

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

**Application No.:** SW-2020-01659  
**Application Name:** Bermuda Landscape and Design  
**Control No./Name:** 2020-00074 (Bermuda Landscape and Design)  
**Applicant:** H Farms, LLC  
**Owners:** H Farms, LLC  
**Agent:** Urban Design Studio - Bradley Miller and Christi Tuttle  
**Telephone No.:** (561) 366-1100  
**Project Manager:** Joanne Keller, Director Land Development

**TITLE:** a Subdivision Waiver **REQUEST:** to reduce the Minimum Legal Access for a Collocated Landscape Services use in the AR/RSA Zoning District.

**APPLICATION SUMMARY:** Petition of Urban Design Studio on behalf of H Farms, LLC, requesting variance from the requirement that Minimum Legal Access for a Collocated Landscape Services use in the AR/RSA Zoning District shall be by a Local Commercial Street.

**SITE DATA:**

Location:	At the northeast corner of Heritage Farms Rd and Park Lane Road
Property Control Number	00-41-45-12-00-000-3160
Proposed Future Land Use Designation:	No Change
Existing Zoning District	Agricultural Residential (AR)
Proposed Zoning District	No Change
Total Acreage	9.53 Acres
Affected Acreage:	9.53 Acres
Tier:	Rural
Overlay District:	N/A
Neighborhood Plan:	West Boynton Communit Plan
CCRT Area:	N/A
Municipalities within 1 Mile:	None
Future Annexation Area	N/A

**RECOMMENDATION:** Staff recommends **Denial** of the request due to outstanding review issues not addressed by the applicant. However, should the Zoning Commission recommend approval of the request, staff recommends the approval be subject to the Conditions of Approval as indicated in Exhibit C.

**PROJECT HISTORY:**

This site is currently operating as a collocated Wholesale Nursery/Landscape Service site and is under Code Enforcement action to proceed through the required application process to establish the Landscape Service as a collocated use in accordance with the regulations adopted by the Board of County Commissioners.

An application for DRO Final Site Plan approval for this site was submitted on May 4, 2020 and is contingent upon approval of this Subdivision Waiver.

**POSTPONEMENT:** Since the signage was not posted in accordance with Article 2.B.5.D Signs, Staff recommended postponement of this application at the February 4, 2021 ZC Hearing. The Zoning Commission unanimously agreed to postpone this application to the March 4, 2021 Hearing. At the March 4, 2021 ZC Hearing, the Zoning Commission voted to postpone this application to the May 6, 2021 ZC Hearing to give the applicant additional time to meet with the surrounding community to attempt to address their concerns.

**SURROUNDING LAND USES:**

**EAST:**

FLU Designation: Rural Residential (RR-10)  
 Zoning District: Agricultural Residential District (AR)  
 Supporting: Agricultural

**NORTH:**

FLU Designation: Rural Residential (RR-10)  
 Zoning District: Agricultural Residential District (AR)  
 Supporting: Agriculture

**SOUTH:**

FLU Designation: Rural Residential (RR-10)  
 Zoning District: Agricultural Residential District (AR)  
 Supporting: Residential

**WEST:**

FLU Designation: Rural Residential (RR-10)  
 Zoning District: Agricultural Residential District (AR)  
 Supporting: Agriculture

**TYPE 2 WAIVER SUMMARY:**

Pursuant to Unified Land Development Code (ULDC) Article 11, Chapter E.2.A.2, each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set for in Table 11.E.2.A-2, Chart of Minor Streets, and pursuant to Table 11.E.2.A-2, access to commercial uses shall be by a minimum 80-foot right of way. In Ordinance 2020-007 the Board of County Commissioners (BCC) added a Type II Waiver process for access to landscape services uses, considered a commercial use, within the AR Zoning District where existing access was less than minimum required commercial access. Previously, those requests were subject to subdivision variance approval by the Zoning Commission but the recent ULDC changes require this application to be reviewed by the BCC. This Type 2 Waiver application was submitted pursuant to ULDC Table 2.B.7.D, Summary of Type 2 Waivers, to request access to a landscape services use site from existing roadways (Park Lane Road and Heritage Farms Road), both not meeting the minimum requirements set forth in Table 11.E.2.A-2, Chart of Minor Streets. These roads are both privately maintained public 110 foot ingress/egress easements. The existing roads have varying amounts of pavement, no paved shoulders, no sidewalks, swales of varying width and a pavement section that varies. The applicant is seeking approval to use the existing roadways to access the site, which is south of Heritage Farms Road and west of State Road 7, to allow continued operation of a wholesale nursery with a co-located landscape services use. Pursuant to F.S. 125.022, applications shall be brought to the BCC for a decision within 180 days of a complete submittal unless a time extension is agreed upon by both parties. The applicant was sent a courtesy notice of the impending deadline but did not request a time extension. Although there were still outstanding issues that the applicant had not addressed as part of this application’s review, staff was forced to schedule this application for public hearing. In order to comply with the deadlines pursuant to F.S. 125.022 and due to the outstanding review issues, staff is recommending **Denial** of this request. Should the Zoning Commission find that this request meets the Type 2 Waiver Criteria, staff requests that the Zoning Commission recommend the BCC impose the conditions included in the Conditions of Approval section.

**Type 2 Waiver Chart**

Construction Standard	Requirement	Provided	Waiver
Min. ROW Width	80'	110' Ingress/Egress Easement	Complies - no waiver required
Min. Pavement Width	24'	Varies (23' – 25' adjacent to site)	Allow as existing
Shoulders	2' compacted	None	Allow as existing
Sidewalk	5'	None	Allow as existing
Swale	15'	Varies	Allow as existing

Wearing Surface	Materials per Table 100.9	Varies	Allow as existing
-----------------	---------------------------	--------	-------------------

**ZONING FINDINGS:**

This application is for the approval of a Landscape Service Use that is collocated with a Wholesale Nursery Use. This application currently have multiple issues related to design and layout of the Landscape Service use, Buffers and structure requirements that may or may not qualify for Agricultural exemptions. These outstanding issues would require a resubmittal from the applicant in order to resolve. The DRO application has received four time extensions beyond the 120 day review standard. If the subsequent subdivision waiver were to be granted the applicant would be required to request and be granted an additional time extension in order to meet required deadlines for resolving these outstanding issues.

**LAND DEVELOPMENT FINDINGS:**

When considering a Development Order application for a Type 2 Waiver, the BCC shall consider the Standards in Article 2.B.2.G.3 of the ULDC. The Standards and Staff Analyses are indicated below. A Type 2 Waiver, which fails to meet any of the standards, shall be deemed adverse to the public interest and shall not be approved.

- 1. The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay;**

**Applicant’s Response:** *This property has been operating as a wholesale nursery with landscape service use for many years and is under review of a Final Site Plan application to bring the site into compliance with regulations recently adopted by the Board of County Commissioners. The purpose and intent of the new regulations is to control the use of landscape services when collocated with wholesale nursery. The review of the Final Site Plan will require compliance with other requirements of the ULDC zoning, overlay and related development regulations. This waiver is being requested in response to a review comment from the Land Development Division as part of the Final Site Plan. With the granting of this waiver and approval of the Final Site Plan, all applicable requirements of the ULDC will have been determined to be met for this property.*

*It should also be noted that should the waiver NOT be granted, the alternative is for the applicant to construct a local commercial roadway through an established rural area which contradicts the intent of the zoning district, established for a mix of agricultural residential uses. The collocated use has been determined to be allowed by the ULDC with controls and limitations of the landscape service component by the regulations. These regulations will control the volume of traffic which has been the concern throughout the regulation amendment process. It would be more in conflict with the intent of the zoning district to require the construction of the roadway improvements required for a local commercial roadway.*

**Staff Response: INCORRECT.** There are outstanding issues the Zoning application, and if approved, may result in conflicts with the Unified Development Code (ULDC). Staff requested a survey of the roadway along with an engineering statement that would have clarified the width of the pavement, width of the swales and pavement section. The applicant has opted to take the application to the Zoning Commission and Board of County Commissioners with the recommendation of denial by County Staff instead of addressing staff issues. Due to the lack of information provided by the application, Staff cannot be certain that granting this waiver will not create additional conflicts with the ULDC.

- 2. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,**

**Applicant's Response:** *This waiver pertains to offsite street requirements and will compliment and support the collocated wholesale nursery and landscape service use which is under review through the Final Site Plan process rather than cause a detrimental effect on the design of the project. To grant the waiver and allow the road to remain in its rural condition is more in harmony with the area than to require the improvements of the Local Commercial street.*

**Staff Response: INCORRECT.** While it is correct that this waiver pertains to the offsite street access requirement, this type of use is required to access a roadway network that was designed to handle the types of vehicles associated with this use. Due to the lack of information provided by the application, Staff cannot be certain that granting this waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development.

**3. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.**

**Applicant's Response:** *This waiver is unique in that it is required due to the landscape service use, even when collocated with a wholesale nursery and controlled by area through the new regulations, is considered a commercial use and therefore requires access to a local commercial street. Considering this area is zoned as Agricultural Residential (AR), it contains both agricultural uses such as wholesale nurseries and commercial equestrian stables as well as residential properties. There are also governmental owned parcels that are designated for wildlife refuges and open space. Considering this, the intent does not seem to be the need to construct a Local Commercial street, but to evaluate the current conditions and determine if the existing nursery and landscape service uses is controlled in accordance with the recently adopted regulations and that the existing roadway condition is sufficient to provide safe and adequate access to the property. Based on this site having to comply with the controlled area for landscape services use, this site is considered to have 111 daily trips which will be the same, if not less, than the historic traffic volume from this property. These daily trips are considered acceptable by the Traffic Division as determined through the review of the traffic study and Final Site Plan. Accordingly, granting this waiver has no adverse impact on adjacent properties.*

**Staff Response: INCORRECT.** This use introduces truck traffic and heavy machinery into a residential community and though rural with fairly low traffic, the roadway does not meet the minimum standard in terms of width or potentially strength and durability to handle large vehicles. Reconstructing the roads to meet the County's minimum standard would ensure the roadways would be designed to handle large vehicles, which would reduce the chance of roadway failure. The 12 foot wide lanes would also allow multiple vehicles to be on the road at the same time in a safe manner. Due to the lack of information provided by the application, Staff cannot be certain that the alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.

**4. The Waiver shall not be injurious to the area involved or otherwise detrimental to the public welfare.**

**Applicant's Response:** *Access to this property is from Park Lane which is considered to be a street open to the public but within a private ingress and egress easement, owned and the maintenance responsibility of each property owner. Given this circumstance, the condition of the street varies greatly from the subject site to Heritage Farms which has already been determined as a Non-Plan Collector. Various property owners through the years have made improvement to the roadway which was historically a dirt surface but now has sections of the roadway have been improved with asphalt and millings to create a better driving surface. A consistent surface would be ideal but is difficult to manage and justify considering that there are several property owners with various interests who abut and own the roadway. The roadway in its current condition has provided access to all the owners and businesses within Heritage Farms for years and a result of the amended regulations, there have been landscape service businesses who have left the Heritage Farms area and therefore there is or will be less*

*volume of traffic from this site and from the other collocated wholesale nursery/landscape service businesses in Heritage Farms. The roadway in its current state serves the uses in the area and waiving the requirements for a local commercial street through this agricultural residential area will maintain the rural character and not be detrimental to the public welfare.*

**Staff Response: INCORRECT.** Staff requested a survey of the roadway along with an engineering statement that would have clarified the width of the pavement, width of the swales and pavement section. The applicant has opted to take this application to the Zoning Commission and Board of County Commissioners with the recommendation of denial by County Staff instead of addressing staff issues. Further, this use introduces truck traffic and heavy machinery into a residential community and though rural with fairly low traffic, the roadway does not meet the minimum standard in terms of width or potentially strength and durability to handle large vehicles. Based on the lack of information provided by the applicant, Staff cannot agree that approving this waiver will not be injurious to the public or otherwise detrimental to the public welfare.

(Remainder of page left intentionally blank)

## CONDITIONS OF APPROVAL

### Exhibit C Subdivision Waiver

#### ENGINEERING

1. Prior to January 30, 2022, the Property Owner shall reconstruct Park Lane and Heritage Farms Road from the project driveway to SR-7 to be consistent with the typical section for a Non-Plan Collector Roadway in the Land Development Division Design Standards Manual, or as otherwise allowed for by the County Engineer. (DATE: MONITORING – Eng)

#### 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

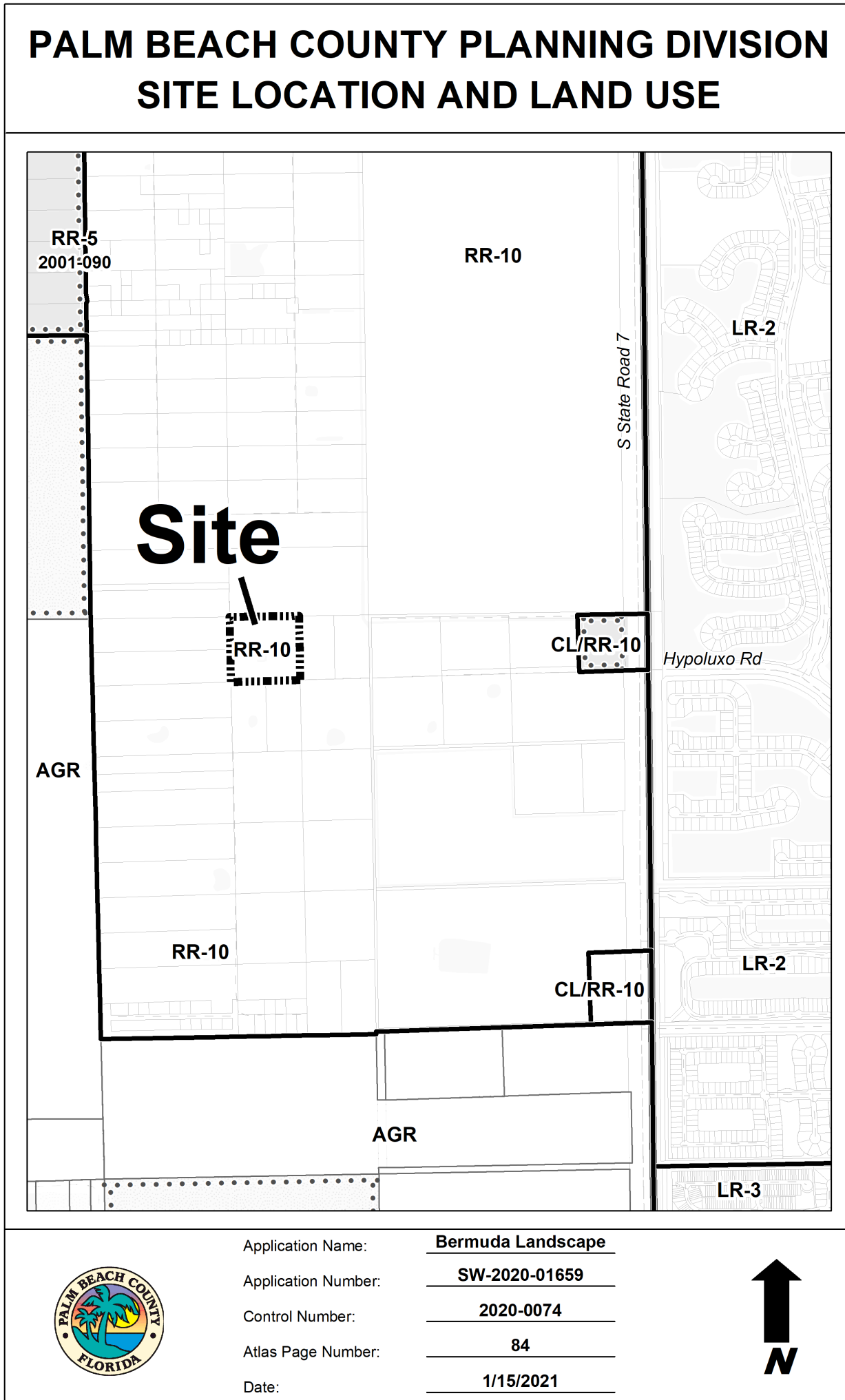


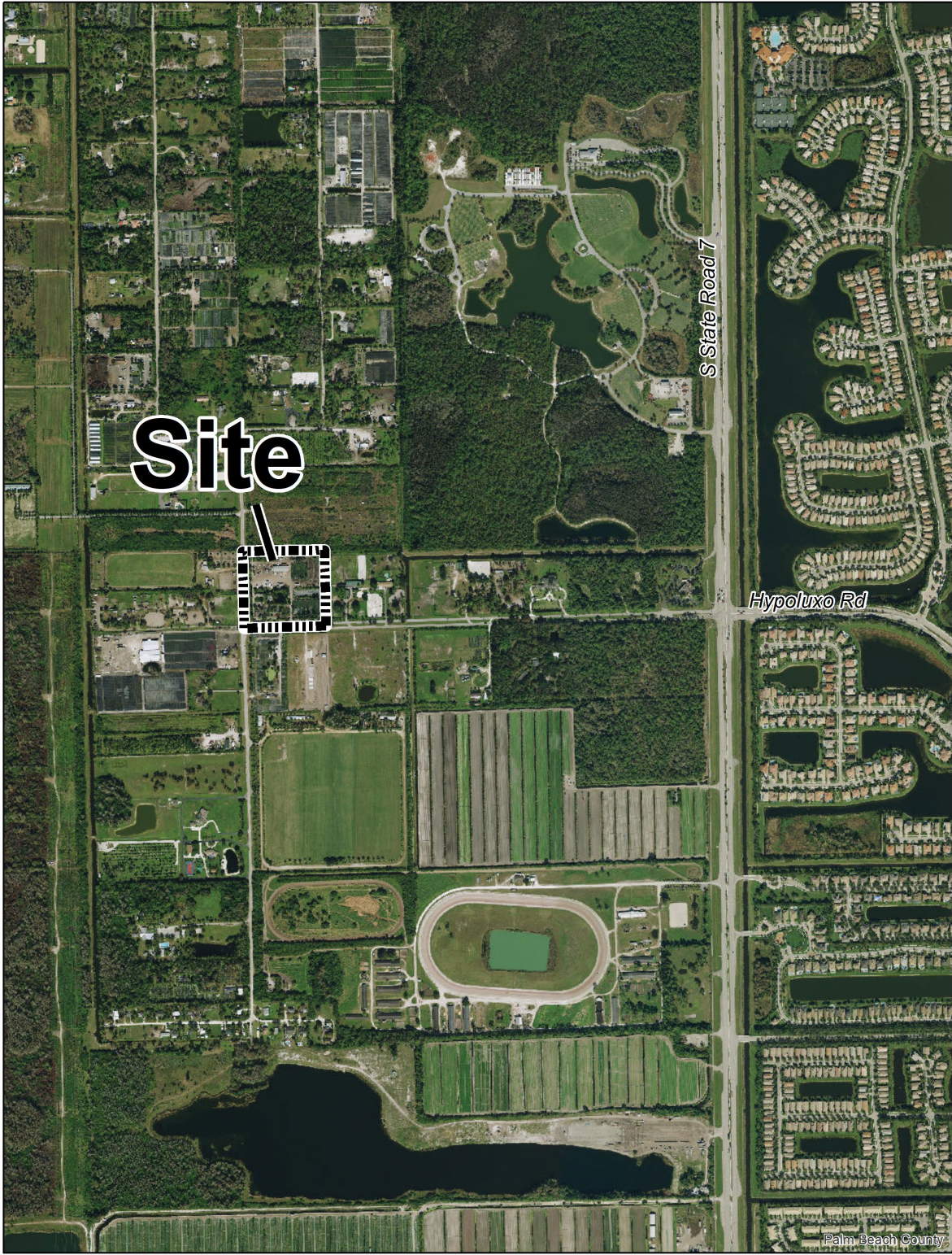
Figure 2 Zoning Quad Map





Figure 3 Aerial

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION

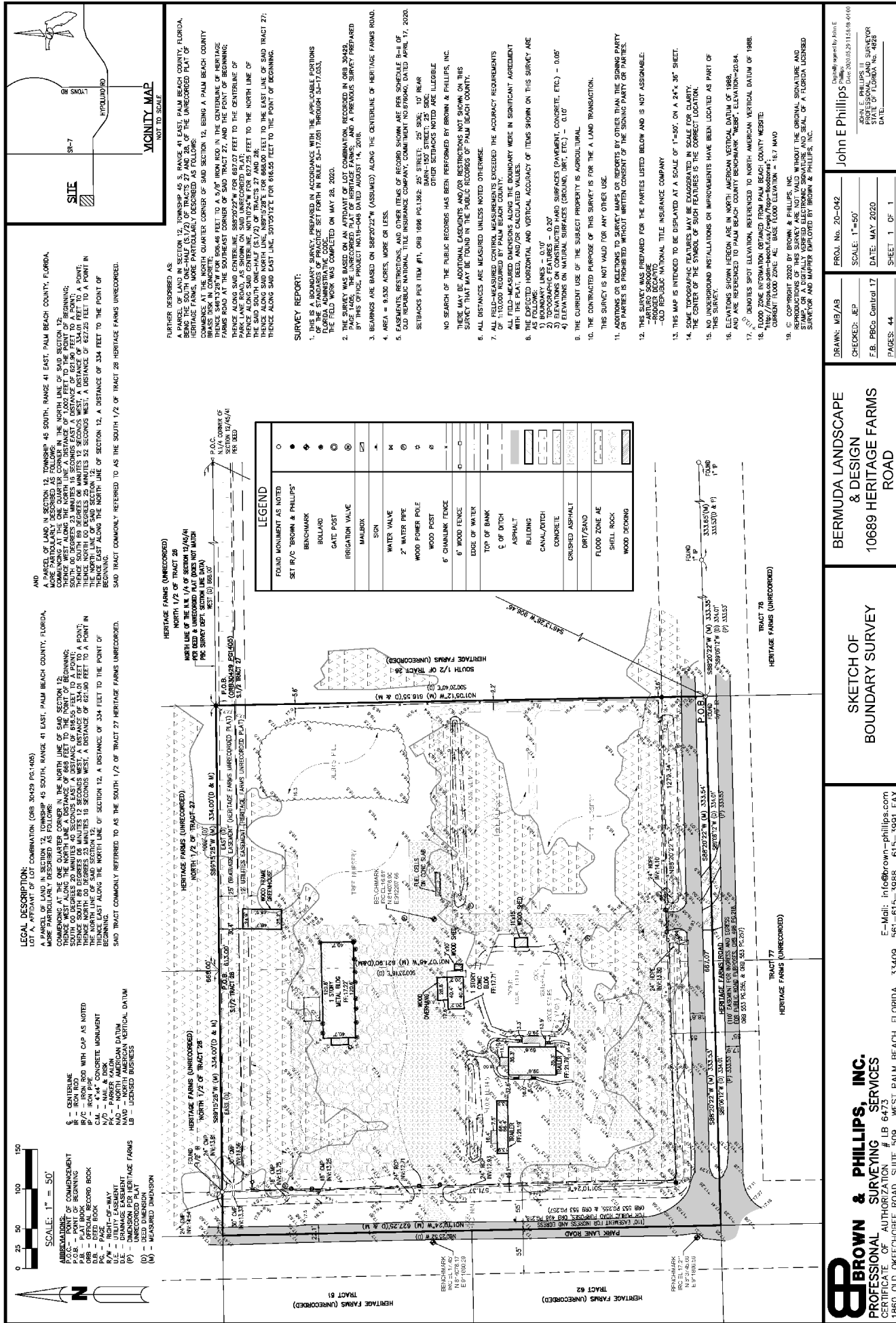


Application Name:	<u>Bermuda Landscape</u>
Application Number:	<u>SW-2020-01659</u>
Control Number:	<u>2020-0074</u>
Atlas Page Number:	<u>84</u>
Date:	<u>1/15/2021</u>





Figure 4 Waiver Survey, dated 06/18/2020



**BROWN & PHILLIPS, INC.**  
 PROFESSIONAL SURVEYING SERVICES  
 CERTIFICATE OF AUTHORIZATION # LB 6473  
 1860 OLD OKEECHOBEE ROAD, SUITE 509, WEST PALM BEACH, FLORIDA 33409 561-815-3988, 615-3891 FAX

**BROWN & PHILLIPS, INC.**  
 PROFESSIONAL LAND SURVEYOR  
 STATE OF FLORIDA No. 4822  
 DATE: \_\_\_\_\_

**SKETCH OF BOUNDARY SURVEY**  
 10689 HERITAGE FARMS ROAD

**HERITAGE FARMS UNRECORDED**  
 TRACT 61  
 TRACT 62  
 TRACT 63  
 TRACT 64  
 TRACT 65  
 TRACT 66  
 TRACT 67  
 TRACT 68  
 TRACT 69  
 TRACT 70  
 TRACT 71  
 TRACT 72  
 TRACT 73  
 TRACT 74  
 TRACT 75  
 TRACT 76  
 TRACT 77  
 TRACT 78  
 TRACT 79  
 TRACT 80  
 TRACT 81  
 TRACT 82  
 TRACT 83  
 TRACT 84  
 TRACT 85  
 TRACT 86  
 TRACT 87  
 TRACT 88  
 TRACT 89  
 TRACT 90  
 TRACT 91  
 TRACT 92  
 TRACT 93  
 TRACT 94  
 TRACT 95  
 TRACT 96  
 TRACT 97  
 TRACT 98  
 TRACT 99  
 TRACT 100

**METADATA:**

**PROJ. NO.:** 20-042  
**SCALE:** 1"=50'  
**CHECKED:** JEP  
**DATE:** MAY 2020  
**DESIGNED BY:** John E. Phillips  
**DATE:** \_\_\_\_\_

**PROJ. NO.:** 20-042  
**SCALE:** 1"=50'  
**CHECKED:** JEP  
**DATE:** MAY 2020  
**DESIGNED BY:** John E. Phillips  
**DATE:** \_\_\_\_\_

Exhibit D: Disclosure

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 Jason Pierre-Paul, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- 1. Affiant is the [ ] individual or [x] Manager of H Farms, LLC by 90PC Enterprises, LLC [position - e.g., president, partner, trustee] of H Farms, LLC by 90PC Enterprises, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 300 Spectrum Center Dr., Ste. 675, Irvine, CA 92618
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.

Jason Pierre-Paul, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

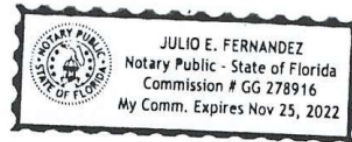
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this 21<sup>st</sup> day of August, 2020 by Jason Pierre Paul (name of person acknowledging). He/she is personally known to me or has produced FLDL# P614-420-89-001-0 (type of identification) as identification and did/did not take an oath (circle correct response). exp 01/01/2028

Julio E. Fernandez  
(Name - type, stamp or print clearly)

Julio E. Fernandez  
(Signature)

My Commission Expires on: Nov. 25<sup>th</sup>, 2022



**EXHIBIT "A"**  
**PROPERTY**

See attached Legal Description



Legal Description (Bermuda Landscape)

A PARCEL OF LAND IN SECTION 12, TOWNSHIP 45 S, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA, BEING THE SOUTH ONE-HALF (S.1/2) OF TRACTS 27 AND 28, OF THE UNRECORDED PLAT OF HERITAGE FARMS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH QUARTER CORNER OF SAID SECTION 12, BEING A PALM BEACH COUNTY BRASS DISK IN CONCRETE;  
THENCE S46°13'28"W FOR 906.46 FEET TO A 5/8" IRON ROD IN THE CENTERLINE OF HERITAGE FARMS ROAD AT THE SOUTHEAST CORNER OF SAID TRACT 27, AND THE POINT OF BEGINNING;

THENCE ALONG SAID CENTERLINE, S88°20'22"W FOR 667.07 FEET TO THE CENTERLINE OF PARK LANE ROAD, AS SHOWN ON SAID UNRECORDED PLAT;  
THENCE ALONG SAID CENTERLINE, N01°10'24"W FOR 627.25 FEET TO THE NORTH LINE OF THE SAID SOUTH ONE-HALF (S.1/2) OF TRACTS 27 AND 28;  
THENCE ALONG SAID NORTH LINE, N89°15'28"E FOR 668.00 FEET TO THE EAST LINE OF SAID TRACT 27;  
THENCE ALONG SAID EAST LINE, S01°05'12"E FOR 616.55 FEET TO THE POINT OF BEGINNING.

## BET HOLDINGS JUSTIFICATION STATEMENT

**Request(s):** Type 2 Waiver  
**Control No.:** 2020-00066  
**Application No.:** DRO-2020-00751  
**Submitted:** August 3, 2020  
**Resubmittal:**



---

Urban Planning and Design  
Landscape Architecture  
Communication Graphics

---

### APPLICATION REQUEST AND PROJECT SUMMARY:

On behalf of BET Holdings, LLC ("Applicant"), this application requests approval for a Type 2 Waiver for Minimum Legal Access Standards related to a Collocated Wholesale Nursery/Landscape Services use in AR/RSA zoning district as described in Article 11.E.2.A-2.

### SITE LOCATION & DESCRIPTION:

#### Location

This site is located at 7309 Park Lane Road which is located south of Heritage Farms Road, west of State Road 7 in unincorporated Palm Beach County under property control number 00-41-45-12-00-000-3040. The property consists of 5.19 acres.

#### Background & Purpose

As regulations for collocated Wholesale Nursery and Landscape Services were being discussed and amended over the past several years, the issue of access and compliance with Article 11 regulations was raised and ultimately determined that unless the access to these properties complied with Article 11 regulations, a Type 2 Waiver application must be processed and presented to the Board of County Commissioners for approval. These regulations only apply to this collocated use when the site is located within the AR/RSA zoning district. The ULDC was amended to include this application process.

Accordingly, it has been determined that the Landscape Service use, even when collocated with Wholesale Nursery, is a commercial use and required to have access from a Local Commercial Street per Art. 11, Table 11.E.2.A-2 – Chart of Minor Streets as well as the Engineering Design Standard Drawing (No. 100.7A) for a 80' Non-Plan Collector Street. In general, the requirements of this street include the following:

- minimum right of way width of 80 feet
- minimum pavement width of 24 feet
- Wearing surface with specified courses of materials per Table 100.9 of the Engineering Design Standards
- compacted 2' paved shoulders
- 5' wide sidewalk
- Grass swale area

**West Palm Beach Office:** 610 Clematis Street Suite CU-02 West Palm Beach, FL 33401 P. 561-366-1100  
**Boynton Beach Office:** 508 E. Boynton Beach Blvd. Boynton Beach, FL 33435 P. 561-736-8838  
www.udsfloida.com LCC000035



The purpose and intent of this waiver request is to evaluate and consider the conditions of the existing roadway relative to the typical design standards of an 80' Non-Plan Collector Street and the associated traffic generated from the collocated wholesale nursery/landscape service use.

This site is currently operating as a collocated Wholesale Nursery/Landscape Service site and is under Code Enforcement action to proceed through the required application process to establish this collocated use in accordance with the regulations that were recently adopted by the Board of County Commissioners. A Final Site Plan application was submitted on May 4, 2020 to request the necessary approval. This application is being submitted in response to a review comment from the Land Development Division as a requirement prior to the approval of the Final Site Plan application.

Site Description

As indicated, the subject site is and has been operating as a wholesale nursery with landscape service business for many years. The Final Site Plan that has been submitted will be required to comply with the recently adopted regulations which will limit the area for landscape services and more specifically the area where landscape service vehicles are parked. Accordingly, this in itself will address the impacts on the street.

The site consists of a wholesale nursery use with predominate growing area and supportive structures for an office space and storage. The site also has the allowed area for landscape services and within that area, outdoor storage which is the designation for the area to park the landscape service vehicles. As indicated in the traffic study that was submitted with the Final Site Plan application, this site generates 111 daily trips onto Park Lane. The trips from Park Lane then intersect with Heritage Farms Road and ultimately disperse onto State Road 7. Heritage Farms Road is the only means of access to Park Lane and the properties in Heritage Farms.

**TYPE 2 WAIVER - STANDARDS:**

A Type 2 Waiver must address and satisfy the three (3) standards of ULDC Art. 2.B.7.D.3 and an added standard in Article 11. The specific request of the waiver is outlined in the table below followed by a response to each of the four standards.

Type 2 Waiver Chart

<b>Construction Standard</b>	<b>Requirement</b>	<b>Provided</b>	<b>Waiver</b>
Min. ROW Width	80'	110' Ingress/Egress Easement	Complies - no waiver required
Min. Pavement Width	24'	Varies (23' – 25' adjacent to site)	Allow as existing
Shoulders	2' compacted	None	Allow as existing
Sidewalk	5'	None	Allow as existing
Swale	15'	Varies	Allow as existing
Wearing Surface	Materials per Table 100.9	Varies	Allow as existing

Standards - Type 2 Waiver

1. **The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay;**

**RESPONSE:** This property has been operating as a wholesale nursery with landscape service use for many years and is under review of a Final Site Plan application to bring the site into compliance with regulations recently adopted by the Board of County Commissioners. The purpose and intent of the new regulations is to control the use of landscape services when collocated with wholesale nursery. The review of the Final Site Plan will require compliance with other requirements of the ULDC zoning, overlay and related development regulations. This waiver is being requested in response to a review comment from the Land Development Division as part of the Final Site Plan. With the granting of this waiver and approval of the Final Site Plan, all applicable requirements of the ULDC will have been determined to be met for this property.

It should also be noted that should the waiver NOT be granted, the alternative is for the applicant to construct a local commercial roadway through an established rural area which contradicts the intent of the zoning district, established for a mix of agricultural residential uses. The collocated use has been determined to be allowed by the ULDC with controls and limitations of the landscape service component by the regulations. These regulations will control the volume of traffic which has been the concern throughout the regulation amendment process. It would be more in conflict with the intent of the zoning district to require the construction of the roadway improvements required for a local commercial roadway.

2. **The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and,**

**RESPONSE:** This waiver pertains to offsite street requirements and will compliment and support the collocated wholesale nursery and landscape service use which is under review through the Final Site Plan process rather than cause a detrimental effect on the design of the project. To grant the waiver and allow the road to remain in its rural condition is more in harmony with the area than to require the improvements of the Local Commercial street.

3. **The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties.**

**RESPONSE:** This waiver is unique in that it is required due to the landscape service use, even when collocated with a wholesale nursery and controlled by area through the new regulations, is considered a commercial use and therefore requires access to a local commercial street. Considering this area is zoned as Agricultural Residential

(AR), it contains both agricultural uses such as wholesale nurseries and commercial equestrian stables as well as residential properties. There are also governmental owned parcels that are designated for wildlife refuges and open space. Considering this, the intent does not seem to be the need to construct a Local Commercial street, but to evaluate the current conditions and determine if the existing nursery and landscape service uses is controlled in accordance with the recently adopted regulations and that the existing roadway condition is sufficient to provide safe and adequate access to the property. Based on this site having to comply with the controlled area for landscape services use, this site is considered to have 111 daily trips which will be the same, if not less, than the historic traffic volume from this property. These daily trips are considered acceptable by the Traffic Division as determined through the review of the traffic study and Final Site Plan. Accordingly, granting this waiver has no adverse impact on adjacent properties.

**4. The Waiver shall not be injurious to the area involved or otherwise detrimental to the public welfare.**

**RESPONSE:** Access to this property is from Park Lane which is considered to be a street open to the public but within a private ingress and egress easement, owned and the maintenance responsibility of each property owner. Given this circumstance, the condition of the street varies greatly from the subject site to Heritage Farms which has already been determined as a Non-Plan Collector. Various property owners through the years have made improvement to the roadway which was historically a dirt surface but now has sections of the roadway have been improved with asphalt and millings to create a better driving surface. A consistent surface would be ideal but is difficult to manage and justify considering that there are several property owners with various interests who abut and own the roadway. The roadway in its current condition has provided access to all the owners and businesses within Heritage Farms for years and a result of the amended regulations, there have been landscape service businesses who have left the Heritage Farms area and therefore there is or will be less volume of traffic from this site and from the other collocated wholesale nursery/landscape service businesses in Heritage Farms. The roadway in its current state serves the uses in the area and waiving the requirements for a local commercial street through this agricultural residential area will maintain the rural character and not be detrimental to the public welfare.

**CONCLUSION**

The information above provides the details of a Type 2 Waiver request to allow the existing road to continue to provide this area with adequate access and not require the construction of all improvements of a local commercial roadway for access to this property with collocated wholesale nursery/landscape service use.

On behalf of the Applicant, we respectfully request the staff review of this Type 2 Waiver request and support to be presented to the Board of County Commissioners. Should you have any questions regarding this application, please contact Christi Tuttle at Urban Design Studio (Boynton Beach), 561-736-8838.