

PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION

Application No.: ZV/PDD/CA-2022-01785
Application Name: BC Commerce Center
Control No./Name: 2016-00163 (BC Commerce Center)
Applicant: Jon Channing, BC Boynton Industrial, LLC; Randall Thorne; Paul Dye
Owners: Nurseries Valico; Paul Dye
Agent: JMorton Planning & Landscape Architecture -Lauren McClellan
Telephone No.: (561) 721-4463
Project Manager: Carlos Torres, Principal Site Planner

Title: a Type 2 Variance **Request:** to allow a 100 percent buffer overlap within a preserve on 47.21 acres

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 47.21 acres

Title: a Class A Conditional Use **Request:** to allow a Taproom on 47.21 acres

Title: a Class A Conditional Use **Request:** to allow a Limited Access Self Service Storage on 47.21 acres

APPLICATION SUMMARY: Proposed is an Official Zoning Map Amendment for the BC Commerce Center Development. The site has no prior Board of County Commission (BCC) approvals. The property is currently use as a Wholesale Nursery.

The request proposes a rezoning to the Multiple Use Planned Development (MUPD) Zoning District in order to develop Commercial, Industrial, and Recreation uses. As part of the proposal, the Applicant is requesting two Conditional Uses that will allow a Taproom within a Brewery-Distillery Manufacturing and Processing use and a Limited Access Self Service Storage. In addition, the Applicant is requesting a Type 2 Variance to allow a 100 percent Type 3 incompatibility buffer overlap along the north property line of the preserve parcel.

The Preliminary Site (PSP) indicates eight buildings totaling 659,227 sq. ft which include the following; 139,000 sq. ft. of Limited Access Self-Service Storage; 128,110 sq. ft. of Fitness Center (two buildings); 372,117 sq. ft. of Warehouse (five buildings); 14,000 sq. ft. of Manufacturing and Processing which includes a 6,000 sq .ft. of Taproom with 150 seats. A total of 938 parking spaces are proposed subject to a Type 1 Waiver for parking reduction of 165 spaces, with one access point to the site from Boynton Beach Blvd and two access points on Acme Dairy Road.

These requests are contingent upon a concurrent application for a Future Land Use (FLU) Amendment (LGA-2023-00003) to amend the future land use desigantion from Agricultural Reserve (AGR) to Commerce (CMR), which is consistent with the proposed Zoning District.

SITE DATA:

Location:	Northeast corner of Boynton Beach Boulevard and Acme Dairy Road
Property Control Number(s)	00-42-43-27-05-050-0991; 00-42-43-27-05-050-0992 00-42-43-27-05-050-1000; 00-42-43-27-05-050-1010 00-42-43-27-05-050-1020
Existing Future Land Use Designation:	Agricultural Reserve (AGR)
Proposed Future Land Use Designation:	Commerce (CMR)
Existing Zoning District:	Agricultural Reserve District (AGR)
Proposed Zoning District:	Multiple Use Planned Development (MUPD)
Total Acreage:	47.21 acres
Tier:	Agricultural Reserve
Overlay District:	N/A
Neighborhood Plan:	West Boynton Community Plan
CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A
Commission District	Distirct 5, Vice Mayor Maria Sachs

RECOMMENDATION: Staff recommends approval of the requests subject to the Conditions of Approval as indicated in Exhibit C-1 to C-3.

ACTION BY THE ZONING COMMISSION (ZC): *Scheduled August 3, 2023*

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

PROJECT HISTORY: There have been no prior approvals by the Board of County Commissioners (BCC) for this site. The site is currently used as a nursery.

TYPE 2 VARIANCE SUMMARY:

ULDC Article	Required	Proposed	Variance
Table 7.C.2.C 15 Buffers Requirements and Incompatibilities Buffer Types	North 15 feet Right of way within the Development Area	15 feet Right of Way Buffer along the North Property Line with 100 percent overlap within the 12.14 acres Preserve	To allow 100% overlap within the 12.14 acres Preserve of the 20 foot Type 3 Incompatibility buffer along the North property line

FINDINGS:

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 seeking to rezone the site to MUPD zoning district in order to develop the site a multiple use development that include Warehouse, Fitness Center, Manufacturing with Taproom and Self-Storage. The Comprehensive Plan requires the development to have a Preserve area and it is proposed along the northern and central portion of the site. The Development Area requires a Type 2 Incompatibility Buffer in accordance with Article 7. The Applicant is proposing to locate the buffer along the northern boundary of the MUPD overlapping 100% the Preserve land area. The shifting of the buffer is a special condition peculiar to this parcel with its requirement for the preserve and location to adjacent agricultural/nursery and residential uses. In addition to this, the preserve area will provide an approximately 120 feet of open space with existing landscape already planted and the Applicant will be required to provide the required material. 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. Due to the proposed location shift and proximity to agricultural uses, Staff has included a condition of approval to modify the Right of Way buffer to have requirements of a Type 3 incompatibility buffer, as not road is constructed.

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

YES. In order to utilize the property for the proposed Multiple Use development, the Applicant must rezone the property to a non-residential zoning district, concurrently with the modifications to the Future Land Use to CMR. The MUPD is required to meet the buffers even if there is a preserve abutting the property line. As indicated above Staff have included conditions of approval to mitigate the shift in the buffer and proximity to the agricultural uses (nursery) and residential uses.

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 Plan or this Code. All elements of the proposed buffer are to be provided, so there is no relief from overall landscape costs that would be required of all other properties. As required by code the Applicant will be required to comply with the complete planting requirements for the required planting material for the buffers.

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 a incompatibility buffer in an area where the plantings can easily be accommodated within the 12.14 acres provided within the conservation easement, including where adjacent to preserve areas

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 buffer will make reasonable use of the Property and will not create any adverse impacts on surrounding uses. Providing the buffer material overlapping the preserve space will be the minimum necessary to provide landscape material to function successfully to buffer adjacent properties.

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. Granting the variance would not have any negative effect on the surrounding area or to the public welfare, as conditioned herein. The proposed development will maintain all other requirements of the Code. No perimeter or external variances are requested.

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 use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

○ *Consistency with the Comprehensive Plan:* Should the BCC approve the amendment request, then the proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

○ *Concurrent Land Use Amendments:* The site is the subject of a concurrent Large Scale Future Land Use Amendment known as BC Commerce Center (LGA 2023-003). The request seeks to amend the future land use designation from Agricultural Reserve (AGR) to Commerce with an underlying Agricultural Reserve (CMR/AGR). The Planning Commission heard the item on January 13, 2023, and the BCC transmitted the item on February 1, 2023 by a vote of 7-0, subject to conditions limiting the number of trips for compliance with FLUE Policy 3.5-d, and limiting the site to 719,764 sq. ft. (0.35 FAR).

The Applicant is requesting the CMR FLU designation in order to allow for light industrial and other allowable uses on the site. The newly established CMR FLU designation affords opportunities for low-trip generating light industrial and/or employment uses that demonstrate light industrial characteristics as defined by FLUE Policy 2.2.4-d of the Comprehensive Plan. The PSP indicates a total of 659,227 sq. ft., which is less than the conditioned maximum intensity, and the traffic impact statement dated May 9, 2023 indicates projected daily and peak hour trips less than the conditioned maximum. The proposed rezoning to the Multiple Use Planned Developed (MUPD) Zoning District is therefore consistent with the concurrent amendment and the Comprehensive Plan, provided the requested CMR FLU designation is adopted by the Board.

○ *Relevant Comprehensive Plan Policies for Commerce:* FLUE Policy 1.5-v establishes specific location, size, and preserve requirements for all new future land use amendments to the Commerce FLU designation with the Agricultural Reserve. As demonstrated through the accompanying amendment, the subject site meets each of the five listed requirements. Of note to this rezoning request is part 5 of this Policy, which states as follows:

- 5. Preserve shall be required for Commerce sites utilizing Light Industrial, Multiple Use Planned Development, or Planned Industrial Park Development zoning pursuant to FLUE Policy 1.5.1-q and subject to the following:
 - a. The preserve area requirements shall be based upon the acreage over 16 acres, shall be a minimum of 40% of the total land area over 16 acres, and allow water management tracts in preserve areas contiguous to the development area that provide enhanced environmental features and improved water quality as demonstrated through the future land use amendment process.

Per the above policy requirement, the preserve calculation is as follows:

Total Acreage: 47.21 acres
Less ROW: 0.95 acres
Net Acreage: 46.26 acres
Net Acreage minus 16 acres = 30.26 acres
30.26 acres X 40% = 12.10 acres minimum

The Preliminary Site Plan indicates a proposed Preserve Parcel of 12.14 acres, which includes a 4.9-acre Water Management Tract and a 1.0-acre Wetland area designed to provide enhanced environmental features, including improved water quality and natural habitat, as indicated by a signed environmental letter dated November 8, 2022 and included with the concurrent LGA.

The preserve area for the requested AGR-MUPD for the Commerce designation will be subject to a Conservation Easement, which will be governed by a Preserve Management Plan and accompanied by Title Insurance. These will be specified in conditions of approval. A recorded Conservation Easement shall be required prior to Final Approval by the Development Review Officer and labeled accordingly on the Final Site Plan.

○ *Intensity:* The Preliminary Site Plan indicates a total of 659,227 sq. ft., consisting of Fitness Center, Limited Access Self Storage, Manufacturing and Processing for a Brewery with Accessory Taproom, and Warehousing with Accessory Office. The maximum Floor Area Ratio (FAR) for non-residential projects with a CMR/AGR land use designation in the Agricultural Reserve Tier is .45 (2,056,563 surveyed square feet or 47.21 acres x .45 maximum FAR = 925,453 square feet maximum). However, the transmitted FLUA application contains a condition limiting the maximum FAR to 0.35. The request for a total of 659,227 square feet equates to a FAR of approximately 0.32 (659,227 sq. ft. / 2,056,563 surveyed square feet or 47.21 acres = 0.32). Therefore, the request complies with the stated condition.

○ *Special Overlay District/Neighborhood Plan/Planning Study Area:* The site is within the boundaries of the West Boynton Area Community Plan (WBACP), which is administered by the Coalition of Boynton West Residential Associations (COBWRA). The Applicant has been advised to contact the community group. No correspondence from COBWRA has been received by Planning Staff to date.

○ *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 land uses.

○ *Planning Conditions:* All of the conditions being applied are to carry forward conditions associated with the concurrent FLUA amendment, and carry out the requirements for an AGR-MUPD within the Agricultural Reserve Tier.

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.*

○ *Design Objectives and Performance Standards:* As the proposal is for a rezoning to an MUPD, the proposed development is required to be consistent with Article 3.E.1.C.1, PDD Design Objectives, and Art. 3.E.1.C.2, Performance Standards. As required by the PDD Objectives and Standards, the proposed development provides adequate pedestrian circulation within the site connecting all buildings, parking areas and pedestrian pathway to the sidewalks to Boynton Beach Boulevard and Acme Dairy Road.

Objectionable Features such as Loading Areas and Dumpster Areas have been adequately screened, as required by Art. 3.E.1.C.1.e, Design Objectives. The proposal is also required to be consistent with Art. 3.E.3.B, Objectives and Standards. After reviewing the provided Site Plan Staff have determined that the proposed development sufficiently is in compliance with the Design Objectives and Performance Standards for an MUPD. This includes protecting adjacent residential uses from adverse impacts and providing interconnection between on-site uses.

○ *Property Development Regulations (PDR):* The site has frontage and access on Boynton Beach Boulevard meeting the minimum frontage and access required for Planned Developments. In addition, the property meets Code requirements per Table 3.E.3.D, MUPD Property Development Regulations for minimum lot dimensions. The site exceeds the minimum lot size of 3-acres (47.21-acres provided), exceeds the minimum 300 ft. of width/frontage (approximately 1,611 ft. provided on Boynton Beach Blvd), and exceeds the minimum 300 ft. of depth (approximately 1,264 ft. provided).

○ *Uses:* With the proposed changes to the Plan, and the introduction of the new Commerce FLU, uses within this zoning district and FLU are limited. The ULDC was modified on March 23, 2023 through ORD 2023-011. Distribution and Logistics is a prohibited use within this development. The Applicant is proposing the following; 128,110 sq. ft. of Fitness Center, 279,088 sq. ft. of Warehouse with 93,029 Accessory Office, 14,000 sq. ft. of Manufacturing and processing, 6,000 sq. ft (150 seats) of Accessory Taproom and 139,000 sq. ft. of Limited Access Self Storage. All the uses mention above are allowed uses within the MUPD Zoning District with a CMR FLU.

The proposed Warehouse, Fitness Center and Manufacturing and Processing are permitted uses through a DRO approval within the MUPD Zoning District with a CMR FLU. The proposed Limited Access Self Service Storage and Taproom requires a Class A requested use.

○ *Use Specific Criteria Analysis:*

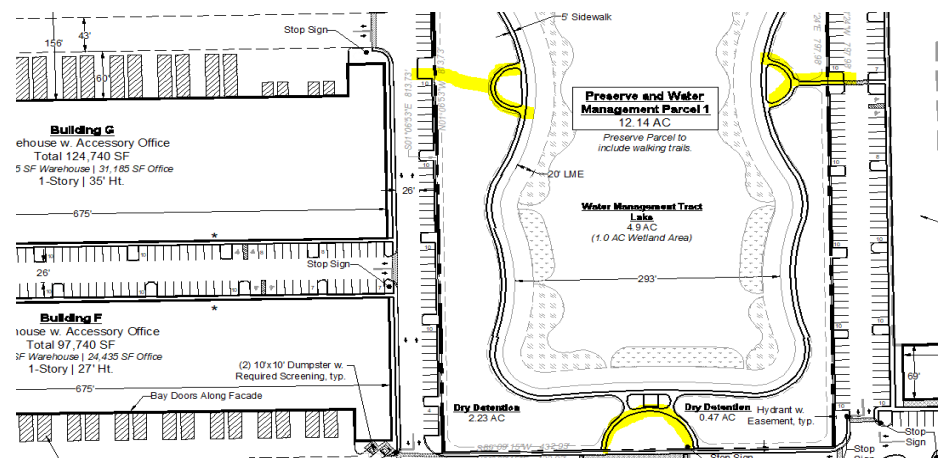
- + *Tap Room:* The proposed Taproom or Tasting room is allowed within the Manufacturing and Processing -Brewery Distillery up to 30 percent of the gross floor area, including square footage for outdoor dining, for that establishment by Class A Conditional Use approval in accordance to Article 4.B.5.C.8.e.3).a) No outdoor dining is proposed, and due to its location in proximity to the water, Staff has included a Condition of Approval prohibiting outdoor dining, events or music. The proposed use is in compliance with the separation requirements of 500 feet from a School and will have to comply with the hours of operations as indicated not only in Article 5, but in Article 4 which states, "*Hours for the Taproom, tasting room, and/or facility tours shall not be open to the public after 10:00 p.m., except Fridays and Saturdays, whereby it may remain open until 11:00 p.m.*" Because the hours of operations is a requirement from Article 4, no Variances or waivers are permitted.

Food Service and preparation is allowed within the Taproom. Mobile Retail Sales is allowed, however is limited to selling food, and subject to permit requirements..

- + *Limited Access Self-Service Storage:* Limited Access Self-Service Storage facility are defined as facilities with limited access points from the exterior of the building to interior halls that serve individual storage units. The proposed Limited Access Self-Service Storage must comply with the regulations as indicated on Article 4.B.2.C.35.a. Staff has analyzed the proposed in relation to the requirements in Article 4 and has determined that the proposed use is in compliance
- + *Fitness Center:* Is an allowable use within the CMR FLU, subject to approval by the DRO. The MUPD is showing the locations of the proposed Fitness Center uses. Fitness Center within the CMR Future Land Use is restricted to 20% of the total square footae of the development. This would mean a maximum of 131,845.4 sq.ft. The Preliminary Site Plan indicates that the proposed use is just under this maximum by providing 128,110 sq. ft. Because the proposed "Commercial Recreation" use, as described in the Plan, is allowable as tenants within the industrial buildings, and because the Fitness Center has a limitation on square footage based on the overall square square footage of the development, Staff have included a timing condition that ensure that industrial uses are developed before and concurrently with the commercial/recreation use.

- + **Type 2 Excavation:** Prior to final approval by the DRO, the Applicant will need to request approval for a Type 2 Excavation, based on the proposed site plan which includes proposed wetlands and water management/detention tracts. The Plan will need to be revised to show the minimum setback of 30 feet from the north property line. In addition Staff is requesting a landscape plan be submitted for the preserve and excavation area that includes walking trails for the “Passive Park”. Native Landscaping shall be installed around the path that enhances the use of the path by providing shading. The vegetation shall be water tolerant due to its proximity to the water areas.

- **Pedestrian Pathways:** Prior to final DRO, the Applicant shall submit a typical detail for their pedestrian pathway plan for their non-residential planned development. This circulation plan is required to indicate the shade trees benches and walkways with pavers. In addition, the pathway indicated around the Preserve/Wetland area indicates an “entrance” to the east of the Preserve/Water management Tract and to the South. The Plan shall be revised in also include an “entrance” to the pathway from the west in proximity of the eastern landscape island next to Building G.



- **Dumpsters and Recycling:** Eight dumpsters are proposed for the entire development. No additional dumpsters may be added to the site, unless indicated on the approved site plan. Dumpsters may not be located within required parking and loading areas, or placed to conflict with circulation. Staff have included a Condition of Approval to address future modifications.
- **Parking:** Article 3.E.1.C.2.h.2) Performance Standards – Parking Indicates that Non-residential uses located within a PDD may apply the parking standards indicated in Table 6.B.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. The Applicant has chosen the combination for the parking calculations. The Preliminary Site Plan indicates a total of 1,103 parking requires with a total of 938 parking spaces provided. The Applicant has indicated that will be requesting a parking reduction through a Type 1 Waiver of 165 parking spaces (15% of the total parking required) based on Article 6.C.5.F. As indicated above the Applicant has chosen the calculation combination for the parking distribution.

• Building A and D	128,110/250 sq. ft.	512 spaces
• Building B	850 bays	5 spaces
• Building C		
Manuf. and Proc.		24 spaces
Accessory Taproom. 150 seats		50 spaces
• Building E through H	128,110/250 sq. ft.	
Warehouse.	279,088 sq. ft.	140 spaces
Accessory Office	93,029 sq. ft.	372 spaces
• Total required		1,103 spaces
• Total provided		938 spaces

- **Loading:** The proposed development requires a total of 13 loading spaces distribute as follows; no loading area for building for Building A and D, four Type A loading spaces for Building B (Self Service Storage), one Type A loading space for Building C (Manufacturing and Processing and Taproom) and eight Type B loading spaces for Buildings E through H (Warehouse) which are 15x55 feet in dimension. The Preliminary Site Plan indicates Buildings F, G and H as having reduced sized parking spaces. These reduced sizes are based on the information provide from the Applicant, a Type 1 Waiver will be processed at time of final approval by the DRO. Staff have included a condition that restricts the size of the loading spaces as indicated on the Preliminary Site Plan. Larger Commercial vehicles, such as semi-trucks, may only be parked within the loading spaces as indicated on the Preliminary Site Plan. Storage of commercial vehicles is prohibited within the required parking, and only allowed within the loading areas. The Preliminary Site Plan indicates a total of 88 spaces distributed according their use through the Site Plan. Staff has reviewed the provided plan and has determine that it complies with Article 6 for the required loading spaces.

- **Landscape/Buffering:** The PSP indicates a 20-foot Right of Way buffer along the South property line abutting Boynton Beach Boulevard and the east property line abutting the Florida Turnpike and a 15 foot along the west property abutting Acme Dairy Road. Staff have included a condition of approval, that the Applicant provide a detail of the buffering along Boynton Beach and Acme Dairy at time of Final DRO approval on the Regulating Plan. Though a reduced size, the buffer along Acme Dairy shall have similar attributes and material as that along Boynton Beach Boulevard.

To the north the abutting parcels are zoned AGR-PUD with nursery uses. The proposed R-O-W buffers meets the minimum standard specified in Table 7.C.2.A. In addition along the North property line the Applicant is proposing a the buffer to overlap 100% the proposed preserve area in accordance with the Variance. The Applicant is proposing the required buffer within the preserved while providing all the required Landscape Material, Staff have included conditions of approval for an alternative buffer updated to be a Type 3 Incompatibility buffer. 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 1 per 15 linear feet within the northern buffer. The additional plant material provides additional buffering with the adjacent nurseries and residents along the northern property line. Additionally, Staff have included conditions of approval for the right of way buffer along the north property line, to be modified to be a Type 3 Incompatibility buffer as the right of way indicated, does not exist. Staff have included a condition of approval that will allow an alternative buffer and allow the construction of the wall on the property line with the plant material south of that location.

- **Signage:** The Preliminary Master Sign Plan (PMSP), the indicates a total of two freestanding ground mounted signs along Boynton Beach Boulevard (Signs I and J) and six ground mounted entrance wall signs (four on Acme dairy (Signs B, C, F and G) and two on Boynton Beach Boulevard (Signs L and M). The PMSP depicts outparcel signs, however the table will need to be updated as it is inconsistent with the graphic. The Graphic depicts four Outparcel signs along Acme Dairy (Signs A, D, E and H) and three on Boynton Beach Boulevard (Signs K, N, and O). At time of final DRO the Master Sign Plan needs to be updated to correct the table, and to modify the Master Sign Plan and Site Plan to indicate the location of the Outparcels. The Applicant is also providing two entrance signs at Boynton Beach Boulevard South entrance and 4 entrance sign at Dairy Acme Road east entrance (two per entrance) as permitted per Table 8.G.2.C.

c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

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. The Applicant has indicated that the proposed site will support light Industrial uses.

Planning Staff examined the compatibility of the request as part of the FLUA amendment Staff report. Planning Staff's findings indicate that the area surrounding the subject site consists of agricultural, commercial and institutional uses and a existing commercial development at the commercial node located at the intersection of Boynton Beach Boulevard and Lyons Road along with additional parcels with CL and INST future land use designations along the corridor. Directly abutting the site to the north and west are preserve parcels which currently support various agricultural uses, including farm residences. To the south, across Boynton Beach Boulevard, are several institutional uses including two public schools and a County district park. Further south are agricultural uses and low density residential AGR-PUDs. 23-A2 FLUA Amendment Staff Report 12 BC Commerce Center (LGA 2023-003) The Applicant indicates the site will be utilized to support future light industrial uses. The CMR FLU and implementing policies establish specific policy requirements dictating the size, location, frontage and access, thereby guiding where these types of industrial and allowable nonresidential uses may be considered. The submitted conceptual plan shows the light industrial uses located closest to Boynton Beach Boulevard, Acme Dairy Road and Florida's Turnpike with the 12.15 acre preserve parcel located at the northern boundary of the site, which is adjacent to existing agricultural uses. This results in a separation of almost 200 feet from the closest proposed building to the northern property. As the site meets the criteria for CMR FLU and is generally consistent with the development pattern of the corridor, Staff finds that the subject request is compatible.

The proposed site plan depicts the required right-of-way (R.O.W.) buffers on the south, east and west and a required incompatibility buffer to the north. The placement of the Preserve area along the northern property line increases the separation from the properties to the north of the site providing a better compatibility with the properties to the north of site

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 and design are configured in a way to minimize adverse impacts on surrounding lands. The site plan proposes one primary access onto Boynton beach Boulevard and two accesses for the warehouses along Acme Dairy Road. This configuration will help to minimize traffic impacts of the adjacent developments.

The building placement has been oriented and designed in a way to exceed the required setbacks. The building is setback 182 ft. from the nearest adjoining, AGR-PUD district and property line to the north. In addition, the Applicant has proposed a 12.14-acre Preserve, Water management, and detention tracts along the northern property line and internal to the development to further mediate adverse visual impacts of the property to the north. Staff have included conditions of approval for additional landscaping along the north property line, and the inclusion of a wall at the property line, to provide buffering to the residents and agricultural nursery uses. Although the structure exceeds the required rear setback by 337 ft., the Applicant is not requesting any additional height allowed by Code. Height is proposed at 35 feet height. Staff have included conditions of approval as it relates to the location of the loading area, and conditions on parking of commercial vehicles to reduce impacts and further improvement of the design for the proposed industrial use.

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 site has historically been agricultural use(s) (e.g., row crops, a landscape nursery) and contains a remnant wetland that is not being claimed by the DEP, USACE, or SFWMD. There are limited native vegetation species that exist on the site. The few native species on the parcel are being preserved in place, relocated, or mitigated for. The site predominately consists of nursery stock grown in potted planters. The location of the native vegetation species are along the north property line and the north-west corner (i.e., in the remnant wetland).

There is an active osprey (i.e., *Pandion haliaetus*) nest located on the site (i.e. located within the remnant wetland) that is protected/regulated by the Migratory Bird Treaty Act (MBTA). The Applicant will need to follow the proper regulator procedure(s) overseen by the US Fish and Wildlife Service and/or Florida Fish and Wildlife Conservation Commission for the imperiled species. To help offset any unintended adverse effects related to the species of concern, the Applicant has agreed to install some artificial rookeries (i.e., a wooded platform installed on a tall pole intended for use by avian species (bald eagles, ospreys, etc.) for nesting) within the proposed preserve/ created wetland area) - consistent with the ULDC, Article 14.C.7.C.4.d. The remnant wetland has been impacted by the prior use(s) and is currently cleared of all understory and is being used as a compost/trash area.

○ *Site Contamination:* Based on the Drafted Limited Phase II Environmental Site Assessment Report, dated January 08 2020 prepared by Universal Engineering Sciences, the soil and groundwater qualities at the subject property may have been impacted by its former use as a nursery. There are recognized environmental conditions associated with the project. An analysis of the samples detected the presents of arsenic in the soil. 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. During the DRO process, ERM will confirm that the Applicant is coordinating with the appropriate regulatory authority and any contaminants that exceed clean-up levels which are within 300 feet of the top of the bank for the excavation(s) are remediated and the appropriate documentation is provided to ERM.

○ *Wellfield Protection Zone:* This property is located not within Wellfield Protection Zone.

○ *Irrigation Conservation Concerns And Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the 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 significant environmental issues associated with this petition beyond compliance with ULDC requirements.

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

The proposed use or amendment will result in a logical, orderly and timely development pattern. The site is located on the northeast corner of Boynton Beach Boulevard and Acme Dairy Road. The area surrounding the subject site consists of agricultural, commercial and institutional uses. In addition, there is 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. Directly abutting the site to the north and west are preserve parcels which currently support various agricultural uses, including some which contain farm residences. To the south, across Boynton Beach Boulevard, are several institutional uses including two public schools and the Canyons District Park.

The Applicant indicates the site will be utilized to support future light industrial uses. The CMR FLU and implementing policies establish specific policy requirements dictating the size, location, frontage and access, and submittal of conceptual site plan, thereby guiding where these types of industrial and allowable nonresidential uses may be considered and potentially mitigating negative externalities generated by heavy or intrusive industrial uses. As the site meets the criteria for CMR FLU and is generally consistent with the land uses and development pattern of the surrounding area

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

ENGINEERING COMMENTS:

The proposed development is expected to generate 2,559 net daily trips, 349 net AM peak hour trips, and 345 net PM peak hour trips. The build out of the project is assumed to be by 2027.

Few links of Boynton Beach Blvd, Lyons Rd, and Hagen Ranch Rd has background deficiencies. Lyons Rd is currently programmed for widening by the County which will cure the deficiency. To mitigate additional deficiency created by this project on Boynton Beach Blvd, the Property Owner will have to enter into a proportionate share agreement and pay a proportionate share of the total cost of needed capacity improvements. The impacted intersections of Boynton Beach Blvd and Acme Dairy Rd and Boynton Beach Blvd and Florida Turnpike will operate at the adopted Level of Service (LOS). Note that all the currently proposed project traffic in the vicinity of this site have also been considered as background traffic in the traffic impact analysis of this project.

ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Traffic volumes are in vehicles per hour

Segment: Boynton Beach Blvd from Lyons Rd to FL Turnpike

Existing count: Eastbound=1815, Westbound=1936

Background growth: Eastbound=598, Westbound=633

Project Trips: Eastbound=131, Westbound=89

Total Traffic: Eastbound=2544, Westbound=2658

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 the both directions

DRAINAGE DISTRICT: The subject site is within the boundaries of the Lake Worth Drainage District. The Applicant's engineer states (Exhibit F), "... *The site is located within the boundaries of the South Florida Water Management District C-16 Drainage Basin and Lake Worth Drainage District. It is proposed that runoff be directed to on-site water management areas by means of paved or grass swales and/or inlets and storm sewer. Legal positive outfall will via discharge from Lake Worth Drainage District L-24 Canal on the south side of Boynton Beach Boulevard.*" Prior to the issuance of any Building Permits, the site must obtain approvals from the District.

PALM BEACH COUNTY HEALTH DEPARTMENT:

This project has met the requirements of the Florida Department of Health.

WATER AND WASTEWATER PROVIDER:

The Water and Wastewater provider will be Palm Beach County Water Utilities. In accordance with their letter dated April 5th, 2022 (Exhibit G), 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 MLU subject to a Capacity Reservation Agreement with PBCWUD. The proposed change will allow for the development of a Commercial project.*

The nearest point of connection is a 42" potable water main and a 24"" sanitary sewer force-main located within Boynton Beach Blvd. adjacent to the subject property. There is a 12" reclaimed water main located within Acme Dairy Road approximately 700 feet from the subject property.

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. Prior to commencement of development, the Property Owner shall connect to water and wastewater services.

FIRE PROTECTION:

Staff has reviewed this application and have no comment. The subject site is within the service boundaries of Palm Beach County Fire Rescue Station #47.



SCHOOL IMPACTS:

The School Board has no comment regarding this non-residential application.

PARKS AND RECREATION:

The Parks and Recreation Department has “no comment” on this application.

- 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 Applicant has indicated in the Justification statement that with the changes of the Agricultural Reserve from a predominantly rural agricultural area to include more suburban communities with a growing population that needs services and goods within proximity of their homes have increase. However, the changed conditions or circumstances essentially stem from the proposed future land use amendment. The proposed future land use amendment has been transmitted by the BCC, and if approved by the BCC will allow the rezoning to Multiple Use Planned Development (MUPD) Zoning District. The rezoning to an MUPD will allow the Applicant to one cohesive project with shared parking, drainage and access. This type of cohesive project allows for a more efficient use of land, will minimizes impacts and will provided services to the area.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B.7.B.2 and Article 2.B.7.E.6 and determined that there is a balance between the need for change and the potential impacts generated by State Road 7 Business Plaza for an Official Zoning Map Amendment. Therefore, Staff is recommending approval subject to Conditions of Approval as indicated in Exhibit and C-1 through C-4

CONDITIONS OF APPROVAL

EXHIBIT C-1

Type 2 Variance - Concurrent

ALL PETITIONS

1. This Variance is approved based on the layout as shown on the Preliminary Site Plan dated June 15, 2023. Only minor modifications by the Development Review Officer shall be permitted provided the changes are consistent with this Preliminary Site Plan (ONGOING: ZONING - Zoning)
2. 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. (BLDGPM: BUILDING DIVISION - Zoning)
3. The Development Order for this Concurrent Variance shall be tied to the Time Limitations of the Development Order for ZV/PDD/CA-20220-01785. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Zoning)

LANDSCAPE- PERIMETER –NORTH PROPERTY LINE

1. Prior to final approval by the DRO, the Site Plan shall be revised to be a Type 3 Incompatibility buffer along the north property line, as the road for the right of way easement does not exist. The Applicant may shift the location of the wall to the property line, as an alternative buffer, based on the overlap of the buffer within the preserve. (DRO: ZONING – ZONING)
2. In addition to the requirements for a Type 3 Incompatibility buffer, the Property Owner shall install one pine tree for each 15 lineal feet, in place of the palm/pine requirement of Art 7. The pines may be clustered in accordance with the ULDC. A detail shall be included on the Regulating Plan. (DRO/BLDG PERMIT: ZONING – Zoning)

VARIANCE

1. 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)

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 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.

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

PDD- Multiple Use Planned Development

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 6, 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, 2027, 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 construct

- i) right turn lane east approach on Boynton Beach Blvd at the project entrance
- ii) a directional median opening on Boynton Beach Blvd at the project entrance allowing eastbound and westbound lefts or 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. The length of the turn lanes shall be as approved by the permitting agencies.

a. Permits required from FDOT, as appropriate for the above constructions shall be obtained prior to the issuance of the first building permit. (BLDGPMT: MONITORING - Engineering)

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

3. No Building Permits shall be issued until the Property Owner makes a proportionate share payment of \$323,936.00. Note that while this proportionate share payment is based on proportionate cost of a specific roadway improvement, the County, in its sole discretion may apply such payment to one or more mobility improvements to regionally significant transportation facilities. The proportionate share payment shall be adjusted at the time of payment by the escalator calculation set forth in a later Condition below. Proportionate share payments made pursuant to the Proportionate Share Agreement shall establish road impact fee credits. The proportionate share payment is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility in the area. (BLDGPMT: MONITORING - Engineering)

4. In recognition that construction prices may change over the life of the project, the proportionate share payments included in the above conditions shall be subject to the following escalator calculation:

Adjusted Payment (when payment is being made) = Original Payment Amount x Cost Adjustment Factor

Where,

Original Payment Amount = Proportionate Share Payment amount specified in the Proportionate Share Agreement

Cost Adjustment Factor = (Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of payment))/(Producer Price Index (PPI) for Commodities Code ID WPUIP2312301 (month of Prop Share Execution))

The Bureau of Labor Statistics Producer Price Index (PPI) for Commodities (Series ID: WPUIP2312301), can be found at <http://data.bls.gov/timeseries/WPUIP2312301>.

If at the time a Proportionate Share payment is due, the Commodities Code ID WPUIP2312301 is no longer used by the United States Bureau of Labor Statistics, the Adjusted Payment will be based on the Producer Price Index for non-residential commodities then in effect. In the event such an index is no longer in use, the Adjusted Payment will be based on the United States Bureau of Labor Statistics Consumer Price Index then in effect.

(ONGOING: ENGINEERING - Engineering)

5. 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)

6. The Property Owner shall provide to the Palm Beach County Right of Way Section of Roadway Production Division a warranty deed for road right of way and all associated documents as required by the County Engineer for Acme Dairy Road, 40 feet, measured from centerline of the proposed right of way on an alignment approved by the County Engineer.

All warranty deed(s) and associated documents, including a title policy naming Palm Beach County as an insured, shall be provided and approved prior to the issuance of the first building permit or within ninety (90) days of a request by the County Engineer, whichever shall occur first. Right of way conveyance shall be along the entire frontage and shall be free and clear of all encroachments and encumbrances. Property Owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Section to ensure that the property is free of all encumbrances and encroachments, including a topographic survey. The Property Owner must further warrant that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include, where appropriate as determined by the County Engineer, additional right of way for Expanded Intersections and Corner Clips. The Property Owner shall not record these required deeds or related documents. The Property Owner shall provide to the Right of Way Section a tax pro-ration. A check, made payable to the Tax Collector's Office, shall be submitted by the Property Owner for the pro-rated taxes. After final acceptance, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM/ONGOING: MONITORING - Engineering)

7. The Property Owner shall construct a right turn lane south approach on Acme Dairy Rd at the southern project entrance.

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 Palm Beach County for this construction shall be obtained prior to the issuance of the first building permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the entire condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)

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

8. 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: ENGINEERING - Engineering)

9. Property Owner shall construct a minimum 5 foot wide concrete sidewalk along the east side of Acme Dairy Road from Boynton Beach Boulevard to the north property line. 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. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (CO: MONITORING - Engineering)

10. Prior to the issuance of the first building permit, the Property Owner shall provide to Florida Department of Transportation (FDOT), by deed, additional right of way for the construction of a right turn lane on Boynton Beach Boulevard at the intersection of Acme Dairy Road and the project's entrance road. This right of way shall be a minimum of 280 feet in storage length, a minimum of twelve feet in width and a taper length of 50 feet or as approved by FDOT. Additional width may be required to accommodate paved shoulders. The right of way shall continue across the project entrance and shall be free and clear of all encumbrances and encroachments. Property Owner shall provide FDOT with sufficient documentation, including, at a minimum, sketch and legal description of the area to be conveyed, copy of the site plan, a Phase I Environmental Site Assessment, status of property taxes, statement from Tax Collector of

delinquent and pro-rata daily taxes, full owner name(s) of area to be conveyed and one of the following: title report, attorney's opinion of title, title commitment or title insurance policy, or as otherwise required and acceptable to FDOT. The Property Owner must warrant that the property being conveyed to FDOT meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Property Owner, the Property Owner agrees to hold the County and FDOT harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, engineering or other expert witness fees including attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right of way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate, as determined by the County Engineer, additional right of way for Expanded Intersections and corner clips. The Property Owner shall coordinate conveyance of right of way directly with FDOT and shall provide evidence to Palm Beach County Land Development Division once conveyance has been completed. (BLDG/PMT: MONITORING - Engineering)

ENVIRONMENTAL

1. Prior to the final approval by the Development Review Officer, a Phase II Environmental Site Assessment shall be provided to ERM for review. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
2. Provide a copy of a formal wetland jurisdictional determination from the Department of Environmental Protection, South Florida Water Management District and/or the Army Corps of Engineers. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)
3. All vegetation species to be planted and maintained on the project shall be native to South Florida or as approved by ERM in writing. (BLDG/PMT/ONGOING: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

EXCAVATION, TYPE 2

1. Prior to final approval by the DRO, the Applicant shall submit the required documents for the proposed Type 2 Excavation within the Preserve area. The Plans shall be revised to indicate the area meets the minimum 30 foot setback. (DRO: ZONING-Zoning)
2. Prior to final approval by the DRO, the Applicant shall submit a landscape plan for the Preserve area, where it is indicating a walking path for a Passive Park. Native Landscaping shall be installed around the path that enhances the use of the path by providing shading. The vegetation shall be water tolerant due to its proximity to the water areas. (DRO: ZONING – Zoning)

LANDSCAPING – GENERAL

1. Landscaping for the property development shall be 100% native material. (BLDG PERMIT/ONGOING: ZONING – Zoning)

LANDSCAPING – PERIMETER – NORTH PROPERTY LINE

1. Prior to final approval by the DRO, the north property line shall be relabeled as a 20 foot Type 3 Incompatibility buffer, as the right of way was never constructed. The wall may be constructed on the property line as allowed by the variance. (DRO: ZONING – Zoning)
2. Prior to final approval by the DRO, a Landscape Detail shall be included on the Preliminary Regulating Plan. (DRO/BLDG PERMIT: ZONING – Zoning)

LANDSCAPING – PERIMETER – WEST AND SOUTH PROPERTY LINE

1. Prior to final approval by the DRO the Applicant shall provide a detail of the buffering along Boynton Beach and Acme Dairy on the Regulating Plan. Though a reduced size, the buffer along Acme Dairy shall have similar attributes and material as that along Boynton Beach Boulevard. (DRO/BLDG PERMIT: ZONING – Zoning)

PARKING AND LOADING

1. Prior to final approval by the DRO, the applicant shall submit a request for a Type 1 Waiver for the reduction in the number of parking spaces. (DRO: ZONING – Zoning)
2. Prior to final approval by the DRO, the Applicant shall submit a request for a Type 1 Waiver for the reduction in dimension for proposed loading spaces. Commercial vehicles within the loading areas shall be compliant with the sizes of the loading spaces as depicted. Modifications of the sizes of the loading spaces will require a modification to the site plan to ensure dimensions and maneuvering areas are met in compliance with Article 6. (ONGOING/DRO: ZONING – Zoning)
3. Parking of Commercial vehicles shall only be within the loading spaces, unless outdoor storage is depicted on the site plan, compliant with the requirements of Article 5. (ONGOING: CODE ENFORCEMENT – Zoning)

PLANNING

- 1. Per Condition 1 of LGA-2023-003, development of the site under the Commerce future land use designation shall be subject to a maximum of 3,835 net daily trips, 723 net AM peak hour trips, and 571 net PM peak hour trips. (ONGOING: PLANNING - Planning)
- 2. Per Condition 2 of LGA-2023-003, the site is limited to 719,764 square feet (0.35 FAR) of uses allowed within the CMR future land use designation. (ONGOING: PLANNING - Planning)
- 3. Prior to Final Approval by the Development Review Officer (DRO), the Conservation Easement for the Preserve Parcel shall be submitted and recorded as approved by the County Attorney s Office and the Planning Division.
 - a. The Conservation Easement shall contain the following:
 - 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, prohibited uses, and prohibited activities.
 - 3) Title insurance for this 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 Conservation Easement shall be based on the cost of a Single Family Transfer of Development Right (TDR) in effect at the time ZV/PDD/CA-2022-1785 was deemed sufficient (November 30, 2022), which is \$54,100 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), the Final Site Plan shall be revised to include the Official Records Book and Page of the recorded Conservation Easement for the Preserve Parcel. (DRO: PLANNING - Planning)
- 6. Prior to Final Approval by the Development Review Officer (DRO), submit a Preserve Management Plan for the Preserve Area. 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)

USE LIMITATIONS

- 1. The Commercial Recreation use (Fitness Center), indicated in Buildings A and D, shall not be constructed first, but shall be constructed after or concurrently with the Industrial buildings in order to maintain the maximum percentage of 20% the total square footage. At time of Final DRO, the Applicant shall submit a phasing plan to indicate timing of construction of the proposed buildings. (DRO: ZONING – Zoning)

SIGNS

- 1. Prior to final approval by the DRO, the Master Sign Plan needs to be updated to correct the tables to correctly reference the number of proposed signs as depicted on the Preliminary Master Sign Plan, and to modify the Master Sign Plan and Site Plan to indicate the location of the Outparcels. (DRO: ZONING – Zoning)

SITE DESIGN

- 1. Prior to final approval by the DRO, the Applicant shall submit a typical detail, on the Regulating Plan for their pedestrian pathway plan for their non-residential planned development. This circulation plan is required to indicate the shade trees benches and walkways with pavers. (DRO: ZONING – Zoning)
- 2. Prior to final approval by the DRO, In addition, the pathway indicated around the Preserve/Wetland area indicates an “entrance” to the east of the Preserve/Water management Tract and to the South. The Plan shall be revised in also include an “entrance” to the pathway from the west in proximity of the eastern landscape island next to Building G. (DRO: ZONING – Zoning)
- 3. Eight Dumpster/Recycling containers are indicated on the Preliminary Site Plan dated June 6, 2023. Any additional dumpsters shall be indicated on the Site Plan compliant with the requirements of the ULDC, and may not be located in required parking area. (ONGOING/DRO: CODE ENFORCEMENT/ZONING – Zoning)

COMPLIANCE

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

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

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

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-3

Class A Conditional Use a Taproom

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 6, 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)

USE LIMITATIONS

1. There shall be no outdoor events, seating or music. (ONGOING: CODE ENFORCEMENT/ZONING – Zoning)

COMPLIANCE

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

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

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

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-4

Class A Conditional Limited Access Self Service Storage

ALL PETITIONS

1. The approved Preliminary Site Plan is dated June 6, 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)

COMPLIANCE

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

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

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

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

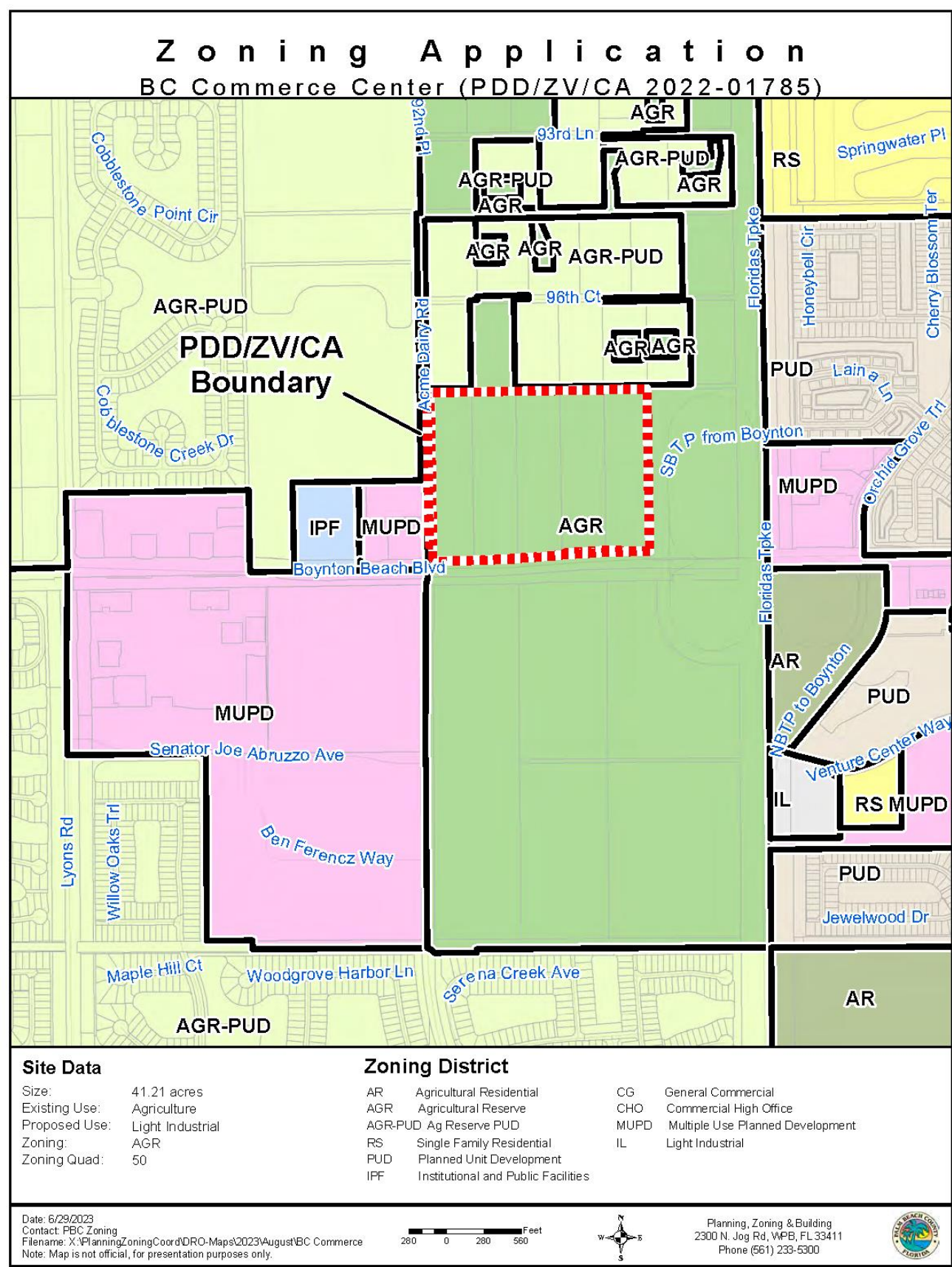
DISCLOSURE

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

Figure 1 - Land Use Map



Figure 2 - Zoning Map



Zoning Commision
App No. ZV/PDD/CA-2022-01785

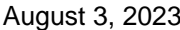
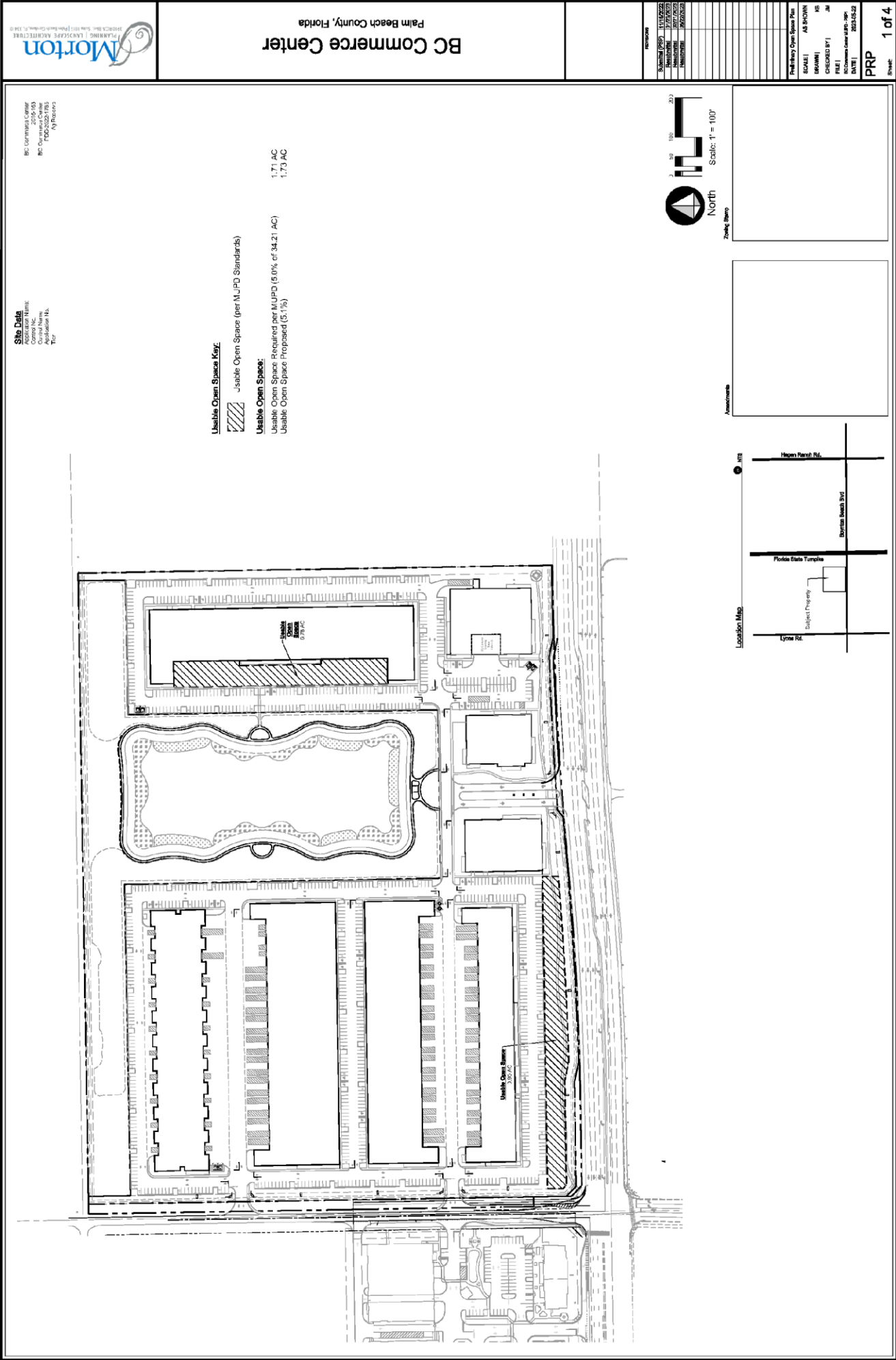


Figure 4 – Preliminary Regulating Plan (1 of 4) dated May 22, 2023



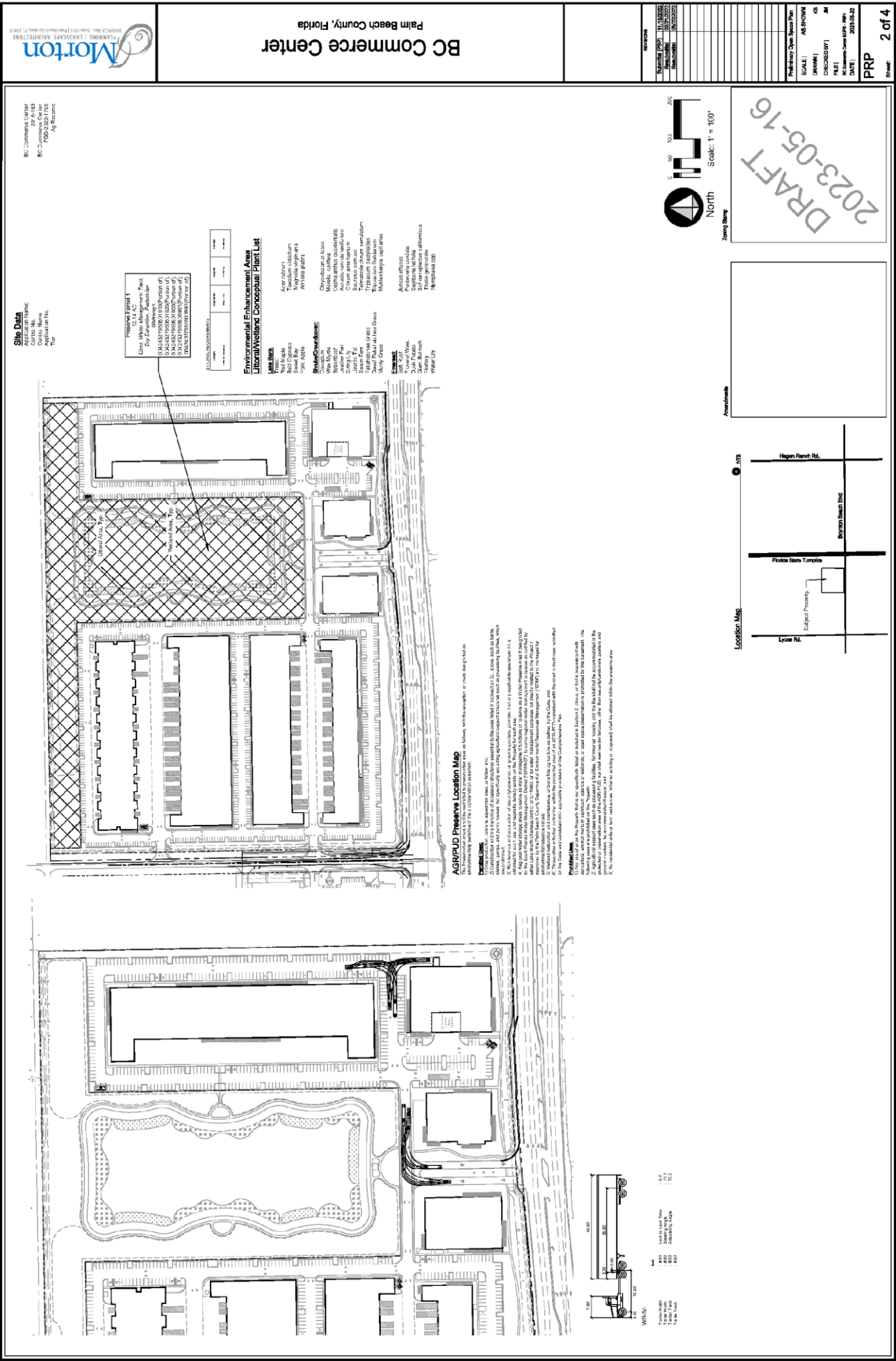
Page 23
BC Commerce Center

Figure 4– Preliminary Regulating Plan dated (3 of 4) dated May 22, 2023

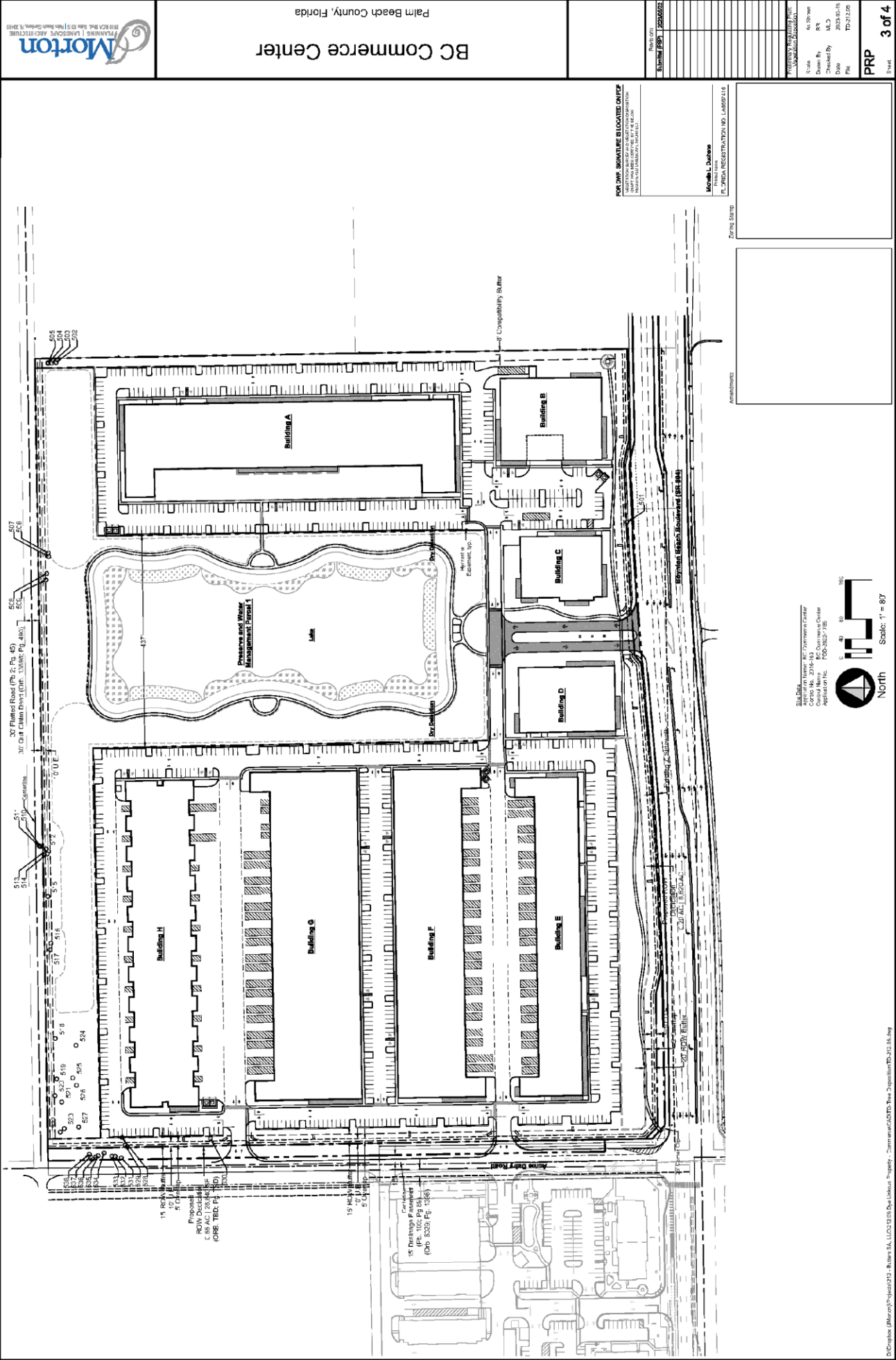
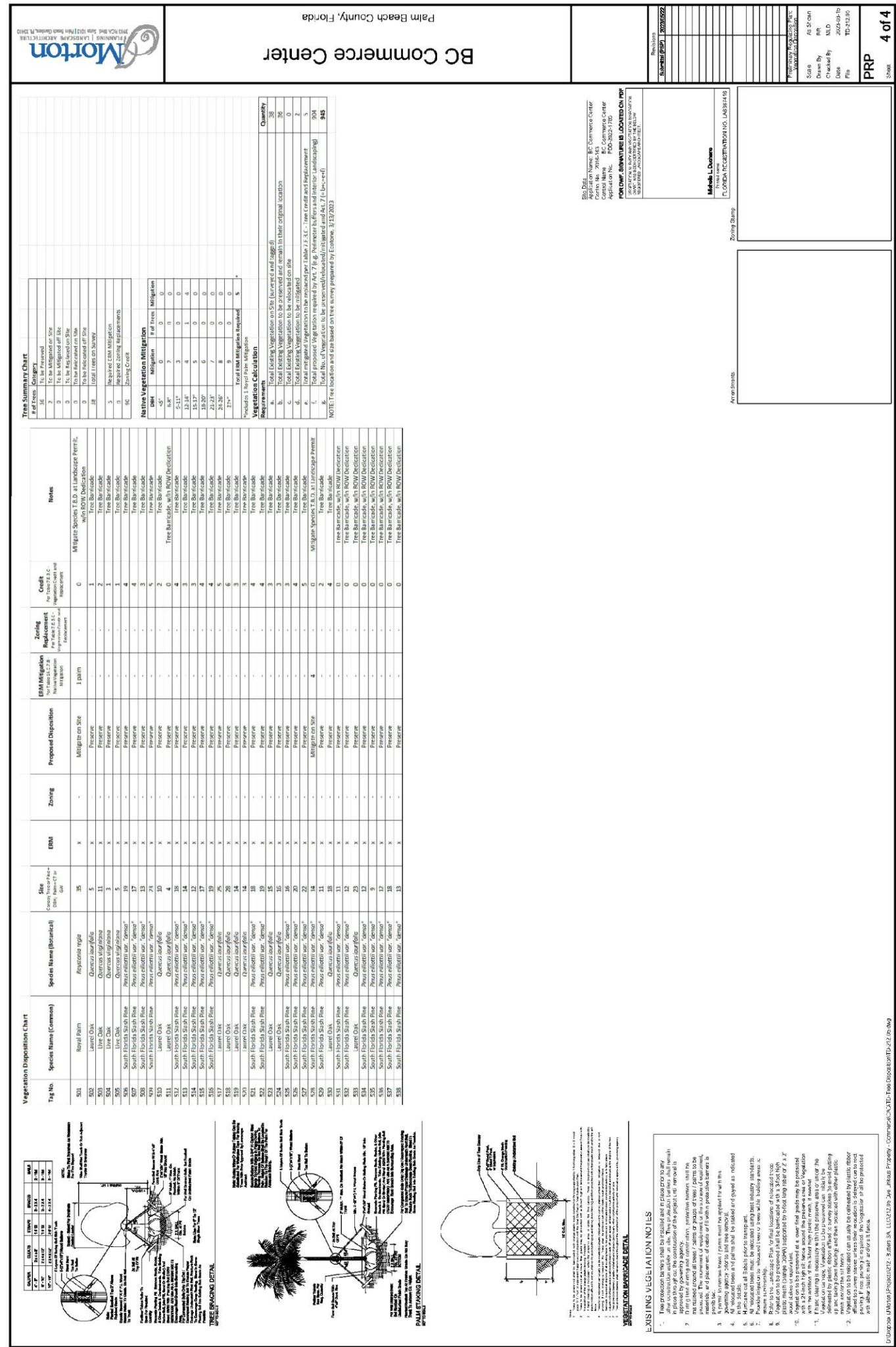


Figure 4 – Preliminary Regulating Plan dated (4 of 4) dated May 22, 2023



Zoning Commision
App No. ZV/PDD/CA-2022-01785

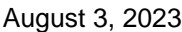
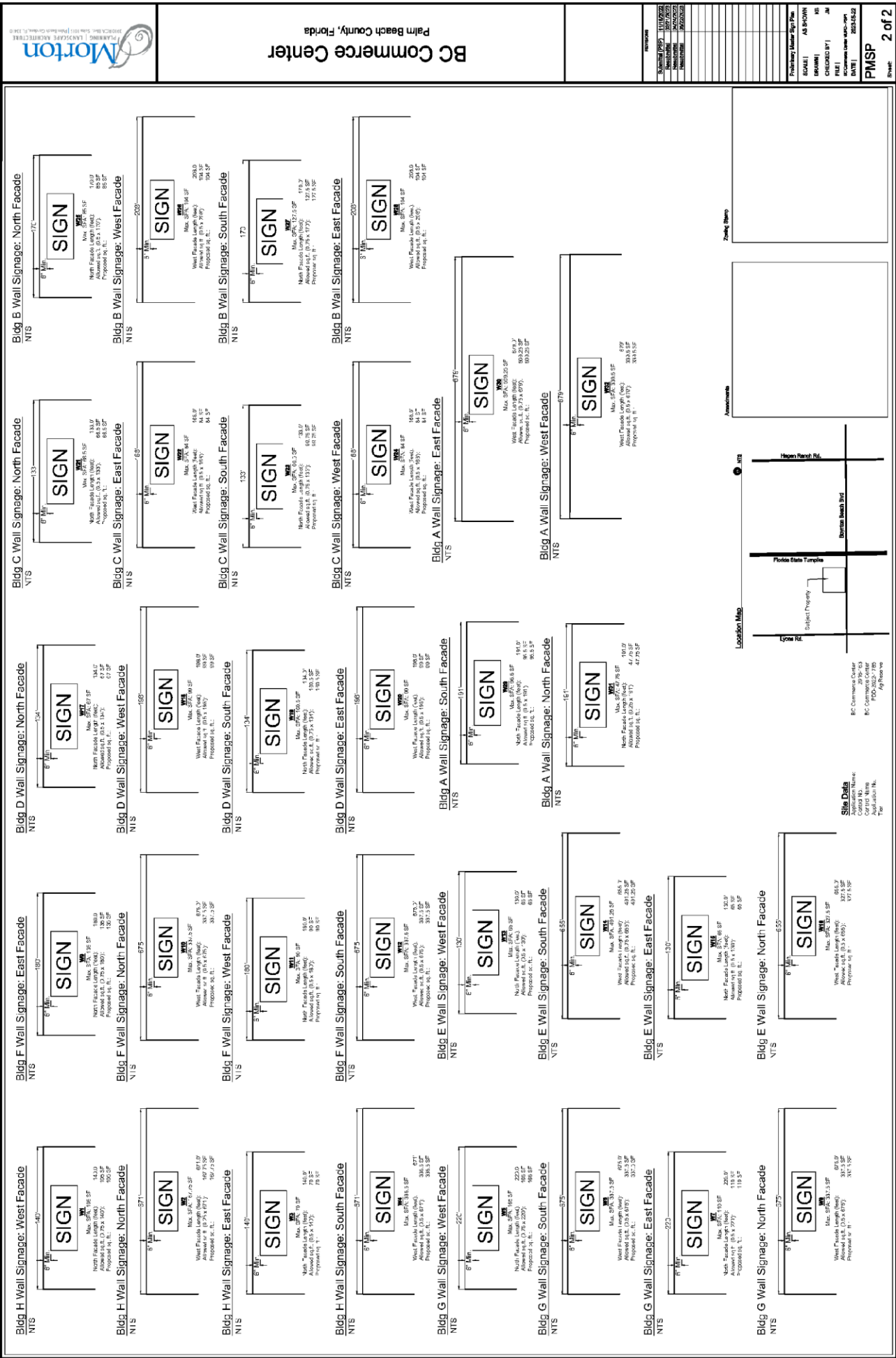


Figure 5 – Preliminary Master Sign Plan dated (1 of 2) dated May 22, 2023



DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

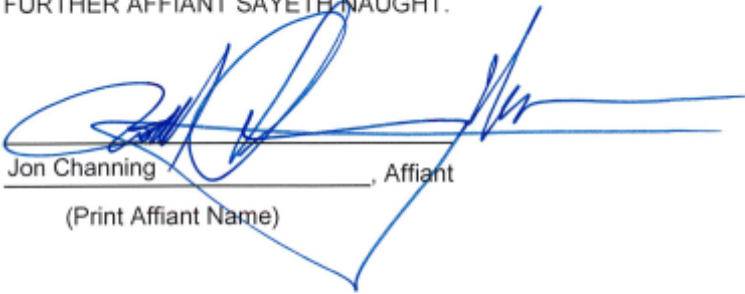
(TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY)

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 Jon Channing, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☐ individual or ☒ Manager BC Boynton Industrial LLC [position—e.g., president, partner, trustee] of BC Boynton Industrial 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: 6820 Lyons Technology Circle
Suite 100
Coconut Creek, Florida 33073
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.



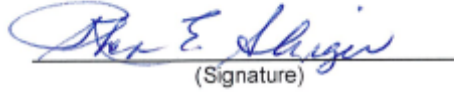
Jon Channing, Affiant
(Print Affiant Name)

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 18 day of April, 2022 by
JON H. CHANNING (name of person acknowledging). He/she is personally
known to me or has produced _____ (type of identification) as
identification and did/did not take an oath (circle correct response).

RHEA E. SLINGER
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: _____

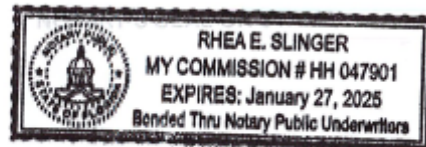


EXHIBIT "A"

PROPERTY

THE EAST ONE-HALF (E 1/2) OF LOT 99 AND THE EAST ONE-HALF (E 1/2) OF LOT 122, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, A SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION OF LOT 122 CONTAINED IN THE ORDER OF TAKING RECORDED IN O.R. BOOK 6366, PAGE 721, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

9.259 ACRES - 403,319 SQ. FT.

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
Jon Channing	5100 PGA Boulevard, Suite 209, Palm Beach Gardens, Florida 33418
Malcolm Butters	6820 Lyons Technology Circle # 100, Coconut Creek, Florida 33073

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 Paul B. Dye, 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 ☐ _____ *[position - e.g., president, partner, trustee] of _____ [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: c/o Randy Ely
3311 Polo Drive
Gulf Stream, 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.

Paul B Dye by Hilda M Porro, attorney in fact

Paul B. Dye, 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 26 day of April, 2022 by Hilda m. Porro, Attorney in fact (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Margaret E. Walsh
(Name - type, stamp or print clearly)

Margaret E Walsh
(Signature)

My Commission Expires on: _____

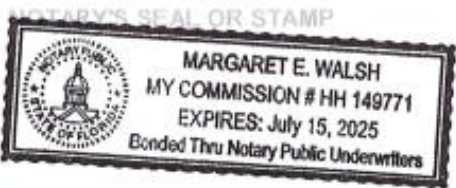


EXHIBIT "A"

PROPERTY

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9.259 ACRES - 403,319 SQ. FT.

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
Randy T. Ely	3311 Polo Drive, Gulfstream, FL 33483
Martha T. Ely	3311 Polo Drive, Gulf Stream, FL 33483
Randall F. W. Thorne, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Paul B. Dye, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Kimberly A. Tiernan, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483

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

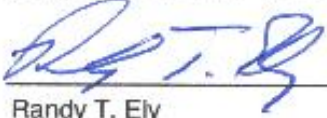
STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Randy T. Ely, 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 ☐ [] _____ [position - e.g., president, partner, trustee] of _____ [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: c/o Randy Ely
3311 Polo Drive
Gulf Stream, 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.



Randy T. Ely, 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 20th day of April, 2022 by Randy T. Ely (name of person acknowledging). He/she is personally known to me or has produced FLDL (type of identification) as identification and did/did not take an oath (circle correct response).

Carla Rivera
(Name - type, stamp or print clearly)

CRivera
(Signature)

My Commission Expires on: Mar 2, 2024

NOTARY'S SEAL OR STAMP

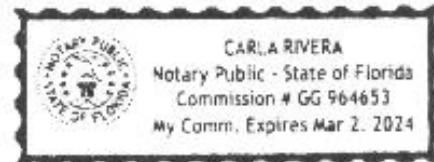


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9.259 ACRES - 403,319 SQ. FT.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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Name	Address
Randy T. Ely	3311 Polo Drive, Gulfstream, FL 33483
Martha T. Ely	3311 Polo Drive, Gulf Stream, FL 33483
Randall F. W. Thorne, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Paul B. Dye, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Kimberly A. Tieman, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483

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 Martha T. Ely, 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 [] _____ *[position - e.g., president, partner, trustee]* of _____ *[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: c/o Randy Ely
3311 Polo Drive
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6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

Martha T. Ely
Martha T. Ely, 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 20th day of April, 2022 by Martha T. Ely (name of person acknowledging). He/she is personally known to me or has produced FLDL (type of identification) as identification and did/did not take an oath (circle correct response).

Carla Rivera
(Name - type, stamp or print clearly)

CRivera
(Signature)

My Commission Expires on: Mar 2, 2024

NOTARY'S SEAL OR STAMP

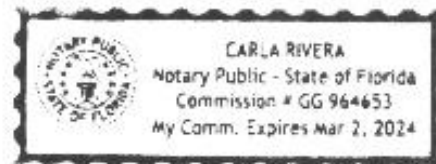


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9.259 ACRES - 403,319 SQ. FT.

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Name	Address
Randy T. Ely	3311 Polo Drive, Gulfstream, FL 33483
Martha T. Ely	3311 Polo Drive, Gulf Stream, FL 33483
Randall F. W. Thorne, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Paul B. Dye, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Kimberly A. Tiernan, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483

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

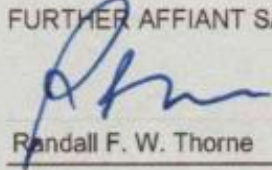
BEFORE ME, the undersigned authority, this day personally appeared Randall Thorne, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the ☒ individual or ☐ _____ [position - e.g., president, partner, trustee] of _____ [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: 3311 Polo Drive
Gulfstream, Florida 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.
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7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief, it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.



Randall F. W. Thorne, 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 22nd day of April, 2022 by Lionel Wang (name of person acknowledging). He/~~she~~ is personally known to me or has produced WA State DL WDL3SBS5023B (type of identification) as identification and did/~~did not~~ take an oath (circle correct response).

Lionel Wang

(Name - type, stamp or print clearly)

Lionel Wang

(Signature)

My Commission Expires on: 2023-11-01

NOTARY'S SEAL OR STAMP

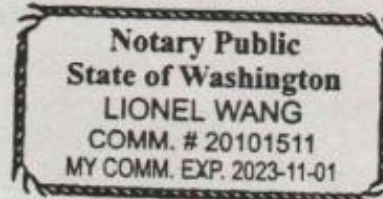


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PROPERTY

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9.259 ACRES - 403,319 SQ. FT.

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Name	Address
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Paul B. Dye, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Kimberly A. Tiernan, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483

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 Kimberly A. Tiernan, 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 [] _____ *[position - e.g., president, partner, trustee] of _____ [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: 3311 Polo Drive
Gulfstream, Florida 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.

Kimberly A. Tierman
 Kimberly A. Tierman, 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 07th day of April, 2022 by Donna Sands (name of person acknowledging). He/she is personally known to me or has produced Passport, DL (type of identification) as identification and did/did not take an oath (circle correct response).

Donna Sands
 (Name - type, stamp or print clearly)

Donna Sands
 (Signature)

My Commission Expires on: upon my Death

NOTARY'S SEAL OR STAMP



EXHIBIT "A"

PROPERTY

THE EAST ONE-HALF (E 1/2) OF LOT 99 AND THE EAST ONE-HALF (E 1/2) OF LOT 122, BLOCK 50, THE PALM BEACH FARMS CO. PLAT NO. 3, A SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION OF LOT 122 CONTAINED IN THE ORDER OF TAKING RECORDED IN O.R. BOOK 6366, PAGE 721, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

9.259 ACRES - 403,319 SQ. FT.

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
Randy T. Ely	3311 Polo Drive, Gulfstream, FL 33483
Martha T. Ely	3311 Polo Drive, Gulf Stream, FL 33483
Randall F. W. Thorne, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Paul B. Dye, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483
Kimberly A. Tiernan, c/o Randy Ely,	3311 Polo Drive, Gulf Stream, FL 33483

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 Randall Tim Linkous, 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 ☒ Partner Valico Nurseries, a Florida Partnership [position - e.g., president, partner, trustee] of Valico Nurseries, a Florida Partnership [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: 1174 SW 27th Avenue
Boynton Beach, Florida 33426-7824
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.

Randall Tim Linkous
Randall Tim Linkous, 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 28th day of July, 2022 by Randall Tim Linkous (name of person acknowledging). He is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

Lauren McClellan
(Name - type, stamp or print clearly)

Lauren L. McClellan
(Signature)

My Commission Expires on: 2/28/22

NOTARY'S SEAL OR STAMP



LAUREN L. MCCLELLAN
Commission # HH 057806
Expires February 28, 2025
Bonded Thru Budget Notary Services

EXHIBIT "A"**PROPERTY**

THE WEST ONE-HALF (W 1/2) OF TRACT 99, TRACTS 100, 101, 102, 119, 120, 121 AND THE WEST ONE-HALF (W 1/2) OF TRACT 122, BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THE SOUTH 30 FEET OF TRACTS 119, 120, 121 AND THE WEST ONE-HALF OF TRACT 122, BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 45, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AS DESCRIBED IN THAT RIGHT-OF-WAY DEED RECORDED IN DEED BOOK 1018, PAGE 449, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE PROPERTY DESCRIBED IN THAT ORDER OF TAKING RECORDED IN O.R. BOOK 6366, PAGE 721, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACTS 119, 120, 121 AND 122 OF BLOCK 50 OF THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, AT PAGE 45 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING AND BEING IN SECTION 20, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE FOUND 1/2" ROD MARKING THE INTERSECTION OF THE BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) AND THE BASELINE OF SURVEY FOR ACME DAIRY ROAD SOUTH; THENCE N 89° 26'12" E ALONG THE SAID BASELINE OF SURVEY FOR BOYNTON BEACH BOULEVARD (S.R. 804) FOR A DISTANCE OF 66.97 FEET; THENCE N 00° 33'48" W, A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING; THENCE N 46°22'41" W, A DISTANCE OF 37.30 FEET; THENCE N 00°33'48" W, A DISTANCE OF 98.00 FEET; THENCE S 89°26'12" W, ALONG A LINE 184 FEET NORTH OF AS MEASURED AT RIGHT ANGLES TO THE SAID BASELINE FOR BOYNTON BEACH BOULEVARD (S.R. 804), A DISTANCE OF 25.00 FEET; THENCE S 00°33'48" E, A DISTANCE OF 144.00 FEET; THENCE N 89°26'12" E, A DISTANCE OF 1320.00 FEET; THENCE N 00°33'48" W A DISTANCE OF 65.14 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTH HAVING A CHORD BEARING OF S 86°25'28" W AND A RADIUS OF 8972.64 FEET; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 434.20 FEET THROUGH A CENTRAL ANGLE OF 02°46'22" TO A POINT OF REVERSE CURVATURE HAVING A CHORD BEARING OF S 87°14'15" W AND A RADIUS OF 7579.44 FEET; THENCE WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 581.86 FEET THROUGH A CENTRAL ANGLE OF 04°23'55"; THENCE S 89°26'12" W A DISTANCE OF 253.39 FEET TO THE POINT OF BEGINNING AND SAID LANDS

CONTAINING: 37.953 ACRES, 1,653,244 SQ. FT. MORE OR LESS.

SAID LANDS SITUATE IN SECTION 27, TOWNSHIP 44 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

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.

[illegible]



JUSTIFICATION STATEMENT

BC Commerce Center

Rezoning to Multiple Use Planned Development (MUPD), Class A Conditional Use Requests, Type 2 Variance, & Type 1 Waiver for Reduced Parking

Submittal: November 16, 2022

Resubmittal: January 23, 2023

Resubmittal: February 21, 2023

Resubmittal: March 27, 2023

Resubmittal: June 15, 2023

REQUEST

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

- Rezone Property from Agricultural Reserve (AGR) to Multiple Use Planned Development (MUPD)
- Class A Conditional Uses: Manufacturing and Processing- Brewery with Taproom; and Self-Service Storage, Limited Access.
- Type 2 Variance to allow buffer overlap with the conservation easement (Preserve Area)
- Type 1 Waiver for Reduced Parking

SITE CHARACTERISTICS

The property is 47.21 acres and is located at the northeast corner of Boynton Beach Boulevard and Acme Dairy Road (“Property”). The Property is identified by Parcel Control Numbers (PCN) 00-42-43-27-05-050-0992, 00-42-43-27-05-050-0991, 00-42-43-27-05-050-1000, 00-42-43-27-05-050-1010 and 00-42-43-27-05-050-1020. The Property is currently a wholesale nursery. The Property has approximately 1,650 feet of frontage on Boynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road. The Property is located within the Agricultural Reserve Tier. The current future land use designation and Zoning designation for the Property is Agricultural Reserve (AGR).

Surrounding Properties

Within the vicinity of the Property are several preserve parcels and approved commercial developments.

Land uses directly abutting the Property include the following:

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number	Resolution Number
North	AGR	AGR	AGR Planned Unit Development – Preserve Parcel - Agriculture Uses	2000-032 & 2005-014	R-2017-1641, R-2018-1703, & R-2018-1704
South	AGR	AGR	Agriculture Uses	None	None
East	U/T, CL/S, & MR-5	AGR, MUPD, & PUD	Boynton Beach Turnpike Interchange Corridor, Boynton Commons Medical Offices - 115,000 SF of Medical Office & Indian Hills PUD (128 multi-family units – 7.55 du/acre)	2006-367 & 1994-024	R-2019-908, R-2019-909, R-2019-910, R-1995-858

West	AGR & CL/AGR	AGR-PUD & MUPD	Agriculture Uses & Commercial & Self-Storage (4,999 SF Restaurant, 14,566 SF Retail, 127,113 SF Self-Storage)	2005-014 & 2008-339	R-2018-1703, R-2018-1704, R-2020-932, R-2020-933, R-2020-934, & R-2020-935
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REZONING TO MUPD STANDARDS

The Applicant is requesting to rezone the Property from Agricultural Reserve (AGR) to 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 from AGR to MUPD is consistent with the County's Comprehensive Plan. The Applicant is submitting a concurrent future land use amendment to amend the future land use designation Agricultural Reserve to Commerce with underlying Agricultural Reserve (CMR/AGR) (LGA 2023-003), subject to the following conditions:

1. A maximum of 699 net AM peak hour trips, and 516 new PM peak hour trips.
2. The proposed future land use amendment and the proposed rezoning shall be considered for adoption by the Board of County Commissioners at the same public hearing.

The proposed project is anticipated to generate 297 net AM peak hour trips, and 369 new PM peak hour trips. These trips are well below the proposed conditions.

The Property is located within the Agricultural Reserve Tier, which is a Limited Urban Service Area (LUSA) where services and public facilities are already available. The Property's location on a major transportation route with access/frontage on Boynton Beach Boulevard contributes to timely, cost effective service provision. The proposed "CMR/AGR" designation will allow for development of a use that will better serve the immediate and future needs of the community as it will provide additional services and employment opportunities. Further, development of an industrial use on the Property would be consistent with the existing development pattern along Boynton Beach Boulevard.

As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the populated area. These uses include but are not limited to landscape services, flex office and warehouses for contractors, self-storage, fitness centers, brewery with taproom, and similar uses are necessary to provide additional services to support the growing population in the immediate area. The proposed change for this 47 acre parcel would allow for the development of a light industrial project on the Property as well as provide for the required preserve area.

The CMR/AGR future land use designation allows for a maximum FAR of 0.45 within the Agricultural Reserve Tier. The proposed MUPD zoning district is consistent with the proposed CMR/AGR future land use designation that was recommended for approval at the January 13, 2023, Planning Commission Hearing and was transmitted at the February 1, 2023 Board of County Commissioners Transmittal Hearing. The Palm Beach County Comprehensive Plan encourages the increase of land for industrial uses in order to generate needed services and employment opportunities.

As previously mentioned, the Applicant is proposing to amend the Future Land Use designation from Agricultural Reserve to Commerce with underlying Agricultural Reserve. Although the Applicant is requesting a rezoning to an MUPD, the Property does not meet the criteria of Comprehensive Plan Policy

1.5.1-q.3, as the Property is not a commercial MUPD. Therefore, the Agricultural Reserve Design Elements as detailed in Comprehensive Plan Policy 1.5.1-r do not apply.

The Applicant is providing a 12.14 acre preserve area which is 40% of the net site area minus the 16 acre minimum size requirement. See calculations below:

Total Site Area	47.21 acres
<u>ROW Dedication</u>	<u>-0.95 acres</u>
Net Site Area	46.26 acres
<u>Minimum acres</u>	<u>- 16 acres</u>
Acreage Utilized for Calculation	30.26 acres
40% Preserve Area	12.14 acres

The Comprehensive Plan allows for locating water resources in the preserve area subject to such area meeting Comprehensive Plan requirements. The Applicant proposes to incorporate a water retention within the 12.14 acre Preserve/Retention Area. The applicant proposes to incorporate a wetland area within the Retention Area/Preserve. The wetland creation area will include both forested and herbaceous habitats and will be contoured and graded to appropriate elevations based on surrounding water table and control elevations to support these wetland habitats.

The wetland creation area will be designed with at least two zones to support both a shallow water forested habitat, and a deeper herbaceous marsh habitat. The forested habitat will include species such as bald cypress, red maple, pond apple, wax myrtle, buttonbush, maidencane, sawgrass and spikerush. Whereas the herbaceous marsh habitat will include species such as spikerush, pickerelweed, arrowhead, and fireflag.

These habitats will be ideal for attracting wildlife and providing foraging opportunities for a variety of wading birds including several listed species such as the wood stork, little blue heron, tri-colored heron, and roseate spoonbill.

In addition to creating wildlife habitat, the retention area and wetland will naturally treat and improve the water quality by removing impurities prior to discharge off-site. The retention area will also serve as a storage area, providing flood control for the site and proposed project.

B. Consistency with the Code

The proposed rezoning from AGR to MUPD is consistent with the stated purpose and intent of the County Unified Land Development Code. The Property has frontage on Boynton Beach Boulevard and Acme Dairy Road. The Property is required to rezone to MUPD to accommodate any future industrial development consistent with the concurrent CMR/AGR future land use application. Due to the amount of square footage proposed on the Property, a rezoning to MUPD is required per ULDC Table 3.E.2.B - PDD or TDD Design Thresholds. As required for all MUPD's, the Property meets the minimum frontage and access requirements. The Property has frontage and access on Boynton Beach Boulevard. Pedestrian connections have been provided between the building, Boynton Beach Boulevard and Acme Dairy Road.

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 uses(s) and design.

Response: The 47.21-acre Property maintains approximately 1,650 feet of frontage on Boynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road; Primary access

will be provided from Baynton Beach Boulevard and secondary access will be from Acme Dairy Road.

- b. Provide continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the PDD.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the building entrances, parking area and the right-of-way.

- c. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses.

Response: The proposed site plan locates the office/warehouse buildings along the western portion of the Property with the loading area at the center with convenient parking provided along the perimeter of the buildings. The fitness center, brewery with taproom and self-storage are located within the eastern and southern portion of the Property to accommodate visibility and ensure those uses are not interfering with truck traffic. A pedestrian walkway is provided along the perimeter of the buildings with connections to the parking areas.

- d. Preserve existing native vegetation and other natural/historic features to the greatest possible extent.

Response: The Property is currently utilized as a wholesale nursery. The Applicant is proposing to provide retention within the preserve area as described above.

- e. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound.

Response: Dumpsters have been screened from public view as required.

- 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 proposed buildings are oriented with the loading areas facing inward and completely screened by the buildings. Vehicular circulation is located around the perimeter of the buildings. The setbacks exceed the required setbacks. The Preserve Area has been located along the northern portion of the Property as well as within the Property to provide for an open space that can be accessed by the patrons of the brewery and various fitness facilities proposed within the MUPD.

- g. Minimize parking through shared parking and mix of uses.

Response: Parking is minimized for the project. The uses proposed within the project include warehouse with accessory office, self-storage, fitness center, and manufacturing & processing with a taproom. The warehouse with accessory office is intended to be utilized for light industrial uses in the future. Potential tenants within the warehouse/office buildings may include businesses such as: research & development, medical/dental labs, wholesaling, and/or data & information processing. Parking can be met through the use of shared parking and adjustments to the amount of accessory office proposed within the warehouse buildings.

- h. Creation of a strong pedestrian system through the design and placement of buildings connected to a common public space or useable open space.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the parking area and the public right-of-way. In all areas where the pedestrian walkway crosses a vehicular access, decorative pavers are provided to delineate the pedestrian crossing.

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 is located on the north side of Baynton Beach Boulevard, between the Florida Turnpike and Acme Dairy Road. The Property has approximately 1,650 feet of

frontage on Boynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road.

- 2) PDDs shall have legal access on an Arterial or Collector Street.

Response: The Property will provide several access points on Boynton Beach Boulevard and Acme Dairy Road.

- 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. A pedestrian walkway is provided along the perimeter of the buildings with safe access to the parking and the adjacent rights-of-way.

- 4) Traffic improvements shall be provided to accommodate the projected traffic impact.

Response: The Traffic Report provided demonstrates compliance with Engineering requirements. The uses proposed within the project include warehouse with accessory office, self-storage, fitness center, and manufacturing & processing with a taproom. The warehouse with accessory office is intended to be utilized for light industrial uses in the future. Potential tenants within the warehouse/office buildings may include businesses such as: research & development, medical/dental labs, wholesaling, and/or data & information processing. These uses are discussed and calculated as light industrial uses within the traffic analysis.

- 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 not feasible to any surrounding properties.

- 7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project.

Response: On-site retention is provided.

- 8) Public street 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 proposed as part of this project.

- b. Street Lighting

Street lights 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. 5E, 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. 7F.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 requirement of Art. 11, Subdivision, Platting, and Required Improvements.
Response: The project is non-residential; therefore, street trees are not required.
- 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 plan, 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.
 - 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 receptable, 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: A Palm Tran bus stop is located within close proximity of the Property. If requested a bus stop can be provided.
- 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 right-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 has been provided throughout the project, which is convenient for the building. Parking areas have been designed to provide for safe and efficient flow of traffic.

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 street 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. 5.B.1.A.19, Permanent Generators.

Response: No CLF or PDD Clubhouse in excess of 20,000 square feet are proposed, therefore emergency generators are not required as part of this application.

Per Art. 3.E.3.B.1. Multiple Use Planned Development shall also comply with the following Objectives:

- a. Allow for both residential and non-residential uses within a project that is designed to incorporate vertical or horizontal integration of residential uses, to foster compatibility within and adjacent to the project.

Response: The proposed project only includes non-residential uses.

- b. Provide innovative building location and orientation.

Response: The proposed buildings are centered on the Property with the loading bays and loading activity oriented inward, screened by buildings and away from public view.

- c. Protect adjacent residential uses from potential adverse impacts.

Response: There are no residential uses within proximity of the Property.

- d. Provide a continuous, non-vehicular and pedestrian circulation system which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the MUPD.

Response: A pedestrian walkway is provided along the perimeter of the buildings, with connections to the adjacent rights-of-way.

- e. Allow for landscape design that enhances the appearance of the project.

Response: The project proposes required buffers along the various property lines. Foundation planting, as required per code, along the façades of the building.

- f. An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution, and storage of products.

Response: The requested MUPD zoning corresponds to a request for a Commerce Land Use designation to allow for the development of light industrial uses and recreation uses. As such the Project proposes several office/warehouse buildings, several fitness center uses, and a brewery with taproom in keeping with the light industrial use category.

Per Art. 3.E.3.B.2 An MUPD shall comply with the following standards:

- a. Non-Vehicular Circulation – An MUPD shall be designed to provide for a pedestrian and bicycle-oriented circulation system throughout the development.

- 1) Sidewalks – Internal sidewalks shall connect to sidewalks located along adjacent streets. Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the adjacent rights-of-way. Where the walkway crosses a vehicular use area, pavers are provided.

- b. Landscape Buffers – A type 3 incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process, unless exempted below.

- 1) Mixed Use – No buffer shall be required between residential and non-residential uses within a mixed-use development. Internal vegetation shall be planted to promote integration of uses within the development.

- 2) Vertical Integration – A Type 2 Incompatibility Buffer shall be permitted along the perimeter between a structure with vertical integration of residential and non-residential uses and adjacent properties with residential structures greater than 35 feet in height.

Response: The Property is surrounded by agriculture uses, therefore an incompatibility buffer is not required.

- c. Cross Access – Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between an MUPD and adjacent land with a non-residential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.

Response: Cross access is not proposed as it is not feasible to adjacent properties.

- d. Parking – On-site parking areas shall comply with Art. 6 Parking, Loading and Circulation, Art. 7 Landscaping, and the following:

- 1) Parking Areas

- Ground cover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all landscape islands and divider medians.
- Where pedestrian access ways cross landscape islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment.
- 20 percent of the required parking shall be located at the side or rear of non-residential uses, unless all spaces are provided within a parking structure per Art. 6.B.2.E Parking Structures.
- All required on-site parking shall be located within 400 feet of a public entrance to any

non-residential or individual access points of a residential building within the development.

Response: Parking is provided within the close proximity of the building entrances. Landscape islands/medians provided throughout the parking area will incorporate landscaping as required by code.

- 2) Loading Area Screening – Internally oriented loading areas or loading areas between a building and an adjacent residential use, shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall.

Response: The loading area is located interior to the Property and is screened from view by the buildings. Loading for Building C (Brewery with Taproom) will occur within the drive aisle during hours as permitted by the ULDC.

Finally, the proposed warehouse buildings do not generate a significant need for parking. The Applicant has provided parking in accordance with the code requirements. The proposed parking area complies with the County landscape requirements for the Ag Reserve Tier. Loading areas will be screened as required from adjacent properties and all bay doors will be oriented inward to ensure impacts on adjacent properties is minimized.

Per Article 4.B.2.C.5.e Fitness Center use shall be limited to a maximum of twenty (20) percent of the gross floor area of the development. Of the proposed 644,640 total square feet within the development, a total of 73,500 square feet (11.4 percent) is proposed as fitness center.

C. Compatibility with Surrounding Uses

The proposed rezoning from AGR to MUPD is compatible and consistent with the existing uses and surrounding zoning districts. 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 maintain the subject Property’s compatibility with the surrounding properties, some of which have undergone land use amendments while preventing land area for needed services.

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

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

- Primary access is available from Boynton Beach Boulevard, a right-of-way designated as an Urban Arterial road, thus directing traffic away from local roads in the vicinity. Secondary access is available from Acme Dairy Road.
- The Property is located at a major transportation node (Boynton Beach Boulevard & Florida Turnpike). Boynton Beach Boulevard is currently developed with a mix of institutional, commercial,

residential and agricultural uses. The proposed industrial use will provide for additional services 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 consistent with the existing development pattern and adjacent uses that have occurred along the Boynton Beach Boulevard corridor.

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

D. Design Minimizes Adverse Impact

As described above, the use is compatible with the surrounding uses by providing adequate screening of loading areas, landscaping on the exterior of the development, and exceeding setbacks to not visually impact adjacent uses. Traffic is being limited by the comprehensive plan amendment and shall be provided at much lower rates than the maximum provided. There will be two access points along Acme Dairy Road that will be utilized by the truck traffic to the warehouse uses. The existing traffic signal at the Boynton Beach Blvd. intersection is built to adequately handle the additional traffic generated by this development. The main entrance along Boynton Beach Blvd will include a turn lane in the middle of the road for cars coming to the site from the west and a turn lane will be provided for cars accessing the site from the east. There are no other anticipated adverse impacts from the development to surrounding properties in the form of noise, odors, stormwater runoff, fumes, etc. that may be produced from an industrial site. Besides the loading zones that will be screened, the industrial uses are proposed to completely operate inside of the buildings.

E. Design Minimizes Environmental Impact

The proposed rezoning from AGR to MUPD will not result in significantly adverse impacts on the natural environment. The Applicant is proposing to develop a wetland on site within the preserve area. Requirements in Article 5.C will be met at the time of building permit application. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers, and separation.

F. Development Patterns

The proposed rezoning to MUPD will result in a logical, orderly, and timely development pattern. Several of the uses surrounding the Property and along the Boynton Beach corridor are commercial, institutional, and non-residential in nature such as the CobbleStone Plaza, Canyons Town Center, Caridad Center, Bethesda West Hospital, and various schools. The Property is currently utilized as a wholesale nursery. As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the need. The proposed change would allow an industrial use to provide a needed service to the neighboring residential communities without being directly adjacent to those uses.

Recognition for the need for light industrial/commerce uses in the Agricultural Reserve is supported by data, particularly as logistics and community needs have changed recently. Throughout all of Palm Beach County, vacancy rates for the commerce related uses are at historical lows (+/-3%). While the Atlantic Avenue corridor has been the subject of several recent industrial zoning applications, no industrial uses currently exist on Boynton Beach Boulevard. The residential developments within the vicinity of Atlantic Avenue do not travel to Boynton Beach Boulevard for services and vice versa, the residents within the

vicinity of Boynton Beach Boulevard do not travel to Atlantic Avenue for services. In order to meet the current and future demand for those residents within the Boynton Beach Boulevard corridor, it is anticipated that new industrial development similar to that proposed along the Atlantic Avenue corridor will be developed within the next several years as the need continues to increase.

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

The proposed MUPD will provide for a project that will allow for these light industrial uses to locate where development has already occurred and with easy access to the north-south corridor of the Florida Turnpike.

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. The Property's location within a Limited Urban Service Area (LUSA) means that services and public facilities are available to serve the Property. The proposed rezoning will maximize the use of existing facilities. The Traffic Division will review the concurrency application for the proposed uses at the time of building permit applications or future site plan approvals. Adequate public facilities are in place to accommodate the proposed rezoning which is consistent with the proposed Commerce future land use designation.

H. Changed Conditions or Circumstances

The Applicant is requesting a rezoning to Multiple Use Planned Development (MUPD). The consultants that prepared the Agricultural Reserve Master Plan recognized the industrial corridor along Atlantic Avenue between State Road 7 and Smith Sundry Road/Half Mile Road. Furthermore, the consultant recommended 330,000 square feet of additional industrial square footage within the Agricultural Reserve specifically located at Boynton Beach Boulevard and the Florida Turnpike and Atlantic Avenue and the Florida Turnpike. When the Board of County Commissioners reviewed the Agricultural Reserve Master Plan and directed Staff to prepare additional Comprehensive Plan policies for the Agricultural Reserve Tier, the addition of industrial land and industrial uses was not included. Twenty years have passed since these Agricultural Reserve policies were incorporated into the Comprehensive Plan and the Agricultural Reserve Tier is close to being "built out". Of the 22,000 acres within the Agricultural Reserve, only 1,700 acres remain without any development approvals. This represents a total of 5% of the Agricultural Reserve that is not entitled for development or preservation.

The consultants that developed the Agricultural Reserve Master Plan anticipated that the Agricultural Reserve would be a place where people can live, work, and play without having to travel to the Urban/Suburban Tier. Contrary to the intent of the Master Plan, the Agricultural Reserve has become an exclusive community comprised mainly of expensive single family homes. Most of the employment opportunities available within the Tier are generated by the commercial centers, farming activities, and industrial corridor along Atlantic Avenue or within the commercial nodes at the intersections of Atlantic Avenue and Lyons Road and Boynton Beach Boulevard and Lyons Road. The proposed rezoning to MUPD will create another opportunity for a service not currently located in the Tier. The Board of County Commissioners further recognized the Property's location as an appropriate Commerce project when the comprehensive plan language was adopted. The Property is located on the north side of Boynton Beach Boulevard, immediately to the west of the Florida Turnpike.

The BCC has continued to support rezoning applications for light industrial uses within the Ag Reserve. The BCC has also approved more single family and multi-family residential communities throughout the Tier. These changes indicate the Agricultural Reserve has continued to change from a predominantly rural agricultural area to include a suburban community with a growing population that needs various services and goods within proximity of their homes. A sustainable community is a community that is planned, built, and modified to promote a living environment that focuses on urban infrastructure, social equity, efficient provision of utility services and economic sustainability. Sustainable communities incorporate principles that improve access to services, affordable housing, increase transportation options, and lower transportation costs while protecting the environment.

With only 3% of industrial lands located elsewhere throughout the County, and a rapidly growing population increasing demand for access to goods and services, the importance of providing more appropriately zoned light industrial land in closer proximity to residential uses is becoming more apparent. Approval of additional industrial land will allow for needed services to be located near existing agricultural operations and housing, thus reducing vehicle trips outside of the Agricultural Reserve and ultimately contributing to less traffic congestion and better access throughout the Agricultural Reserve.

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

CLASS A CONDITIONAL USE STANDARDS

The Applicant is requesting to provide a Manufacturing and Processing- Brewery with Taproom within Building C. 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 Applicant is submitting a concurrent future land use amendment to amend the future land use designation Agricultural Reserve to Commerce with underlying Agricultural Reserve (CMR/AGR) (LGA 2023-003). This land use is consistent with the site location next to the Florida's Turnpike and the brewery use is consistent with the intent of the Commerce designation to provide for appropriate light industrial uses.

The proposed project is anticipated to generate 297 net AM peak hour trips, and 369 new PM peak hour trips. These trips are well below the proposed conditions imposed by the land use change.

The Property is located within the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA) where services and public facilities are already available. The Property's location on a major transportation route with access/frontage on Boynton Beach Boulevard contributes to timely, cost effective service provision. Providing the brewery on site will allow for development of a use that will better serve the immediate and future needs of the community as it will provide additional services and employment opportunities. Further, development of an industrial use on the Property would be consistent with the existing development pattern along Boynton Beach Boulevard.

As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the populated area. A brewery with taproom will provide for a space for people to gather without having to go further east.

B. Consistency with the Code

The proposed conditional use of Manufacturing and Processing-Brewery with Taproom is consistent with the stated purpose and intent of the County Unified Land Development Code. The Property has frontage on Boynton Beach Boulevard and Acme Dairy Road and appropriately paired with other light industrial

uses as intended in the Commerce land use designation and as a Multiple Use Planned 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 uses(s) and design.

Response: The 47.21-acre Property maintains approximately 1,650 feet of frontage on Baynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road; Primary access will be provided from Baynton Beach Boulevard and secondary access will be from Acme Dairy Road.

- b. Provide continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the PDD.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the building entrances, parking area and the right-of-way.

- c. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses.

Response: The proposed site plan locates the Brewery and Taproom within the southern portion of the Property to accommodate visibility, pedestrian accessibility from the right-of-way and ensure the use does not interfere with truck traffic.

- d. Preserve existing native vegetation and other natural/historic features to the greatest possible extent.

Response: The Property is currently utilized as a wholesale nursery, so there is little to no native vegetation to preserve. The Applicant is proposing to provide retention within a created wetland preserve area as previously described.

- e. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound.

Response: Dumpsters have been screened from public view as required.

- 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 vehicular circulation is located around the perimeter of the buildings. The setbacks exceed the required setbacks. The Preserve Area has been located along the northern portion of the Property as well as within the Property to provide for an open space that can be accessed by the patrons of the brewery.

- g. Minimize parking through shared parking and mix of uses.

Response: Parking is minimized providing for the exact number of parking spaces required per each use proposed within the project.

- h. Creation of a strong pedestrian system through the design and placement of buildings connected to a common public space or useable open space.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the parking area and the public right-of-way. In all areas where the pedestrian walkway crosses a vehicular access, decorative pavers are provided to delineate the pedestrian crossing. Pedestrians may also access the preserve area through a trail along the lake edge.

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 is located on the north side of Baynton Beach Boulevard, between the Florida Turnpike and Acme Dairy Road. The Property has approximately 1,650 feet of

frontage on Baynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road.

- 2) PDDs shall have legal access on an Arterial or Collector Street.
Response: The Property will provide several access points on Baynton Beach Boulevard and Acme Dairy Road.

- 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. A pedestrian walkway is provided along the perimeter of the buildings with safe access to the parking and the adjacent rights-of-way.

- 4) Traffic improvements shall be provided to accommodate the projected traffic impact.

Response: The Traffic Report provided demonstrates compliance with Engineering requirements.

- 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.

- b) 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 not feasible to any surrounding properties.

- 7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project.

Response: On-site retention is provided.

- 8) Public street 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 proposed as part of this project.

- b. Street Lighting

Street lights 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. 5E, 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. 7F.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 requirement of Art. 11, Subdivision, Platting, and Required Improvements.

Response: The project is non-residential therefore; street trees are not required.

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:

- 4) 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.
- 5) 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 plan, 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.
- 6) 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 receptable, 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: A Palm Tran bus stop is located within close proximity of the Property. If requested a bus stop can be provided.

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 right-of-way as required to accommodate underground installation.

h. Parking

- 7) 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.

8) 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.

9) 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.

10) Cross Access

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

11) 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.

12) 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 has been provided throughout the project which is convenient to the building. Parking areas have been designed to provide for safe and efficient flow of traffic.

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 street 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: No CLF or PDD Clubhouse in excess of 20,000 square feet are proposed, therefore emergency generators are not required as part of this application.

Per Art. 3.E.3.B.1. Multiple Use Planned Development shall also comply with the following Objectives:

- a. Allow for both residential and non-residential uses within a project that is designed to incorporate vertical or horizontal integration of residential uses, to foster compatibility within and adjacent to the project.

Response: The proposed project only includes non-residential uses.

- b. Provide innovative building location and orientation.

Response: The proposed buildings are centered on the Property with the loading bays and loading activity oriented inward, screened by buildings and away from public view.

- c. Protect adjacent residential uses from potential adverse impacts.

Response: There are no residential uses within proximity of the Property.

- d. Provide a continuous, non-vehicular and pedestrian circulation system which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the MUPD.

Response: A pedestrian walkway is provided along the perimeter of the buildings, with connections to the adjacent rights-of-way.

- e. Allow for landscape design that enhances the appearance of the project.

Response: The project proposes required buffers along the various property lines. Foundation planting, as required per code, along the facades of the building.

- f. An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution, and storage of products.

Response: The requested MUPD zoning corresponds to a request for a Commerce Land Use designation to allow for the development of light industrial uses and recreation uses. As such the Project proposes several office/warehouse buildings, several fitness center uses, and a brewery with taproom in keeping with the light industrial use category.

Per Art. 3.E.3.B.2 An MUPD shall comply with the following standards:

- a. Non-Vehicular Circulation – An MUPD shall be designed to provide for a pedestrian and bicycle-oriented circulation system throughout the development.

- 1) Sidewalks – Internal sidewalks shall connect to sidewalks located along adjacent streets. Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the adjacent rights-of-way. Where the walkway crosses a vehicular use area, pavers are provided.

- b. Landscape Buffers – A type 3 incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process, unless exempted below.

- 1) Mixed Use – No buffer shall be required between residential and non-residential uses within a mixed-use development. Internal vegetation shall be planted to promote integration of uses within the development.

- 2) Vertical Integration – A Type 2 Incompatibility Buffer shall be permitted along the perimeter between a structure with vertical integration of residential and non-residential uses and adjacent properties with residential structures greater than 35 feet in height.

Response: The Property is surrounded by agriculture uses, therefore an incompatibility buffer is not required.

- c. Cross Access – Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between an MUPD and adjacent land with a non-residential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.

Response: Cross access is not proposed as it is not feasible to adjacent properties.

- d. Parking – On-site parking areas shall comply with Art. 6 Parking, Loading and Circulation, Art. 7. Landscaping, and the following:

- 1) Parking Areas

- a) Ground cover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all landscape islands and divider medians.

- b) Where pedestrian access ways cross landscape islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment.

- c) 20 percent of the required parking shall be located at the side or rear of non-residential uses, unless all spaces are provided within a parking structure per Art. 6.B.2.E Parking Structures.

- d) All required on-site parking shall be located within 400 feet of a public entrance to any non-residential or individual access points of a residential building within the development.

Response: Parking is provided within the close proximity of the building entrances. Landscape islands/medians provided throughout the parking area will incorporate landscaping as required by code.

- 2) Loading Area Screening – Internally oriented loading areas or loading areas between a building and an adjacent residential use, shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall.

Response: Loading for the brewery will occur within the drive aisle during cf hours as permitted by the ULDC.

Per Article 4.B.5.C.8.d Manufacturing and Processing Use Classification, the following standards shall apply for the development of a brewery when it includes a taproom as an accessory use, subject to a Class A Conditional Use.

3. **Taproom.** A Brewery-Distillery allows a Taproom (also called tasting room) for consumption of beverages by the public on the premises, including indoor and outdoor seating areas and event hosting, subject to the following:

1. Approval Process. A Brewery- Distillery Manufacturing and Processing use with MUPD or PIPD zoning may include a taproom on up to 30% of the gross floor area, including square footage for outdoor dining, for that establishment by Class A Conditional Use Approval.

Response: This proposed taproom is located within a MUPD, with the taproom portion not to exceed 30% cf the floor area for the proposed Building C, or 6,000 square feet.

2. Location. The MUPD or PIPD shall front an arterial street. In addition, in the Agricultural Reserve Tier, development shall be limited to sites fronting Boynton Beach Boulevard or Atlantic Avenue east of SR 7.

Response: The proposed taproom shall be located directly on Boynton Beach Boulevard and east cf state road 7.

3. Hours of Operation. Hours for the taproom, tasting room, and/or facility tours shall not be open to the public after 10:00 p.m., except Fridays and Saturdays whereby it may remain open until 11:00 p.m.

Response: the taproom shall comply with the hours cf operation limitations.

4. Separation. The taproom shall not be located within 500 feet from a school as required by F.S 562.45, as periodically amended.

Response: the taproom is proposed to be approximately 2000 feet from Sunset Palms Elementary school located on the Southwest corner cf Acme Dairy Road and Boynton Beach Blvd. measured from building entrance to building entrance.

5. Parking. The taproom shall be subject to the parking requirements for cocktail lounge

Response: The site plan reflects the 150 proposed seats for the taproom will have 50 parking spaces to accommodate the same rate cf 1 per 3 seats as spec fied for the cocktail lounge use.

6. Food service. Food service and preparation is allowed within the taproom, mobile retail sales limited to selling food (e.g. food trucks) are allowed.

Response: cf there will be food service with the develcpment it shall be provided inside the building.

C. Compatibility with Surrounding Uses

The proposed Manufacturing and Processing- Brewery with Taproom use is compatible and consistent with the existing uses and surrounding zoning districts. 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 use would maintain the subject Property's compatibility with the surrounding properties, some of which have undergone land use amendments while preventing land area for needed services.

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

This site specifically is separated from all other potentially incompatible uses by the Florida's Turnpike on the east, Boynton Beach Boulevard (with a 126 foot right-of-way width) and is compatible with the agricultural uses to the north and commercial properties on the west. The brewery building will additionally exceed the minimum front setback along Boynton Beach Blvd, provide landscape buffering, and have direct access to Boynton Beach Blvd. to provide the greatest reduction of potential impact as possible.

D. Design Minimizes Adverse Impact

As described above, the use is compatible with the surrounding uses by providing adequate screening of loading areas, landscaping on the exterior of the development, and exceeding setbacks to not visually impact adjacent uses. Traffic is being limited by the comprehensive plan amendment and shall be provided at much lower rates than the maximum provided. The main entrance along Boynton Beach Blvd will include a turn lane in the middle of the road for cars coming to the site from the west and a turn lane will be provided for cars accessing the site from the east. There are no other anticipated adverse impacts from the development to surrounding properties in the form of noise, odors, stormwater runoff, fumes, etc. that be produced from an industrial site. The Brewery and Taproom are proposed to completely operate manufacturing functions inside of the building.

E. Effect on the Natural Environment

The proposed Brewery with taproom will not result in significantly adverse impacts on the natural environment. The Applicant is proposing to develop a wetland on site within the preserve area, greatly increasing the native vegetation on site, versus the commercial nursery that exists there today. Requirements in Article 5.C will be met at time of building permit application. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers, and separation.

F. Development Patterns

The proposed addition of the brewery with taproom will result in a logical, orderly, and timely development pattern. Several of the uses surrounding the Property and along the Boynton Beach corridor are commercial, institutional, and non-residential in nature such as the CobbleStone Plaza, Canyons Town Center, Caridad Center, Bethesda West Hospital, and various schools. The Property is currently utilized as a wholesale nursery. As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the need. The proposed change would allow an industrial use to provide a needed service to the neighboring residential communities without being directly adjacent to those uses.

The brewery and taproom will provide a use that is compatible with the rest of the shopping centers to the

immediate west, but is not currently provided. The Boynton Beach Blvd corridor is commercial in nature and would benefit from the introduction of an additional gathering place for the community without having to travel east to visit a brewery.

G. Adequate Public Facilities

The proposed brewery and taproom will not negatively impact public facilities. Traffic impacts of the development have been completed showing adequacy for the proposed project. The Property's location within a Limited Urban Service Area (LUSA) means that services and public facilities are available to serve the Property. The proposed use will utilize existing facilities. The Traffic Division will review the concurrency application for the proposed use at the time of building permit applications or future site plan approvals.

H. Changed Conditions or Circumstances

The Applicant is requesting to include a brewery with taproom within the proposed Multiple Use Planned Development (MUPD). The consultants that prepared the Agricultural Reserve Master Plan recognized the industrial corridor along Atlantic Avenue between State Road 7 and Smith Sundry Road/Half Mile Road. Furthermore, the consultant recommended 330,000 square feet of additional industrial square footage within the Agricultural Reserve specifically located at Boynton Beach Boulevard and the Florida Turnpike and Atlantic Avenue and the Florida Turnpike. When the Board of County Commissioners reviewed the Agricultural Reserve Master Plan and directed Staff to prepare additional Comprehensive Plan policies for the Agricultural Reserve Tier, the addition of industrial land and industrial uses was not included. Twenty years have passed since these Agricultural Reserve policies were incorporated into the Comprehensive Plan and the Agricultural Reserve Tier is close to being "built out". Of the 22,000 acres within the Agricultural Reserve, only 1,700 acres remain without any development approvals. This represents a total of 5% of the Agricultural Reserve that is not entitled for development or preservation.

The consultants that developed the Agricultural Reserve Master Plan anticipated that the Agricultural Reserve would be a place where people can live, work, and play without having to travel to the Urban/Suburban Tier. The proposed brewery will create another opportunity for a service not currently located in the Tier. The Board of County Commissioners further recognized the Property's location as an appropriate Commerce project when the comprehensive plan language was adopted. The Property is located on the north side of Boynton Beach Boulevard, immediately to the west of the Florida Turnpike.

Based on the above justification and attached information, the Applicant respectfully requests approval of the Manufacturing and Processing- Brewery with Taproom use within the proposed development.

CLASS A CONDITIONAL USE STANDARDS

The Applicant is requesting to provide a Self-Service Storage, Limited Access use within Building B. 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 Applicant is submitting a concurrent future land use amendment to amend the future land use designation Agricultural Reserve to Commerce with underlying Agricultural Reserve (CMR/AGR) (LGA 2023-003). This land use is consistent with the site location next to the Florida's Turnpike and the Self-Service Storage use is consistent with the intent of the Commerce designation to provide for appropriate light industrial uses.

The proposed project is anticipated to generate 297 net AM peak hour trips, and 369 new PM peak hour trips. These trips are well below the proposed conditions imposed by the land use change.

The Property is located within the Agricultural Reserve Tier which is a Limited Urban Service Area (LUSA)

where services and public facilities are already available. The Property's location on a major transportation route with access/frontage on Boynton Beach Boulevard contributes to timely, cost effective service provision. Providing the Self-Service Storage on site will allow for development of a use that will better serve the immediate and future needs of the community as it will provide additional services. Further, development of an industrial use on the Property would be consistent with the existing development pattern along Boynton Beach Boulevard. As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the populated area.

B. Consistency with the Code

The proposed conditional use of Self-Service Storage is consistent with the stated purpose and intent of the County Unified Land Development Code. The Property has frontage on Boynton Beach Boulevard and Acme Dairy Road and appropriately paired with other light industrial uses as intended in the Commerce land use designation and as a Multiple Use Planned Development.

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

- i. 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 uses(s) and design.
Response: The 47.21-acre Property maintains approximately 1,650 feet of frontage on Boynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road; Primary access will be provided from Boynton Beach Boulevard and secondary access will be from Acme Dairy Road.
- j. Provide continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the PDD.
Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the building entrances, parking area and the right-of-way.
- k. Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses.
Response: The proposed site plan locates the Self-Service Storage building within the southern portion of the Property to accommodate visibility, pedestrian accessibility from the right-of-way and ensure the use does not interfere with truck traffic of the warehouse use.
- l. Preserve existing native vegetation and other natural/historic features to the greatest possible extent.
Response: The Property is currently utilized as a wholesale nursery, so there is little to no native vegetation to preserve. The Applicant is proposing to provide retention within a created wetland preserve area as previously described.
- m. Screen objectionable features (e.g. mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound.
Response: Dumpsters have been screened from public view as required.
- n. 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 vehicular circulation is located around the perimeter of the buildings. The setbacks exceed the required setbacks. The Preserve Area has been located along the northern portion of the Property as well as within the Property to provide for an open space that can be accessed by the entire development.
- o. Minimize parking through shared parking and mix of uses.
Response: Parking is minimized providing for the exact number of parking spaces required per each use proposed within the project.
- p. Creation of a strong pedestrian system through the design and placement of buildings connected

to a common public space or useable open space.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the parking area and the public right-of-way. In all areas where the pedestrian walkway crosses a vehicular access, decorative pavers are provided to delineate the pedestrian crossing. Pedestrians may also access the preserve area through a trail along the lake edge.

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 is located on the north side of Baynton Beach Boulevard, between the Florida Turnpike and Acme Dairy Road. The Property has approximately 1,650 feet of frontage on Baynton Beach Boulevard with approximately 1,211 feet of depth on Acme Dairy Road.

2) PDDs shall have legal access on an Arterial or Collector Street.

Response: The Property will provide several access points on Baynton Beach Boulevard and Acme Dairy Road.

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. A pedestrian walkway is provided along the perimeter of the buildings with safe access to the parking and the adjacent right-of-way.

4) Traffic improvements shall be provided to accommodate the projected traffic impact.

Response: The Traffic Report provided demonstrates compliance with Engineering requirements.

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.

c) 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 not feasible to any surrounding properties.

7) Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project.

Response: On-site retention is provided.

8) Public street 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 proposed as part of this project.

b. Street Lighting

Street lights 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. 5E, 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. 7F.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 requirement of Art. 11, Subdivision, Platting, and Required Improvements.

Response: The project is non-residential therefore; street trees are not required.

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:

- 7) 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.
- 8) 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 plan, 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.
- 9) 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 receptable, 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: A Palm Tran bus stop is located within close proximity of the Property. A requested a bus stop can be provided.

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 right-of-way as required to accommodate underground installation.

h. Parking

13) 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.

14) 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.

15) 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.

16) Cross Access

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

17) 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.

18) 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 has been provided throughout the project which is convenient to the building. Parking areas have been designed to provide for safe and efficient flow of traffic.

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 street 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: No CLF or PDD Clubhouse in excess of 20,000 square feet are proposed, therefore emergency generators are not required as part of this application.

Per Art. 3.E.3.B.1. Multiple Use Planned Development shall also comply with the following Objectives:

- a. Allow for both residential and non-residential uses within a project that is designed to incorporate vertical or horizontal integration of residential uses, to foster compatibility within and adjacent to the project.

Response: The proposed project only includes non-residential uses.

- b. Provide innovative building location and orientation.

Response: The proposed buildings are centered on the Property with the loading bays and loading activity oriented inward, screened by buildings and away from public view.

- c. Protect adjacent residential uses from potential adverse impacts.

Response: There are no residential uses within proximity of the Property.

- d. Provide a continuous, non-vehicular and pedestrian circulation system which connect uses, public entrances to buildings, recreation areas, amenities, useable open space, and other land improvements within and adjacent to the MUPD.

Response: A pedestrian walkway is provided along the perimeter of the buildings, with connections to the adjacent rights-of-way.

- e. Allow for landscape design that enhances the appearance of the project.

Response: The project proposes required buffers along the various property lines. Foundation planting, as required per code, along the façades of the building.

- f. An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution, and storage of products.

Response: The requested MUPD zoning corresponds to a request for a Commerce Land Use designation to allow for the development of light industrial uses and recreation uses. As such the Project proposes several office/warehouse buildings, several fitness center uses, self-service storage, and a brewery with taproom in keeping with the light industrial use category.

Per Art. 3.E.3.B.2 An MUPD shall comply with the following standards:

- a. Non-Vehicular Circulation – An MUPD shall be designed to provide for a pedestrian and bicycle-oriented circulation system throughout the development.

- 1) Sidewalks – Internal sidewalks shall connect to sidewalks located along adjacent streets. Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment.

Response: A pedestrian walkway is provided along the perimeter of the buildings with connections to the adjacent rights-of-way. Where the walkway crosses a vehicular use area, pavers are provided.

- b. Landscape Buffers – A type 3 incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process, unless exempted below.

- 1) Mixed Use – No buffer shall be required between residential and non-residential uses within a mixed-use development. Internal vegetation shall be planted to promote integration of uses within the development.

- 2) Vertical Integration – A Type 2 Incompatibility Buffer shall be permitted along the perimeter between a structure with vertical integration of residential and non-residential uses and adjacent properties with residential structures greater than 35 feet in height.

Response: The Property is surrounded by agriculture uses, therefore an incompatibility buffer is not required.

- c. Cross Access – Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between an MUPD and adjacent land with a non-residential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.

Response: Cross access is not proposed as it is not feasible to adjacent properties.

- d. Parking – On-site parking areas shall comply with Art. 6 Parking, Loading and Circulation, Art. 7. Landscaping, and the following:

- 1) Parking Areas

- a) Ground cover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all landscape islands and

divider medians.

- b) Where pedestrian access ways cross landscape islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment.
- c) 20 percent of the required parking shall be located at the side or rear of non-residential uses, unless all spaces are provided within a parking structure per Art. 6.B.2.E Parking Structures.
- d) All required on-site parking shall be located within 400 feet of a public entrance to any non-residential or individual access points of a residential building within the development.

Response: Parking is provided within the close proximity of the building entrances. Landscape islands/medians provided throughout the parking area will incorporate landscaping as required by code.

- 2) Loading Area Screening – Internally oriented loading areas or loading areas between a building and an adjacent residential use, shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall.

Response: Loading for the Self-service storage is proposed within 4 covered standard parking spaces on the west side of the building as well as one Type B Loading zone measuring 15 feet in width and 55 feet in length.

C. Compatibility with Surrounding Uses

The proposed Self-Service Storage, Limited Access use is compatible and consistent with the existing uses and surrounding zoning districts. 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 use would maintain the subject Property’s compatibility with the surrounding properties, some of which have undergone land use amendments while preventing land area for needed services.

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

This site specifically is separated from all other potentially incompatible uses by the Florida’s Turnpike on the east, Boynton Beach Boulevard (with a 126 foot right-of-way width) and is compatible with the agricultural uses to the north and commercial properties on the west. The storage building will additionally exceed the minimum front setback along Boynton Beach Blvd, provide landscape buffering, and have direct access to Boynton Beach Blvd. to provide the greatest reduction of potential impact as possible.

D. Design Minimizes Adverse Impact

As described above, the use is compatible with the surrounding uses by providing adequate screening of loading areas, landscaping on the exterior of the development, and exceeding setbacks to not visually impact adjacent uses. Traffic is being limited by the comprehensive plan amendment and shall be provided at much lower rates than the maximum provided. The main entrance along Boynton Beach Blvd will include a turn lane in the middle of the road for cars coming to the site from the west and a turn lane will be provided for

cars accessing the site from the east. There are no other anticipated adverse impacts from the development to surrounding properties in the form of noise, odors, stormwater runoff, fumes, etc. that may be produced from an industrial site. The storage building will have all operations inside of the building to minimize any potential impact.

E. Effect on the Natural Environment

The proposed Self-service Storage, Limited Access will not result in significantly adverse impacts on the natural environment. The Applicant is proposing to develop a wetland on site within the preserve area, greatly increasing the native vegetation on site, versus the commercial nursery that exists there today. Requirements in Article 5.C will be met at time of building permit application. Furthermore, no adverse impacts will occur on adjacent properties, as the site design meets or exceeds all requirements regarding setbacks, buffers, and separation.

F. Development Patterns

The proposed addition of the self-service storage, limited access use will result in a logical, orderly, and timely development pattern. Several of the uses surrounding the Property and along the Boynton Beach corridor are commercial, institutional, and non-residential in nature such as the CobbleStone Plaza, Canyons Town Center, Caridad Center, Bethesda West Hospital, and various schools. The Property is currently utilized as a wholesale nursery. As new residential projects continue to be approved in the Agricultural Reserve and more people populate the area, additional services are needed and should be located close to the need. The proposed change would allow an industrial use to provide a needed service to the neighboring residential communities without being directly adjacent to those uses. It is additionally, compatible with the 800 bay storage facility that was recently approved within the West Boynton Center MUPD (Control number 2008-0339) located to the immediate west of the property across from Acme Dairy Road.

G. Adequate Public Facilities

The proposed Self-Service Storage, Limited Access building will not negatively impact public facilities. Traffic impacts of the development have been completed, showing adequacy for the proposed project. The Property's location within a Limited Urban Service Area (LUSA) means that services and public facilities are available to serve the Property. The proposed use will utilize existing facilities. The Traffic Division will review the concurrency application for the proposed use at the time of building permit applications or future site plan approvals.

H. Changed Conditions or Circumstances

The Applicant is requesting to include a Self-Service Storage building within the proposed Multiple Use Planned Development (MUPD). The consultants that prepared the Agricultural Reserve Master Plan recognized the industrial corridor along Atlantic Avenue between State Road 7 and Smith Sundry Road/Half Mile Road. Furthermore, the consultant recommended 330,000 square feet of additional industrial square footage within the Agricultural Reserve specifically located at Boynton Beach Boulevard and the Florida Turnpike and Atlantic Avenue and the Florida Turnpike. When the Board of County Commissioners reviewed the Agricultural Reserve Master Plan and directed Staff to prepare additional Comprehensive Plan policies for the Agricultural Reserve Tier, the addition of industrial land and industrial uses was not included. Twenty years have passed since these Agricultural Reserve policies were incorporated into the Comprehensive Plan and the Agricultural Reserve Tier is close to being "built out". Of the 22,000 acres within the Agricultural Reserve, only 1,700 acres remain without any development approvals. This represents a total of 5% of the Agricultural Reserve that is not entitled for development or preservation.

The consultants that developed the Agricultural Reserve Master Plan anticipated that the Agricultural Reserve would be a place where people can live, work, and play without having to travel to the Urban/Suburban Tier. The proposed storage will create another opportunity for a service not currently located in the Tier. The Board of County Commissioners further recognized the Property's location as an appropriate Commerce project

when the comprehensive plan language was adopted. The Property is located on the north side of Boynton Beach Boulevard, immediately to the west of the Florida Turnpike.

Based on the above justification and attached information, the Applicant respectfully requests approval of the Self-Storage, Limited-access use within the proposed development.

TYPE 2 VARIANCE STANDARDS

The applicant is requesting a Type 2 Variance from Article 7.C.2.C to allow 100% overlap of the north perimeter buffer with the conservation easement. All elements of the landscape buffer will be provided on site and is requested to be part of the 12.14 acre preserve rather than separate and adjacent. The variance is proposed to create a more natural preserve that will exceed the minimum planting requirements of the buffer. This variance will only apply to the northern property line where the Property abuts other preserve parcels and agriculture uses and which is within the preserve and will be encumbered with a conservation easement; the remainder of the site will provide standard landscape buffers meeting all code requirements. The West buffer, adjacent to Acme Dairy Road, requires a right-of-way buffer. The east buffer, adjacent to a parcel containing the on and off ramp for the Florida's Turnpike requires a 8-foot compatibility buffer. The elements required of each buffer are further clarified below.

Per Article 7.C.2.C of the ULDC

- The compatibility buffers required on the north property line shall be 8 feet in width, including 1 canopy tree every 25 linear feet and 1 row of medium shrubs every 4 linear feet.

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.
Special conditions and circumstances exist for this Property resulting from the large, 12.14 acre 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 +/- 120' buffer between the parking area and the agricultural lands to the north and 1,650' of buffer on the east and west sides of the preserve. In addition, the Property to the north by required agricultural preserve as part of an approved AGR-PUD.

B. Special circumstances and conditions do not result from the actions of the applicant.
The 12.14 acres of land required to be set aside as preserve land is required by the Comprehensive Plan. Placing the preserve in the proposed location provides adequate separation and landscape area from the lands to the north. 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. Under the circumstances, it is unnecessary to have a completely separate landscape buffer and vegetated preserve space almost 120 feet from South to North, especially when not required to block a loading area of the warehouse buildings. From the east or west property lines, the buffer is not blocking any structure or land use that would require to be screened from adjacent properties.

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.
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 adjacent compatible uses next to its preserve, did not request

relief from any planting requirements, and designed its property to internalize operations and shield loading zones with the buildings 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.

The literal interpretation and enforcement of the buffer requirements would require a formalized buffer in an area where the plantings can easily be accommodated within the 120 foot wide dry detention area of the conservation easement. 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.

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.

Granting the variance will be consistent with the goals to create preservation space, adequate screening to adjacent 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 wetland habitat.

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

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 information, the Applicant respectfully requests approval of the type 2 variance.



November 16, 2022
Job No. 22-052

DRAINAGE STATEMENT

BC Commerce Center
Palm Beach County, Florida

SITE DATA

The subject parcel is located on northeast corner of Boynton Beach Boulevard and Acme Dairy Road in Palm Beach County, Florida and contains approximately 47.21 acres. The Property Control Numbers (PCN) for the subject parcels are as follows:

00-42-43-27-05-050-0991	00-42-43-27-05-050-1000
00-42-43-27-05-050-1010	00-42-43-27-05-050-1020
00-42-43-27-05-050-0992	

The proposed plan of development on the currently unimproved parcel consists of the following uses:

- 1. 85,000 SF Fitness Center (consisting of uses such as a gymnastics studio and indoor pickleball courts)
- 2. 332,480 SF Warehouse
- 3. 83,120 SF Office
- 4. 14,000 SF Microbrewery
- 5. 6,000 SF Accessory Taproom
- 6. 125,000 SF Self Storage

For additional information concerning site location and layout, please refer to the Site Plan prepared by Morton Planning & Landscape Architecture.

2581 Metrocentre Boulevard West Suite 3 West Palm Beach Florida 33407
T: 561.478.7848 F: 561.478.338 www.simmonsandwhite.com
Certificate of Authorization Number 3452

SITE DRAINAGE

The site is located within the boundaries of the South Florida Water Management District C-16 Basin and Lake Worth Drainage District. It is proposed that runoff be directed to on-site water management areas by means of paved or grass swales and/or inlets and storm sewer. Legal positive outfall is available via discharge to the Lake Worth Drainage District L-24 Canal on the south side of Boynton Beach Boulevard. Drainage design is to address the following:

- 1. No runoff to leave the site except through an approved control structure up to the level produced by the 25 year - 3 day rainfall event.
- 2. Building floor elevations to be set at or above the level produced by the 100 year - 3 day (zero discharge) rainfall event.
- 3. Allowable discharge to be in accordance with South Florida Water Management District and Lake Worth Drainage District Criteria.
- 4. Roads to be protected from flooding during the 3 year - 24 hour event.
- 5. Due consideration to water quality.

Required Permits/Approvals:

- 1. Palm Beach County Land Development Onsite Drainage Review
- 2. Lake Worth Drainage District Drainage Permit
- 3. South Florida Water Management District Environmental Resource Permit
- 4. Florida Department of Transportation

Digitally signed by Gregory F. Bolen, P.E.
Date: 2022.11.16 08:41:21 -05'00'

Gregory F. Bolen, P.E.
FL Reg. No. 56729

5a x:/docs/trafficedrainage/dr.22052

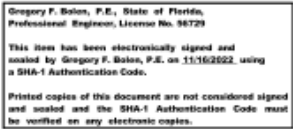


Exhibit G – Water and Waste Water Letter datted April 5, 2023



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

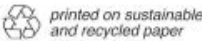
**Palm Beach County
Board of County
Commissioners**

Gregg K. Weiss, Mayor
Maria Sachs, Vice Mayor

Maria G. Marino
Michael A. Barnett
Marci Woodward
Sara Baxter
Mack Bernard

County Administrator
Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*



July 21, 2023

Morton
3910 RCA Boulevard
Palm Beach Gardens, Fl. 33410

RE: Linkous Property
PCN 00-42-43-27-05-050-0992, 00-42-43-27-05-050-0991, 00-42-43-27-05-050-1000, 00-42-43-27-05-050-1010 & 00-42-43-27-05-050-1020
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 Commercial Development.

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 700 feet from the subject property.

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,

Jackie Michels, P.E.,
Project Manager



MANAGING GROWTH AND QUALITY OF LIFE IN GREATER WEST BOYNTON SINCE 1981
Over 105 Member Communities

OFFICERS	July 10, 2023
Steve Wallace <i>President</i>	Chairman Jess Sowards and All Zoning Commissioners Palm Beach County Zoning Commission 301 N. Olive Avenue Suite 1201 West Palm Beach, Florida 33401
Barbara Roth <i>First Vice President</i>	
Debbie Murphy <i>Second Vice President</i>	RE: The BC Commerce Property, Control # 2018-187
Cheryl Dodes <i>Secretary</i>	To Chairman Jess Sowards and all Zoning Commissioners:
Allen Appel <i>Treasurer</i>	The Delegates at COBWRA's meeting on June 21, 2023, voted the following in reference to the BC Commerce (Acme Dairy Road/ Boynton Northside) control number 2018-187; application number PDD - 2022 – 01755, ZV/PDD/CA-2022-1785:
Beth Rappaport <i>Immediate Past President</i>	COBWRA recommends to Palm Beach County approval of the BC Commerce plan as presented with the condition that the maximum height of the buildings is three stories/38 ft.
DIRECTORS	
Lainey Brooks	Thank you for your consideration.
Irwin Cohen	
Joel Cohen	Sincerely,
Jack Leicher	
Myrna Rosoff	Steve Wallace
Steve Slade	COBWRA President
PAST PRESIDENTS	
Phil Barlage	
Myrna Rosoff	
Glen Harvie	
Stuart Caine	
Kenneth Lassiter	
Barbara Katz	
Sandra Greenberg	
Lewis Doctor	
Dagmar Brahs	
Eugene Sokoloff	
Paul Gellis	
Al Miller	
Philip Leslie	
Kenneth Sanden	
Dr. Richard Carrington	

PO Box 740814, Boynton Beach, FL 33474-0814 • 561-572-9151
www.linkedin.com/company/cobwra
E-mail: info@cobwra.org • www.cobwra.org • www.facebook.com/COBWRA