

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

**Application No.:** ZV/PDD/CA-2023-00378  
**Application Name:** Erickson Boynton Beach CCRC  
**Control No./Name:** 2018-00187 (Mazzoni)  
**Applicant:** Mazzoni A William Revocable Trust  
**Owners:** Mazzoni A William Revocable Trust  
**Agent:** JMorton Planning & Landscape Architecture, Jennifer Morton & Lauren McClellan  
**Telephone No.:** (561) 721-4463  
**Project Manager:** Joyce Lawrence, Senior Site Planner

**Title:** an Official Zoning Map Amendment **Request:** to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District on 93.51 acres

**Title:** a Class A Conditional Use **Request:** to allow a Congregate Living Facility on 55.44 acres

**Title:** a Type 2 Variance **Request:** to allow 100% buffer overlap within a preserve area on 93.51 acres

**APPLICATION SUMMARY:** The proposed requests are for the proposed 93.51-acre Erickson Boynton Beach CCRC development. The site is developed with an agricultural use of row crops and has no prior approval by the Board of County Commissioners (BCC).

The requests will allow the rezoning of the site to the Multiple Use Planned Development (MUPD) Zoning District, in order to allow the development for a Continuing Care Facility, which includes a mix of Independent Living, a Congregate Living Facility (CLF) and Skilled Nursing. In addition, the requested Variance would allow the shifting of the perimeter buffer of the development area to the south and east and overlap within the Preserve Area.

The Preliminary Subdivision Plan (PSP) indicates a Development Area (60% of total land area) and a Preserve Area (40% total land area). Within the Development Area there are six buildings with a total 1,896,750 square feet (sq. ft.) of which includes 1,192 beds for the Independent and CLF uses and 70 beds for the Skilled Nursing Facility. The Plan also incorporate 762 parking spaces located within parking structures and outside, Recreation Areas and Water Management Tracts. The Preserve Area is indicated as a Passive Park. One access is proposed from Boynton Beach Boulevard with cross access to the west.

The request is contingent upon decision on a concurrent Large Scale Future Land Use (FLU) Amendment (Application No. LGA-2023-018) to amend the FLU designation from Agricultural Reserve (AGR) to Institutional & Public Facilities with an underlying Congregate Living Residential (INST/CLR) .

**SITE DATA:**

Location:	South side of Boynton Beach Blvd, approx. 0.63 miles east of Lyons Road
Property Control Number(s)	00-42-43-27-05-054-0050; 00-42-43-27-05-054-0022
Existing Future Land Use Designation:	Agricultural Reserve (AGR)
Proposed Future Land Use Designation:	Institutional & Public Facilities with an underlying Congregate Living Residential (INST/CLR)
Existing Zoning District:	Agricultural Reserve District (AGR)
Proposed Zoning District:	Multiple Use Planned Development (MUPD)
Total Acreage:	93.51 acres
Tier:	Agricultural Reserve
Overlay District:	N/A
Neighborhood Plan:	West Boynton Area Community Plan
CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A
Commissioner District	District 5, Vice Mayor Maria Sachs

**RECOMMENDATION:** Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibits C-1 through C-3.

**ACTION BY THE ZONING COMMISSION (ZC):** *Scheduled for October 5, 2023.*

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received no contact from the public regarding this application.

**PROJECT HISTORY:** The site currently supports agricultural row crops. No prior Zoning Commission or Board of County Commissioners Development Orders have been issued for the subject property.

FINDINGS:			
ULDC Article	Required	Proposed	Variance
Table 7.C.2.A – Right of Way (R-O-W) Buffers Landscape Requirements and Table 7.C.2.C – Incompatibility Buffer Landscape Requirements	20 Foot Wide R-O-W Buffer along the east property line.	100% Overlap of the R-O-W within the Preserve Parcels along the east property line	To allow 100% overlap within the Preserve on the R-O-W buffers along the east property line
	15 foot Wide Incompatibility buffer along the south property line.	100% Overlap of the Incompatibility Buffer within the Preserve Parcel along the south property line	To allow 100% overlap of the Incompatibility Buffer within the Preserve Parcel along the south property line

Type 2 Variance Standards:  
When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

a. ***Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district:***

**YES.** The subject property currently is zoned AGR with an AGR Future Land Use designation. The Applicant is requesting to rezone the site to an MUPD Zoning District in order to develop a Continuing Care Facility comprised of Independent Living, Congregate Living Facility and a Skilled Nursing Facility uses. This site is the subject of a concurrent Large Scale Amendment, Erickson Boynton Beach (LGA 2023-018), to amend the land use from the Agricultural Reserve (AGR) to the Institutional and Public Facilities with an underlying Congregate Living Residential (INST/CLR) on 62.33 acres.

The Comprehensive Plan requires the proposed development to have a Preserve Area (40%) that is proposed on the south, and the southeast portion of the site. The Development Area requires a perimeter buffer in accordance with Article 7. The Applicant is proposing to relocate the buffers from the south and the eastern boundaries of the Development Area, to the south and the east perimeter property lines within the Preserve Area. The shifting of the buffer as proposed is a special condition that is peculiar to this parcel as the buffer location is required around the development area. However, as stated in the Applicant’s Justification Statement a large preserve area that encompasses a Passive Park is being provided in the areas where buffers would typically be located. The preserve area provides for 322 feet separation from the Florida Turnpike Right-of-Way (ROW), and approximately 730 feet buffering from the adjacent residential properties for Canyon Trails PUD along the south property line. In addition, the Applicant states that the Preserve and the landscape buffer areas will contain significant native plant material that will meet and exceed Code requirements. Therefore, special conditions exist that is peculiar to the parcel of land that is not applicable to other parcels of land, in the same district and land use.

b. ***Special circumstances and conditions do not result from the actions of the Applicant:***

**YES.** The Preserve Area is a requirement of the by the Comprehensive Plan. The site is vacant and is required to be developed in compliance with the Comprehensive Plan, and Code requirements. The proposed shifting and overlap of the landscaping, maximizes reasonable use of the land for the proposed Congregate Living Facility and preserve uses. The Plan created the requirement for the preserve, and the overlap/shifting allows the buffer in a location that benefits the residents of the County at the perimeter of the overall development.

c. ***Granting the Variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district:***

**YES.** The granting of the Variance will not confer any special privilege to the Applicant that is denied by the Comprehensive Plan and this Code. All required elements of the proposed buffer are to be provided, additionally the Applicant will be providing more landscaping as the landscape material will be incorporated into the proposed preserve area providing additional buffering for the Development Area.

d. ***Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship:***

**YES.** In this specific case the proposed overlap of the preserve does not have any impact on the ultimate intent of the buffer since the required planting material will be provided. The buffer requirements would require R-O-W and incompatibility buffers in areas where the planting can easily be accommodated within the proposed Preserve Area.

e. ***Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure:***

**YES.** This request for a variance to allow for the overlap of the required perimeter buffers will make reasonable use of the Property and will not create any adverse impacts on surrounding uses. Providing the buffer overlap in the preserve area will be the minimum necessary to make possible the reasonable use to successfully buffer and screen the R-O-W and adjacent properties along the perimeter of the site.

f. ***Grant the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:***

**YES.** Granting the variance will allow the Applicant to achieve the buffer requirements surrounding the site. The proposed development will still maintain all applicable setbacks, heights, buffering, and other provisions of the Code.

g. ***Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare:***

**YES.** The requested Variances will not be injurious to the area involved or detrimental to the public welfare. The Variances requests to relocate and overlap the buffers within the Preserve Area will provide additional separation and adequate natural buffer for the Development area.

**FINDINGS:**

Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order Amendment:

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order Amendment that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

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

○ ***Consistency with the Comprehensive Plan:*** Should the BCC approve the amendment request to the FLUA and changes to the text of the Plan, then the proposed amendment and uses are consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ ***Concurrent Land Use Amendments:*** The site is the subject of a concurrent Large Scale Amendment known as Erickson Boynton Beach (LGA 2023-018). The request seeks to amend the future land use designation from Agricultural Reserve (AGR) to Institutional and Public Facilities with an underlying Congregate Living Residential (INST/CLR) on 62.33 acres. The remaining 31.17 acres will retain an AGR future land use designation. The Board of County Commissioners voted 7-0 to Transmit the item to DEO on May 3, 2023, subject to the following FLUA conditions:

- 1. Development is limited to 1,192 congregate living facility beds and 70 nursing home beds.
- 2. The proposed future land use amendment and the proposed rezoning shall be considered for adoption by the Board of County Commissioners at the same public hearing.

The request for a Congregate Living Facility with 1,192 beds and a Skilled Nursing Facility with 70 nursing home beds is consistent with the above condition. The second condition will be stricken as the proposed FLUA amendment and zoning application are proceeding to the same public hearing.

○ ***Relevant Comprehensive Plan Policies:*** The concurrent FLUA amendment includes a text amendment to the Comprehensive Plan to revise existing FLUE Policy 1.5-u relating to the CLR designation in the Agricultural Reserve in order to accommodate the proposed development of a

Congregate Living Facility and Skilled Nursing Facility. The policy is shown below, with the applicant's proposed additions in underline:

**REVISED Policy 1.5-u:** *The Congregate Living Residential (CLR) future land use designation is allowed within in the Agricultural Reserve Tier subject to the following:*

1. **Density.** *The maximum density is up to 8 units per acre for the land area assigned the CLR designation for the purposes of calculating congregate living facility beds.*
2. **Separation.** *Residential uses shall be setback 50 feet from any agricultural use.*
3. **Location.** *Sites are limited to locations fronting:*
  - a. *Lyons Road between Atlantic Avenue and Linton Boulevard; or,*
  - b. *Boynton Beach Boulevard between the Florida Turnpike and Acme Dairy Rd.*
4. **Minimum Acres.** *The minimum acreage for the CLR future land use designation is 5 acres.*
5. **Preserve Area.** *Preserve Areas are required as provided below.*
  - a. **Single Use Project.** *Projects utilizing the AGR-PUD option shall be subject to the preserve percentage and use requirements of Policy 1.5.1-i and may represent a portion of a large AGR-PUD.*
  - b. **Multiple Use Project - Offsite Preserve Option.** *Projects utilizing CLR as an underlying designation to Institutional and Public Facilities (INST) future land use designation for a multiple use project shall be subject to the following:*
    - 1) **Preserve Area Uses.** *Uses allowed shall be those permitted within AgR-TMD preserves by Policy 1.5.1-n.*
    - 2) **Preserve Area Acreage.**
      - a) *A minimum of 10% of the land area with the CLR designation shall be Onsite Preserve Area; and*
      - b) *A minimum acreage equivalent to 50% of the acreage of the CLR designation shall be provided as Offsite Preserve Area.*
      - c) *Offsite Preserve Area may retain AGR future land use provided that no density or intensity is transferred to the Development Area and that the preserve is subject to a conservation easement which restricts uses allowed to those permitted within AgR-TMD preserves by Policy 1.5.1-n.*
    - 3) **Design Features.** *A development with INST/CLR future land use is not considered mixed use and is not subject to the Design Elements in Policy 1.5.1-r or Usable Open Space Requirements for Multiple Use Planned Development (MUPD) in the ULDC.*
  - c. **Multiple Use Project - Onsite Preserve Option.** *Projects utilizing CLR as an underlying designation to Institutional and Public Facilities (INST) future land use designation for a multiple use project shall be subject to the following:*
    - 1) **Preserve Area Uses.** *Uses allowed shall be those permitted within EH preserves by Policy 1.5.1-j;*
    - 2) **Preserve Area Acreage.** *A minimum of 40% of the total gross acreage less right-of-way dedication shall be provided as Onsite Preserve Area; and*
    - 3) **Design Features.** *A development with INST/CLR future land use is not considered mixed use and is not subject to the Design Elements in Policy 1.5.1-r or Usable Open Space Requirements for Multiple Use Planned Development (MUPD) in the ULDC.*

The amendment is requesting INST with an underlying CLR on a parcel located on Boynton Beach Boulevard just west of Florida's Turnpike, which meets the revised location criteria. The Applicant is utilizing the new proposed Onsite Preserve Option for a Multiple Use Project, and is providing a 36.96-acre onsite preserve equal to 40% of the total land area less right of way dedications (93.51 gross acres 1.1 acres dedication = 92.41 acres net; 92.41 acre X 40% minimum preserve = 36.96 acres). The preserve is proposing a passive park, which is a permitted use allowed within EH preserves. While the passive park contains lakes, these lakes will not be used to take drainage from the development area, nor will they be hydrologically connected to the development area, as certified by the Applicant's engineer in a provided Environmental Statement dated August 8, 2023.

○ **Density:** The request is proposing 1,192 CLF beds and 70 nursing home beds, which is the maximum permitted by Condition 1 of the companion land use amendment.

○ **Special Overlay District/Neighborhood Plan/Planning Study Area:** The request is located within the West Boynton Area Community Plan (WBACP), which is administered by the Coalition of Boynton West Residential Association (COBWRA). According to the Applicant, the neighborhood group and adjacent communities have been engaged throughout the process of the land use amendment and this application.

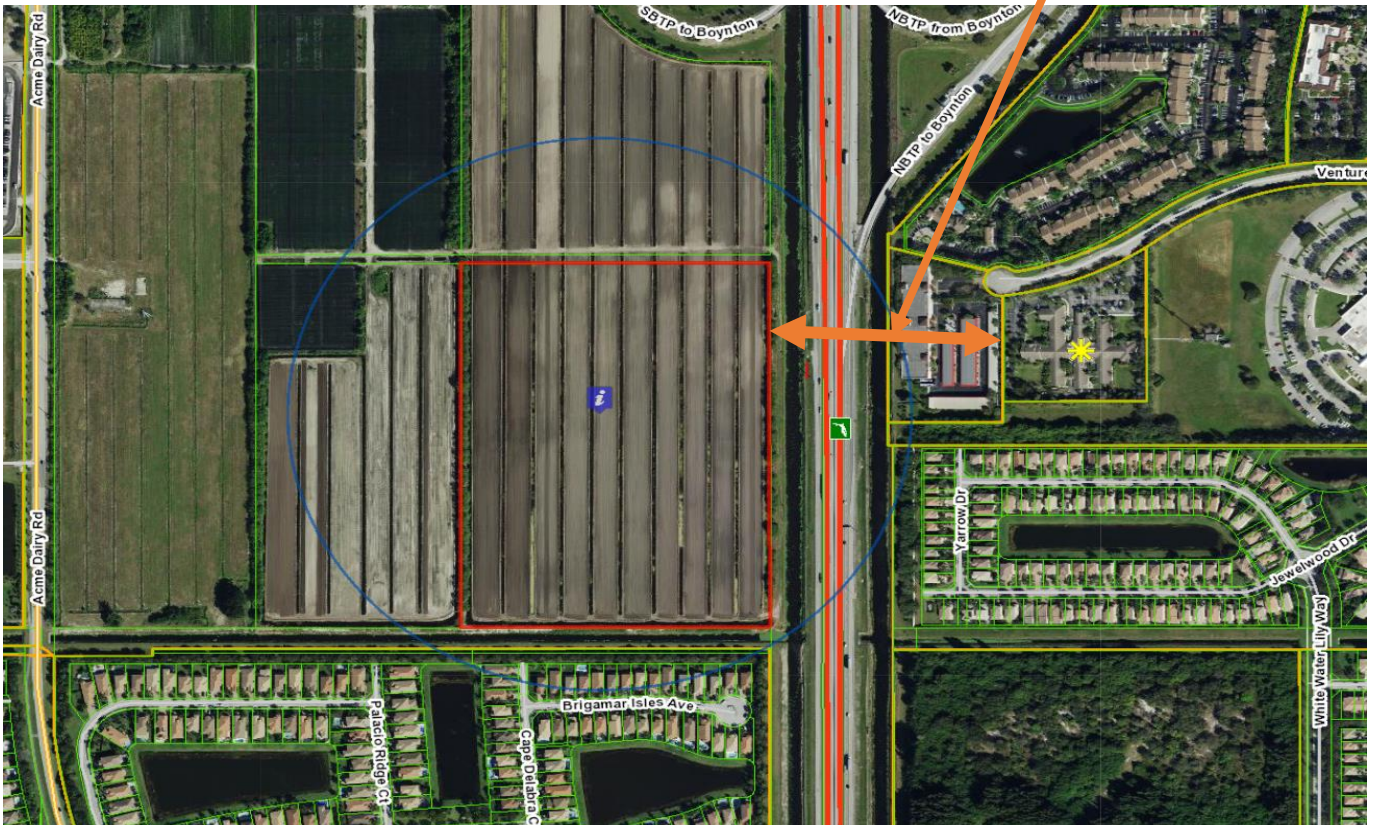
- *Compatibility:* County Direction #4 establishes that Land Use Compatibility is one of the eighteen directions that are the basis for the Goals, Objectives and Policies of the Comprehensive Plan. The directive reads as follows: Land Use Compatibility. Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated. Several policies within the Plan's Future Land Use Element (FLUE) further address compatibility through the ULDC and development review process. FLUE Policy 2.2-c establishes that the ULDC is consistent with the Plan, and that consistency shall ensure compatibility with adjacent future land uses. Further, FLUE Policy 4.3-i indicates (in part) that the Development Review process shall also consider the compatibility of the density or intensity of proposed development with adjacent future land uses. The Planning Division has reviewed the proposed development application and determined it is compatible with adjacent and surrounding future land uses.
  - *Planning Conditions:* Planning conditions are being applied are to carry forward the land use amendment conditions; address and fulfill specific Ag Reserve preservation requirements; and, fulfill vehicular and pedestrian cross access with the Logan Ranch development to the west.
- b. Consistency with the Code - *The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.***

The proposed request to rezone the property from the Agricultural Reserve (AGR) to Multiple Use Planned Development (MUPD) would be consistent with the proposed Land Use Amendment (LGA 2023-018) to the Institutional and Public Facilities with an underlying Congregate Living Residential (INST/CLR). The Future Land Use Amendment also includes a text amendment to the Comprehensive Plan, to allow additional site/use, such as the proposed Congregate Living Facility (1,192 beds) to be eligible for development within the proposed Congregate Living Residential (CLR) Future Land Use designation. In addition, the proposed amendment will also allow a revision to permit certain use(s) to be within the required onsite preserve area. The revisions to the Comprehensive Plan supersede any conflicting requirements in the Unified Land Development Code (ULDC) until it is modified.

- *Property Development Regulations (PDR):* The site has frontage and access on Boynton Beach Boulevard and is in compliance with the minimum frontage and access required for Planned Developments. Pursuant to the Table 3.E.3.D, *MUPD Property Development Regulations*, the property have exceeded Code requirements for the minimum lot dimensions, in size, width and frontage, depth, setbacks, and is below the maximum building Coverage. A minimum of 5-acre lot size is required (93.51 acres provided), and as indicated on the plan, the lot size exceeds the minimum 300 feet dimensions for width (1,650 feet provided), frontage (984 feet provided), and depth (2054 feet provided).
- *Use specific criteria:*
  - A Congregate Living Facility is a use that is allowed within the Multiple Use Planned Development Zoning District, and approval is subject to a Conditional Use. The request will be contingent upon the approval of the proposed Concurrent Land Use Amendment, Institutional with the underlying Congregate Living Residential (INST/CLR), allowing the potential institutional development within the Agricultural Reserve (AGR) Tier.
  - *Skilled Nursing Facility:* The overall Preliminary Site Plan indicates a proposed Skilled Nursing Facility (70 beds) use. However, to clarify and not to construe the requests indicated on the Preliminary Site Plan, the Skilled Nursing Facility use does not require an approval by the Board of County Commissioners (BCC) however because this is a MUPD, the square footage intensity and density must be approved by the BCC.
- *Pedestrian Pathway:* Prior to final DRO approval, the Applicant shall submit a typical detail for their pedestrian pathway that transverse within the preserve area to include but is not limited to shade trees, and benches.
- *Drop-Off Area:* At time of final approval of the site plan, the Applicant shall revise the plan to label the drop-off area.
- *Location Criteria for the Congregate Living facility (CLF):* Pursuant to the Unified Land Development Code (ULDC) Art. 4.C.1.e., *Location*, a Congregate Living Facility use must comply with a minimum separation criteria of 1,200 feet, from another similar facility. The proposed site location is in compliance with Code requirements for the separation from another similar use. The property indicated below is the Boynton Health Care Center, Application No. ABN/DOA-2014-00291, was approved as a Nursing or Convalescent Facility to accommodate 99 beds. A graphic of the with the distance is provided below:



**729.7 feet** from proposed Congregate Living Facility (CLF) to the approved Nursing Facility, Boynton Health Care Center (ABN/DOA-2014-00291)



- **Cross Access:** At the northwest corner of the site, the Applicant is providing a future vehicular and pedestrian cross access to the Logan Ranch (ZV/PDD-2022-01755) approved by the Board of County Commissioners on August 24, 2023.

- **Architectural Review:** The use is required to comply with the Architectural Guidelines specified as indicated under Article 5.C, Design Standards. The Applicant has submitted a preliminary elevation(s) of the building. The elevations proposed indicates three and four-story structures, with the four-story at a maximum height of 56 feet. At time of final approval by the Development Review Officer (DRO), the final elevations shall be submitted for final approval in compliance with Art. 5.C – Architectural Guidelines. Modifications to the elevations consistent with the approved elevations may be allowed through the building permit process.

- **Parking:** Pursuant to Art 6.B.1.B, Minimum Parking Requirements, the site is in compliance, and have exceeded the required parking spaces required by Code. The proposed use is required to have a total of 340 parking spaces, and a total of 1,109 parking spaces (347 surface and 762 Structure) have been provided. Staff is recommending a Condition of Approval that at time of Final DRO approval, the site to be limited to a minimum of 100 grass parking spaces from the additional 769 parking spaces above Code requirements. At time of final site plan approval by the Development Review Officer, the Applicant shall revise the plan to indicate the grass parking spaces location.

- **Landscape/Buffering:** The PSP indicates a 20-foot Right of Way buffer along the north property line abutting Boynton Beach Boulevard and along the east property line abutting the Florida's Turnpike. Staff have included a condition of approval, that at time of Final DRO approval, the Applicant shall provide a detail of the landscape buffers along Boynton Beach Boulevard and the perimeter buffers. To the south, are existing residential parcels, a Type 2 incompatibility Buffer (15 feet wide), is provided. The Applicant is requesting Type 2 variance to allow the buffer for the development area to be relocated within the Preserve area along the south and the southeast property lines. The relocated buffers will overlap 100% within the proposed preserve area. In addition, buffers will be installed to comply with the minimum standard specified in Table 7.C.2.A. Staff have included conditions of approval as part of the variance related to the buffer that overlaps the preserve to be 100% native, and to plant pines rather than palms with an increased number of one per 15 linear feet within the northern buffer. The additional plant material shall provide additional buffering along the existing residential parcels along the south property line.

- **Signs:** The Preliminary Master Sign Plan (PMSP) indicates a total of two entrance signs along Boynton Beach Boulevard (Signs A and B). The signs are in compliance with Code requirements for sign face area and sign height as permitted per Table 8.G.2.C. Signage Development Regulations.

- c. **Compatibility with Surrounding Uses** - *The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.*

The approval of the zoning application is contingent upon the approval of the concurrent future land use and text amendments as the requests are inconsistent with the current ULDC. Pending the approval of the amendments, the proposed rezoning request from AGR to MUPD will be compatible with the surrounding Zoning Districts and uses.

To the north across from the Boynton Beach Boulevard R-O-W is a plant nursery. This parcel of land was recently approved to accommodate commercial, industrial, and recreation uses under Application ZV/PDD/CA-2022-01785, BC Commerce Center. Directly abutting the site to the south is a Preserve Area that is inclusive of a passive park, a recreation lawn, and a water management tract. This provides a large separation distance between the proposed development area and the existing homes along the south of the property. The Preserve Area, provides approximately 322 feet of separation along a significant portion of the east property line, adjacent to the Florida's Turnpike ROW. To the southwest of the property, the site abuts a similar recently approved preserve area. A cross access is provided between the two preserves. The remaining portion of the site is in compliance with buffer and setbacks requirements. The location of the preserve area as depicted on the Preliminary Site Plan provides additional separation from the adjacent parcels of land.

- d. **Design Minimizes Adverse Impact** – *The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.*

As proposed, the site layout is configured to minimize adverse impacts on surrounding uses. The site plan proposes buildings that are strategically oriented, and are significantly setback approximately 813 feet from the perimeter property line, adjacent to existing residential parcels of land. The design with the location of the Preserve area depicted between the proposed development and existing residential uses, which provides a significant separation, compliance with setbacks, and the required landscape buffers, the proposal will minimize any negative impact on adjacent developments.

- e. **Design Minimizes Environmental Impact** – *The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

- **Vegetation Protection:** The application request does not impact native vegetation.
- **Site Contamination:** Based on the Phase II Subsurface Investigation/ Environmental Site Assessment, dated September 12, 2022 prepared by Advantage Environmental Consultants, LLC., the soil and groundwater qualities at the subject property have been impacted by its former use(s). An analysis of the samples detected the presents of herbicide, pesticides, metals, and petroleum constituent concentrations in the soil and groundwater. The property owner will need to work with the Florida Department of Environmental Protection to resolve the contamination issues, as per Chapter 62-780, F.A.C. ERM staff have several conditions applied to the application to ensure
- **Excavation:** There appears to be a large volume of fill to be generated from the proposed Type II, Excavation Use(s) (i.e., the water management tracts and the amenity lakes). Based on the requirements outlined in the ULDC, Article 4.B.10., ERM has applied several conditions of approval to the application to ensure that the proposal will meet the requirements of the ULDC.
- **Wellfield Protection Zone:** This property is located within Wellfield Protection Zone 2, 3 , and 4. Given the aforementioned and the potential significance of the proposed hydrological alternations, ERM has conditioned that the applicant:
  1. provide an analysis that calculates and graphically depicts the anticipated hydrologic function(s) of the site, while accounting for the surrounding area's lakes, canals and wellfields, inter alia; and,
  2. provide hydrological modeling to ERM for review and acceptance to ensure that there are no negative hydrological impacts.
- **Irrigation Conservation Concerns And Surface Water:** All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Palm Beach County Mandatory Year-Round Landscape Irrigation Conservation Measures Ordinance, Ordinance No. 2022-007. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93-15.
- **Environmental Impacts:** There are no known significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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

The proposed use and amendment will result in a logical, orderly and timely development pattern, should the BCC approve the concurrent Comprehensive Plan Text and FLUA amendment. The site is located on the south side of Boynton Beach Boulevard, within the Agricultural Reserve area which historically only have been developed with low density residential uses and agricultural uses. The area surrounding the subject site consists of existing residential to the south, and was recently approved to accommodate commercial, industrial, recreation to the north and, and Multi Family residential uses to west. In addition, there are existing commercial development at the commercial node located at the intersection of Boynton Beach Boulevard and Lyons Road and additional properties with CL and INST future land use designations along the corridor.

- g. **Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

**ENGINEERING COMMENTS:** The proposed 499 dwelling unit Congregate Care Facility and 70 Nursing Home Bed facility are expected to generate 1,296 net daily trips, 51 net AM peak trips, and 103 net PM peak hour trips. The build out of the project is assumed to be by 2028.

Significantly impacted link of Boynton Beach Blvd from project driveway to the Turnpike meets adopted Level of Service (LOS). Similarly, the intersections of Boynton Beach Blvd and Acme Dairy Rd and Boynton Beach Blvd and Turnpike meet adopted LOS. Boynton Beach Blvd and Lyons Rd has background deficiency.

**ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)**

Traffic volumes are in vehicles per hour

Segment: Boynton Beach Blvd from Acme Dairy Rd to Turnpike West

Existing count: Eastbound=1815, Westbound=1936

Background growth: Eastbound=307, Westbound=334

Project Trips: Eastbound=29, Westbound=26

Total Traffic: Eastbound=2151, Westbound=2296

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS "D" capacity: 2680 per direction

Projected level of service: LOS D or better in both directions

The Property Owner shall plat the property prior to the issuance of the building permit.

The Property Owners shall submit a noise study prior to DRO Certification of the preliminary site plan and any type of required noise mitigation shall be shown on the preliminary development plan.

**DRAINAGE DISTRICT/STATEMENT:** The subject site is within the South Florida Water Management District (SFWMD) C-16 Basin. The Applicant's engineer states (Exhibit E) that "*the proposed development consists of ±62.33 acres of developable area and ±36.96 acres of preserve area.*" They further state that "*...The allowable discharge within the C-16 Basin is 62.6 CSM for the 25-year design storm since the project is upstream of the SFWMD S-41 spillway control structure. No off-site areas contribute to the project sites drainage area...*"

The Engineer states, " *...The proposed stormwater management improvements may include but are not limited to storm sewer systems, swales, lakes, dry detention areas, and underground detention areas. Wet or dry detention areas will be utilized for water quality treatment and required storage prior to offsite discharge. The offsite connection will occur to the north via the existing LWDD Lateral No. 24 on the south side of Boynton Beach Boulevard... Water quality treatment equivalent to 2-½ -inch times the percent imperviousness of the site or 1-inch over the entire site, whichever is greater, will also be required. Water attenuation up to the 25-year, 3-day design storm event peak stage elevation must be retained onsite and a perimeter berm with the top of berm set at the 25- year, 3-day design storm event peak stage elevation will be required.*"

Staff have included conditions of approval for the Applicant to provide an acceptable drainage study identifying any historical drainage from offsite parcel, including the proposed grading cross sections. In addition, for the Applicant to identify in the Drainage Statement, a perimeter berm no lower than 25 year - 3 day peak. The Preliminary site plan needs to be revised to include the proposed detention, retention and wetland areas. Prior to the issuance of ant Building Permits, the site must obtain approvals from the District.



PALM BEACH COUNTY HEALTH DEPARTMENT: A “No Further Action” letter required prior to Building permit

WATER AND WASTEWATER PROVIDER: The Water and Wastewater provider will be Palm Beach County Water Utilities. In accordance with their letter dated April 5, 2022, they have stated the following: *“This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. Based on a review of current PBCWUD infrastructure and existing customers within the general vicinity of the referenced property, PBCWUD currently has the capacity to provide the level of service required for the proposed land use amendment from Agricultural Reserve (AGR) to CLR subject to a Capacity Reservation Agreement with PBCWUD. The proposed change will allow for the development of an assisted living and congregate living facility.*

*The nearest point of connection is a 42” potable water main and a 24” sanitary sewer forcemain located within Boynton Beach Blvd, adjacent to the subject property. There is a 12” reclaimed water main located within Acme Dairy Road approximately 1100 feet from the subject property. This property is located within a Mandatory Reclaimed Area...”* Prior to commencement of development, the Applicant will need to connect to water, sanitary sewer, and the reclaimed water lines.

FIRE PROTECTION: Staff has reviewed this application and have no comment. The subject development is within the boundaries of PBC Fire Rescue Station #47.



SCHOOL IMPACTS: The School Board has no issues with this these requests.

PARKS AND RECREATION: Project proposes 1,192 bed CLF requiring 2.98 acres of onsite recreation, the petitioner has requested a 25% reduction in recreation acreage because alternative recreation in the form of pathways around two lakes are provided. The petitioner is providing 2.24 acres of recreation in a combination of interior and exterior recreation, therefore the recreational requirement is satisfied.

**h. Changed Conditions or Circumstances** – *There are demonstrated changed site conditions or circumstances provided by the Applicant’s Justification Statement that necessitate the amendment.*

The property is currently being utilized for active agriculture purposes. The Applicant states in the Justification Statement that *“the Agricultural Reserve Master Plan recognized the need for sustainable development within the Tier by allowing and encouraging vertical and horizontal integration of residential units within the TMDs. However, this type of forced design was not affordable, feasible or marketable, especially at a density of one dwelling unit per acre. The Consultant recommended that the County permit density bonuses as a means of encouraging vertical integration and ensuring a greater diversity of housing types.*

*The Master Plan further intended for development to be concentrated and radiate outside of the two nodes, Boynton Beach Boulevard and Lyons Road, and Atlantic Avenue and Lyons Road. Preservation parcels were anticipated to be located west of State Road 7 and within the core of the Agricultural Reserve. The proposed FLUA and text amendment will allow for development to occur along Boynton Beach Boulevard in an area originally designated by the Master Plan as a location for multi-family.”*

In April 2022, the Board of County Commissioners’ approved the All-Seasons project, the first Congregate Living Residential (CLR) amendment within the Agricultural Reserve. In August of this year, the Board of County Commissioners initiated the proposed text amendment, to add an additional location for the CLR designation, for this Property. Should the BCC approve the concurrent Comprehensive Plan Text and FLUA amendment, the proposed development would implement the amendment.

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**CONCLUSION:** Staff has evaluated the standards listed under Articles 2.B.7.B and 2.B.7.D.3 and has determined that there is a balance between the need for change and the potential impacts generated by Erickson Boynton Beach CCRC for the Official Zoning Map Amendment, a Class A Conditional Use, and a Type 2 Variance. Therefore, Staff is recommending approval subject to the Conditions of Approval as indicated in Exhibits C-1 through C-3.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1

#### Type 2 Variance – Concurrent on 93.51 acres

#### ALL PETITIONS

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated August 10, 2013. Only minor modifications by Board of County Commissioners or Development Review Officer shall be permitted provided the changes are consistent with this Preliminary Site Plan. (ONGOING: ZONING - Zoning)

#### VARIANCE

1. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDG PERMIT: BLDG - Zoning)

2. The Development Order for this Concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD/CA-2023-00378. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance.

3. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Preliminary Site Plan. (DRO:ZONING-Zoning)

4. Prior to the submittal for Final Approval by the Development Review Officer, the approved Variance(s) and any associated Conditions of Approval shall be shown on the Final Site Plan. (DRO:ZONING-Zoning)

#### COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance Condition of this Approval. (ONGOING: ZONING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

#### DISCLOSURE

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

## CONDITIONS OF APPROVAL

### EXHIBIT C-2

#### Multiple Use Planned Development District on 93.51 acres

##### ALL PETITIONS

1. The approved Preliminary Site Plan Plan is dated August 10, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

##### ENGINEERING

1. No Building Permits for the site may be issued after December 31, 2028, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall modify the existing full median opening on Boynton Beach Blvd at the proposed project entrance to a restricted median opening (peanut), allowing eastbound left, westbound left, and disallowing northbound left and southbound left, as approved by the FDOT.

This construction shall be concurrent with the paving and drainage improvements for the site. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way.

a. Permits required from FDOT for this construction shall be obtained prior to the issuance of the first building permit. (BLDGPM: MONITORING - Engineering)

b. Construction shall be completed prior to the issuance of the first Certificate of Occupancy. (BLDGPM/CO: MONITORING - Engineering)

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

4. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided to the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPM/PLAT: MONITORING - Engineering)

##### 5. Noise Mitigation:

a. Prior to DRO certification of the Preliminary Development Plan, the Property Owner shall submit to the Palm Beach County Engineering Department and Zoning Division a detailed noise analysis acceptable to the Florida Department of Transportation. This noise study shall be in accordance with Florida State Statutes Chapter 335 as outlined in FDOT Project Development and Environmental Manual, Chapter 17. Any required mitigation as a result of the anticipated noise, such as a sound wall and landscape buffer, shall be shown on the Preliminary Development Plan for this site subject to the approval of the County Engineer and Zoning Division. (DRO: ENGINEERING - Engineering)

b. Construction of any required sound walls and landscape buffers as outlined in the Noise Analysis shall be completed prior to the issuance of the first certificate of occupancy. (BLDGPM/CO: MONITORING - Engineering)

6. As identified in the Drainage Statement, a perimeter berm, no lower than the 25 year-3 day peak stage, is required around the development area to hydraulically separate the preserve area. (ONGOING: ENGINEERING - Engineering)

## **ENVIRONMENTAL**

1. Prior to the final approval by the Development Review Officer, the applicant shall:

1. provide an analysis that calculates and graphically depicts the anticipated hydrologic function(s) of the site, while accounting for the surrounding area's lakes, canals and wellfields, inter alia; and,
2. provide hydrological modeling to ERM for review and acceptance. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. Prior to the final approval by the Development Review Officer, a Preserve Management Plan for the 36.96 acre Preserve Parcel(s) shall be provide to the Department of Environmental Resources Management for review and approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

3. All plant species to be established and maintained on the project shall be native to Florida or as approved by ERM in writing. (BLDGPMT/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

4. Prior to the final approval by the Development Review Officer, the applicant shall provide a detailed analysis and report, prepared by a qualified person (e.g., a civil engineer, etc.), which identifies the total fill to be generated as a result of the proposed excavations, the methodologies and calculations for the use of fill on the site and off-site, if applicable, to ERM for review. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

5. The littoral area(s) to be depicted on the Plan(s) shall be consistent with the associated, recorded Restrictive Covenant Agreement. (ONGOING/PLAT: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

6. Prior to the issuance of the first Certificate of Occupancy, the applicant shall provide

1. an as-built survey to ERM for review; and,
2. an analytical comparison of actual fill generated to the previously provided to-be-generated fill calculations. (CO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

7. After issuance of the first Certification of Occupancy for the project Monitoring report for invasive exotic vegetation received quarterly for the first year and semi-annually until to fifth year, at which time the monitoring report will no longer be required. (CO/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Monitoring)

8. The Official Record Book and Page for the Restrictive Covenant Agreement for the littoral areas shall be referenced on the plat. (PLAT/TC: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

9. Prior to the issuance of any residential building permit, the applicant shall provided a copy of the Soil Remediation Implementation Report and the FDEP Technical Compliance Letter to ERM for review be submitted to the Department of Environmental Resources Management (ERM) (BLDGPMT: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

10. Prior to the issuance of the excavation permit and/or the storm water management system permit, the applicant shall provide documentation to ERM that the area(s) of the proposed excavation(s) and the surrounding 300 feet thereof does not contain any known contaminants that exceed state clean-up levels, as regulated by FDEP. (BLDGPMT: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

## **LANDSCAPE – GENERAL**

1. Prior to final approval by the Development Review Officer (DRO), the Applicant shall indicate on the Final Regulating Plan landscape details of the perimeter buffers and Right of Way buffer along each property line and Boynton Beach Boulevard. (DRO: ZONING – ZONING)

2. In order to implement policies for a sustainable land use pattern, where palms or pines are required, pursuant to Article 7, no more than 25% shall be planted as Palms. The Property Owner shall use Pines or canopy trees. (ONGOING/BLDG PERMIT: ZONING – Zoning)



## **LANDSCAPE – INTERIOR- PRESERVE AREA**

1. Landscaping interior to the areas identified on the site plan as Passive Park will be compliant with the Public Park requirements of Art. 5. Prior to final approval by the Development Review Officer (DRO), a typical planting detail shall be provided on the Regulating Plan to include canopy trees to be provided along the walking trail to provide shade. Trees planted on interchanging sides of the path with minimum 50 foot spacing. (DRO: ZONING - Zoning)

## **PLANNING**

1. Per LGA-2023-018, Condition 1: Development of the site under the INST/CLR future land use designation is limited to 1,192 congregate living facility beds and 70 nursing home beds. (ONGOING: PLANNING - Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), all applicable plans and documents shall be updated to be consistent with what was adopted by the Board of County Commissioners (BCC). (DRO: PLANNING - Planning)

3. Prior to Final Approval by the Development Review Officer (DRO), the Conservation Easement for the Preserve parcel shall be recorded, as approved by the County Attorney's Office and the Planning Division.

a. The conservation easement for the preserve parcel shall contain:

- 1) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;
- 2) a list of permitted uses, uses not permitted, and prohibited activities.

b. Title insurance for the easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Planning Division. (DRO: PLANNING - Planning)

4. Title Insurance for the AGR Preserve Conservation Easement is based on the cost of a multi-family Transfer of Development Right (TDR) in effect at the time PDD/CA-2023-0378 was deemed sufficient (January 9, 2023). Accordingly, the cost will be \$29,400 per acre for the area within the AGR Preserve Conservation Easement. (ONGOING: PLANNING - Planning)

5. Prior to Final Approval by the Development Review Officer (DRO), submit a Preserve Management Plan. The management plan shall contain a legal description and sketch of the parcel, an inventory of existing uses and environmental assets on the site, and a plan for exotic removal and maintenance. The management plan shall be reviewed and approved by the Planning Division. (DRO: PLANNING - Planning)

6. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall provide a Preserve Passive Park and Wetland/WMT Landscape Plan, for the entire Preserve area, subject to approval by the Planning Division. The plans shall include a minimum of 60% native shrubs and a minimum of 90% native trees and palms for the minimum required trees, palms and shrubs and a full plant species list. For those areas containing the WMT and wetland, submit an affidavit from an Environmental Professional that corresponds to the plans demonstrating how the environmental features are to be constructed consistent with the intent of FLUE Policy 1.5.1-j.7-4. (DRO: PLANNING - Planning)

7. Per the Comprehensive Plan FLUE Policy 1.5.1-j.7.b.4.(b) for storm-water management purposes: water management tracts within the preserve area taking drainage from the development area are limited to no more than 10% of the total project preserve area. (ONGOING: PLANNING - Planning)

8. Uses proposed in the preserve area are subject to the limitations in Comprehensive Plan FLUE Policy 1.5.1-j.7 and, if required, shall be accompanied by documentation by all applicable agencies. (ONGOING: PLANNING - Planning)

9. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, the Property Owner shall submit a recorded cross access easement agreement for the locations depicted on the site plans for both vehicular and pedestrian cross access to the development area and preserve. (DRO: PLANNING - Planning)

10. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to add the Official Records Book and page number for the recorded cross access easement. (DRO: PLANNING - Planning)

11. Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the Site Plan. (CO: PLANNING - Planning)

## COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: ZONING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

## DISCLOSURE

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

## CONDITIONS OF APPROVAL

### EXHIBIT C-3

#### Class A Conditional Use on 55.44 acres

##### ALL PETITIONS

1. The approved Preliminary Site Plan is dated August 10, 2023. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

##### HEALTH

1. Prior to the issuance of the first Building Permit, the property owner shall submit to the Health Department a "No Further Action" letter from the Florida Department of Environmental Protection (FDEP). (BLDGPM: HEALTH DEPARTMENT - Health Department)

##### PARKING

1. At time of Final approval by the Development Review Officer, the site plan shall be revised to indicate a minimum of one hundred spaces, as grass parking spaces. (DRO: ZONING - Zoning)

##### USE LIMITATIONS

1. The Congregate Living Facility (CLF) shall be limited to a maximum of 1,192 beds/residents for the Independent and CLF use and 70 beds/residents for the Skilled Nursing Facility. (ONGOING: ZONING-Zoning)

##### COMPLIANCE

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: ZONING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

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

##### DISCLOSURE

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

### Figure 1 - Land Use Map

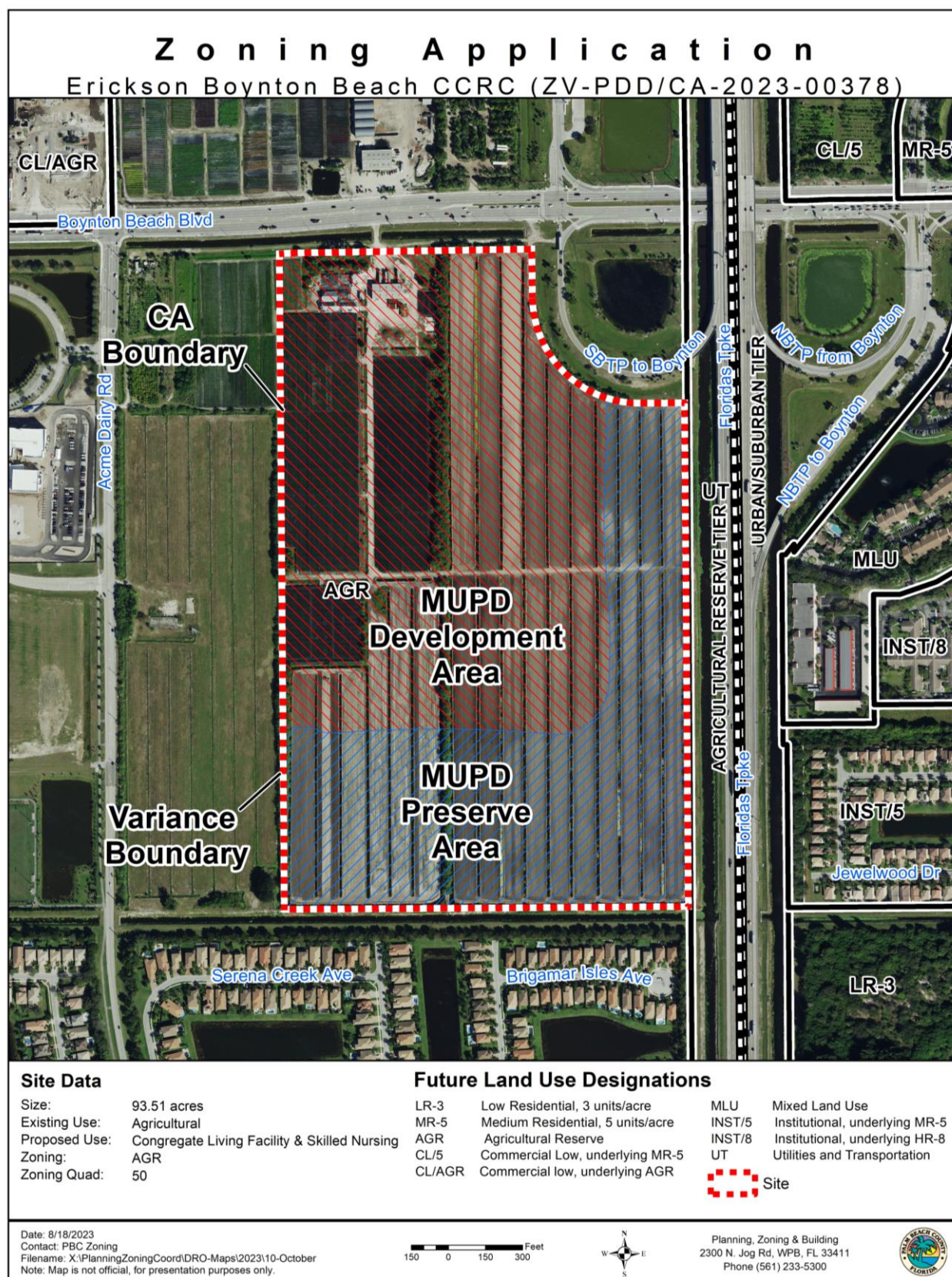
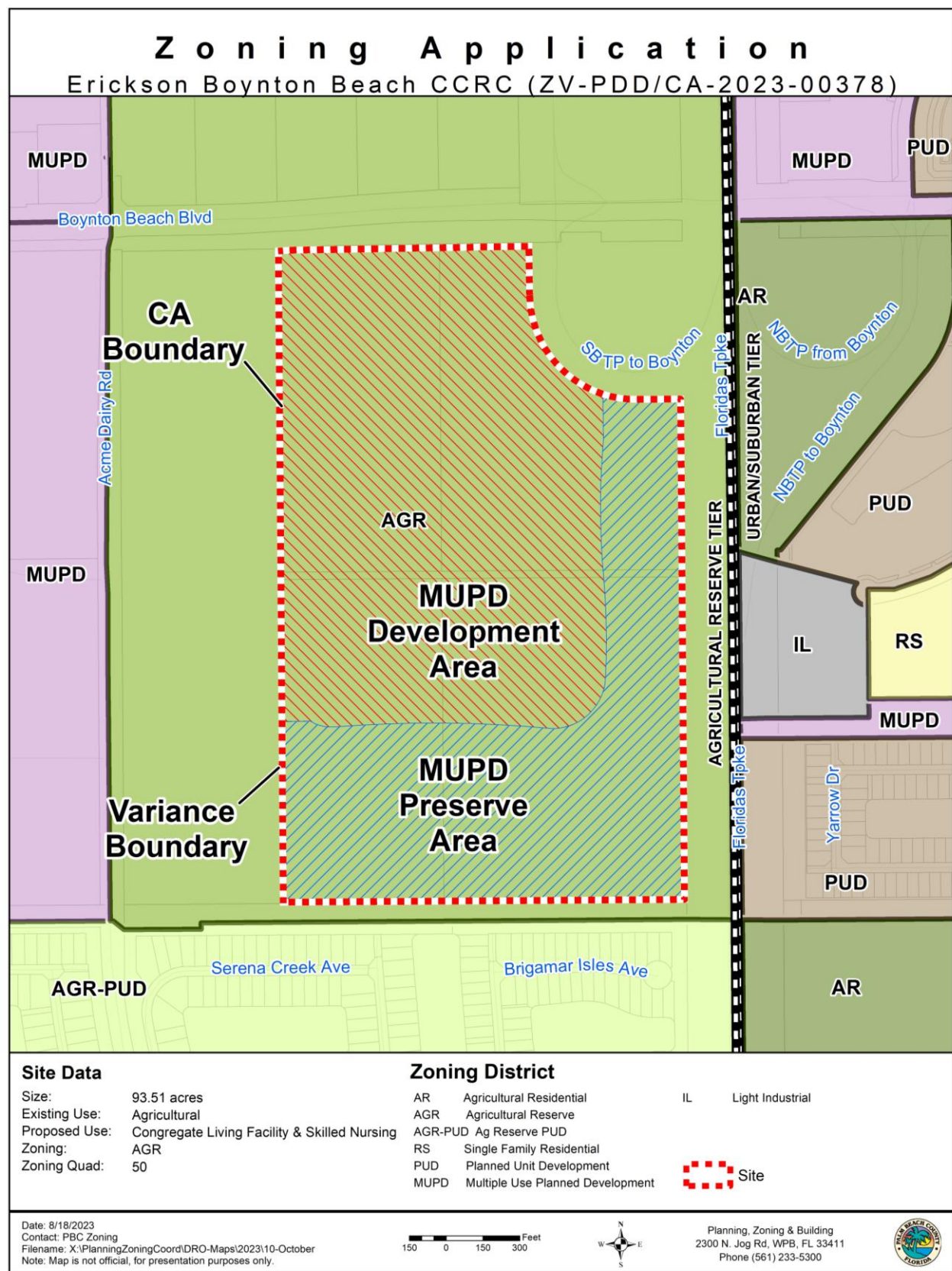


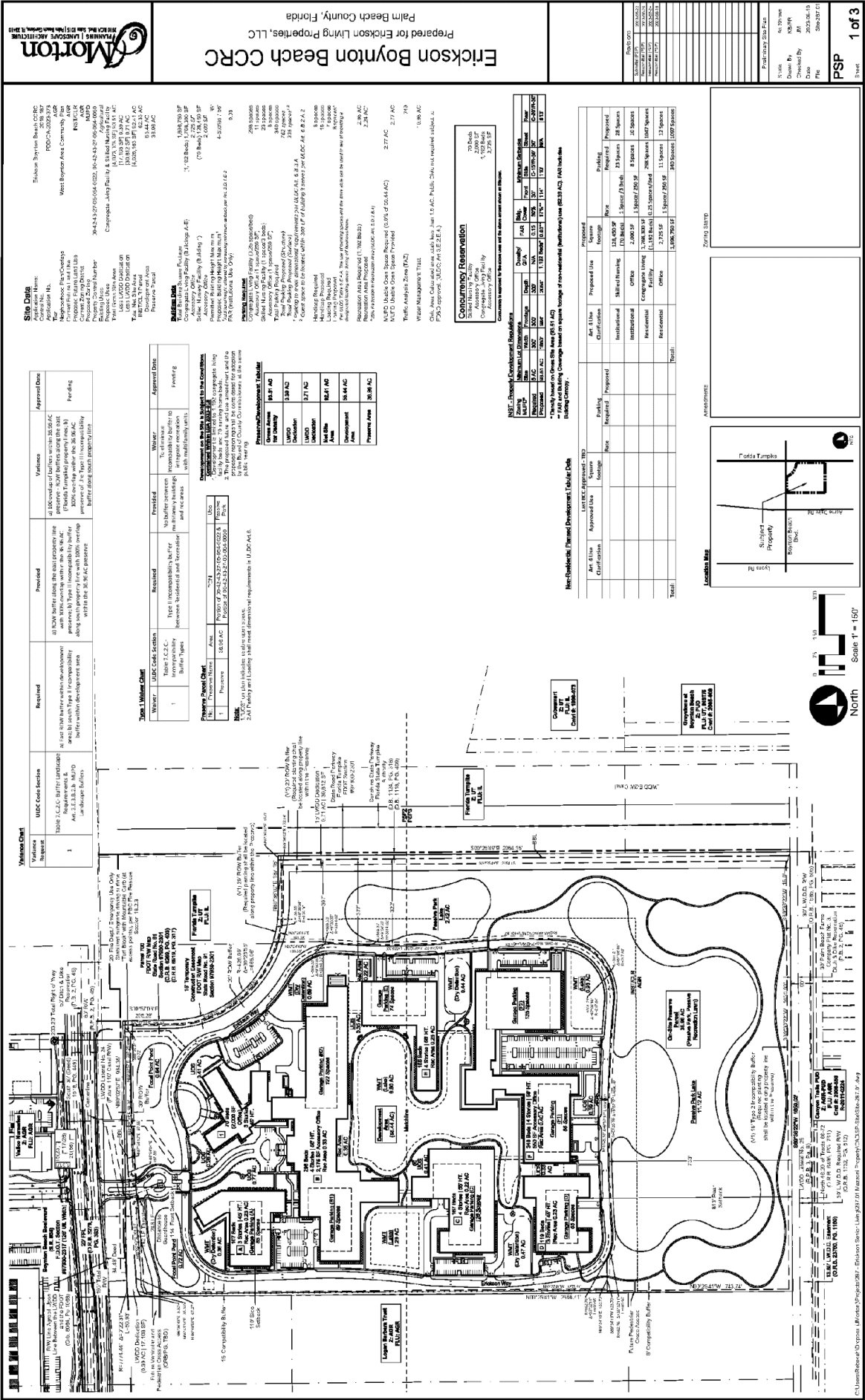


Figure 2 - Zoning Map

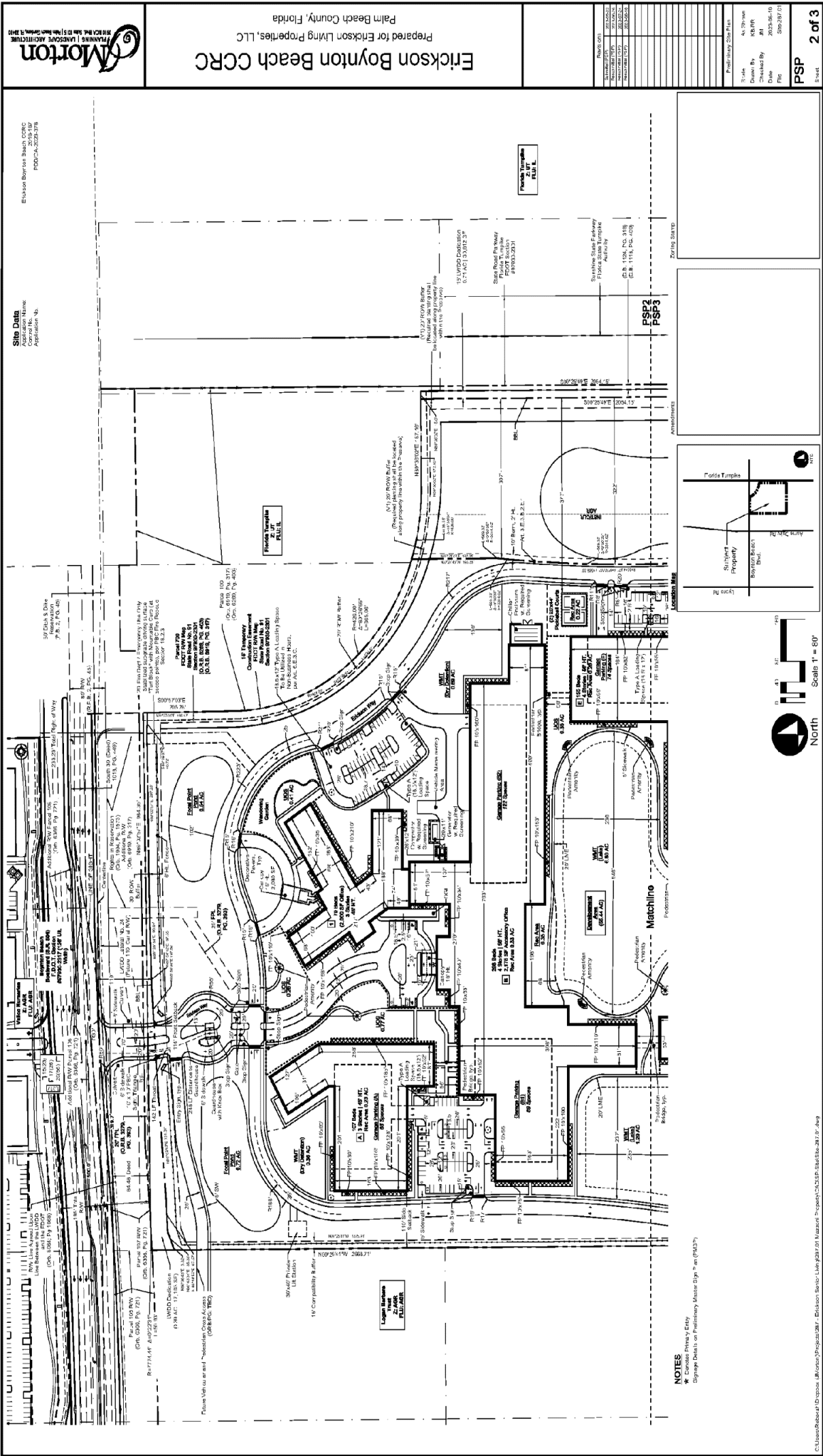




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Erickson Boynton Beach CCRC



Zoning Commission  
Application No. ZV/PDD/CA-2023-00378





Zoning Commission  
Application No. ZV/PDD/CA-2023-00378

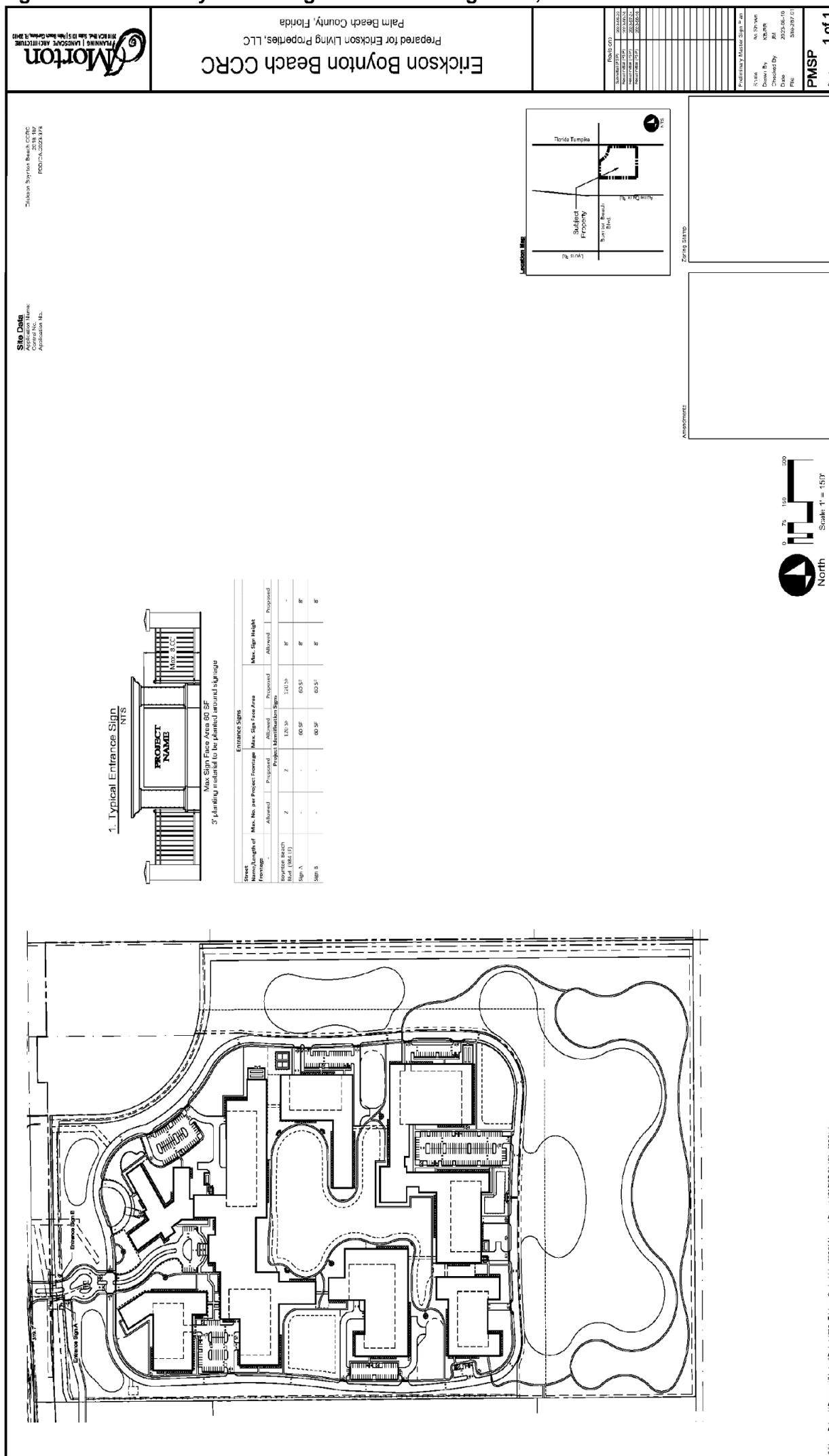


Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

(TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER)

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH


BEFORE ME, the undersigned authority, this day personally appeared PATRICIA A. MAZZONI, SUCCESSOR TRUSTEE hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- 1. Affiant is the ☐ Individual or ☒ PATRICIA A. MAZZONI, SUCCESSOR TRUSTEE [position - e.g., president, partner, trustee] of William A. Mazzoni Revocable Trust dated 6/4/92 [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
- 2. Affiant's address is: 9634 CAPTIVA CIRCLE  
BOYNTON BEACH, FL 33437
- 3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
- 4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
- 5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
- 6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.



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

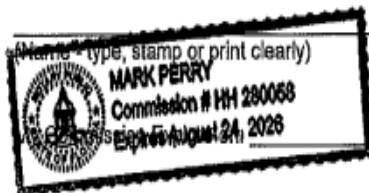
FURTHER AFFIANT SAYETH NAUGHT.

  
Patricia A. Mazzoni, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 1<sup>st</sup> day of May, 2023 by Mark L. Perry (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did not take an oath (circle correct response).



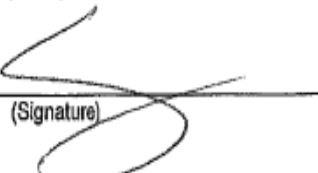
  
(Signature)  
NOTARY'S SEAL OR STAMP

EXHIBIT "A"

PROPERTY

BEING A PORTION OF TRACTS 2 AND 3, ALL OF TRACTS 4 THROUGH 6, ALL OF TRACTS 27 THROUGH 31, ALL OF TRACTS 34 THROUGH 38, AND ALL OF TRACTS 59 THROUGH 63, BLOCK 54, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 29, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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CONTAINING 4,073,078 SQUARE FEET/93.5050 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address
<u>PATRICIA A. MAZZONI</u>	<u>9634 CAPTIVA CIR. BOYNTON BEACH, FL 33437</u>
<u>LEAH A. MAZZONI</u>	<u>9714 CAPTIVA CIR. BOYNTON BEACH, FL 33437</u>

## DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

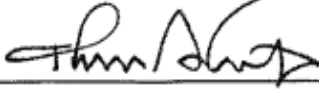
STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared THOMAS A. SMITH, SUCCESSOR CO-TRUSTEE, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ Individual or ☒ THOMAS A. SMITH, SUCCESSOR CO-TRUSTEE <sup>Position -</sup> WILLIAM MAZZONI REVOCABLE TRUST <sup>U/A/D</sup> JUNE 4, 1992 <sup>name</sup>  
e.g., president, partner, trustee] of [and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 96 NE 4<sup>th</sup> AVENUE  
DELMAR BEACH, FL 33483
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an Individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

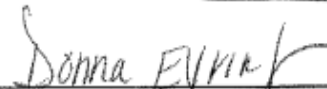
FURTHER AFFIANT SAYETH NAUGHT.

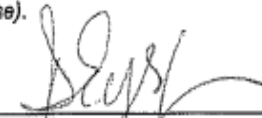
  
 \_\_\_\_\_  
 Thomas A. Smith, Affiant  
 (Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
 COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 3rd day of May, 2023 by Donna Eyring (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did not take an oath (circle correct response).

  
 \_\_\_\_\_  
 (Name - type, stamp or print clearly)

  
 \_\_\_\_\_  
 (Signature)

My Commission Expires on: 8/29/24

NOTARY'S SEAL OR STAMP

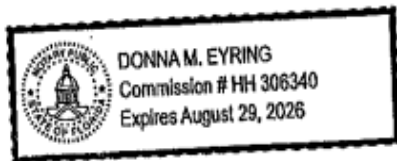




EXHIBIT "A"

PROPERTY

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DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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Name	Address
PATRICK A. MAZZONI	9634 CAPTIVA CIR, BOYNTON BEACH, FL 33437
LISA A. MAZZONI	9714 CAPTIVA CIR, BOYNTON BEACH, FL 33437

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.

Name	Address
Erickson Living Holdings, LLC, 701 Maiden Choice Lane, Baltimore, MD 21228 - 100% member	

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CONTAINING 4,073,078 SQUARE FEET/93.5050 ACRES, MORE OR LESS.

  
\_\_\_\_\_  
Steven Montgomery, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF MARYLAND  
COUNTY OF BALTIMORE

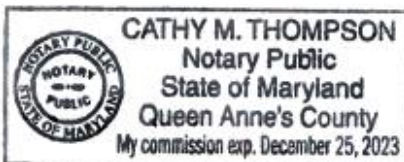
The foregoing instrument was acknowledged before me by means of ☒ physical presence or  
[ ] online notarization, this 23<sup>rd</sup> day of May, 2022 by  
Steven Montgomery (name of person acknowledging). He/~~she~~ is personally  
known to me or has produced \_\_\_\_\_ (type of identification) as  
identification and did take an oath (circle correct response).

  
\_\_\_\_\_  
(Name - type, stamp or print clearly)

  
\_\_\_\_\_  
(Signature)

My Commission Expires on: 12-25-2023

NOTARY'S SEAL OR STAMP



DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

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

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Steven Montgomery, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [x] Vice President [position—e.g., president, partner, trustee] of Erickson Living Properties, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 701 Maiden Choice Lane  
Baltimore, MD 21228
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.





**ENGINEER'S DRAINAGE STATEMENT  
ERICKSON BOYNTON BEACH CCRC  
PCN: 00-42-43-27-05-054-0050 and 00-42-43-27-05-054-0022.  
PALM BEACH COUNTY, FLORIDA**

**EXISTING SITE CONDITIONS**

The 93.51-acre subject property is located on the southwest corner of the intersection of Boynton Beach Boulevard and Florida's Turnpike in unincorporated Palm Beach County, Florida. The parcel control numbers (PCNs) of the property are 00-42-43-27-05-054-0050 and 00-42-43-27-05-054-0022. The existing project site is currently used for agricultural purposes.

**PROJECT DESCRIPTION**

The project consists of 62.33 acres of development area and approximately 31.17 acres of off-site preserve area. The project will consist of the construction of 8 three to four-story residential buildings inclusive of up to a maximum of 3,907 beds in the proposed land use designation of INST/CLR. The project also includes a gatehouse, a pool, enhanced landscaping, stormwater management facilities, ancillary drive aisles, and associated surface parking.

**PERMITTING REQUIREMENTS**

The site is situated in South Florida Water Management District's (SFWMD) C-16 Drainage Basin and within the Lake Worth Drainage District (LWDD) service area. The project will meet the requirements set forth by SFWMD, LWDD and Palm Beach County.

**DRAINAGE FACILITIES**

The proposed stormwater management improvements may include but are not limited to storm sewer systems, swales, lakes, dry detention areas, and underground detention areas. Wet or dry detention areas will be utilized for water quality treatment and required storage prior to offsite discharge. The offsite connection will occur to the north via the existing LWDD Lateral No. 24 on the south side of Boynton Beach Boulevard. The LWDD L-24 Canal has a control water elevation of 16.00 ft-NGVD (14.50 ft-NAVD).

Water quality treatment equivalent to 2-½ -inch times the percent imperviousness of the site or 1-inch over the entire site, whichever is greater, will also be required. Water attenuation up to the 25-year, 3-day design storm event peak stage elevation must be retained onsite and a perimeter berm with the top of berm set at the 25-year, 3-day design storm event peak stage elevation will be required.

The project site falls within the Waters Not Attaining Standards (WNAS) Map as determined by the Florida Department of Environmental Protection (FDEP). This means that an additional 50% of water quality treatment will have to be provided for. Refer to Exhibit M. The existing site is discharging into an Outstanding Florida Water (OFW) area and into a basin that is considered an impaired water body, both of which require additional water quality treatment as a part of the proposed drainage system design.

The site is located within the South Florida Water Management District (SFWMD) C-16 Basin (See Exhibit J). This basin is controlled by the Boynton Canal which provides flood protection from a 25-year storm event. The allowable discharge within the C-16 Basin is 62.6 CSM for the 25-year design storm since the project is upstream of the SFWMD S-41 spillway control structure. No off-site areas contribute to the project sites drainage area.

**LEGAL POSITIVE OUTFALL**

Legal positive outfall will be provided for by piped connections to the LWDD L-24 Canal. Drainage outfall will be routed through the control structure consisting of a bleeder and a weir to meet water quality and attenuation requirements before discharging to the L-24 canal.



**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOODPLAIN**

According to the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM), the entirety of the project site lies within Flood Hazard Zone X as shown in Panel 12099C0770F. Flood Hazard Zone X is defined as an area of minimal flood hazard. This flood zone is further depicted as an area determined to be outside the 500-year flood and protected by levee from 100-year flood.



Michael F. Schwartz, P.E.  
Florida Registration # 56200  
Kimley-Horn and Associates, Inc.  
1920 Wekiva Way, Suite 201  
West Palm Beach, Florida 33411  
Phone: 561-404-7247

Authorization No. CA 00000696

This item has been digitally signed and sealed by Michael F. Schwartz on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

Exhibit F – Water and Wastewater Letter dated April 5, 2022



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

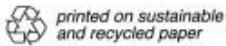
**Palm Beach County  
Board of County  
Commissioners**

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

**County Administrator**

Verdenia C. Baker

*"An Equal Opportunity  
Affirmative Action Employer"*



April 5, 2022

Morton  
3910 RCA Boulevard  
Palm Beach Gardens, Fl. 33410

RE: Mazzoni Property  
PCN 00-42-43-27-05-054-0050 & 00-42-43-27-05-054-0022  
Service Availability Letter

Ms. Velasco,

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. Based on a review of current PBCWUD infrastructure and existing customers within the general vicinity of the referenced property, PBCWUD currently has the capacity to provide the level of service required for the proposed land use amendment from Agricultural Reserve (AGR) to CLR subject to a Capacity Reservation Agreement with PBCWUD. The proposed change will allow for the development of an assisted living and congregate living facility.

The nearest point of connection is a 42" potable water main and a 24" sanitary sewer forcemain located within Boynton Beach Blvd. adjacent to the subject property. There is a 12" reclaimed water main located within Acme Dairy Road approximately 1100 feet from the subject property. This property is located within a Mandatory Reclaimed Area.

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

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

Sincerely,

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

Jackie Michels, P.E,  
Project Manager

Exhibit G – Applicant’s Justification Statement dated August 10, 2023



JUSTIFICATION STATEMENT

Erickson Boynton Beach CCRC  
Rezoning to Multiple Use Planned Development (MUPD), and Conditional Use Request  
*Initial Submittal: March 15, 2023*  
*Resubmittal: May 22, 2023*  
*Resubmittal: June 26, 2023*  
*Resubmittal: July 24, 2023*  
*Resubmittal: August 10, 2023*

REQUEST

On behalf of the Applicant, JMorton Planning & Landscape Architecture is requesting the following:

- Rezoning to Multiple Use Planned Development (MUPD);
- Class A Conditional Use Request for Congregate Living Facility;
- Type 2 Variance to allow buffer overlap with the conservation easement (preserve area); and
- Type 2 Variance to eliminate buffer along west property line within the preserve area.

SITE CHARACTERISTICS

The development and preserve area total 93.51 acres and are located at the southwest corner of Boynton Beach Boulevard and the Florida Turnpike (“Property”). The Property is currently utilized for agricultural purposes. The Property has frontage on Boynton Beach Boulevard. The Property is located within the Agricultural Reserve Tier. The Property is identified by PCNs 00-42-43-27-05-054-0022 and 00-42-43-27-05-054-0050 is currently designated with a Future Land Use and Zoning designation of Agricultural Reserve (AGR).

The total development area of the proposed MUPD is 55.44 acres and the total preserve area of the MUPD is 36.96 acres. The total gross acreage of the Property (Development and Preserve Areas) is 93.51 acres. All 93.51 acres will be rezoned to MUPD with this application. As part of the development approvals a significant portion of the property is proposed to be dedicated for right-of-way (LWDD) purposes (1.10 acres). This area has been lessed out of the preserve area calculations leaving a total net acreage of 92.41 acres.

Within the Development Area of the Property, the Applicant is proposing a congregate living facility with a total of 1,192 beds and a skilled nursing facility with a total of 70 beds. The following tabular information is provided for clarification of acreage for the entire project:

Gross Acres for Density	93.51 acres
LWDD Dedication	0.39 acres
LWDD Dedication	0.71 acres
Net Site Area	92.41 acres
INST/CLR FLU Parcel	62.33 acres
Development Area	55.44 acres
Within CLR/INST FLU	6.16 acres
Within AGR FLU	30.80 acres

The Property is currently the subject of a concurrent Future Land Use Amendment (Erickson Senior Living, LGA 2023-018) to change the Future Land Use designation to Institutional & Public Facilities with an underlying Congregate Living Residential (INST/CLR) with conditions on 62.33 acres. Additionally, a comprehensive plan text amendment application has been submitted to allow the development of a congregate living facility on the Property within the Agricultural Reserve Tier. Both the Comprehensive Plan Text and Future Land Use Map Amendments were transmitted at the May 3, 2023 Board of County Commissioner Transmittal Hearing.

History

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The Property was previously included with a comprehensive plan text amendment application for a mixed use development that encompassed the subject property as well as the 5 properties to the north. This application was subsequently withdrawn. No formal zoning applications have been submitted for the Property.

#### Surrounding Properties

The Boynton Beach Boulevard corridor of the Agricultural Reserve is developed with a variety of uses including commercial uses at the intersection of Boynton Beach Boulevard and Lyons Road. Several institutional uses to the north and west of the Property which include the Baptist Hospital, Caridad Center, and several schools. Immediately to the west of the property is the Logan Ranches Property which is proposed for the development of multi-family residential uses. A breakdown of the surrounding uses is provided below.

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number	Resolution Number
North	AGR	AGR	Agriculture Use and Florida State DOT right-of-way for the Florida Turnpike.	1980-50124 2010-00072 2016-0163	N/A
South	AGR	AGR-PUD	Canyon Trails PUD/579 Units/1 Du per acre	2006-550	R-2011-224
East	AGR; UT (Utilities and Transportation)	AR	Florida State DOT right-of-way for the Florida Turnpike.	N/A	N/A
West	AGR (Proposed EH)	AGR	Agriculture Use and warehouse	2004-471 2018-187	R-2019-1951, R-2019-1952

#### REZONING TO PLANNED DEVELOPMENT STANDARDS

As part of this application, the Applicant is requesting a rezoning to the Multiple Use Planned Development (MUPD). Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

##### A. Consistency with the Plan

The proposed rezoning to Multiple Use Planned Development (MUPD) is consistent with the proposed future land use designation of Institutional & Public Facilities with an underlying Congregate Living Residential (INST/CLR).

The proposed rezoning is consistent with the following Comprehensive Plan Policies:

**FLUE Policy 1.5-s:** “Institutional and Public Facilities uses shall be allowed in the Agricultural Reserve Tier. Such uses shall not be permitted west of State Road 7. Institutional related uses, including but not limited to, churches and social service facilities shall be allowed within the AGR Zoning District as a part of the continuation of the Tier.”

**Response:** *The proposed rezoning is consistent with this policy as the Property is located east of State Road 7.*

**FLUE Policy 1.5-u:** The Congregate Living Residential (CLR) future land use designation is allowed within in the Agricultural Reserve Tier subject to the following:

1. **Density.** The maximum density is up to 8 units per acre for the land area assigned the CLR designation for the purposes of calculating congregate living facility beds.
2. **Separation.** Residential uses shall be setback 50 feet from any agricultural use.



3. **Location.** Sites are limited to locations fronting:
  - a. Lyons Road between Atlantic Avenue and Linton Boulevard; or
  - b. Boynton Beach Boulevard between the Florida Turnpike and acme Dairy Road.
4. **Minimum Acres.** The minimum acreage for the CLR future land use designation is 5 acres.
5. **Preserve Area.** Preserve Areas are required as provided below.
  - a. **Single Use Project.** Projects utilizing the AGR-PUD option shall be subject to the preserve percentage and use requirements of Policy 1.5.1-i, and may represent a portion of a larger AGR-PUD.
  - b. **Multiple Use Project – Offsite Preserve Option.** Projects utilizing CLR as an underlying designation to Institutional and Public Facilities (INST) future land use designation for a multiple use project shall be subject to the following:
    - 1) **Preserve Area Uses.** Uses allowed shall be those permitted within AgR-TMD preserves by Policy 1.5.1-n.
    - 2) **Preserve Area Acreage.**
      - a) A minimum of 10% of the land area with the CLR designation shall be Onsite Preserve Area; and
      - b) A minimum acreage equivalent to 50% of the acreage of the CLR designation shall be provided as Offsite Preserve Area.
      - c) Offsite Preserve Area may retain AGR future land use provided that no density or intensity is transferred to the Development Area and that the preserve is subject to a conservation easement which restricts uses allowed to those permitted within AgR-TMD preserves by Policy 1.5.1-n.
  - c. **Multiple Use Project – Onsite Preserve Option.** Projects utilizing CLR as an underlying designation to Institutional and Public Facilities (INST) future land use designation for a multiple use project shall be subject to the following:
    - 1) **Preserve Area Uses.** Uses allowed shall be those permitted within EH preserves by Policy 1.5.1-j;
    - 2) **Preserve Area Acreage.** A minimum acreage equivalent to 60% of the acreage of the CLR designation shall be provided as Onsite Preserve Area; and
    - 3) **Design Features.** A development with INST/CLR future land use is not considered mixed use and is not subject to the Design Elements in Policy 1.5.1-r or Usable Open Space Requirements for Multiple Use Planned Development (MUPD) in the ULDC.”

**Response:** This policy is the subject of the proposed concurrent text amendment. The only proposed changes are to allow an additional location for CLF uses utilizing the “INST/CLR” FLU designation. The proposed rezoning to allow for development of the skilled nursing facility and congregate living facility will be consistent with the remaining criteria of this policy. The proposed rezoning will support the County’s objectives of providing additional opportunities for senior housing in appropriate locations while preserving a transition between residential and non-residential uses.

The proposed FLU designation of INST/CLR will include 62.33 acres of the total property size. The proposed density of the CLF is calculated as follows:  $62.33 \times 8 = 498.64 \times 2.39 = 1,191.7 = 1,192$  beds. The proposed buildings proposed to be setback 50 feet or more from agriculture uses. The 62.33 acres exceeds the minimum 5 acres. The total preserve area required for the project meets the 40% of the total site area as required. The applicant is not proposing to locate any required retention within the preserve area. The preserve area will include a natural area that includes a passive park with passive park lakes. Therefore, this natural area will provide suitable habitat for a variety of wildlife species including listed species, such as wood stork, Florida sandhill crane, American kestrels, and others. The natural area will be planted with native trees, shrubs and groundcovers, again which will provide habitat for wildlife.

The Property is located within the West Boynton Area Community Plan. Multiple meetings have occurred with the Coalition of Boynton West Residential Associations (COBWRA), the newly formed Boynton Agricultural Reserve Communities (BARC) and the adjacent community Canyon Trails to discuss the project. These dates are: August 2, 2022, February 23, 2023, April 4, 2023, and May 9, 2023. Discussions

are anticipated to continue with all neighborhood groups.

As previously indicated, both the Comprehensive Plan Text Amendment and Future Land Use Map Amendment subject to conditions were transmitted at the May 3, 2023 Board of County Commissioner Transmittal Hearing. The proposed development is consistent with these conditions. The comprehensive plan map amendment included the following conditions:

1. Development is limited to 1,192 congregate living facility beds and 70 nursing home beds.
2. The proposed future land use amendment and the proposed rezoning shall be considered for adoption by the Board of County Commissioners at the same public hearing.

#### **B. Consistency with the Code**

The proposed rezoning to Multiple Use Planned Development (MUPD) for the proposed project is consistent with the stated purpose and intent of the County Unified Land Development Code. The Property meets the minimum frontage and access requirements for MUPDs located within the Institutional Future Land Use. The 93.51 acre Property has frontage on Boynton Beach Boulevard. Access is proposed from Boynton Beach Boulevard.

The proposed MUPD meets the objectives and standards as described in Art. 3.E.3.B. The project contains both residential and non-residential uses that have been designed in a manner to foster compatibility internal to the project as well as with the adjacent residential uses to the south and east. Pedestrian connections have been provided between all buildings within the project as well as to Boynton Beach Boulevard.

A minimum of 5% of the project is dedicated for usable open space. The usable open space includes additional vegetation area excluded from the required preserve area and the open common area spaces around the residential buildings that can be utilized for dog walking or congregation of residents. Usable open space areas throughout the site will be consistent with other MUPDs approved in the AgR Tier such as CobbleStone Plaza and Reserve at Atlantic MUPD.

The Applicant is requesting a 25% reduction of recreation area as the proposed use is a congregate living facility for aging residents. The recreation areas will be located internally and externally to the buildings and will be accessible to all residents of the congregate living facility and skilled nursing facility. The recreation amenities will be programed for a variety of recreation uses including but not limited to pool, indoor and outdoor activity areas (including but not limited to: shuffleboard, exercise rooms, card rooms, media center, woodworking shop, golf simulator, walking trails, etc.) Pedestrian connections are provided to the proposed recreation areas to ensure that it is accessible to the entire development area of the MUPD.

Indoor private recreational areas may include, but will not be limited to, fitness centers and indoor sport courts, activity rooms, library/media center, game room, and other community gathering spaces as determined by the applicant at final design. Offices, dining facilities, administrative areas and hallways will not be included within the recreation area calculations. Private outdoor recreational facilities will include an outdoor pool and spa, accessible trails and/or walking paths, garden areas, dog exercise areas, outdoor dining areas with seating, shade structures, outdoor sports courts, outdoor exercise and gaming areas and other outdoor recreation amenities as may be determined by the Applicant.

All residents will have equal access to all of the indoor and outdoor private recreational areas and are intended to serve the entire community. Larger amenities, such as the outdoor pool, will be centrally located. The Applicant reserves the right to modify, reconfigure, and/or provide additional indoor and outdoor private recreation facilities in the future without the need for an amendment to the zoning approval. Construction of the private recreational facilities will be phased with development.

Per Art. 3.E.1.C.1. Planned Developments shall comply with the following objectives:

- a. Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design;  
*Response: The Property has approximately 1,035 feet of frontage on Boynton Beach Boulevard.*
- b. Provide a continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD;  
*Response: A continuous sidewalk has been provided throughout the entire project connecting all buildings to one another, to the recreation and usable open space as well as to the adjacent rights-of-way. A pedestrian path is also included linking the buildings to the preserve area.*
- c. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses;  
*Response: As mentioned above, sidewalks are provided throughout the entire project connecting all uses and buildings. Additionally, parking has been provided throughout the project which is convenient to all uses and buildings.*
- d. Preserve existing native vegetation and other natural/historic features to the greatest possible extent;  
*Response: A majority of the Property has previously been cleared and utilized for agriculture uses. There is a minimal amount of vegetation along the perimeter of the property that contains mostly invasive materials.*
- e. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound;  
*Response: Dumpsters, loading areas, etc. have been screened from public view as required. Each individual building will provide valet trash service. The operator's General Services team removes trash daily, or as needed in times of surge like the holidays or move ins, from trash rooms. Residents take their own trash and recycling to the trash room, located on each residential floor, unless they have a housekeeping service which does that task for them. Trash pick-up from the loading area typically occurs 3 times a week.*
- f. Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs, and other primary elements to minimize the potential for any adverse impact on adjacent properties;  
*Response: The project has been designed so as to locate the taller buildings toward the interior of the project. The preserve area will be situated to the south and east of the development area so as to provide additional screening and buffering from the single family residential to the south as well as to the Florida Turnpike to the east.*
- g. Minimize parking through shared parking and mix of uses;  
*Response: The proposed project provides surface parking as well as garage parking throughout the development. The proposed parking within the project meets the minimum requirements.*
- h. Creation of a strong pedestrian system through the design and placement of buildings connected to a common public space or usable open spaces; and,  
*Response: Pedestrian network has been provided throughout the entire project that connects the various uses and buildings. Additionally, a meandering mulched pathway is provided to various usable open spaces and throughout the preserve area.*
- i. For PDDs with non-residential uses, a minimum of one pedestrian amenity for each 100,000 square feet of non-residential GFA, or fraction thereof, shall be incorporated into the overall development to create a pedestrian friendly atmosphere.  
*Response: There several areas where outdoor seating or other pedestrian amenity is proposed as shown on the proposed site plan.*

Per Art. 3.E.1.C.2. Planned Development shall also comply with the following standards:

- a. Access and Circulation
  - 1) Minimum Frontage

- PDDs shall have a **minimum** of 200 linear feet of frontage along an Arterial or Collector Street.  
*Response: The Property has approximately 1,035 feet of frontage on Boynton Beach Boulevard.*
- 2) PDDs shall have legal access on an Arterial or Collector Street;  
*Response: The Property has access on Boynton Beach Boulevard and arterial roadway.*
- 3) Vehicular access and circulation shall be designed to **minimize** hazards to pedestrians, non-motorized forms of transportation, and other vehicles. Merge lanes, turn lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate the need for such controls;  
*Response: Pedestrian circulation has been designed to avoid conflicts with vehicular traffic as much as possible. Crosswalks have been provided to ensure safety of the pedestrians at various intersections.*
- 4) Traffic improvements shall be provided to accommodate the projected traffic impact;  
*Response: The Applicant is proposing to dedicate additional right-of-way for the canals abutting Boynton Beach Boulevard. No traffic improvements are anticipated at this time.*
- 5) Cul-de-sacs  
 The objective of this provision is to recognize a balance between dead end streets and interconnectivity within the development. In order to determine the total number of Local Streets that can terminate in cul-de-sacs, the Applicant shall submit a Street Layout Plan, pursuant to the Technical Manual. The layout plan shall indicate the number of streets terminating in cul-de-sacs, as defined in Art. 1, General Provisions of this Code, and how the total number of streets is calculated. During the DRO certification process, the addressing section shall confirm the total number of streets for the development, which would be consistent with how streets are named. Streets that terminate in a T-intersection providing access to less than four lots, or a cul-de-sac that abuts a **minimum** 20-foot-wide open space that provides pedestrian cross access between two pods shall not be used in the calculation of total number of cul-de-sacs or dead end streets.  
 a) 40 percent of the Local Streets in a PDD may terminate in a cul-de-sac or a dead end by right.  
*Response: No cul-de-sacs are proposed.*
- 6) Non-residential PDDs shall provide cross access to adjacent properties where possible, subject to approval by the County Engineer;  
*Response: Cross-access is being proposed to the multi-family residential project to the west.*
- 7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project; and,  
*Response: The project will provide appropriate drainage as required by the Engineering Department. Drainage is currently proposed through the provision of exfiltration, vaults and french drains.*
- 8) Public streets in the project shall connect to public streets directly adjacent to the project. If no adjacent public streets exist, and the County Engineer determines that a future public street is possible, a connection to the property line shall be provided in a location determined by the County Engineer. This standard may be waived by the BCC.  
*Response: No public streets are anticipated within the proposed development.*
- b. Street Lighting  
 Streetlights shall be a **maximum** of 25 feet in height and shall be installed along all streets 50 feet in width or greater. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with Art. 5.E, Performance Standards.  
*Response: Lighting on-site will comply with code requirements.*
- c. Median Landscaping  
 Refer to the most recent Engineering and Public Works Operations – Streetscape Standards available from the PBC Engineering Department.  
*Response: Required median landscape improvements will be met as required by Engineering.*
- d. Street Trees  
 Street trees shall meet the Canopy tree requirements of Art. 7, Landscaping and planting standards pursuant to Engineering and Public Works Operations – Streetscape Standards, and as follows:



- 1) Street trees shall be spaced an average of 50 feet on center. Palms meeting the requirements of Art. 7, Landscaping and Engineering and Public Works Operations – Streetscape Standards, may be planted as street trees if spaced an average of 40 feet on center.
- 2) Street trees shall be located along both sides of all streets 50 feet in width or greater and shall be planted between the edge of pavement and sidewalk. Appropriate root barrier techniques shall be installed where applicable.
- 3) Street trees shall be installed in accordance with the phasing of the Planned Development pursuant to Art. 7.F.2.B.1, Developments with Phasing. For residential PDDs, planting of street trees shall be completed prior to the issuance of the final Certificate of Occupancy within that phase or pursuant to Conditions of Approval.
- 4) This requirement may be waived or modified by the County Engineer if the location of the proposed street trees conflict with requirements of Art. 11, Subdivision, Platting, and Required Improvements.

*Response: The project will meet the requirement for street trees per the Code requirement.*

e. Bike Lanes

Bike lanes shall be provided in all streets 80 feet in width or greater, unless an alternative is approved by the County Engineer in accordance with Art. 11, Subdivision, Platting, and Required Improvements.

*Response: Land Development and FDOT will determine if bike lanes are needed within the existing adjacent rights-of-way.*

f. Mass Transit

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

- 1) The location of a Bus Stop Boarding and Alighting Area shall be shown on the Master Plan and/or Final Site Plan prior to approval by the DRO, unless written conflicts that one is not required. The purpose of this easement is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran;
- 2) Prior to the issuance of the first Building Permit, the Property Owner shall convey to PBC an easement for a Bus Stop Boarding and Alighting Area, in a location and manner approved by Palm Tran. As an alternative, prior to Technical Compliance of the first plat, the Property Owner shall record an easement for a Bus Stop Boarding and Alighting Area in a manner and form approved by Palm Tran. The Property Owner shall construct continuous paved pedestrian and bicycle access compliant with the Americans with Disabilities Act (ADA) to and through the Bus Stop Boarding and Alighting Area; and,
- 3) All PDDs with more than 100 units shall comply with the following requirement:  
Prior to the issuance of the Building Permit for the 100th unit, the petitioner shall construct a Palm Tran-approved mass transit shelter with appropriate access lighting, trash receptacle, and bicycle storage. The location of the shelter shall be within an approved Bus Stop Boarding and Alighting Area easement. Any and all costs associated with the construction and perpetual maintenance shall be funded by the petitioner.

*Response: Palm Tran currently has a route along Baynton Beach Boulevard. A bus shelter easement cannot be accommodated on the Property as the LWDD Canal abuts the Baynton Beach Boulevard right-of-way.*

g. Utilities

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

*Response: Utility easements are provided along the rights-of-way as required to accommodate underground installation.*

h. Parking

1) Residential Uses

Parking for residential uses shall comply with Art. 6, Parking, Loading, and Circulation. The DRO may require a covenant to be recorded limiting the affected area to a specific use or uses.



## 2) Non-Residential Uses

Non-residential uses located within a PDD may apply the parking standards indicated in Table 6B.1.B, Minimum Parking and Loading Requirements, based on the use or the minimum/maximum parking standards below or a combination of both. The site plan shall clearly indicate which parking standards are being utilized for the entire site.

## 3) Design

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

## 4) Cross Access

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

## 5) Location – Non-Residential PDDs

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

## 6) Distance

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

*Response: Parking and crosswalks have been provided throughout the project which is convenient to all uses and buildings. Parking areas have been designed to provide for safe and efficient flow of traffic. Surface parking as well as garages are proposed within all residential buildings. Seven (7) loading spaces are provided throughout the MUPD. Each building has at least one dedicated loading space.*

## i. Way Finding Signs

Off-site directional signs, consistent with the on-site directional sign standards in Art. 8, Signage, may be allowed along internal streets in the R-O-W, subject to approval by the County Engineer.

*Response: No way finding signs are proposed as part of the Master Sign Plan included with this application.*

## j. Emergency Generators

A permanent emergency generator shall be required for all Type 2 and Type 3 CLFs, Nursing or Convalescent Facilities, and PDD clubhouses 20,000 square feet or greater, and shall meet the standards of Art. 5B.1.A.19, Permanent Generators.

*Response: Two emergency generators are proposed and will meet the location and screening criteria. The generators is located south of Building F and south of Building 1*

**C. Compatibility with Surrounding Uses**

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

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

Several factors lead to the conclusion that the proposed development will be compatible with neighboring uses.

- Access is available to Boynton Beach Boulevard, a right-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity.
- Boynton Beach Boulevard is currently developed with a mix of institutional, commercial, residential and agricultural uses. The proposed MUPD will provide for additional housing and long term care opportunities along this important east-west corridor of the Agricultural Reserve and Palm Beach County. On this basis, the proposed development concept at this location is determined to be compatible.
- The proposed use is compatible with the existing development pattern and adjacent uses that have occurred along the Boynton Beach Boulevard corridor.

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

The proposed project will be compatible with the other intense uses that exist at the intersection and within the corridor. The proposed project will provide a complimentary use to the future proposed multi-family, existing residential and institutional uses. The multi-family project will provide for additional housing opportunities to serve the aging population within the Ag Reserve within close proximity to the services and shopping opportunities. This colocation will ensure that intensity is concentrated in one area while tapering down from the central core of intensity.

The proposed 3 and 4-story buildings have been designed to locate the intensity interior to the project while locating the preserve to the south and east. The proposed structures are clustered within the Property. Additionally, the Applicant is proposing a lush landscape buffer along the Boynton Beach Boulevard right-of-way.

#### **D. Design Minimized Adverse Impact**

The proposed rezoning will minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. As shown on the proposed site plan, the layout and design that is proposed will foster the functionality of the overall MUPD. The proposed project is comprised of 3 and 4 story buildings that are strategically located within the development so as to ensure consistency of building heights within the immediate area (the new middle school and Logan Ranch residential). The parcels to the south are single family developments that will not be impacted by the proposed development as the Preserve area is proposed to be located along the southern portion of the 93.51 acre Property. Requirements in Article 5.C will be met. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

#### **E. Design Minimizes Environmental Impact**

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for agriculture, however the perimeter of the Property appears to contain a number of invasive plant materials. There are no protected species on the Property. The proposed design of the MUPD is clustered on the development area, with a set aside for preserve land. The clustering of intensity adjacent to the right-of-way and near the institutional corridor of Boynton Beach Boulevard will minimize the overall environmental impacts for existing and future residents of the Agricultural Reserve. Ensuring a diversity of housing options and senior living facilities will ensure that those currently living within the Ag Reserve can continue to age in place or have places to locate their aging parents. Reducing vehicle travel time and travel distance ultimately contributes to a reduction in carbon emissions and an overall environmental impact.

#### F. Development Patterns

The proposed MUPD will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located on a major east-west corridor of the Ag Reserve. Continued residential growth has created a need for additional services and housing options within the Agricultural Reserve Tier.

The creation of additional housing options within the Ag Reserve Tier will allow those currently living within the area to age in place. By adding more housing/elder care options to the Agricultural Reserve Tier, travel distance and time is reduced for those younger residents looking to relocate their aging parents nearby. This reduction would lessen the impacts on the major rights-of-way in the Tier, thus decreasing the burden for service provision on County taxpayers. Water and sewer lines have been installed along Boynton Beach Boulevard to serve the various residential projects being developed within the Agricultural Reserve. Allowing development of the Property would be an efficient use of these existing public facilities.

#### G. Adequate Public Facilities

The proposed rezoning to MUPD will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Boynton Beach Boulevard to accommodate the proposed development including the proposed MUPD. The Property is located in the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA) and within the Boynton Beach Boulevard corridor which is not rural in nature. Urban services such as police, fire rescue and water/wastewater/drainage utilities exist in the immediate area.

A 30 foot platted road as shown in Plat Book 2, page 45 is a platted road that was subject of the West Peninsular lawsuit. The lawsuit concerns the ownership of strip parcels (roads and ditches) offered by Palm Beach Farms for dedication to Palm Beach County in 1912. A 1976 instrument entitled "Notice of Withdrawal of Platted Roads, Streets, and Other Unexercised Rights" revoked the offer of dedication. In 1986, pursuant to local Ordinance No. 86-18 (the "Ordinance"), defendant Palm Beach County (the "County"), began a practice of selling easement and right of way interests in property originally acquired through dedication. In return for a "privilege fee," the County issued an abandonment resolution, which, when recorded, transferred ownership of the parcel to the payor of the fee. This dispute began when the County attempted to collect fees in exchange for abandonment resolutions for parcels that, according to plaintiffs, had never been accepted by the County. In the end the Court ruled in favor of the landowners and determined that these platted roads were not considered as easements rather as unencumbered land owned by the property owners. Therefore, this platted road is not identified on the site plan.

#### H. Changed Conditions or Circumstances

The Agricultural Reserve Master Plan recognized the need for sustainable development within the Tier by allowing and encouraging vertical and horizontal integration of residential units within the TMDs. However, this type of forced design was not affordable, feasible or marketable, especially at a density of 1 dwelling unit per acre. The Consultant recommended that the County permit density bonuses as a means of encouraging vertical integration and ensuring a greater diversity of housing types.

The Master Plan originally intended for development to be concentrated and radiate outward from two nodes (Boynton Beach Boulevard and Lyons Road and Atlantic Avenue and Lyons Road). Preservation parcels were anticipated to be located west of State Road 7 and within the core of the Agricultural Reserve. The proposed FLUA and text amendment will allow for development to occur along Boynton Beach Boulevard in an area originally designated by the Master Plan as a location for multi-family development.

Recently, the Board of County Commissioners approved a multi-family development, Reserve at

Atlantic, with a density of 8 dwelling units to the acre providing for a total of 476 residential dwelling units; and a daycare for 120 children. This project is seen as a catalyst for the County Board of Commissioner's direction to staff and ultimate adoption of the Essential Housing designation within the Agricultural Reserve. The Essential Housing Future Land Use Designation creates a higher-density category with a significant workforce housing requirement and a preserve requirement, helping to create livable communities while recognizing the unique characteristics of the area. In addition, in April 2022, the Board of County Commissioner's approved the All-Seasons Project which located the first Congregate Living Residential designation within the Agricultural Reserve. Then in August of this year, the Board of County Commissioners initiated the proposed text amendment to add an additional location for the CLR designation, for this Property.

The proposed congregate living facility will be located on a major corridor with proximity to the Cobblestone Plaza and Canyon Town Center marketplaces limiting trips. In addition, a congregate living facility provides for most of the residents needs on site, with medical services, personal care services, daily meals and dining options, thereby limiting the need to travel off site for those services.

Continued residential growth has created a need for additional services within the Agricultural Reserve. The additional services that have been approved and developed along Boynton Beach Boulevard and in the immediate area. In addition, as the population within the Agricultural Reserve ages, there's a need for additional housing options that provide specialized services to the aging population. The residents of the single-family homes within the Agricultural Reserve will have a need for additional housing options in the future for themselves and for their families, which can be served by a congregate living facility.

The development of congregate living facilities will not occur in the Tier unless density rates are increased. Initially, Congregate Living Residential was intended to locate at one location within the Tier. The congregate living facility has yet to be constructed. The proposed project will provide additional housing options within the Tier. This congregate living facility will be located within close proximity of the TMDs to ensure the intent of the Agricultural Reserve Master Plan is realized.

***Based on the above justification and attached information, the Applicant respectfully requests approval of this rezoning to Multiple Use Planned Development (MUPD).***

#### **CONDITIONAL USE APPROVAL STANDARDS (Congregate Living Facility)**

As part of this application, the Applicant is requesting one Class A Conditional Use Approval for a general Congregate Living Facility. Article 2.B.7.B. requires that eight (8) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all eight (8) criteria standards, as provided below.

##### **A. Consistency with the Plan**

The proposed Class A Conditional Use for a congregate living facility is consistent with the County Comprehensive Plan. The proposed Future Land Use designation of the portion of the Property is Institutional with an underlying Congregate Living Residential (INST/CLR).

The Property is located within the West Boynton Area Community Plan (WBACP) study area. This study encourages the appropriate mix of land uses that allows for higher density and non-residential infill development that will provide employment opportunities as well as mitigate additional traffic generation. The Applicant is proposing to develop the Property fronting on Boynton Beach Boulevard with a suitable use that will be consistent and compatible with the other uses proposed in the immediate vicinity. The proposed CLF will provide additional employment and housing opportunities for the western Boynton area as well as being a use that generates significantly less a.m. and p.m. peak hour traffic trips.



**B. Consistency with the Code**

The proposed congregate living facility will meet all supplementary code requirements. The property is located with access and frontage on Boynton Beach Boulevard. All buildings have been designed so as to provide for required drop-off areas.

The community will obtain a license for a Certificate of Authority to transact the business of a Continuing Care Retirement Community in the state of Florida. As a licensed Certificate of Authority holder, we must comply with all applicable areas of Chapter 651, Florida Statutes, and Rule 690-193, Florida Administrative Code. The entire facility is required to be licensed by the Florida Office of Insurance Regulation (FLOIR) as a certificate of authority to operate in Florida. The Florida Agency for Health Care Administration licenses the entire facility as a continuing care retirement community.

**C. Compatibility with Surrounding Uses**

The Property is located within close proximity to the Canyons Town Center, Cobblestone Plaza, the institutional corridor of the Ag Reserve and other area residential projects. These surrounding uses will support the residents of the CLF by ensuring that services, shopping opportunities, additional recreation opportunities are located within close proximity.

**D. Design Minimized Adverse Impact**

The proposed congregate living facility is located within the MUPD so as to minimize adverse effects, including visual impact and intensity of the proposed use on adjacent lands. Requirements in Article 5.C will be met at the time of permitting. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers and separation.

**E. Design Minimizes Environmental Impact**

The Property is currently being utilized for active agriculture purposes. Most of the Property has previously been cleared for agriculture row crops therefore there is currently no significant vegetation or habitat on the Property.

**F. Development Patterns**

The proposed Class A Conditional Use will result in a logical, orderly, and timely development pattern. As previously mentioned, the Property is located on a major east west corridor and within close proximity to commercial, institutional and residential development. The Property is appropriate and suitable for such uses as the proposed congregate living facility. Additionally, residential development has increased in the immediate area. As more dwelling units are developed, more services are needed which include facilities for aging in place. These services are best accommodated along major rights-of-way within the Ag Reserve.

**G. Adequate Public Facilities**

The proposed Class A Conditional Use will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. Other public and private utility infrastructure is already in place along Boynton Beach Boulevard to accommodate the proposed development.

**H. Changed Conditions or Circumstances**

The Applicant is requesting Class A Conditional Use approval for a congregate living facility. This area of the County has recently experienced a significant increase in residential, commercial, institutional and industrial development. There has been very limited opportunity for the development of facilities that can support the aging population. The proposed MUPD will incorporate the congregate living facility that has previously been limited to one site within the Ag Reserve. The proposed CLF will not only serve the future residents of the MUPD but also the existing residential developments to the west and south that may want to move to a facility that is located within proximity of their previous homes where services are familiar,



and friends/family may be located nearby. This area of the Ag Reserve is ideally situated for such a use.

*Based on the above justification and attached information, the Applicant respectfully requests approval of the Class A Conditional Use request for a Congregate Living Facility.*

**TYPE II VARIANCE STANDARDS**

The applicant is requesting a Type II Variance from Article 7.C.2.C to allow 100% overlap of the perimeter buffers (ROW buffer along east property line and incompatibility buffer along south property line). All elements of the landscape buffers will be provided on site and are requested to be part of the 36.96 acre preserve rather than separate and adjacent. The variance is proposed to provide standard landscape buffers meeting all code requirements within the preserve area. The elements required of each buffer are further clarified below.

Per Article 7.C.2.C of the ULDC:			
	Location	Adjacent Use	Required
a	East	Florida Turnpike 20' ROW buffer	1 canopy tree every 25 feet, 1 palm or pine every 30 feet, 1 row each of groundcover, small shrubs, and medium shrubs.
b	South	Single Family Detached (15' Type 2 incompatibility buffer)	1 canopy tree every 20 feet, 1 palm or pine every 30 feet, 1 row of small shrubs and 1 row of medium shrubs.

Article 2.B.7.E.6 requires that seven (7) criteria related to variances are addressed prior to approval by the Zoning Commission. The Applicant complies with all seven (7) criteria standards, as provided below.

- A. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district.**
- a. Special conditions and circumstances exist for this Property resulting from the large, preserve space being provided in the areas where the buffers would typically be. The preserve area will contain significant native landscaping that will meet – and in many cases exceed - the minimum buffer requirements. The preserve area provides for 322 feet separation from the Florida Turnpike.
  - b. Special conditions and circumstances exist for this Property resulting from the large, preserve space being provided in the areas where the buffers would typically be. The preserve area will contain significant native landscaping that will meet – and in many cases exceed - the minimum buffer requirements. The preserve area provides for a +/- 730' buffer between the southernmost townhomes and the single family within the Canyon Trails PUD.
- B. Special circumstances and conditions do not result from the actions of the applicant.**
- a. The land required to be set aside as preserve is required by the Comprehensive Plan. Setting the development area back from the Florida Turnpike provides for additional screening and separation between the proposed residential development and the Florida Turnpike. In order to then utilize the property for the allowed use, including property vehicle circulation and use of buildings to provide additional buffering from the onsite operational uses, the proposed variance is required. Under the circumstances, it is unnecessary to have a completely separate landscape buffer and vegetated preserve space that greatly exceeds the size, scale and number of plants to provide adequate separation to all uses. From the east property, the area without the buffer is not needed to block any structure that could be potentially incompatible.
  - b. The land required to be set aside as preserve is required by the Comprehensive Plan. With the only residential use to the south, placing the preserve in the proposed location provides the maximum separation and landscape area from that use. In order to then utilize the property for the allowed use, including property vehicle circulation and use of buildings to provide additional buffering from the onsite operational uses, the proposed variance is required. Under the circumstances, it is unnecessary to have a completely separate landscape buffer and vegetated preserve space that greatly exceeds the size, scale

and number of plants to provide adequate separation to all uses. From the east property, the area without the buffer is not needed to block any structure that could be potentially incompatible.

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

- a. The granting of this variance will not confer any special privilege as Palm Beach County has approved on-site preserves to be used to meet buffer requirements in the past. All elements of the buffer are proposed to be provided, so there is no relief from overall landscape costs that would be required of all other properties. Any use in the district with only one residential use adjacent that clustered its preserve to provide additional benefit to the neighbor, did not request relief from any planting requirements, and designed its property to internalize operations could be eligible for this same variance.
- b. The granting of this variance will not confer any special privilege as Palm Beach County has approved on-site preserves to be used to meet buffer requirements in the past. All elements of the buffer are proposed to be provided, so there is no relief from overall landscape costs that would be required of all other properties. Any use in the district with only one residential use adjacent that clustered its preserve to provide additional benefit to the neighbor, did not request relief from any planting requirements, and designed its property to internalize operations could be eligible for this same variance.

**D. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district and would work an unnecessary and undue hardship.**

- a. The literal interpretation and enforcement of the buffer requirements would require a formalized incompatibility buffer in an area where the plantings can easily be accommodated within the preserve area. In order to utilize the property for the allowed use, including property vehicle circulation and use of buildings to provide additional buffering from the onsite operational uses, the proposed variance is required.
- b. The literal interpretation and enforcement of the buffer requirements would require a formalized incompatibility buffer in an area where the plantings can easily be accommodated within the preserve area. In order to utilize the property for the allowed use, including property vehicle circulation and use of buildings to provide additional buffering from the onsite operational uses, the proposed variance is required.

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

- a. This request for a variance to allow for the overlap of the landscape buffers will make reasonable use of the Property and will not create any adverse impacts on surrounding uses. If the Applicant were required to meet the landscape buffer requirement along the property line, a significant portion of the site would be impacted resulting in a loss of functionality. Providing the buffer material inside the preserve space will be the minimum necessary to provide for a native landscape habitat to also function effectively to buffer adjacent uses from the structures and uses on this property.
- b. This request for a variance to allow for the overlap of the landscape buffers will make reasonable use of the Property and will not create any adverse impacts on surrounding uses. If the Applicant were required to meet the landscape buffer requirement along the property line, a significant portion of the site would be impacted resulting in a loss of functionality. Providing the buffer material inside the preserve space will be the minimum necessary to provide for a native landscape habitat to also function effectively to buffer adjacent uses from the structures and uses on this property.

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

- a. Granting the variance will be consistent with the goals to create preservation space, adequate screening to adjacent non-compatible uses. Through this application, the Applicant will be creating a much better natural habitat for flora and fauna of the region that is not provided currently from the agricultural uses.

With the buffer being provided in the conservation easement, all plant material will be native or naturalized resulting in a better product in harmony with the goal to create a native habitat.

- b. Granting the variance will be consistent with the goals to create preservation space, adequate screening to adjacent non-compatible uses. Through this application, the Applicant will be creating a much better natural habitat for flora and fauna of the region that is not provided currently from the agricultural uses. With the buffer being provided in the conservation easement, all plant material will be native or naturalized resulting in a better product in harmony with the goal to create a native habitat.

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

- a. The proposed variance, if granted, will not be injurious to the area involved or detrimental to the public welfare. The Applicant will be providing all plant material to provide the screening required in the ULDC to non-compatible uses, in addition to additional separation provided by the preserve area.
- b. The proposed variance, if granted, will not be injurious to the area involved or detrimental to the public welfare. The Applicant will be providing all plant material to provide the screening required in the ULDC to non-compatible uses, in addition to additional separation provided by the preserve area.

*Based on the above justification and attached documentation, the applicant respectfully requests approval of the Type 2 Variance for the buffer overlap with the preserve area.*

**TYPE 1 WAIVER – ELIMINATE BUFFER BETWEEN RESIDENTIAL AND RECREATION**

The Applicant is requesting to eliminate the buffer between the recreation and residential uses. The request for this Type 1 Waiver satisfies the general standards as set forth by the ULDC Article 2.C.5.F.3:

1. **The Waiver does not create additional conflicts with the specified Section(s) of the ULDC, and is consistent with the stated purpose and intent and standards;**  
The granting of the waiver does not create additional conflicts with other sections of the ULDC and is consistent with the stated purpose, intent, and standards. Allowing the elimination of the buffer will allow for the integration of the recreation space with the proposed multifamily units.
2. **The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,**  
The granting of the waiver will not cause a detrimental effect on the overall design and development standards of the project and will be in harmony with the general site layout and design details of the development. Granting the waiver will allow for the site to meet minimum landscape, open space, preserve and drainage requirements.
3. **The alternate design option recommended as part of the Waiver approval, if granted, will not adversely impact users of the project or adjacent properties.**  
If granted, the alternate design will not adversely impact users of the project or adjacent properties. Requiring the proposed buffer would ultimately impact the size of the recreation areas and impact the ability of the residents to enjoy the recreation areas.

*Based on the above justification and attached information, the Applicant respectfully requests approval of the Type 1 Waiver.*