

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

**Application No.:** PDD/CA-2020-02083  
**Application Name:** Legent Delray Beach MUPD  
**Control No./Name:** 2015-00118 (Legent Delray Beach MUPD)  
FKA Delray Growers  
**Applicant:** Delray Growers Inc.  
Medical Facilities Holdings, LLC & Delray Growers  
**Owners:** Delray Growers, Inc.  
**Agent:** Urban Design Studio - Bradley Miller & Tyler Woolsey  
**Telephone No.:** (561) 366-1100  
**Project Manager:** Ryan Vandenburg, Senior Site Planner

**TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the General Commercial (CG) and Agricultural Reserve (AGR) Zoning District to the Multiple Use Planned Development MUPD) District. **TITLE:** a Class A Conditional Use **REQUEST:** to allow a Hospital.

**APPLICATION SUMMARY:** Proposed is an Official Zoning Map Amendment and a Class A Conditional Use for the Legent Delray Beach MUPD development. The site currently is utilized for agricultural purposes.

The Applicant is proposing to rezone the site to MUPD to allow for the development of a Hospital and Medical Office within two, 2-story buildings. The Preliminary Site Plan (PSP) indicates both Building A and B will be 60,000 square feet (sq. ft.), for a total of 120,000 sq. ft., with 353 parking spaces proposed for the overall development. The PSP also indicates a total of 0.56-acres of Usable Open Space.

One access is proposed to Atlantic Avenue, as well as two proposed accesses to Smith Sundry Road.

**SITE DATA:**

Location:	Northeast corner of Atlantic Avenue and Smith Sundry Road.
Property Control Number(s):	00-42-46-18-01-000-1210
Existing Future Land Use Designation:	Commercial Low, with an underlying AGR (CL/AGR)
Proposed Future Land Use Designation:	No Change
Existing Zoning District:	Agricultural Reserve District (AGR) General Commercial District (CG)
Proposed Zoning District:	Multiple Use Planned Development (MUPD)
Total Acreage:	11.25 acres
Affected Acreage:	11.25 acres
Tier:	Ag Reserve
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile:	N/A
Future Annexation Area:	N/A

**RECOMMENDATION:** Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C-1 and C-2.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received one contacts from the public regarding this application. Staff received a letter from the Alliance of Delray Residential Association, Inc., dated March 17, 2021 in opposition to the project. The letter indicates that the Association is of the opinion that the proposal does meet the eight standards required to be met for a rezoning to a PDD and the Class A Conditional Use. This letter has been attached (Exhibit E).

**PROJECT HISTORY:**

In 1998, by way of Resolution 1998-0851, the Board of County Commissioners (BCC) designated the subject property, along with most other properties within what is now known as the Agricultural Reserve Tier, with an Agricultural Reserve (AGR) future land use designation and corresponding Agricultural Reserve (AGR) zoning. The CG zoning designation was retained for the +/-0.69-acre portion of the Subject Property.

On April 27, 2016, the BCC approved Ordinance No. 2016-031 amending the future land use designation for the Subject Property from Agricultural Reserve (AGR) to Commercial Low with an underlying Agricultural Reserve (CL/AGR) with conditions.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Agricultural Reserve (AGR)  
Zoning District: Traditional Marketplace Development (TMD)  
Supporting: Agriculture (Delray Marketplace, Control No. 2004-00616)

**SOUTH (across Atlantic Ave.):**

FLU Designation: Agricultural Reserve (AGR)  
Zoning District: Agricultural Reserve District (AGR)  
Supporting: Agriculture (Control Name and No. N/A)

**EAST:**

FLU Designation: Agricultural Reserve (AGR)  
Zoning District: Agricultural Reserve District (AGR)  
Supporting: Vacant (approved Kennel and Verternarian Clinic) (Palm Beach Farms Plat 1, Control No. 2013-00315)

**WEST (across Smith Sundy Road):**

FLU Designation: Industrial, with an underlying AGR (IND/AGR)  
Zoning District: Light Industrial District (IL)  
Supporting: Industrial (Helena Chemical, Control No. 1982-00136)

FLU Designation: Agricultural Reserve (AGR)  
Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)  
Supporting: Residential (Tivoli Isles AGR-PUD, Control No. 2004-00206)

**FINDINGS:**

Conditional Uses and Official Zoning Map Amendment to a PDD: When considering a Development Order application for a Rezoning to a PDD and a Conditional Use, 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 or a Rezoning to PDD 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.*

**PLANNING COMMENTS:**

- o *Prior Land Use Amendments:* The site has been the subject of a previous Large Scale Land Use amendment known as Delray Growers (LGA 2016-018; Ord. 2016-031), which amended the land use from AGR to CL/AGR with the following conditions:
  - 1. Development on the site under the Commercial Low future land use designation is limited to a maximum of 91,100 sq. ft. of commercial retail uses, or other uses which do not exceed the equivalent traffic generating trips.

2. The proposed amendment is subject to the County Initiated Commercial text amendments to the Comprehensive Plan adopted concurrently.

The request for 90,000 sq. ft. of hospital uses and 30,000 sq. ft. of Medical Offices produces a traffic trip equivalency of 2,044 trips, which is less than the 3,317 trips associated with 91,000 sq. ft. of Commercial uses. Therefore, the request is generally consistent with the condition. The amendment condition will be carried forward in the Zoning process as it was approved by the BCC.

- *Relevant Comprehensive Plan Policies:* The request is subject to the FLUE Policy 1.5.1-q Agricultural Reserve Commercial and Mixed Use Developments (AGR MUPD) including the AGR Design Elements. The Subject Property consists of 11.25 acres and, therefore, is not required to provide preserve area.

FLUE Policy 1.5.1-r. contains the design requirements as follows:

1. A minimum of 5% usable open space as defined by the Introduction and Administration Element, prominently located within the project to act as a community gathering place;
2. Landscaped, pervious surfaces that incorporate native landscape species in the site design, with an emphasis along roadway frontages, at entry features, and the provision of exceptional landscape buffers to ensure compatibility with adjacent residential or agricultural properties;
3. Interconnected, well landscaped pedestrian systems that link buildings with useable open space, sidewalks and other trail systems, to promote pedestrian circulation and encourage pedestrians to walk between uses;
4. Building placement designed to foster pedestrian connectivity with surrounding parcels;
5. Compatible building heights consistent with the character of the community; and
6. Public amenities such as sidewalks, lighting, seating, signage, gathering space, water features, landscaping, public art, and provisions for outdoor dining and merchant display

The subject request provides each of these criteria through s follows: a 0.56 acres of Usable Open Space in the form of a plaza adjacent to the water management tract; native landscape species; an expanded 30’ landscape buffer with a meandering pathway along Atlantic Avenue; a pedestrian sidewalk system enhanced by a paved, canopied plaza connecting the two proposed structures and additional usable open space, all of which are detailed on Regulating Plan FRP-1.

- *Intensity:* Per condition 1 in Ordinance 2016-031, uses under the Commercial Low Future Land Use designation are limited to a maximum of 91,100 sq. ft. of commercial retail or equivalent traffic generating uses. The request for 90,000 sq. ft. of hospital uses and 30,000 sq. ft. of Medical Offices produces a traffic trip equivalency of 2,044 trips, which is less than the 3,317 trips associated with 91,000 sq. ft. of Commercial uses. Therefore, the request is generally consistent with the condition.

Additionally, a Planning Division Letter of Determination, dated October 5, 2020, states that a hospital use is listed as an Institutional use, and therefore qualifies for a 0.35 FAR while the medical office use is listed as a Commercial use, which is permitted a maximum FAR of 0.20 in the Ag Reserve Tier. The table below was provided within the letter of determination and confirms that the proposed 60,000 sq. ft. of hospital and 60,000 sq. ft. of medical office uses are in accordance with the permitted FAR for each use.

Uses Proposed	Square Feet	FAR	Acres for Calculation
Commercial Retail, Office and/or Medical Office	63,724	0.20	7.31
Hospital	60,000	0.35	3.94
Total	123,724		11.25

- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The site is not located within any neighborhood plans, overlays or plan study areas as identified in the Comprehensive Plan.

**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.*

- *Property Development Regulations (PDR):* Per Table 3.E.3.D, MUPD Property Development Regulations, the subject site is required to outline on the PSP how the proposed development will meet minimum PDRs. The proposal is for a Hospital and Medical Office uses, within the two proposed buildings (120,000 sq. ft. total). The proposed development meets and exceeds all minimum PDRs, as outlined on the PDR chart on the PSP, as shown on Figure 4.
- *Design Objectives and Performance Standards:* As the subject site is rezoning to MUPD, the project is required to meet the Design Objectives and Performance Standards for a Planned Development District (per Art. 3.E.1.C) and Multiple Use Planned Development (per Art. 3.E.3.B). The Applicant has provided the necessary design features which includes: a continuous pedestrian system throughout the development connecting parking areas to the building; preservation of existing vegetation to the greatest extent possible (See Tree Disposition Plan, Figure 6); screening of objectionable features and minimizing visual impacts through Code required perimeter buffers; and, decorative paving to meet the intent of this section of the Code.
- *Architectural Review:* The Applicant has requested to obtain architectural review approval at time of application for Building Permits for the proposed structure. No Architectural elevations have been provided at this time.
- *Parking:* The PSP indicates a total of 352 parking spaces, which meets the minimum parking requirements for both a Hospital and Medical Office use per Table 6.B.1.B – Minimum Parking and Loading Requirements.
- *Landscape/Buffering:* The proposed development is providing the required perimeter landscape buffers as required by Art. 7, Landscaping. Along Atlantic Ave. (126 ft. Ultimate R-O-W), the PSP indicates a 20 ft. R-O-W buffer that is required per Table 7.C.2.A – Width of R-O-W Buffer. Further, along Smith Sundry Road (80 ft. R-O-W), the PSP indicates a 15 ft. R-O-W buffer. Both R-O-W buffers will be required to be planted as per Table 7.C.2.A – R-O-W Buffer Landscape Requirements. Along the north and east property line, the Applicant is providing an 8 ft. Compatibility Buffer, as the uses and zoning adjacent to the subject site are compatible with the proposed development. In addition, the application is required to provide one tree and three shrubs for each 1500 sq. ft. of vehicular use area.
- *Signs:* A Preliminary Master Sign Plan (PMSP) was submitted and reviewed for compliance with Art. 8, Signage requirements. As can be seen in Figure 8, the Applicant is proposing three freestanding signs, with two being proposed along Atlantic Ave. and one proposed on Smith Sundry Road. All freestanding signs meet the maximum height, sign area, and setback requirements. Further, the Applicant is providing wall signage for both structures, which also meets the size and location requirements for wall signage per Art. 8.
- 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 proposed rezoning and Class A Conditional Use for the Hospital is compatible with surrounding land uses. To the north of the subject site is a preserve parcel for the Delray Marketplace TMD (located at the northwest corner of Lyons Road and Atlantic Ave.). This preserve parcel is used for agricultural purposes. The agricultural use is deemed to be compatible with the proposed hospital use and as such the PSP indicates a 8 ft. Compatibility buffer, which is consistent with Art. 7, Landscaping Requirements. To the south, across Atlantic Ave. (126 ft. R-O-W) is another property that is zoned and designated as Agricultural, and is utilized for row crops. As the subject site is located on Atlantic Ave., a 20 ft. R-O-W buffer is provided along the south property line.

To the east of the subject site is an approved by unconstructed kennel and veterinarian clinic (Control No. 2013-00315). The proposed Hospital and Medical Office is deemed to be a compatible use with the approved development, and an 8 ft. Comatibility buffer is provided along the east perimeter. To the west, across Smith Sundry Road, are two existing developments. At the northwest corner of Smith Sundry and Atlantic is an existing self storage facility. To the north of this is the Tivoli Isles residential development. This residential community is buffered from Smith Sundry Road by an existing wall as

well as a 50 ft. landscape buffer. The subject site will be providing a 15 ft. R-O-W buffer along the west perimeter adjacent to the roadway. As such, based on the above the proposed use will be compatible with surrounding uses and meets this standard.

- 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.*

The proposed development will minimize adverse impacts on neighboring development. The Applicant is providing the required perimeter landscape buffers around the subject site as indicated in Standard B., Consistency with the Code. This includes a 20 ft. R-O-W buffer along Atlantic Ave., a 15 ft. R-O-W buffer along Smith Sundry Road, and 8 ft. Compatibility buffers along the north and east property lines, as the proposed use is compatible with those adjacent properties. The existing residential homes that are adjacent to the subject site are located within the Tivoli Isles development, to the west of the subject site. The existing homes across Smith Sundry Road are already buffered by an existing wall and 50 ft. wide landscape buffer. As such, the proposed development will have no visual adverse impacts on surrounding uses.

- 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.*

**ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:**

**VEGETATION PROTECTION:** The site is an existing nursery. Native trees shall be relocated or mitigated on the site in accordance with the approved Tree Disposition Plan.

**WELLFIELD PROTECTION ZONE:** The property is not located within a 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 Water and Irrigation Conservation Ordinance No. 93 3. 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 rezoning to MUPD and Class A Conditional Use is consistent with the development pattern of the area. There are existing industrial, commercial and institutional uses along Atlantic Ave. to the west of the proposed development (see image below of Zoning along Atlantic Ave). This includes a US Postal facility, Our Lady Queen of Peace, nurseries, and agricultural support facilities, as well as several commercial and industrial business. In addition, recent rezoning (Young Property North and South) have rezoned the properties at the north-east and south-east corner of US 441 and Atlantic Ave. to Light Industrial. To the east of the subject site, as identified in Surrounding Land Uses, is an approved commercial boarding kennel and veterinarian clinic. At the northwest corner of Lyons Road and Atlantic Ave. is the Delray Marketplace Development, which includes mix of residential, commercial and institutional uses.

Based on the aforementioned, the proposed development will result in an orderly and logical pattern that is consistent with the existing established development patterns 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 hospital and medical office project is expected to generate 1338 net daily trips, 110 net AM peak hour trips, and 125 net PM peak hour trips. The build out of the project is expected to happen by 2025.

Then links of Atlantic Ave from SR-7 to Lyons Rd and from Turnpike to Hagen Ranch Rd, as well as the link of Lyons Rd from Boynton Beach Blvd to Atlantic Ave have background failures. The improvements required to correct the failures will also accommodate the traffic from the project. Both the Atlantic Ave segment from SR-7 to Lyons Rd and the Lyons Rd from Boynton Beach Blvd to Atlantic Ave are scheduled for widening by the FDOT and PBC respectively. Also, the intersections of SR-7 and Lyons Rd with Atlantic Ave have existing failures and need improvement, which in turn will also accommodate traffic from the project. No roadway improvements by the Property Owner will be required to be done to meet TPS.

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

Segment: Atlantic Ave from SR-7 to Lyons Rd

Existing count: Eastbound=753, Westbound=784

Background growth: Eastbound=236, Westbound=225

Project Trips: Eastbound=60, Westbound=27

Total Traffic: Eastbound=1049, Westbound=1036

Present laneage: 1 in each direction

Assured laneage: 2 in each direction

LOS “D” capacity: 880/1960 per direction (existing/assured)

Projected level of service: Worse than LOS D (existing lanes), but better than LOS D with assured lanes in both directions.

The Property Owner shall dedicate ROW to be consistent with the PBC Thoroughfare Identification Map, take in the storm drainage runoff from Smith Sunday Road and plat the property prior to the issuance of the building permit.

**PALM BEACH COUNTY HEALTH DEPARTMENT:**

This project meets the requirements of the Florida Department of Health

**FIRE PROTECTION:**

Staff has reviewed this application and have no comment.

**SCHOOL IMPACTS:**

Staff has reviewed this application and have no comment.

**PARKS AND RECREATION:**

This is a nonresidential project, therefore Park and Recreation Department ULDC standards do not apply.

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

Development along Atlantic Ave. between US 441 and Lyons Road has been significantly shifting over the last number of years with new development proposed to take place. At the north-east and south-east corners of US 441 are Young Property North and South that were recently rezoned to Light Industrial (no development proposals at this time). To the east of Young Property South, on the south side of Atlantic Ave. is the West Atlantic Business Plaza (FKA Broward Rentals) that was recently approved for Warehousing and Heavy Repair and Maintenance Uses. Other properties along the Atlantic Ave. corridor, as previously discussed, are already utilized for Commercial, Industrial, and Institutional uses. As identified by the Applicant through the Justification Statement, the introduction of the Hospital and Medical Office use on the subject site will provide a service to the community to serve existing and future residents in the area. With the shift along this corridor from agricultural related uses to commercial, industrial and institutional uses, there are demonstrated changes that necessitate the amendment.

**CONCLUSION:** Staff has evaluated the standards listed under Article 2.B.7.B.2, Standards, and determined that there is a balance between the need for change and the potential impacts generated by this change. Therefore, Staff are recommending approval as per the Conditions of Approval in Exhibit C-1 and C-2.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1: Official Zoning Map Amendment

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 10, 2021. 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 or the Zoning Commission. (ONGOING: ZONING - Zoning)

#### ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner shall be restricted to the following phasing schedule:

a. No Building Permits for the site may be issued after December 31, 2025, 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 Atlantic Ave at project entrance, ii) left turn lane west approach on Atlantic Ave at Smith Sundry Road. iii) right turn lane east approach on Atlantic Ave at Smith Sundry Road iv) separate left, through, and right turn lanes or two exist lanes with adequate ROW for possible future through lane north approach on Smith Sundry Road at Atlantic Ave, as approved by the County Engineer.

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

a. Permits required from Palm Beach County and FDOT for this construction 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. 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. (BLDGPMT: MONITORING - Engineering)

4. The Property Owner shall provide to the Florida Department of Transportation (FDOT), a road right of way deed and all associated documents as required by FDOT for Atlantic Avenue, 31 feet in width on an alignment approved by the FDOT and the County Engineer as well as the 40 foot corner clip at the intersection of Atlantic Avenue and Smith Sundry Road as approved by the County Engineer.

All right of way deed(s) and associated documents shall be provided and approved prior to the issuance of the first building permit. Right of way conveyance shall be along the project's entire frontage 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. (BLDGPMPT: MONITORING - Engineering)

5. 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 Atlantic Avenue at 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. (BLDGPMPT: 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 Smith Sundry 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. (BLDGPMPT/ONGOING: MONITORING - Engineering)

7. Prior to issuance of the first building permit, the Property Owner shall provide to Palm Beach County sufficient public road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of Smith Sunday Road along the property frontage, with an assumed impervious area of 95-percent, unless otherwise approved by the County Engineer. The limits of this additional

800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20 foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient water quality, water quantity and, when necessary, compensating storage capacity within this project's system as required by all permitting agencies, as well as conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County, the applicable Drainage District, and the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. Specifically, one through lane must be open during the 25-year, 3-day storm and the elevation for the 3-year, 1-day storm event shall provide sufficient freeboard to allow for efficient roadway drainage system design. If required and approved by the County Engineer, the Property Owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach County within said easements shall become the property of Palm Beach County which at its discretion may use this fill material. The Property Owner shall not record these required easements or related documents. After final acceptance of the location, legal sketches and dedication documents, Palm Beach County shall record all appropriate deeds and documents. (BLDGPM: MONITORING - Engineering)

8. The driveway connection to Atlantic Avenue shall be restricted to a right-in/right-out driveway in a manner approved by the FDOT and County Engineer. (ONGOING: MONITORING - Engineering)

**ENVIRONMENTAL**

1. A Phase II Environmental Audit or documentation of Florida Department of Environmental Protection (FDEP) review shall be submitted to ERM prior to the Final Site Plan approval by the Development Review Officer (DRO). (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

**PLANNING**

1. Per LGA 2016-015, Ordinance 2016-031 condition 1: Development on the site under the Commercial Low future land use designation is limited to a maximum of 91,100 square feet of commercial retail uses, or other uses which do not exceed the equivalent traffic generating trips. (ONGOING: PLANNING - Planning)

2. Prior to Final Approval by the Development Review Officer (DRO), the Property Owner shall revise the Preliminary Site Plan to provide pedestrian cross access connection in conjunction with the vehicular cross access to the property to the east. (DRO: PLANNING - Planning)

3. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney's Office, submit a recorded cross access easement agreement, for the location depicted on the site plans. (DRO: PLANNING - Planning)

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

5. Construct, and pave to the property line, the cross access as shown on the final site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)

**COMPLIANCE**

1. In Granting this Approval, the Board of County Commissioners relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Board of County Commissioners for review under the Compliance Condition of this Approval. (ONGOING: 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-2: Class A Conditional Use

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated May 10, 2021. 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 or the Zoning Commission. (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

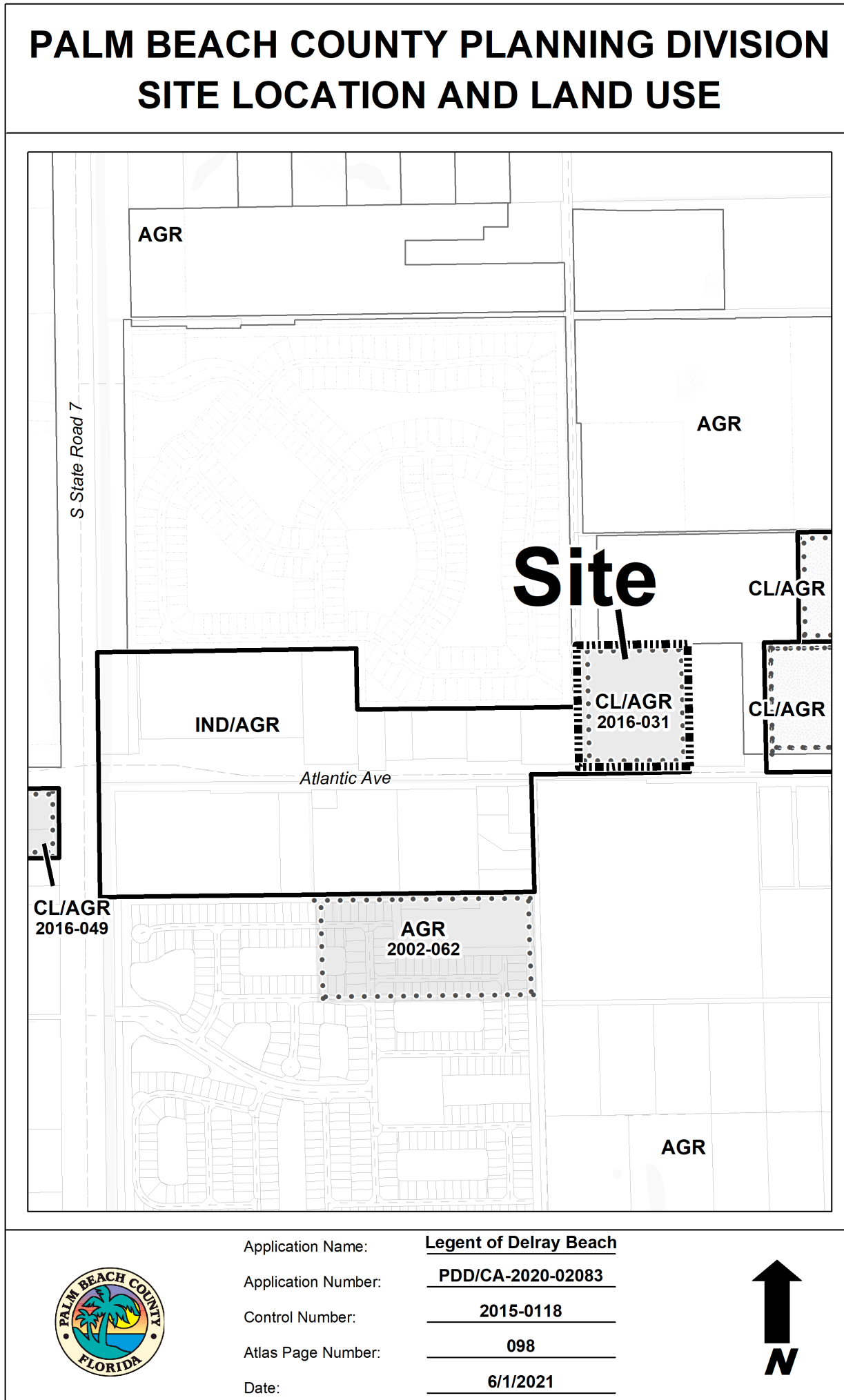


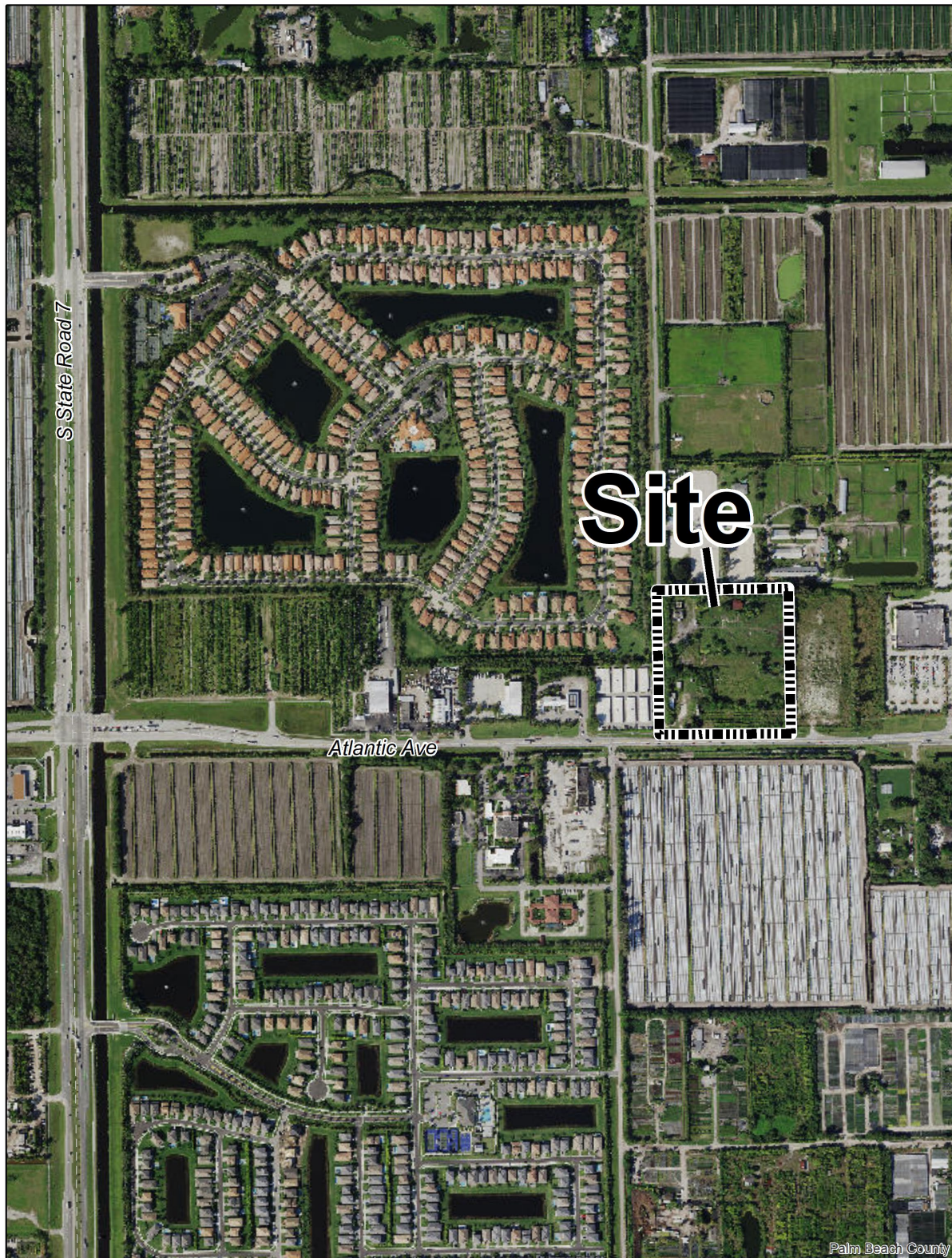
Figure 2 - Zoning Map



### Figure 3 – Aerial

# PALM BEACH COUNTY PLANNING DIVISION

## SITE LOCATION

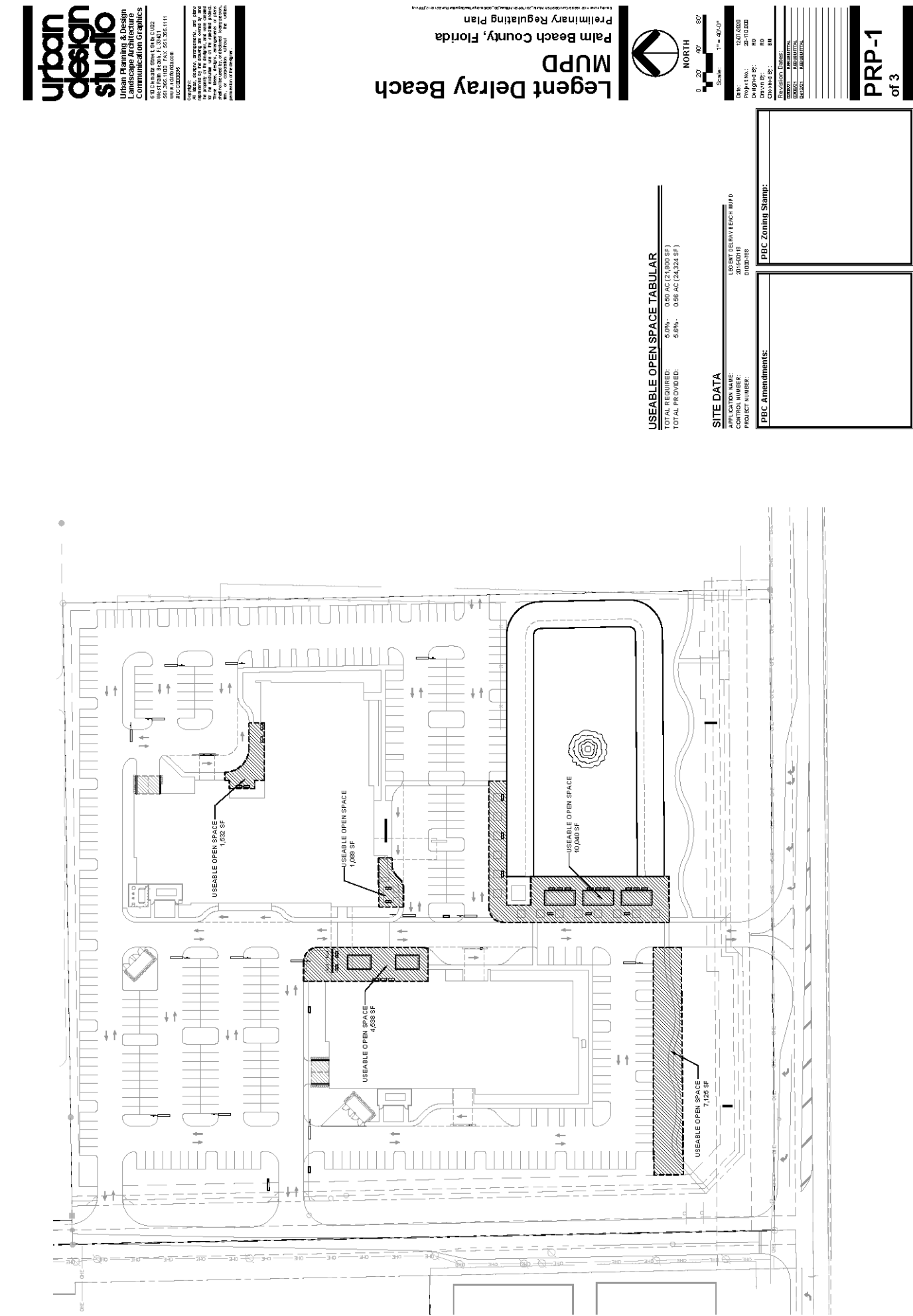


Application Name:	<u>Legent of Delray Beach</u>
Application Number:	<u>PDD/CA-2020-02083</u>
Control Number:	<u>2015-0118</u>
Atlas Page Number:	<u>098</u>
Date:	<u>6/1/2021</u>

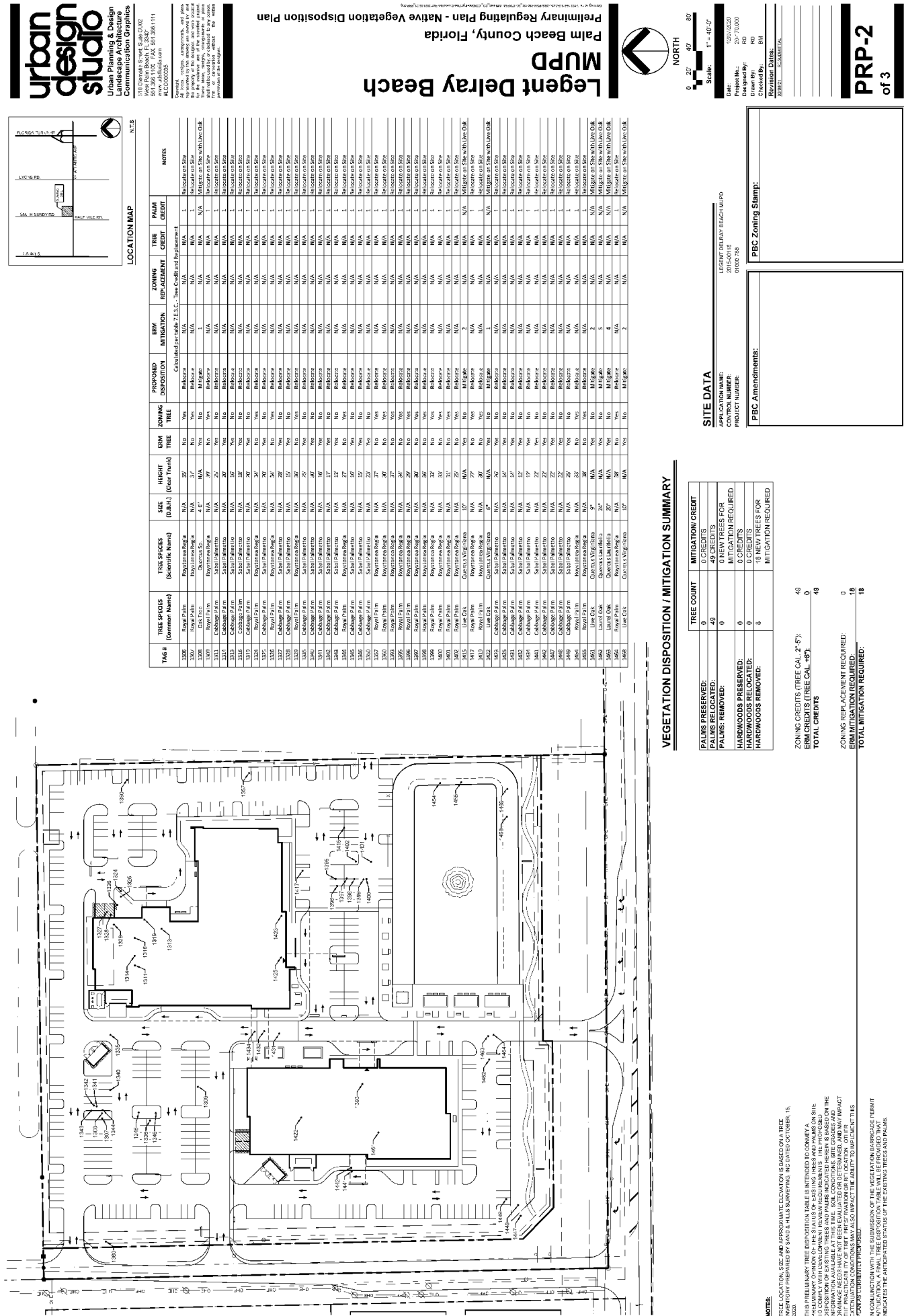




Figure 5 – Preliminary Regulating Plan (PRP-1 of 3) Dated April 12, 2021



**Figure 6 – Preliminary Regulating Plan (PRP-2 of 3), dated February 8, 2021**



Tree Protection Plan

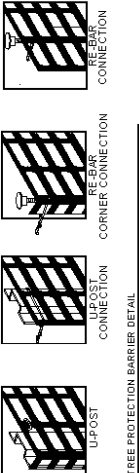
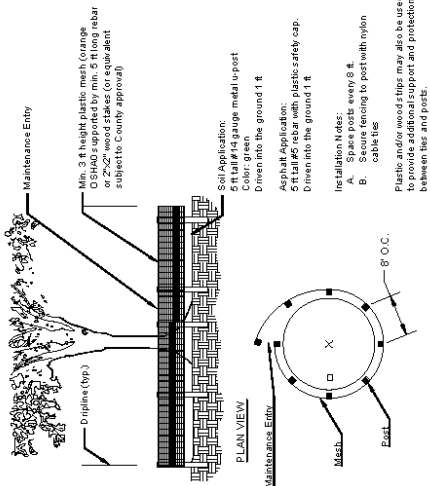
Prior to clearing any other property for development, the contractor will do the following items:

Clearly identify and tag all trees within other property along Red around the tree trunk or at a tag that is attached to the tree trunk. The numbers shown on each tag shall correspond to the number identified on the Tree Disposal Tabular and/or the Tree Survey.

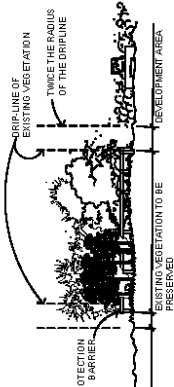
Prior to site clearing and tree removal, trees to be preserved, mitigate, relocated on-site, relocated off-site, or removed shall be identified using different color plastic ribbon or tag.

Place barricades to protect the root zones of the native vegetation to be preserved. All barricades are to remain in place until all construction activities are complete.

Trees to be preserved shall be barricaded with a minimum 3-foot high plastic mesh (orange OSHA) supported by 5-foot long rebar or 2"x2" wood stakes or equivalent as approved in conjunction with the Final Site Plan or Final Subdivision Plan.



No heavy equipment or machinery is to be used, nor any construction activities, or grade changes occur within twice the radius of the dripline of native trees which are to be preserved in place.



Protective barriers shall remain in place until they are authorized to be removed by Palm Beach County or department of a C.O.

There shall be limited development within tree preservation areas:

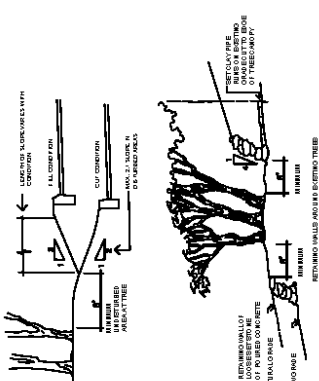
- maintained in its natural state;
- provide permeable landscape natural, i.e., grass mulch
- conform to governing landscape code.

There will be no attachment of signs, etc. to vegetation unless of a non-damaging character.

Prohibited practices are to be removed by hand ONLY in preservation areas, and any landscape applications and avoid from label instructions.

No grade changes shall be made within tree preservation areas, which require trenching or cutting of roots unless conditioned. Utility lines shall be installed to protect root systems as much as possible.

No removal of soil or fill in tree preservation areas shall occur.



No clearing shall commence until all protection devices are installed, inspected and approved by the Zoning Division and Environmental Resource Management Department.

When it is determined that a tree or palm needs to be transplanted, it is beneficial and sometimes required that the plant be root pruned. Root pruning is done to reduce the size of the root system and to prepare the plant for transportation. The time it takes for the root system to develop before transplanting will vary from tree to tree, depending on soil moisture content. An estimated wait time follows in the schedule listed below.

1. Clear the area around the tree that has been selected.

2. Determine the size of the root ball that is being prepared.

Tree Caliber	Root Ball
2-4"	36-42"
4-6"	42-48"
6-8"	48-54"
8-10"	54-60"
12-14"	60-66"
14-16"	66-72"
16-18"	72-78"
18-20"	78-84"
20-24"	84-90"
24-28"	90-96"
28-32"	96-102"
32-36"	102-108"
36-42"	108-114"
42-48"	114-120"
48-54"	120-126"
54-60"	126-132"
60-66"	132-138"
66-72"	138-144"
72-78"	144-150"
78-84"	150-156"
84-90"	156-162"
90-96"	162-168"
96-102"	168-174"
102-108"	174-180"
108-114"	180-186"
114-120"	186-192"
120-126"	192-198"
126-132"	198-204"
132-138"	204-210"
138-144"	210-216"
144-150"	216-222"
150-156"	222-228"
156-162"	228-234"
162-168"	234-240"
168-174"	240-246"
174-180"	246-252"
180-186"	252-258"
186-192"	258-264"
192-198"	264-270"
198-204"	270-276"
204-210"	276-282"
210-216"	282-288"
216-222"	288-294"
222-228"	294-300"
228-234"	300-306"
234-240"	306-312"
240-246"	312-318"
246-252"	318-324"
252-258"	324-330"
258-264"	330-336"
264-270"	336-342"
270-276"	342-348"
276-282"	348-354"
282-288"	354-360"
288-294"	360-366"
294-300"	366-372"
300-306"	372-378"
306-312"	378-384"
312-318"	384-390"
318-324"	390-396"
324-330"	396-402"
330-336"	402-408"
336-342"	408-414"
342-348"	414-420"
348-354"	420-426"
354-360"	426-432"
360-366"	432-438"
366-372"	438-444"
372-378"	444-450"
378-384"	450-456"
384-390"	456-462"
390-396"	462-468"
396-402"	468-474"
402-408"	474-480"
408-414"	480-486"
414-420"	486-492"
420-426"	492-498"
426-432"	498-504"
432-438"	504-510"
438-444"	510-516"
444-450"	516-522"
450-456"	522-528"
456-462"	528-534"
462-468"	534-540"
468-474"	540-546"
474-480"	546-552"
480-486"	552-558"
486-492"	558-564"
492-498"	564-570"
498-504"	570-576"
504-510"	576-582"
510-516"	582-588"
516-522"	588-594"
522-528"	594-600"
528-534"	600-606"
534-540"	606-612"
540-546"	612-618"
546-552"	618-624"
552-558"	624-630"
558-564"	630-636"
564-570"	636-642"
570-576"	642-648"
576-582"	648-654"
582-588"	654-660"
588-594"	660-666"
594-600"	666-672"
600-606"	672-678"
606-612"	678-684"
612-618"	684-690"
618-624"	690-696"
624-630"	696-702"
630-636"	702-708"
636-642"	708-714"
642-648"	714-720"
648-654"	720-726"
654-660"	726-732"
660-666"	732-738"
666-672"	738-744"
672-678"	744-750"
678-684"	750-756"
684-690"	756-762"
690-696"	762-768"
696-702"	768-774"
702-708"	774-780"
708-714"	780-786"
714-720"	786-792"
720-726"	792-798"
726-732"	798-804"
732-738"	804-810"
738-744"	810-816"
744-750"	816-822"
750-756"	822-828"
756-762"	828-834"
762-768"	834-840"
768-774"	840-846"
774-780"	846-852"
780-786"	852-858"
786-792"	858-864"
792-798"	864-870"
798-804"	870-876"
804-810"	876-882"
810-816"	882-888"
816-822"	888-894"
822-828"	894-900"
828-834"	900-906"
834-840"	906-912"
840-846"	912-918"
846-852"	918-924"
852-858"	924-930"
858-864"	930-936"
864-870"	936-942"
870-876"	942-948"
876-882"	948-954"
882-888"	954-960"
888-894"	960-966"
894-900"	966-972"
900-906"	972-978"
906-912"	978-984"
912-918"	984-990"
918-924"	990-996"
924-930"	996-1002"
930-936"	1002-1008"
936-942"	1008-1014"
942-948"	1014-1020"
948-954"	1020-1026"
954-960"	1026-1032"
960-966"	1032-1038"
966-972"	1038-1044"
972-978"	1044-1050"
978-984"	1050-1056"
984-990"	1056-1062"
990-996"	1062-1068"
996-1002"	1068-1074"
1002-1008"	1074-1080"
1008-1014"	1080-1086"
1014-1020"	1086-1092"
1020-1026"	1092-1098"
1026-1032"	1098-1104"
1032-1038"	1104-1110"
1038-1044"	1110-1116"
1044-1050"	1116-1122"
1050-1056"	1122-1128"
1056-1062"	1128-1134"
1062-1068"	1134-1140"
1068-1074"	1140-1146"
1074-1080"	1146-1152"
1080-1086"	1152-1158"
1086-1092"	1158-1164"
1092-1098"	1164-1170"
1098-1104"	1170-1176"
1104-1110"	1176-1182"
1110-1116"	1182-1188"
1116-1122"	1188-1194"
1122-1128"	1194-1200"
1128-1134"	1200-1206"
1134-1140"	1206-1212"
1140-1146"	1212-1218"
1146-1152"	1218-1224"
1152-1158"	1224-1230"
1158-1164"	1230-1236"
1164-1170"	1236-1242"
1170-1176"	1242-1248"
1176-1182"	1248-1254"
1182-1188"	1254-1260"
1188-1194"	1260-1266"
1194-1200"	1266-1272"
1200-1206"	1272-1278"
1206-1212"	1278-1284"
1212-1218"	1284-1290"
1218-1224"	1290-1296"
1224-1230"	1296-1302"
1230-1236"	1302-1308"
1236-1242"	1308-1314"
1242-1248"	1314-1320"
1248-1254"	1320-1326"
1254-1260"	1326-1332"
1260-1266"	1332-1338"
1266-1272"	1338-1344"
1272-1278"	1344-1350"
1278-1284"	1350-1356"
1284-1290"	1356-1362"
1290-1296"	1362-1368"
1296-1302"	1368-1374"
1302-1308"	1374-1380"
1308-1314"	1380-1386"
1314-1320"	1386-1392"
1320-1326"	1392-1398"
1326-1332"	1398-1404"
1332-1338"	1404-1410"
1338-1344"	1410-1416"
1344-1350"	1416-1422"
1350-1356"	1422-1428"
1356-1362"	1428-1434"
1362-1368"	1434-1440"
1368-1374"	1440-1446"
1374-1380"	1446-1452"
1380-1386"	1452-1458"
1386-1392"	1458-1464"
1392-1398"	1464-1470"
1398-1404"	1470-1476"
1404-1410"	1476-1482"
1410-1416"	1482-1488"
1416-1422"	1488-1494"
1422-1428"	1494-1500"
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1440-1446"	1512-1518"
1446-1452"	1518-1524"
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1470-1476"	1542-1548"
1476-1482"	1548-1554"
1482-1488"	1554-1560"
1488-1494"	1560-1566"
1494-1500"	1566-1572"
1500-1506"	1572-1578"
1506-1512"	1578-1584"
1512-1518"	1584-1590"
1518-1524"	1590-1596"
1524-1530"	1596-1602"
1530-1536"	1602-1608"
1536-1542"	1608-1614"
1542-1548"	1614-1620"
1548-1554"	1620-1626"
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1596-1602"	1668-1674"
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1716-1722"	1788-1794"
1722-1728"	1794-1800"
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1734-1740"	1806-1812"
1740-1746"	1812-1818"
1746-1752"	1818-1824"
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1770-1776"	1842-1848"
1776-1782"	1848-1854"
1782-1788"	1854-1860"
1788-1794"	1860-1866"
1794-1800"	1866-1872"
1800-1806"	1872-1878"
1806-1812"	1878-1884"
1812-1818"	1884-1890"
1818-1824"	1890-1896"
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1830-1836"	1902-1908"
1836-1842"	1908-1914"
1842-1848"	1914-1920"
1848-1854"	1920-1926"
1854-1860"	1926-1932"
1860-1866"	1932-1938"
1866-1872"	1938-1944"
1872-1878"	1944-1950"
1878-1884"	1950-1956"
1884-1890"	1956-1962"
1890-1896"	1962-1968"
1896-1902"	1968-1974"
1902-1908"	1974-1980"
1908-1914"	1980-1986"
1914-1920"	1986-1992"
1920-1926"	1992-1998"
1926-1932"	1998-2004"
1932-1938"	2004-2010"
1938-1944"	2010-2016"
1944-1950"	2016-2022"
1950-1956"	2022-2028"
1956-1962"	2028-2034"
1962-1968"	2034-2040"
1968-1974"	2040-2046"
1974-1980"	2046-2052"
1980-1986"	2052-2058"
1986-1992"	2058-2064"
1992-1998"	2064-2070"
1998-2004"	2070-2076"
2004-2010"	2076-2082"
2010-2016"	2082-2088"
2016-2022"	2088-2094"
2022-2028"	2094-2100"
2028-2034"	2100-2106"
2034-2040"	2106-2112"
2040-2046"	2112-2118"
2046-2052"	2118-2124"
2052-2058"	2124-2130"
2058-2064"	2130-2136"
2064-2070"	2136-2142"
2070-2076"	2142-2148"
2076-2082"	2148-2154"
2082-2088"	2154-2160"
2088-2094"	2160-2166"
2094-2100"	2166-2172"
2100-2106"	2172-2178"
2106-2112"	2178-2184"
2112-2118"	2184-2190"
2118-2124"	2190-2196"
2124-2130"	2196-2202"
2130-2136"	2202-2208"
2136-2142"	2208-2214"
2142-2148"	2214-2220"
2148-2154"	2220-2226"
2154-2160"	2226-2232"
2160-2166"	2232-2238"
2166-2172"	2238-2244"
2172-2178"	2244-2250"
2178-2184"	2250-2256"
2184-2190"	2256-2262"
2190-2196"	2262-



Exhibit D – Disclosure of Ownership - Applicant

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 Eric King, 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 Medical Facilities Holdings, LLC [position—e.g., president, partner, trustee] of Medical Facilities Holdings, 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: 1707 Market Place, Suite 300  
Irving, Texas 75063
- 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.

Medical Facilities Holdings, LLC  
Eric King, 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 19<sup>th</sup> day of October, 20 20 by  
Eric King (name of person acknowledging). He/she is personally  
known to me or has produced Driver's License (type of identification) as  
identification and did/did not take an oath (circle correct response).



  
(Signature)

My Commission Expires on: 5/20/24

NOTARY'S SEAL OR STAMP

**EXHIBIT "A"**

**PROPERTY**

Tracts 121 and 122, inclusive, The Palm Beach Farms Co., Plat No. 1, in Section 18, Township 46 South, Range 42 East, according to the plat thereof as recorded in Plat Book 2, Page 26, Public Records of Palm Beach County, Florida, less State Road 806 right-of-way and canal right-of-way.

Containing 11.252. acres, more or less.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

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

Name	Address	OWNERSHIP
Jordan Fowler Family Trust (Jordan Fowler, Trustee) - 1707 Market Place Blvd., Ste 300, Irving, Texas 75063		33.33% of Applicant
BE Consultants, LLC - 1707 Market Place Blvd., Ste 300, Irving, Texas 75063		66.67% of Applicant
King Family Trust - 1707 Market Place Blvd., Ste 300, Irving, Texas 75063		50% of BE Consultants
Brunton Family Trust (Ben Brunton and Elizabeth Leigh Brunton, Co-Trustees) - 1707 Market Place Blvd., Ste 300, Irving, Texas 75063		50% of BE Consultants

Exhibit D – Disclosure of Ownership – Owner

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 Melissa McKeown, 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 [ ] President *[position - e.g., president, partner, trustee]* of Delray Growers, Inc. *[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: 5120 NE 22 Ave, Lighthouse Point, FL 33064

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.

Melissa McKeown  
Melissa McKeown, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

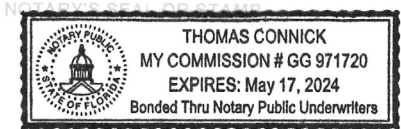
STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization, this 2 day of December, 2020 by Melissa McKeown (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

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

Thomas Connick  
(Signature)

My Commission Expires on: 5-17-2024



**EXHIBIT “A”**

**PROPERTY**

Tracts 121 and 122, inclusive, The Palm Beach Farms Co., Plat No. 1, in Section 18, Township 46 South, Range 42 East, according to the plate thereof as recorded in Plat Book 2, Page 26, Public Records of Palm Beach County, Florida, less State Road 806 right-of-way and canal right-of-way.

Containing 11.252. acres, more or less.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address
Delray Growers, Inc.	14930 Smith Sundy Rd, Delray Beach, FL 33446
is 100% owner of the property	
The owners of Delray Growers, Inc., are:	
Melissa McKeown	5120 NE 22 Ave, Lighthouse Point, FL 33064
- 50% owner	
Christopher McKeown	1528 Scandia Cir, Reston, VA 20190
- 50% owner	

Exhibit E: Alliance of Delray Residential Associations, Inc. Letter, dated March 14, 2021

## *Alliance of Delray Residential Associations, Inc.*

10290 West Atlantic Avenue #480504  
Delray Beach, FL 33448  
Phone: 561.495.4694  
www.allianceofdelray.com

- *Serving more than 100 Communities between the Everglades and the Ocean in south Palm Beach County.*
- *Working Toward Sustainable Development*
- *Applying Resilience Thinking to Our Natural Resources*



March 14, 2021

Palm Beach County Board of County Commissioners  
301 N. Olive Avenue Ste. 1201  
West Palm Beach, Florida 33401

Re: Request for Denial of Zoning & Class A Conditional Use Application for  
Legent MUPD APP PDD/CA-2020-02083

Dear Commissioners:

The Alliance of Delray strongly opposes the above referenced Legent Delray Beach MUPD application. The proposed rezoning from CG/AGR to MUPD and request for Class A Conditional Use for a hospital represents a significant departure from the current Agricultural Reserve Objective and Policies in the Comprehensive Plan that were reaffirmed by the Board of County Commissioners in 2016. Further, the application does not comply with the ULDC for the Agricultural Reserve and fails to meet the standards required in ULDC Article 2.B.7.B.2.

**a. Consistency with the Plan: *This project is not consistent with the Comprehensive Plan.***

*"The Master Plan, and subsequently adopted policies in the Plan, specifically limit commercial development to uses which serve the needs of the farm worker community, existing and future residents in order to discourage commercial in the Tier from exceeding local demand, thereby drawing customers from outside the Tier".*

**The proposed micro hospital with specialty elective procedures will have a regional draw that far exceeds the local demand of the farm worker community, existing and future residents.**

*"All commercial and mixed use Planned Developments are intended to provide one or more uses in a manner that is compatible with the scale and character of the surrounding residential uses and designed to promote a sense of place. The commercial and mixed use Planned Developments provide uses that can include shopping, entertainment, business, services, employment, cultural, civic, schools, places of worship, government services, and/or housing opportunities in a manner that increases a sense of community by creating a stronger pedestrian orientation through design, placement and organization of buildings connected to a common public space, while dispersing parking and respecting and maintaining the character of the surrounding area. The commercial and mixed use Planned Developments are intended to provide neighborhood and community serving scaled uses. Regional and large-scale big-box uses are not permitted"*

**The proposed project does not increase a sense of community or strong pedestrian orientation nor does it provide neighborhood and community serving scaled uses. This is a big-box large-scale medical facility which would not promote a sense of place.**

**b. Consistency with the Code: *This project is in conflict with the purpose and intent of the Code.***

*"The project must demonstrate that it exceeds minimum requirements in the ULDC and in the event of a conflict between the project's development standards or design guidelines and the existing ULDC requirements, the more restrictive requirement shall prevail."*

**The existing commercial site is limited to a .10 FAR. With the zoning change to MUPD, a .20 FAR would be allowed. The applicant is attempting to develop a project containing a .35 FAR thereby exceeding the ULDC guidelines.**

**c. Compatibility with Surrounding Uses: *The proposed use is not compatible with the uses and character of the Agricultural Reserve Tier.***

The relative proximity of the proposed hospital to the Bethesda West Hospital which exists in the same Agricultural Tier will not allow both institutions to co-exist in a stable fashion over time. The proposed hospital project would directly or indirectly negatively impact the existing hospital. Further, the needs of the farm workers and residents and future residents are already met with a saturation of new medical emergency clinics along the Atlantic Avenue and Boynton Beach Boulevard corridors and the Mission Medical Center in Our Lady Queen of Peace and Caridad Center.

The proposed change in zoning would not further the Goals, Objectives, and Policies of the Plan.

**d. Design Minimizes Adverse Impact: *The design is in contravention to established criteria in the Agricultural Reserve Tier.***

*“Commercial and mixed uses in the Agricultural Tier shall be located central to the Tier and designed at a neighborhood or community scale in order to be limited to serving the needs of the farm worker community, existing residents, and future residents of the Tier.”*

The urban/suburban design and form of the proposed use is not at a neighborhood or community scale and will have an adverse effect on the community lifestyle in the Agricultural Reserve Tier. The visual impact and intensity of the proposed project is in contravention to the Objective to *“limiting uses to agriculture and conservation with residential development restricted to low densities and non-residential development limited to uses serving the needs of farmworkers and residents of the Tier.”*

**e. Design Minimizes Environmental Impact: *This project design would negatively impact the environment.***

The Subject Property did not require preserve land and currently has an approved square footage of 86,744 square feet without preserving or enhancing agriculture and adding to the carbon footprint in the Agricultural Reserve.

The proposed rezoning and development would increase the intensity by 28 % to 120,000 square feet of space thereby stressing the natural resources and sensitive environment of the Agricultural Reserve without giving back to the tier with preserve land.

**f. Development Patterns: *The application does not present a logical, orderly, or timely development pattern.***

The development patterns of the Atlantic Avenue corridor include the Delray Marketplace and a mix of residential, neighborhood commercial including restaurants. The industrial land is beginning to be developed with services that benefit the local residents including repair shops and storage. Several gas stations, dental and urgent care centers. There is already a hospital serving the Agricultural Reserve minutes away on Boynton Beach Blvd. and 441. Further, the Delray Medical Center, a Trauma 1 hospital, is also minutes away and is well equipped to address all surgical, especially orthopedic, needs.

The proposed rezoning and Class A Conditional Use applications are illogical and not timely; the applicant is too late to propose a hospital in an area already abundantly served by the medical and surgical facilities existing in the Agricultural Reserve and Urban Suburban Tiers.

**g. Adequate Public Facilities: *The application does not meet the criteria for adequate public facilities.***

The delay in widening of Atlantic Avenue from Lyons Road to State Road 7/441 is of great concern to the residents of the Agricultural Reserve and further justifies a denial of rezoning for more commercial intensity at this time. Further, the existing CRALLS at the Turnpike and Atlantic Avenue and the delay in widening of the Avenue from east of Lyons to Jog Road until the end of the decade are overwhelming motorists. The rezoning is inappropriate at this time.

**h. Changed Conditions or Circumstances: *There are no changed site conditions or circumstances that could justify a zoning change.***

*“Subsequent to the completion of the Master Plan (dated October 2000), the Tier has largely been developed as anticipated and the home of 25,000 residents. Most recently, the Agricultural Reserve was the subject of a year-long “Roundtable” process directed by the Board of County Commissioners (BCC) to consider changes to policies in the Tier.”*

Staff states that the Tier has largely been developed as anticipated and a few policy changes were made. The subject site benefitted from the changes following the “Roundtable” process to obtain a Commercial designation on the entire 11.15 acre parcel with an approved square footage of 86,744. Raising the FAR above which would be allowed in an MUPD and square footage to 120,000 is a vast departure from the policies of the Tier and should not be considered.

The applicant has not provided an adequate justification for a rezoning to MUPD to allow a hospital with a .35 FAR greater than is allowed in an MUPD in the Agricultural Reserve. Nor has the applicant demonstrated that the current zoning is inappropriate.  
Please deny this application.  
Thank you.

Sincerely,

*Bob Schulbaum*  
Bob Schulbaum, President

Recipients: Mayor D. Kerner, Vice Mayor R. Weinroth, Commissioners M. Sachs, M. McKinlay, M. Bernard, G. Weiss, & M. Marino, PBC Admin. V. Baker, Assistant Administrator P. Rutter, PZB Exec. Dir. Bulkeley, Deputy PZB Director W. Carroll, Zoning Dir. J. MacGillis

OFFICERS AND DIRECTORS OF THE ALLIANCE:  
Robert Schulbaum, *President*  
Lori Vinikoor, *Executive Vice President*  
Norma Arnold, *Vice President*    Allen Hamlin, *Vice President*  
Arnold Katz, *Vice President*    Ken Markowitz, *Vice President*  
Evelyn Spielholz, *Secretary*    Deborah Borenstein, *Treasurer*  
*Directors:* Rob Cuskaden Paul Finkelstein Carol Klausner Phyllis Levine Susan Zuckerman  
*Assistants to the President:* Rose DeSanto John Gentithes Rhoda Greifer Joel Vinikoor  
*Legal Counsel:* Joshua Gerstin