de-sac or dead-end. Article 3.E.1.C.1 of the ULDC was amended (August 28, 2008) to increase the number of allowed cul-de-sacs within a PUD to be 40% instead of 25% of the approved street names to either end in a cul-de-sac or dead end. Resolution R-2006-0516 approving DOA/EAC 2006-286 to add land area (1.108 Acres) and reconfigure the site plan was approved by BCC on March 23, 2006. The DOA was required in order to align the subject property with an existing access opening for Lexington Club. A Final DRO Master Plan was approved on November 14, 2007 by DRO along with a Final Subdivision Plan for Pod A-1.

After, the above stated approvals, ACA purchased the site and processed several Development Order Amendments.

Resolution R-2009-0713 for DOA 2007-01897 was approved on April 23, 2009 to reconfigure the master plan, add units, allow a model row, require that 71 of the 733 units be set aside for Workforce Housing Units (WHP) under the Mandatory Inclusion Zoning (MIZ) requirements of Article 5.G.1.B. of the ULDC, modify conditions of approval, and restart the commencement clock on said parcel of land.

Resolution R-2009-1823 for DOA2009-02674 was approved on October 22, 2009 which reconfigured the site plan, revised the mix of units by deleting the zero lot line units and adding additional townhome units. The current mix of units includes 426 townhomes and 307 multi family units with an overall total of 733 residential units.

The owner/developer is requesting the FLUA Amendment as a result of the location of the property which lies along a major transportation network (Atlantic Avenue and Florida's Turnpike) and its' close proximity to several large residential communities such as Lexington Club, Glen Eagles, Murano and the Villages of Oriole. Its' location establishes a need to introduce commercial services that can serve the surrounding communities. The proposed amendment will allow the site to be developed more efficiently and will promote balanced growth in the area and will be consistent with the needs of the surrounding residential communities.

Currently the subject property is vacant and until recently was an active agricultural operation.

## **JUSTIFICATION FOR LAND USE AMENDMENT**

The proposed future land use amendment is requested due to changed assumptions that have occurred since the adoption of the 1989 Palm Beach County Comprehensive Plan. The proposed amendment is a request to modify a portion of the current Medium Residential FLUA designation to a Commercial Low FLUA designation with an underlying Medium Residential MR-5. The existing residential designation restricts the development to residential uses which are no longer appropriate as the primary use for this parcel. In effect, the application seeks to allow development of a 4.99 acre commercial development on the subject site utilizing a CL land use designation rather than 32.21 acres of commercial high intensity uses on the parcel of land located immediately to the west of the subject site. The use of the subject site for commercial, combined with the development plans of the Atlantic Commons PUD, and the existing residential developments in the area, create a unique opportunity to establish a mixed use of commercial, residential and civic (County civic site within the Atlantic Commons PUD) all in one geographically concentrated area adjacent to the Florida Turnpike.

Because there is an existing 32.21 acres of Commercial High within the overall project, it is appropriate to re-allocate 4.56 acres to Commercial Low which will be a more appropriate use given the location of the property which is surrounded by residential uses.

The location of the subject property fronting on Atlantic Avenue, just east of the Florida Turnpike on the north side of Atlantic Avenue is ideally suited for retail development, resulting in the existing MR-5 FLUA designation being no longer appropriate. There is a clear recognition of residential growth in the area surrounding the proposed amendment site that has resulted in an increase in the demand for neighborhood retail uses. The use of 4.99 acres of commercial low uses rather than 32.21 acres of commercial high uses is a much better application of commercial uses for the area.

Planning principles support neighborhood retail uses along a major thoroughfare and in close proximity to residential communities. The future development of the Atlantic Commons project with 733 residential units which lies directly north of and adjacent to the proposed amendment site will benefit greatly by the proposed commercial center. The commercial center will provide uses such as restaurants, personal services, retail and bank within walking distance or biking distance to the residents without requiring them to access any major thoroughfare. In addition the proposed residential community lying directly east of Atlantic Commons, known as Villaggio Isles, will also bring 598 new residential units to the area.

Within a one mile radius of the subject property there are 2 gas stations, one east of the site on Hagen Ranch Road and Atlantic Avenue and one west of the site, west of the Turnpike. There are a few banks lying east of Hagen Ranch Road on Atlantic Avenue and also a major grocery store with several retail tenants. However, there is a lack of "neighborhood commercial" for the surrounding residential communities.

### **Adjacent Land Use Designations**

The Atlantic Commons PUD includes two different Land Use categories. Of the 124.2 acres, 32.21 acres includes a CH5 Land Use category, while the balance falls within MR5. West of the project is the Florida Turnpike and West of that lies the Agricultural Reserve Tier of the Comprehensive Plan. Directly north and east of the project is predominately residential with MR-5 land use designation. South of the project is Atlantic Avenue and along the south side of Atlantic are several residential communities with an HR-8 land use designation.

### **Small Scale Amendment Criteria:**

**Small Scale Amendments:** In order to be processed as a Small Scale amendment (SCA), must be processed concurrently with an associated Zoning application (if applicable) and must meet the following criteria:

**SCA Criteria in the Introduction & Administration Element:**

- a. The parcel consists of a lot (or lots) which do not exceed a total of 10 acres in size (including all land necessary to support the proposed use including land necessary for drainage). Response – the parcel is less than a total of 10 acres in size. While the drainage area for the subject site is not located within the 4.99 acres subject to the land use plan amendment application and is being accommodated within the stormwater retention area of the adjacent Atlantic Commons PUD, the drainage area necessary to accommodate the 4.99 acres is significantly less than 5 acres, thus the cumulative site + drainage does not exceed 10 acres;
- b. The parcel is located within the Urban Service Area Boundary. Response – the platted parcel is located within the Urban Service Area Boundary.
- c. The request is not to move the boundary of any tier. Response – the request does not involve the movement of any tier.

**SCA Criteria pursuant to F.S. § 163.3187(1):**

- a. The proposed amendment involves a use of 10 acres or fewer. Response - the platted parcel of land is 4.99 acres in size, less than the 10 acre threshold.
- b. The cumulative annual effect of the acreage for all small scale development amendments adopted by the local government does not exceed a maximum of 120 acres in a calendar year. Response – County to determine answer to this question.
- c. The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small scale development activity. However, text changes that relate directly to, and are adopted simultaneously with, the small scale future land use map amendment shall be permissible. Response – the amendment does not involve a text change to the goals, policies, and objectives of the local governments comprehensive plan, and does only propose a land use change to the future land use map for a site-specific small scale development activity.
- d. The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1). Response – the property that is the subject of the proposed amendment is not located within an area of critical state concern.

**Consistency with Policy 2.1-f of the Future Land Use Element:**

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, and 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;
2. The availability of facilities and services;
3. The adjacent and surrounding development;
4. The future land use balance;
5. The prevention of urban sprawl as defined by 9J-5.006(5)(g), Florida Administrative Code (F.A.C.);
6. Community Plans and/or Planning Area Special Studies recognized by the Board of County Commissioners; and
7. Municipalities in accordance with Intergovernmental Coordination Element Objective 1.1.

**Two Factors for Adequacy of LUPA Application:**

- 1) The proposed use is suitable and appropriate for the subject site. Response – As noted earlier in the Introduction section, the subject 4.99 acre site is located adjacent to (directly to the east of) 32.21 acres of land that is designated CH/5 on the Adopted Future Land Use Plan Map, which is also owned by the ACA. The concept is to utilize the 4.99 acres for CL/5 commercial development, as the subject site is better situated for neighborhood commercial development (frontage at intersection of Atlantic Avenue and Stone Quarry Blvd.) than the 32.21 acres. The 32.21 acres will remain part of the residentially based Atlantic Commons PUD utilizing the underlying residential designation of MR-5.



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

- Changes in FLU designations on adjacent properties or properties in the immediate area and associated impacts on the subject site. Response – As noted in the Introduction, the subject site currently part of the Atlantic Commons PUD. A concurrent zoning request seeks to remove the 4.99 acres from the boundary of the Atlantic Commons PUD to develop the subject site as a neighborhood commercial center utilizing the CC – Community Commercial zoning district. The utilization of this site for commercial allows for the adjoining 32.21 acres of commercial property to be utilized as part of the Atlantic Commons PUD (using the underlying MR-5 designation), effectively removing 27.22 acres of approved commercial land use from development.
- Changes in the access or characteristics of the general area and associated impacts on the subject site. Response – The 4.99 acre site has significantly better site visibility and access than the adjoining 32.21 acres of CH/5 land use. ACA is currently constructing Stone Quarry Blvd., such that the subject site is located at an intersection immediately east of the Florida Turnpike. Access to the 4.99 acres will be from Stone Quarry Blvd., rather than Atlantic Avenue. Access to the Atlantic Commons PUD will also be from Stone Quarry Blvd. Therefore, residents of the 733 unit Atlantic Commons PUD will have direct access to the 4.99 acres without ever having to access Atlantic Avenue, resulting in ease of site access to neighborhood commercial services without adding additional trips to the adjoining public roadway.
- New information or change in circumstances which affect the subject site. Response – As noted above, the 4.99 acre site is better suited for neighborhood commercial uses rather than the adjoining 32.21 acres of CH/5.
- Inappropriateness of the adopted FLU designation. Response – As noted above, the 4.99 acre site is better suited for neighborhood commercial uses rather than the adjoining 32.21 acres of CH/5.

or

- Whether the adopted FLU designation was assigned in error. Response – the adopted FLU designation was not assigned in error.

The following demonstration of need is comprised of five (5) evaluation criteria, which define the need for the proposed Commercial Low FLUA Amendment:

**1 Compatibility:** Land Use Compatibility is stated in the Future Land Use Element as, “ensure that the densities and intensities of the land are not in conflict with those of surrounding areas, whether incorporated or unincorporated”. The majority of the surrounding residential communities include land use designations of 5 units per acre or higher. The parcel included in the land use change will be buffered to the residential area to the north by an 80 foot right-of-way and required landscape buffers and to the south by the 120 foot Atlantic Avenue, an arterial right-of-way.

Compatibility as defined by FAC 9J-5.003 (23) means 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.

Response - The proposed 4.99 acre Commercial Low land use can co-exist with the surrounding residential communities without negatively impacting their current or future existence. In fact, the residential communities will greatly benefit by having a relatively small commercial center within walking and biking distance to them.

**North:** Atlantic Commons PUD with 5.90 units per acre. (733 Total Residential Units: 426 Townhouse & 307 Multi Family Apartments dwelling units)

FLU: MR-5 & CH-5

Zoning: PUD

**South:** Lexington Club, Homeland and Waterways. Lexington Club being a single family community, Homeland, an assisted living facility, and Waterways a condominium community.

FLU: HR-8

Zoning: RS

**East:** Currently Vacant but approved as Terra Nova aka Villaggio Isles, an age restricted community (115 Zero Lot line units, 407 Townhouse Dwelling units and 76 Multi Family units.

FLU: MR-5  
Zoning: PUD

**West:** LWDD E-2-E Canal and the Florida Turnpike

**2. Suitability:** As defined by FAC 9J-5.003 (128) means the degree to which the existing characteristics and limitations of land and water are compatible with a proposed use or development.

Response - The subject property lies within the Urban Suburban Tier and thus within the Urban Service Bondary, therefore potable water and waste water service is readily available. The proposed land use is not only suitable but compatible with the land and water. Access will be provided by an 80 foot internal spine road that is directly connected to Atlantic Avenue, an arterial thoroughfare. Additionally, the subject site which has the same owner/developer as the proposed residential community to the north has the capacity to meet the drainage needs through a series of on-site drainage ponds. The drainage facility that will service the site is the LWDD. The on-site drainage system again is part of the overall Atlantic Commons property and as such will consist of a series of catch basins and pipes which will route stormwater runoff to the interconnected wet retention lake system within each basin. Lakes within each basin will be interconnected and the design water level will be 16.0' NGVD. The on-site drainage system will be designed to retain a calculated 3 - year storm event. Legal positive outfall is provided by the E-2-E canal. Proposed facilities in Atlantic Commons PUD will include swales, retention ponds, ditches, canals and storm sewers.

**3. Functional Relationship:** As defined by FAC 9J-5.003 (50) means a complementary and interactive relationship among land uses or development, including at a minimum a substantial and positive exchange of human interaction, goods, resources, institutions, services, jobs or workers between land uses or developments. The functional relationship between land uses is critical when planning land use. It is important to take into consideration, the proximity of commercial uses to residential uses in order to achieve a balance and to provide supply of goods and services where there is a demand and need. Without a mix of land uses, an imbalance results and thus requiring the local population to travel greater distances to obtain certain goods and services.

Response - The benefit from providing this specific land use at its requested location is its close proximity to the surrounding residential communities. Also it will create an important interface to the established communities in the area as well as the proposed communities yet to be built. It will establish a pattern and enable interaction between the different land uses by providing a gathering area for residents to enjoy certain retail establishments and personal services.

Also given that the location is highly accessible by pedestrian traffic and even bicycles it will greatly reduce the amount of vehicle miles traveled and furthermore lower greenhouse gas emissions. The proposed development will not only provide a much needed retail benefit but can also provide necessary personal services to the area, thus creating a highly functional relationship.

In addition, the proposed amendment is consistent with the principles of sustainable urban development and growth management laws which are directed at energy conservation and minimizing urban sprawl. The project will not only enhance the area aesthetically but will also provide a greatly needed amenity.

**4. Land Use Combinations:** Land Use Combinations are defined as the appropriate balance of land uses necessary for service provision, employment (commercial, office, institutional, and industrial) and housing needs in the area.

Response - Although there is no known land use imbalance in this area, the proposed land use change to the subject parcel will not alter the balance for the area. In fact, it will enhance the balance by providing the needed low intensity

commercial goods and services. The area within a five mile radius is predominately residential with a few clusters of commercial uses along both Atlantic Avenue and also Hagen Ranch Road. This specific area has very little commercial uses associated with the Commercial Low FLU designation which are designed to provide day to day goods and services and employment opportunities for the existing local population and the future residents in the area.

**5. Energy & Environment:** Energy and Environment is defined as the promotion of energy-efficient land use patterns, energy conservation and greenhouse gas reduction strategies. When residents are required to travel greater distances to obtain necessary goods and services they not only impact the surrounding roads but increase the amount of greenhouse gas by the need to travel by automobile. This not only adds burden upon themselves but also on other residents within the community. Both shopping and personal services should be made attainable to local residents in order to promote energy efficient land use patterns, energy conservation and the reduction in greenhouse gas emissions.

**A. Location Analysis:** The subject property consists of 4.99 acres located in the Urban Suburban Tier on the east side of the Florida Turnpike, north of and adjacent to Atlantic Avenue, both arterial roadway thoroughfares. The residential communities surrounding the subject property create a need for Low Commercial uses in order to fulfill the need and demand for retail, office, restaurant and personal services within the area. The location of the subject property, along a major thoroughfare and adjacent to several existing residential communities creates an ideal location for the Commercial Low FLU designation. It will create a functional and integrated relationship between the existing and proposed communities. The proposed change in land use will allow the owner/developer to accommodate the needs of the local and future population.

**II. CONSISTENCY WITH THE COMPREHENSIVE PLAN**

**A. Consistency with Directives, Goals, Objectives, and Policies of the Palm Beach Comprehensive Plan (1989).**

The Future Land Use (FLU) Element of the Comprehensive Plan establishes the framework for future development within Unincorporated Palm Beach County and includes Goals, Objectives and Policies which guide this future growth. Section 1.C of the FLU Element also establishes County Directions which reflect the type of community residents wish to see within Palm Beach County. Of the Counties 15 Directives the following are particularly relevant to this application:

- 1. Livable Communities
- 2. Growth Management
- 3. Land Use Compatibility
- 4. Neighborhood Integrity
- 5. Economic Diversity and Prosperity
- 6. Environmental Integrity
- 7. Design

The following analysis demonstrates the proposal's consistency with the relevant Goals, Objectives and Policies of the Future Land Use Element of the Comprehensive Plan. It also establishes that the existing land use designation is no longer appropriate and that the subject site is an excellent location in which to establish Commercial Low (CL) FLU designation as it will create an opportunity to provide needed services to the existing population in the area and also the future residents.

**Objective 1.2 Urban / Suburban Tier – Urban Service Area**

*Palm Beach County shall plan to accommodate approximately 90% of the County's existing and projected population through the long-range planning horizon within the Urban/Suburban Tier. These areas have a development pattern generally characterized as urban or suburban, considering the intensity and or density of the development.*

Response - The subject property is located within the Urban Suburban Tier and the proposed use is urban in nature and will provide a necessary service to the surrounding community.

**Policy 1.2-a:** *Within the Urban/Suburban Tier, Palm Beach County shall protect the character of its urban and suburban communities by:*

- 1. Allowing services and facilities consistent with the needs of urban and suburban development*
- 2. Providing for affordable housing and employment opportunities;*
- 3. Ensuring development is compatible with the scale, mass, intensity of use, height, and character of urban or suburban communities.*

Response - Given the location of the subject property and the surrounding residential communities, the proposed change in land use will provide various needs to assist in supporting a residential population. In addition, a commercial center will provide employment opportunities to surrounding residents and is compatible with character of an urban community.

**Policy 1.2-b:** *Palm Beach County shall encourage and support sustainable urban development, including restoration, infill and adaptive reuse:*

Response - The subject property is located directly on a major County arterial roadway and provides easy access to and from the project. However, it is reasonable to believe that the future commercial uses will serve the adjacent residential communities which are within walking distance, thus creating a sustainable urban commercial center by promoting both pedestrian and bicycle traffic.

**Objective 2.1 Balanced Growth:**

*Palm Beach County shall designate on the Future land use Atlas sufficient land area in each land use designation to manage and direct future development to appropriate locations to achieve balanced growth.*

Response - The change in land use designation on the subject property from Residential to Commercial Low will assist the County with their objective to achieve balanced growth. Existing and future residential communities in the area need commercial uses in order to obtain goods and services locally and not promoting added vehicular traffic when not necessary.

**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 under utilize the existing or planned capacities of urban services.*

Response - The proposed project will not negatively impact the natural or manmade constraints of the area. Given the size and location of the project both facilities and services are available. There are no environmental impacts to the property as it has been under a farming lease for several years. The attached Traffic Study shows that the size of the project will not negatively impact the surrounding roadways.

**Policy 2.1-b:** *The County shall utilize a range of residential future land use categories to plan for growth and non residential land use designations to support and serve the residential and tourist populations as described in The FLUA regulation Section of this Element. The entitlement, minimum and maximum densities and the intensities allowed within each land use designation and category are specified in the FLUA Regulation Section.*

Response - The proposed CL Land Use designation will both support and serve the existing and future residential populations within the area. The maximum density allowed is 25% of the gross acreage.

**Policy 2.1.c:** *The Comprehensive Plan shall use population projections and associated dwelling unit projections to guide public and private entities in planning for urban development and redevelopment. The projections shall also guide the location, timing and capacity of urban services and facilities, where other regulatory planning tools do not apply.*

Response - Because the subject property is located within the Urban Suburban Tier, and along an arterial roadway, and is surrounded by both existing residential communities

and future residential communities, the proposed Land Use Change will bring the necessary commercial goods and services to those communities.

**Policy 2.1.d:** *The future land use designation for individual parcels shall be shown on the Official Future land Use Atlas (FLUA) maintained by the Planning, Zoning and Building Department. The Atlas shall depict future land use designations for all parcels in unincorporated Palm Beach County, including underlying/alternative land uses, and the boundaries and ordinance numbers of all adopted FLUA amendments.*

Response - The Official Future Land Use Atlas (FLUA) will be updated to indicate the proposed CL Land Use designation after approval.

**Policy 2.1.e:** *The Future Land Use Atlas may depict underlying residential densities or alternative designations as proved below. The County may initiate a land use amendment to remove the non-utilized future land use designation after the property is developed.*

1. *The Future Land Use Atlas may depict residential or industrial underlying alternative land uses for properties designated Commercial or Commercial Recreation. The alternative use will permit development provided maximum allowable densities or intensities are not exceeded.*

Response - The proposed land use designation of CL is also requesting to maintain the current MR-5 as the underlying Land Use designation.

**Policy 2.1.f:** *Before approval of a future land use amendment, the applicant shall provide an adequate justification and a demonstrated need for the proposed future land use, and for residential density increases demonstrate the 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;*
2. *The availability of facilities and services;*
3. *The adjacent and surrounding development;*
4. *The future land use balance;*
5. *The prevention of urban sprawl as defined by 9J-5.006(5)(g), Florida Administrative Code;*
6. *Community Plans and/or Planning area Special Studies recognized by the Board of County Commissioners; and,*
7. *Municipalities in accordance with Intergovernmental Coordination Element Objective 1.1*

Response - The justification statement including a demonstration of need for the proposed future land use designation is included herewith. Said justification statement includes the inappropriateness of the current land use designation.

**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 conventionally located facilities and services while maintaining the diversity of lifestyles in the County.*

Response - In preparing the Justification for the Land Use Change, the County Directions were utilized and included where appropriate. The proposed CL Land Use designation promotes a much needed commercial use to a predominately residential area.

**Policy 2.1.h:** *The County shall not approve site specific Future Land use Atlas amendments that encourage piecemeal development or approved such amendments for properties under the same or related ownership that create residual parls. The County shall not approve rezoning petitions under the same or related ownership that result in the creation of residual parcels.*

Response - Although the subject property is a parcel that is currently within an overall PUD approved the County Commission in 2009, the change in land use will not result in a residual parcel. The uniqueness of the parcel which is bordered on the west by the



Florida Turnpike provides for better planning practice by utilizing said parcel as commercial low instead of residential.

**Policy 2.1.j:** *Palm Beach County shall maintain the flexibility to respond to changing economic conditions while guiding future economic development through implementation of the Strategic Economic Development Plan adopted by the Board of County Commissioners on March 13, 2007. This will assist the County in maintaining a balanced, diversified and resilient economy.*

Response - The change in land use for the subject parcel is a result of the changing economic conditions and will enhance the future economic development by permitting a commercial parcel in a relatively predominant residential neighborhood.

#### **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 provision 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 proposed land use change will be consistent with the County's diverse character and future land use designations. The provision of facilities and services for the subject property are available.

**Policy 2.2-a:** *All development approvals and actions within the unincorporated limits of the County shall be consistent with the provisions contained within the Comprehensive Plan, as amended. Such approvals shall be consistent with any restrictions or special conditions attached to a Comprehensive Plan amendment, as referenced on the Future Land Use Atlas and contained within the Ordinance adopting the amendment.*

Response - The proposed land use change is consistent with the provisions contained within the Comprehensive Plan.

**Policy 2.2-c:** *The County shall ensure its Unified Land Development Code is consistent with the appropriate elements of the Comprehensive Plan. This consistency shall at a minimum:*

1. *Ensure that no development permits will be issued to a development whose impact may degrade adopted levels of service, pursuant to the Concurrency Management Program contained in the Capital Improvement Element;*
2. *Ensure future land uses are consistent with the Future Land Use Atlas;*
3. *Ensure compatibility with adjacent future land uses;*
4. *Protect residential areas from adverse impacts and undesirable effects from adjacent land uses;*
5. *Regulate subdivision of Land;*
6. *Protect areas subject to seasonal or periodic flooding, as provided in the Utility and Conservation Elements;*
7. *Regulate stormwater management and drainage;*
8. *Protect potable water wellfields and aquifer recharge areas;*
9. *Protect open spaces and natural resources;*
10. *Protect historically significant properties, as provided in the Historic Preservation Element;*
11. *Provide efficient service delivery systems;*
12. *Regulate landscaping;*
13. *Regulate lighting; and*
14. *Incorporate the Principles of Livable Communities listed in the County Directions.*

Response - The proposed land use designation (CL) will be consistent with this policy.

#### **2.2.2 Commercial**

**Policy 2.2.2-a:** *In order to discourage strip commercial development, to limit commercial development to nodes, to foster interconnectivity, and to promote the development of innovated mixed use projects inside the Urban Service Area, all new commercial future land use designations shall meet one of the following location requirements:*

*Intersection Location:*

*Commercial Low, High Office, or high future land use designations shall have frontage on two built roadway segments identified as an arterial road and a collector road, or two arterial roads.*

Response - The proposed amendment meets this requirement as it fronts Atlantic Avenue and Stone Quarry Blvd. (refer to recorded plat), where it intersects the Florida Turnpike, Atlantic Avenue is designated as an arterial roadway and Stone Quarry Blvd. is a collector roadway. Stone Quarry Blvd. is presently under construction.

Contiguous Location – All new commercial future land use designations shall be contiguous to a lot(s) with a commercial future land use designation. Contiguous is defined as lot(s) that share a common border. Lots that touch point-to-point, and lots which are separated by waterways, streets, or major easements are not considered contiguous.

Response – The proposed 4.99 acre site is contiguous to the west to 32.21 acres with an adopted future land use plan designation of CH/5. While the 4.99 acres is adjacent to the LWDD E-2-E canal, the canal is not a significant water way (110' total width).

### **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.*

**Policy 3.1-a:** The County shall establish the Urban, Limited Urban, and Rural Service Areas, described in Table 3.1-1, considering the following factors:

- 1. The density and intensity of land uses as depicted in the Future Land Use Atlas;*
- 2. The cost and feasibility of extending services;*
- 3. The necessity to protect natural resources; and,*
- 4. The objective of encouraging reinvestment in the Revitalization and Redevelopment Overlay.*

Response - Although the proposed CL FLU Amendment will increase the intensity of the land, the proposed use is consistent with the range of service provisions established by an urban service area. The cost associated with extending services is minimal as both water and waste water facilities run along Atlantic Avenue and can be easily extended into the project.

**Policy 3.1-b:** *Minimum levels of service shall be reviewed during preparation of the Evaluation and Appraisal Report, and the Comprehensive Plan as amended. Each service provider shall determine the maximum and available capacity of their facilities or services for this review to assess the ability to accommodate projected population growth.*

Response - The subject site does not exceed the level of service for the required facilities and services to accommodate the future growth for the area. The proposed CL FLUA designation will be consistent with this policy.

**Policy 3.1-c:** *The Palm Beach County Water Utilities Department shall provide potable water, reclaimed water and wastewater service to all unincorporated areas of the County except those unincorporated areas where the Palm Beach County Board of County Commissioners has entered or enters into a written agreement that provides utility service area rights to a public or privately owned potable water, reclaimed water, and/or wastewater utility, or in areas where the Palm Beach County Water Utilities Department is specifically excluded from providing utility service by Florida law.*

Response - The subject property lies within the Urban Service Area and water and waste water services are already installed within the area and can be tied into where necessary. There are established communities located on the south side of Atlantic Avenue and also to the east and west of the property. The owner/developer has entered into a Standard Developers' Agreement with Palm Beach County Water Utilities to reserve capacity for the project (O.R. Book 18867, Page 105). The proposed CL FLUA designation will be consistent with Objective 3.2.

**OBJECTIVE 3.2 Urban Service Area**

*Palm Beach County shall require urban levels of service within the designated Urban Service Area.*

**Policy 3.2-a:** *The Urban Service Area shall consist of the Urban/Suburban Tier and its official boundaries shall be depicted on the Service Areas Map in the Map Series. The Urban Service Area shall be defined to include those areas in which the County anticipates the extension of urban services through the long range planning horizon.*

Response - The subject parcel is located within the Urban Service Area as depicted on the Service Areas Map.

**OBJECTIVE 3.5 Levels of Service Required for Development**

*Palm Beach County shall require the availability of services concurrent with the impacts of development, as provided by Section 163.3177(10)(h), F.S. Decisions regarding the location, extent and intensity of future land use in Palm Beach County, particularly urban-type expansion, shall ensure consistency with the type of uses and development established within each Tier.*

*Future land use decisions shall also be based on the physical constraints and financial feasibility of providing areas with services at levels of service (LOS) that meet or exceed the minimum standards adopted in the Comprehensive Plan.*

Response - The subject site will remain consistent with the type of development previously established with the Urban Suburban Tier. The subject property will also meet the Levels of Service Standards adopted in the Comprehensive Plan and therefore, the CL FLUA designation will be consistent with this objective.

**Policy 3.5-a:** *As specified in the Concurrency Management System adopted in the Capital Improvement Element, development orders and permits shall not be issued unless services and facilities meet or exceed minimum LOS standards specified in the various elements of this Plan; Transportation; Utilities Objectives Potable Water & Sanitary Sewer Policies; Stormwater Management; Solid Waste Objective; Recreation/Open Space; Fire/Rescue*

Response - The subject proposal will meet or exceed the LOS standards as specified within the various elements of the Plan.

**Policy 3.5-b:** *Within the time frame provided by Section 163.3202(1), FS, the Planning, Zoning, and Building Department shall ensure that development orders will be based on the County's ability to maintain minimum levels of service, and shall coordinate with other agencies in administering the Concurrency Management System to ensure that the necessary public facilities and services are available at the adopted Level of Service concurrent with the impacts of development.*

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Revised 11/19/09 Ordinance 2009-44, 46*

Response - The proposed project will meet the LOS standards adopted in the Comprehensive Plan and therefore will be consistent with this policy.

**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):*

*a) Projected traffic volumes from the MPO's latest adopted Long Range Transportation Plan (LRTP) as amended to include latest available Future Land Use Atlas amendments that became effective subsequent to the adoption of the LRTP, and*

*b) Projected traffic from proposed land use amendment, and*

*c) Projected traffic from latest available Land Use Atlas amendments that were previously adopted but have not yet become effective, and*

*d) Projected traffic from concurrent Land Use Atlas amendments that are approved in the same Comprehensive Plan Amendment Round that significantly impact the same roadway segments as the proposed land use change.*

Response - The subject proposal satisfies the Level of Service standards as stated above. A letter from Palm Beach County Traffic Division is included with this application.

**OBJECTIVE 5.1 Protection of Natural Resources and Systems**

*Palm Beach County shall ensure the protection of natural resources and systems by enforcing and monitoring existing environmentally related ordinances and developing ordinances, as needed, pursuant to the goals and policies of the Conservation Element.*

Response - The proposed Land Use Change does not affect any existing environmentally sensitive property. The current use of the subject property is farming. Therefore, the proposed project meets the goals and policies of the Conservation Element.

**Policy 5.1-a:** *Palm Beach County shall ensure the protection and stewardship of natural resources and systems, including quality uplands and wetlands, environmentally sensitive lands, wildlife habitats and regional water management areas. The County shall request review and comments from the South Florida Water Management District, Department of Environmental Protection, Florida Fish and Wildlife Conservation Commission, and other governmental/ environmental agencies, during the Plan amendment process.*

Response - The subject property that is included in this application does not include any uplands, wetlands or environmentally sensitive lands and therefore is not in any conflict with the County's protection and stewardship of natural resources.

**Policy 5.1-b:** *The impact of development on natural resources and systems, including high quality coastal and inland wetlands and future potable water supply wellfield areas, as identified in the Future Land Use, Coastal Management, and Conservation Elements, shall be evaluated during the development review process to protect these resources from the adverse impacts associated with incompatible future land uses on or near such sites in accordance with ULDC Article 14.C. Vegetation Preservation and Protection.*

Response - The subject property is not located within any high quality coastal or inland wetlands nor within any future potable water supply wellfield zone.

**Policy 5.1-c:** *During the development review process, the County shall determine the consistency of developments with any future resource planning and management plan prepared pursuant to Chapter 380, Florida Statutes and in accordance with ULDC Article 7.D.9. Incompatibility Buffer.*

Response - The subject property will provide the required incompatibility buffers along its northerly property line in an effort to buffer the previously approved residential community.

**OBJECTIVE 5.7 Historic Preservation**

*Palm Beach County shall ensure the protection of its historic resources, including historic sites, buildings, structures, objects and districts that are associated with the archeological, historical, engineering, and cultural development of the unincorporated area of Palm Beach County.*

Response - The subject property has been vacant and farmed for many years. It has not been determined to include any known historic sites.

**Policy 5.7-a:** *The County shall locate, identify, evaluate and protect historic and archaeological sites, through the policies of the Historic Preservation Element and the implementing provisions of the Unified Land Development Code.*

Response - As stated above, the subject property has been vacant and farmed for many years. It has not been determined to include any known historic sites.

### III. FUTURE LAND USE ATLAS REGULATION

#### A. Introduction

The Directions, Goals, Objectives and Policies in the Future Land Use Element reflect the long term planning directions of the Board of County of Commissioners. This section of the Land Use Element includes the requirements for approving developments in accordance with the Land Use Element and identifies those general uses permitted in the future land use designations established within this Element. All land use decisions must be consistent with all elements of the Comprehensive Plan.

#### B. County Directions

The Characteristics of a Livable Community, as contained in the County Directions, outline the components necessary to provide for sustainable communities with a high quality of life. The primary characteristics include:

For all tiers:

1. Citizen involvement, to foster pride of ownership and responsibility;
2. Employment opportunities;
3. A central neighborhood or community focal point, such as a civic space or commercial area;
4. Civic uses, such as schools, places of worship, and libraries, parks, and government services;
5. Security, police, fire-rescue and community patrols;
6. Health facilities, adult and child care;
7. Preservation of historic sites, structures and natural features and natural resources; and,
8. Elimination of facilities and uses that are incompatible with the community in which they reside.

Public space, within the Urban /Suburban Tier, which includes;

1. Organized open space, landscaping, plazas, squares, greens, parks, gardens and appealing vistas;
2. Neighborhood and community parks (with walkways, seating, and appropriate recreational facilities);
3. Lighted, safe, and comfortable streets, and sidewalks;
4. Dispersal of parking, including provisions for on-street parking; and,
  5. Public and private buildings placed to create human scale and pedestrian oriented spaces.

Modes of alternative transportation, including:

1. Pedestrian access appropriate for each tier, which includes safe and physically appealing sidewalks or pathways;
2. Alternative modes of transportation appropriate for each tier, including bike paths and equestrian trails; and,
3. Public transit in the Urban/Suburban Tier, which includes available, timely, and affordable multi-modal opportunities.

Commercial centers addressing the neighborhoods daily needs include:

1. Limited mix of neighborhood-based commercial uses compatible with the character of the tier.

Response - The property which is the subject of the proposed Land Use Change meets the Characteristics of a Livable Community by providing the needed services for the existing and future residents within the area. The project includes interconnectivity to the future residential community to the north thus providing an avenue for both pedestrian and bicycle traffic to access the future commercial uses.

**Commercial Designation Eligibility.** *A property designated on the Future Land Use Atlas with any land use designation other than commercial may be eligible to receive a commercial future land use designation through the Comprehensive Plan amendment process. The ability of a property to receive a commercial future land use designation is based on consistency with 1) the Goals, Objectives, and Policies of the Comprehensive Plan, 2) all applicable data and analysis requirements of Chapter 163, F.S., and Rule 9J-5, F.A.C.; and, 3) good planning concepts.*

Response - The proposed Land Use Change from Medium Residential to Commercial Low is more appropriate for the site than its current status. The applicable data and analysis requirements are included herewith. The proposed Land Use Change meets the eligibility requirements of the Commercial Low land use request.



**Commercial Categories.** *The Commercial future land use designation is divided into four categories, which shall be shown on the Future Land Use Atlas depicting the precise boundaries of the areas eligible for commercial zoning. The four categories are:*

- 1. CL Commercial Low Intensity*
- 2. CL-O Commercial Low Intensity-Office Only*
- 3. CH Commercial High Intensity*
- 4. CH-O Commercial High Intensity-Office Only*

*The Future Land Use Atlas depicts the appropriate category for property designated Commercial, but not possessing valid commercial zoning at the time of Plan adoption. All property designated as Commercial on the Future Land Use Atlas that possessed valid commercial zoning at the time of Plan adoption in 1989 is designated as "C." If a parcel has a "C" designation then, prior to any zoning action, the commercial category criteria shall be applied to determine whether the CL or CH category is applicable to the parcel.*

Response - The proposed property does not possess a commercial zoning designation. A separate rezoning application will be submitted concurrent with the requested Land Use Amendment.

**Commercial Low Uses.** *The CL category includes a limited range of neighborhood-oriented commercial activities designed primarily to provide services to adjacent residential areas. The land development regulations developed pursuant to the CL category shall contain additional site design requirements in order to ensure compatibility with adjacent uses.*

Response - A concurrent zoning application amending the zoning designation to CC – Community Commercial, will be processed along with the LUPA application. This application will include a conceptual site plan.

## Exhibit 3

### Applicant's Public Facility Impacts Table

#### VIII. Public Facilities Information

##### A. Traffic Information

In order to be found sufficient for processing, the application must include the Traffic Study (as Attachment H) and a Traffic Review letter from the PBC Traffic Division (ph. 561-684-4030). The letter must state if the application is consistent with FLUE 3.5-d at the maximum proposed future land use designation trip generation. If a project is not consistent with FLUE 3.5-d at the maximum intensity/density, the letter must also state that reduced intensity/density that is consistent with the policy. Call 684-4030 or visit <http://www.pbcgov.com/pzb/planning/FLU.htm> for more information.

	Proposed	Maximum
<b>Current FLU</b>	MR-5 = 133 trips per day	MR-5 = 133 trips per day
<b>Proposed FLU</b>	CL/5 = 2,051 trips per day	CL/5 = 2,051 trips per day
<b>Difference</b>	1,918 trips per day  If assuming development of subject site utilizing MR-5 underlying designation, that is the current LUP designation, so no change from that which is presently adopted within the Comprehensive Plan.	1,918 trips per day  If assuming development of subject site utilizing MR-5 underlying designation, that is the current LUP designation, so no change from that which is presently adopted within the Comprehensive Plan.
<b>Significantly impacted roadway segments that fail (Long Range)</b>	None	None
<b>Significantly impacted roadway segments for Test 2</b>	Atlantic Avenue, Hagen Ranch Road	Atlantic Avenue, Hagen Ranch Road
<b>Traffic Consultant</b>	Simmons & White, Inc. – Kyle Duncan	

*\* Amendments that require a condition to pass FLUE Policy 3.5-d must be processed as a large scale amendment.*

##### B. Mass Transit Information

<b>Nearest Palm Tran Route(s)</b>	Palm Tran Route 81 traverses Atlantic Avenue
<b>Nearest Palm Tran Stop</b>	Northeast corner of Hagen Ranch Road and Atlantic Avenue within the Oriole Plaza Shopping Center approximately 0.37 miles from subject parcel.
<b>Nearest Tri Rail Connection</b>	Delray Tri-Rail Station

##### C. Potable Water & Wastewater Information

The application must include a Potable Water & Wastewater Level of Service (LOS) comment letter as Attachment I. This letter should state the provider/s of potable water and wastewater is/are able to maintain their current level of service standard established by the potable water provider, while accommodating the increase of density/intensity of the proposed amendment.

<b>Potable Water &amp; Wastewater Providers</b>	Palm Beach County Water Utility Department
<b>Nearest Water &amp; Wastewater Facility, type/size</b>	Water Treatment Plant # 3 (Jog Road, north of Lake Ida Road) Water and Sewer lines are located within Stone Quarry Blvd. lying directly adjacent to the commercial site within the overall "Atlantic Commons" project.

<b>D. Drainage Information</b>
Provide Drainage Statement as Attachment J.

<b>E. Fire Rescue</b>	
<b>Nearest Station</b>	Station 42, located at 14278 Hagen Ranch Road, Delray Beach
<b>Distance to Site</b>	1.75 miles
<b>Response Time</b>	<p>The estimated response time to the subject property is 6 minutes. For fiscal year 2010, the average response time (call received to on scene) for this stations zone is 6:49.</p> <p>According to the letter received from Palm Beach County Fire-Rescue (Attachment K), the amendment of this property “will have little impact on Fire Rescue.”</p>
<b>Effect on Resp. Time</b>	Provided as Attachment K.

<b>F. Environmental</b>	
<b>Significant habitats or species</b>	None known. Current row crops. Provided as Attachment L.
<b>Flood Zone*</b>	Community Number: 120192, Panel: 0200, Zone: B
<b>Wellfield Zone*</b>	The subject site is not located within a Wellfield Protection Zone. Provided as Attachment M.

*\* If the site is located within an A or V flood zone and/or within a Wellfield Protection zone, requests for greater intensity may be viewed unfavorable.*

<b>G. Historic Resources</b>
Provide Comment Letter as Attachment N <i>(in application)</i>

## Exhibit 4

### Traffic Division Letter



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

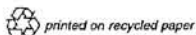
**Palm Beach County  
Board of County  
Commissioners**

Shelley Vana, Chair  
Steven L. Abrams, Vice Chairman  
Karen T. Marcus  
Paulette Burdick  
Burt Aaronson  
Jess R. Santamaria  
Priscilla A. Taylor

**County Administrator**

Robert Weisman

*"An Equal Opportunity  
Affirmative Action Employer"*



November 1, 2012

Mr. Robert F. Renenbaum, P.E.  
Simmons & White  
5601 Corporate Way, Suite 200  
West Palm Beach, FL 33407

**RE: 2013-B2 Atlantic Commons Commercial  
Policy 3.5-d Review**

Dear Mr. Rennebaum:

The Palm Beach County Traffic Division has reviewed the traffic study for the proposed Future Land Use Amendment for the above referenced project prepared by Simmons & White and dated October 24, 2012 pursuant to Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan. The project is summarized as follows:

<b>Location:</b>	North side of Atlantic Ave East of FL Turnpike
<b>PCNs:</b>	00-42-46-16-00-000-7040, Tracts A and F of Plat One
<b>Size:</b>	4.99 Acres
<b>Existing FLU:</b>	MR-5
<b>Exist. Zoning:</b>	PUD
<b>Exist. Use:</b>	Vacant
<b>Exist. Potential:</b>	19 single-family units
<b>Proposed FLU:</b>	CL/5
<b>Prop. Zoning:</b>	CC
<b>Max Potential:</b>	43,472 sf Retail
<b>Net Daily Trips:</b>	1,981 (based on maximum potential)
<b>Net PH Trips:</b>	10 (11/-1) AM and 177 (83/94) PM (Max potential)

Based on the review, the Traffic Division has determined that the proposed amendment complies with Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan at the maximum potential use.

Please contact the Traffic Division at (561) 684-4030 with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Nick Uhren".

Nick Uhren, P.E.  
Sr. Professional Engineer – Traffic Division

NU:sf  
ec: Addressee (rcb@simmonsandwhite.com)  
Kyle Duncan (kyle@simmonsandwhite.com)  
Gladys Digirolamo – Agent (Gladys.digirolamo@glhomes.com)  
Lisa Amara – PBC Planning Division (lamara@pbcgov.org)

File: General – TPS Gen.  
n:\traffic\development review\comp plan\13-sca\2013-b2 atlantic commons commercial approval.docx

## **Exhibit 5**

### **Traffic Study**

(Available to the LPA & BCC upon request)

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Traffic studies and other additional supplementary materials for site-specific amendments are available to the public on the PBC Planning web page at:  
<http://www.pbcgov.com/pzb/planning/activeamend/>



## Exhibit 6

### Water & Wastewater Provider LOS Letters



Attachment I

April 19, 2011

**Water Utilities Department  
Contract Management**

P. O. Box 16097  
West Palm Beach, FL 33416-6097  
(561) 493-6000  
Fax: (561) 493-6060  
www.pbcwater.com

**Palm Beach County  
Board of County  
Commissioners**

Karen T. Marcus, Chair  
Shelley Vana, Vice Chair  
Paulette Burdick  
Steven L. Abrams  
Burt Aaronson  
Jess R. Santamaria  
Priscilla Taylor

**County Administrator**

Robert Weisman

*"An Equal Opportunity  
Affirmative Action Employer"*

Atlantic Commons, LLC  
Mr. Kevin Ratterree  
1600 Sawgrass Corporate Parkway, Suite 400  
Sunrise, FL 33323

Re: Atlantic Commons LUPA

Dear Mr. Ratterree

In response to your request regarding Land Use Plan Amendment as relates to the above reference 4.99 Acre location, please be advised that water and wastewater service is available to the subject site and can be supplied by Palm Beach County Water Utilities Department.

**Please note that this letter does not constitute a commitment for service. In order to have a commitment the owners are required to enter into a Standard Development Agreement with this Department. The Owners or their agent should contact the Department and submit a Utility Concurrence Request Form with related documents.**

Please contact me at (561) 493-6053 should you have any questions.

Thank you.

Sincerely,

  
Nancy M. May  
Contract Management

## Exhibit 7

### Disclosure of Ownership Interests

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Attachment F

PALM BEACH COUNTY - ZONING DIVISION

FORM # 08

#### DISCLOSURE OF OWNERSHIP INTERESTS - APPLICANT

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 N. Maria Menendez, hereinafter referred to as "Affiant," as a Vice President of Atlantic Commons Corporation, a Florida corporation, the general partner of Atlantic Commons Associates, LLLP, a Florida limited liability limited partnership, who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is a Vice President of Atlantic Commons Corporation, a Florida corporation, the general partner of Atlantic Commons Associates, LLLP, a Florida limited liability limited partnership (the "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 1600 Sawgrass Corporate Parkway, Suite 400, Sunrise, Florida 33323.

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.

Disclosure of Beneficial Interest –Applicant form

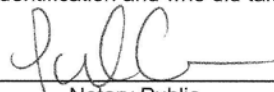
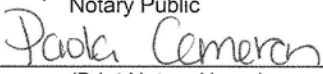
Created 01/30/2007

FURTHER AFFIANT SAYETH NAUGHT.

  
N. Maria Menendez, as a Vice President of Atlantic Commons Corporation, a Florida corporation, the general partner of Atlantic Commons Associates, LLLP, a Florida limited liability limited partnership

The foregoing instrument was acknowledged before me this 26 day of October, 2012, by N. Maria Menendez, a Vice President of Atlantic Commons Corporation, a Florida corporation, the general partner of Atlantic Commons Associates, LLLP, a Florida limited liability limited partnership, [X] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



  
\_\_\_\_\_  
Notary Public  
  
\_\_\_\_\_  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: 6/25/14

**EXHIBIT "A"**

Legal Description of the Property

ALL OF TRACT 'A' AND TRACT 'F' OF "ATLANTIC COMMONS – PLAT ONE" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 115, PAGE 135 THROUGH 137 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 4.988 ACRES, MORE OR LESS.

**EXHIBIT "B"****DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT**

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the 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.

1. Itzhak Ezratti, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.

2. Maya Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.

3. Misha Ezratti, individually and/or through trusts for his interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.

4. Maxie Ezratti, individually and/or through trusts for her interests, having an address of 1600 Sawgrass Corporate Parkway, Suite 230, Sunrise, Florida 33323.

5. Atlantic Development, L.P., having an address of 23611 Chagrin Boulevard, Suite 200, Beachwood, Ohio 44122.

## Exhibit 8

### Correspondence

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RECEIVED  
MAY 03 2013  
PLANNING DIVISION

David and Shirley Feiler  
7873A Lexington Club Blvd.  
Delray Beach, Fla. 33446

Mr. Bryce Van Horn,  
Senior Planner  
Department of Planning and Building  
2300 North Jog Road  
West Palm Beach, Fl. 33411-2741  
May 1, 2013

Dear Mr. Van Horn,

Re. : Public Notice of a Proposed Change to the Future Land Use Atlas

Thank you for the notification of the above contained in your letter of April 23, 2013.

We have considered the implications of the proposal as it would affect our property, those of our neighbors and the Lexington Club complex in its entirety.

Our conclusion is that we oppose the proposal to change the designation of the site to CL/5.

Our decision is based on the following factors:

1. The corner site of Hagen Ranch Rd. and Atlantic Avenue on the south west is already a commercial property—gas station.
2. The area along Atlantic Avenue between Hagen Ranch Rd. to the former Library is already a commercial area, which serves the population in the nearby communities very well.
3. There is a new commercial development called the Delray Market Place which further enhances the availability of a variety of stores be it Publix, bowling, a cinema complex, banks, restaurants, clothing stores, etc.
4. There is an existing designation of CH/5 adjacent to the existing gas station with entry on Hagan Ranch Rd. and Atlantic Ave.

To extend commercial designation by the proposed change we consider to be excessive to us and to the various communities needs along Atlantic Avenue for now and in the future. The green-scape of the area is disappearing in favor of housing and commercial complexes and this in our opinion must be halted.

Yours,

David & Shirley Feiler



cc. Patrick Rutter, Lisa Amara, Palm Beach County Board of County Commissioners, Lexington Club Community Board, Irving Slosberg,