

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

ZONING COMMISSION STANDALONE VARIANCE STAFF REPORT

Application No.:	SV-2021-00482
Application Name:	Atlantic Avenue Medical
Control No./Name:	2020-00178 / 2020-00178
Applicant(s):	TG Land LLC
Owner(s):	TG Land LLC
Agent(s):	JMorton Planning & Landscape Architecture - Lauren McClellan
Telephone No.:	(561) 721-4463
Project Manager:	Joanne Keller, Director, Land Development

TITLE: a Subdivision Variance REQUEST: to allow access from a major street.

APPLICATION SUMMARY: Petition of JMorton Planning & Landscape Architecture on behalf of TG Land LLC, requesting variance from the requirement that no access from individually subdivided lots shall be permitted directly to a major street.

SITE DATA:

Location:	On the north side of Atlantic Avenue, ¼ mile west of Lyons Road
Property Control Number(s)	00-42-46-18-09-003-0000
Existing Land Use Designation:	Agricultural Reserve (AGR) Commercial Low, with an underlying AGR (CL/AGR)
Proposed Land Use Designation:	Agricultural Reserve (AGR) Commercial Low, with an underlying AGR (CL/AGR)
Existing Zoning District:	Traditional Marketplace Development (TMD)
Acreage:	2.05 acres
Tier:	AG Reserve

STAFF RECOMMENDATION: Staff recommends approval of the request, subject to the Conditions of Approval as indicated in Exhibit C.

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

PROJECT HISTORY:

This site was originally designated as a preserve parcel for the Delray Marketplace TMD which was developed as one of the two AGR-TMDs within the Agricultural Reserve. The Agricultural Reserve was established in 1995 and the Agricultural Reserve Master Plan was adopted in 2000.

Application No.	Request	Resolution	Approval Date
74-061	Special Exception to allow a Commercial Stable for the maintenance of training of horses, including grooms housing	R-1974-344	April 25, 1974
LGA-2005-006	Large Scale FLUA Amendment to change Future Land Use from AGR and SA to CL/AGR	Ord No. 2005-040	August 25, 2005
TDD/R/W-2004-1029	Rezoning from AGR and CG to AGR-TMD	R-2005-1626	August 25, 2005
TDD/R/W-2004-1029	Requested use for indoor entertainment and tenants above 25,000 SF	R-2005-1627	August 25, 2005
TDD/R/W-2004-1029	Waiver from AGR-TMD requirement that a main street crosses through the entire length of the TMD	R-2005-1628	August 25, 2005

ABN-2006-0088	Revoke the Special Exception to allow a Commercial Stable	R-2006-0924	May 25, 2006
LGA-2006-009	Large Scale FLUA Amendment to change Future Land Use from AGR to CL/AGR	Ord No. 2006-034	August 21, 2006
TDD/DOA/ZV/R-2006-1190	Type II Variance to allow an increase in building height and reduce the required amount of arcaded sidewalk	ZR-2007-005	January 5, 2007
TDD/DOA/ZV/R-2006-1190	Rezoning from CG to AGR-TMD	R-2007-082	January 25, 2007
TDD/DOA/ZV/R-2006-1190	DOA to add land area, reconfigure the Master Plan and modify conditions	R-2007-083	January 25, 2007
TDD/DOA/ZV/R-2006-1190	Requested use for a Type I Restaurant	R-2007-084	January 25, 2007
DOA-2007-0996	DOA to modify conditions of approval and add a temporary access point	R-2008-112	January 26, 2008
TDD/DOA-2007-1606	DOA to add land area	R-2008-267	February 28, 2008
ZV/DOA/R-2008-0288	Type II Variance to increase building height and increase building frontage	ZR-2008-042	June 5, 2008
ZV/DOA/R-2008-0288	DOA to reconfigure the site plan and modify conditions of approval	R-2008-1136	June 30, 2008
ZV/DOA/R-2008-0288	Requested use approval for a tenant above 25,000 SF	R-2008-1137	June 30, 2008
ZV/W/DOA-2008-1900	Type II Variance to reduce the percentage of transparency of building façade	ZR-2009-036	January 1, 2009
TDD/DOA-2008-1912	DOA to add land area	R-2009-0709	April 23, 2009
ZV/W/DOA-2008-1900	Waiver from structured parking requirement to allow an increase in surface parking	R-2010-0446	March 3, 2010
ZV/W/DOA-2008-1900	DOA to reconfigure the site plan, reduce the number of dwelling units and commercial SF, restart commencement clock and modify conditions of approval	R-2010-0447	March 3, 2010
ZV/DOA/W-2011-0419	Type II Variance to allow alternative street sections, eliminate free standing structure limitation, increase frontage for a single tenant, allow streets w/o on-street parking allow a reduction in the number of queuing spaces and allow an increase in height	ZR-2011-015	July 7, 2011
ZV/DOA/W-2011-0419	DOA to reconfigure the site plan, reduce SF and modify conditions of approval	R-2011-1110	July 28, 2011
ZV/DOA/W-2011-0419	Waiver to allow reduction in the length of main street and block length	R-2011-1111	July 28, 2011
ZV-2011-2632	Type II Variance to allow an increase in distance from development entrances to signs	ZR-2012-002	February 3, 2012
ZV-2011-2632	Type II Variance to allow internally illuminated signage	ZR-2012-008	February 3, 2012
ZV-2012-1582	Type II Variance to allow reduction in building transparency	ZR-2012-025	August 2, 2012
ZV-2012-2098	Type II Variance to allow an increase in wall signage	ZR-2012-028	October 4, 2012
ZV-2012-3120	Type II Variance to allow an increase in sign projection from building façade and allow directional signage within the perimeter of the TMD	ZR-2013-001	January 4, 2013
SP-2013-2069	Special Permit to allow Valet Parking	Special Permit #2013-2069	Sept 9, 2013

ZV/W/TDD/DOA-2013-2609	Type II Waiver for structured parking	R-2014-565	April 24, 2014
ZV/W/TDD/DOA-2013-2609	Rezoning from AGR to AGR-TMD	R-2014-566	April 24, 2014
ZV/W/TDD/DOA-2013-2609	DOA to add land area and reconfigure the Master Plan	R-2014-567	April 24, 2014

SURROUNDING LAND USES:

NORTH:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve – Traditional Marketplace Development (AGR-TMD)
Supporting: Delray Market Place TMD (Control No. 2004-616)

SOUTH (across Atlantic Avenue):

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Agricultural & Agricultural Sales & Service (Control No. 1994-070 & 1986-129)

EAST:

FLU Designation: Commercial Lot (CL)
Zoning District: Agricultural Reserve – Traditional Marketplace Development (AGR-TMD)
Supporting: Delray Market Place TMD (Control No. 2004-616)

WEST:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Vacant (Approved for Kennel & Veterinary Clinic) (Control No. 2013-315)

TYPE 2 / SUBDIVISION VARIANCE SUMMARY
SUBDIVISION VARIANCE SUMMARY

ULDC Article	Required	Proposed	Variance
11.E.9.D.2 Subdivision Design and Survey Requirements - Lots - Lots Abutting a Major Street. No access from individual lots shall be permitted directly to a major street.	No access from individual lots shall be permitted directly to a major street.	Direct access to Atlantic Avenue.	To allow direct access to a major street.

FINDINGS:

The Agent for this site is seeking a standalone Subdivision Variance to allow a new lot to access from a major street. Pursuant to Article 11.E.9.B.2 of the ULDC, when non-residential lots are subdivided abutting a major street, no access from individual lots shall be permitted directly to a major street. The existing site is a preserve parcel associated with the Delray Marketplace TMD (TMD) and the Property Owner is proposing to remove themselves as a preserve parcel and develop as a medical use. A subdivision variance is requested to allow this parcel to have individual access to Atlantic Avenue (a major street); however, the property owner has agreed to provide a driveway stub-out to the adjacent TMD for future cross access should it be desired. Engineering staff is recommending **APPROVAL** of the subdivision variance.

Subdivision Variance Standards:

When considering a Development Order application for a Subdivision Variance, the Zoning Commission shall consider Standards a through g listed under Article 2.B.7.E.6, Standards for Zoning

or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Subdivision Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

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

Applicant's Response: This parcel is currently a platted preserve parcel for the Delray Marketplace TMD. The concurrent application to relocate the preserve to a property on the west side of State Road 7 will leave the Property as an independent platted parcel with frontage on Atlantic Avenue. The Property is not under the same ownership as either of the adjacent properties. The property to the west has been approved for the development of a kennel and veterinary hospital however it has yet to be constructed. The property to the east is developed with the Delray Marketplace TMD. A Publix grocery store is situated on the portion of the TMD adjacent to the Property. A request for cross access has been made to the Delray Marketplace owner, however consent has yet to be obtained therefore necessitating the variance request. This situation is a circumstance that exists and is peculiar to the subject Property and not to other parcels of land within the same district as no other TMD Preserve Parcels front on major rights-of-way.

A meeting with FDOT regarding approval of the proposed driveway occurred in February. The FDOT needed additional information from the Applicant and Palm Beach County Traffic Engineering. A follow up meeting is anticipated within the 3rd week of March.

Staff Response: CORRECT. This parcel is peculiar because it's adjacent to a platted preserve parcel adjacent to a major street with no other means of access since access was not provided to the site through the adjacent TMD site. The applicant tried to obtain an access easement from the neighboring properties and was unsuccessful. Atlantic Avenue is a State road, and FDOT provided a conceptual driveway approval letter for the medical use.

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

Applicant's Response: The special conditions do not result from the actions of the Applicant. The Comprehensive Plan requires preserve parcels associated with TMDs to be utilized exclusively for agriculture production, pastureland or environmental resources. The Property currently sits fallow and is not of an appropriate size or configuration to support agriculture or pastureland. This situation has been unchanged since the development of the Delray Marketplace TMD in 2006. Additionally, the Applicant has reached out to both adjacent property owners. Neither property owner has agreed to provide the cross access that would be necessary to meet the County's access management standards. The Applicant has agreed to provide a stub out connection to the adjacent TMD for future cross access should the TMD redevelop in the future.

Staff Response: CORRECT. When subdividing adjacent to major streets, individual lots cannot have access to the major street and would require access from an 80 foot roadway tract. When this lot was platted, it was a preserve parcel for the adjacent TMD and access to maintain the preserve would be internal to the TMD. The applicant has tried to obtain alternative access through the adjacent properties and has been unsuccessful.

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

Applicant's Response: Granting the Variance will not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district. Other parcels of land in the same zoning district are eligible to apply for similar variances. Granting of this variance would allow access to Atlantic Avenue.

Staff Response: CORRECT. Grant of this variance will not confer any special privileges denied by the comprehensive plan or the code.

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

Applicant’s Response: *Literal interpretation of the ULDC would limit access to the Property solely through the adjacent TMD. This would deprive the Applicant of the ability to utilize the Property as the adjacent TMD has not agreed to this cross access.*

Staff Response: **CORRECT.** Literal interpretation of the code could result in an unnecessary burden on the property owner by requiring them to obtain access easements from adjoining property owners that do not wish to grant them access.

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

Applicant’s Response: The Applicant is requesting to allow one access point to Atlantic Avenue that will serve as a right-in, right-out driveway. This is the minimum variance that will make possible the reasonable use of the Property. If access to Atlantic Avenue is not permitted, no alternative access to the Property can be obtained.

Staff Response: **CORRECT.** Granting of this request is the minimum variance to allow for development of the preserve parcel.

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

Applicant’s Response: *Granting this variance will be consistent with the purposes, goals, objectives and policies of the Plan and the Code.*

Staff Response: **CORRECT.** Grant of this variance will be consistent with purposes, goals, objectives and policies of the comprehensive plan and the code.

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

Applicant’s Response: *Granting this variance will grant access to the Property via a right-in, right-out driveway. This proposed access will be reviewed by FDOT and Palm Beach County for compliance with minimum safety criteria.*

Staff Response: **CORRECT.** *Granting this variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

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CONDITIONS OF APPROVAL

EXHIBIT C- Subdivision Variance - Standalone

DISCLOSURE

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

Zoning Commission
Application No. SV-2021-00482
Atlantic Avenue Medical

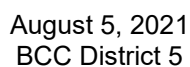


Figure 2 - Zoning Map

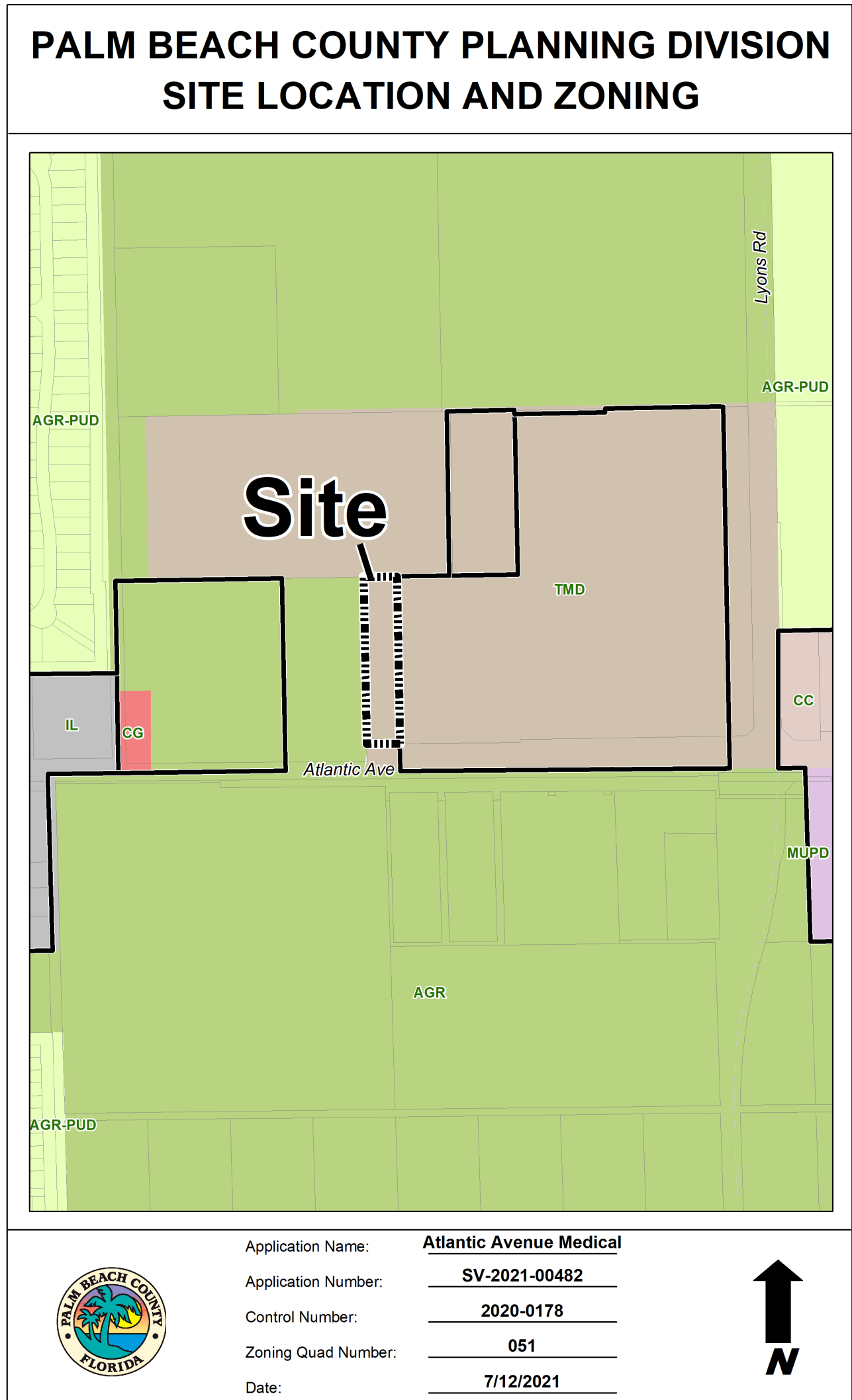


Figure 3 – Aerial

PALM BEACH COUNTY PLANNING DIVISION

SITE LOCATION



Application Name:	<u>Atlantic Avenue Medical</u>
Application Number:	<u>SV-2021-00482</u>
Control Number:	<u>2020-0178</u>
Atlas Page Number:	<u>098</u>
Date:	<u>7/12/2021</u>

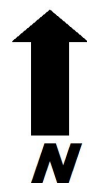


Figure 4 Variance Survey, 06/08/2020

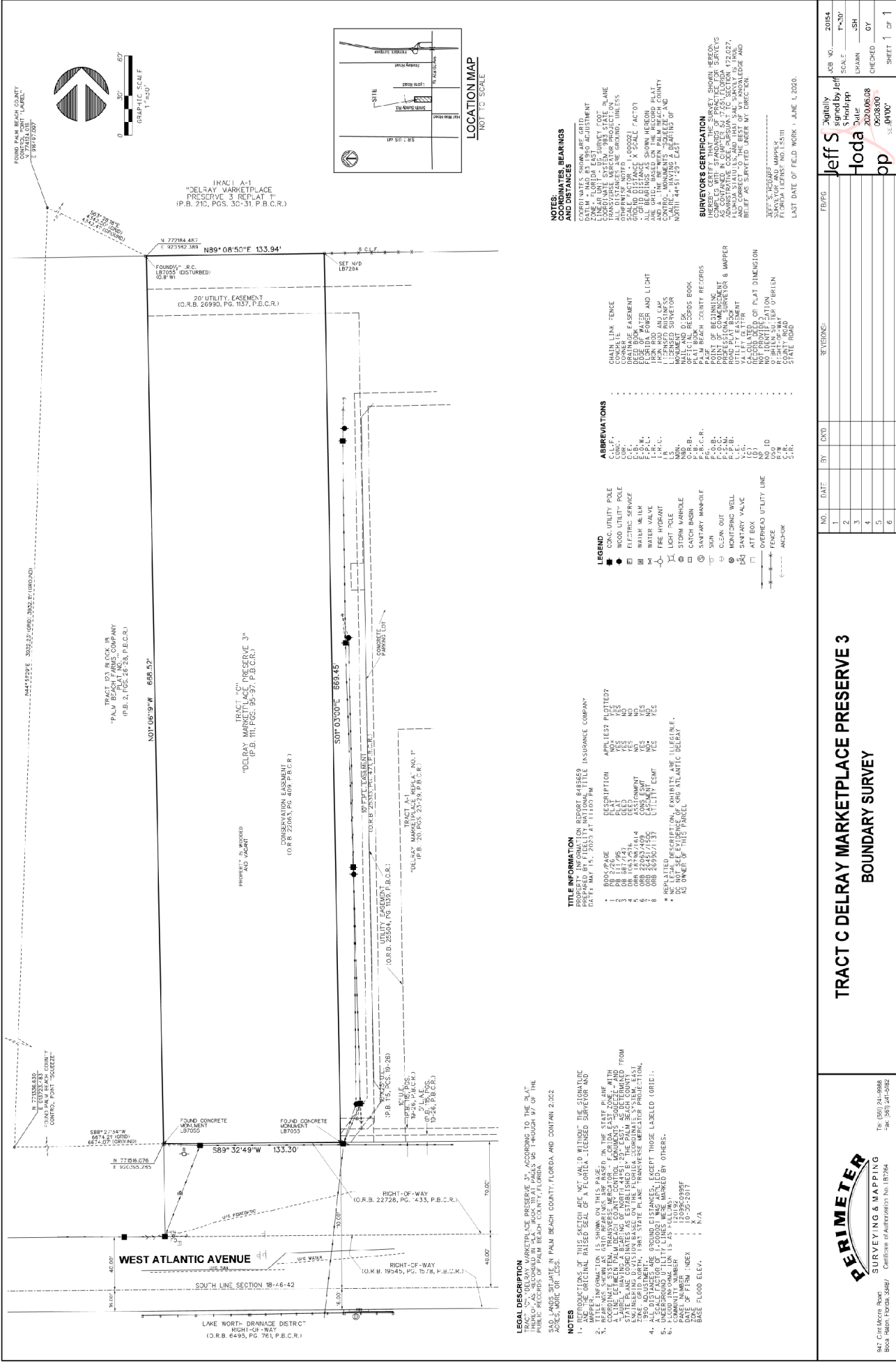


Exhibit D – Disclosure of Ownership

PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

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 Garrett Bender, 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] Managing Member of TG Land LLC [position - e.g., president, partner, trustee] [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: 506 Andrews Avenue
Delray Beach, Florida 33483
- 3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
- 4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
- 5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
- 6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.


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


FURTHER AFFIANT SAYETH NAUGHT.


 Garrett Bender, 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 11 day of August, 2020 by Garrett Bender 
Sherree Katzman (name of person acknowledging). He/she is personally known to me or has produced N/A (type of identification) as identification and did/did not take an oath (circle correct response).


 (Name - type, stamp or print clearly)

Sherree Katzman
 (Signature)

My Commission Expires on: 9-17-2023

NOTARY'S SEAL OR STAMP

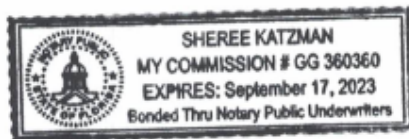


EXHIBIT "A"

PROPERTY

TRACT "C", "DELRAY MARKETPLACE PRESERVE 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111 AT PAGES 95 THROUGH 97 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA, AND CONTAIN 2.052 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.

[illegible]

Exhibit E – Applicant’s Justification Statement



JUSTIFICATION STATEMENT
Atlantic Avenue Medical
Rezoning from AgR-TMD to CC
Initial Submittal: September 8, 2020
Re-Submittal: February 8, 2021
Re-Submittal: June 14, 2021

REQUEST

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

- Rezoning of former Delray Marketplace TMD Preserve Parcel from AgR-TMD to CLO;
- Conditional Use Approval for Medical Office;
- Conditional Use Approval for Professional Office; and
- Subdivision Variance.

SITE CHARACTERISTICS

The Delray Marketplace TMD is comprised of a total of 97.658 acres. The TMD provides 55.602 acres of preservation area, which is at least sixty percent (60%) of the gross acreage as required by the County’s Comprehensive Plan and ULDC. Preserve Parcel 3 is comprised of three separate Tracts. Tract C is the subject of this application. Tract C (“Property”) is 2.052 acres and is located immediately adjacent to the Development Area of the TMD with frontage on Atlantic Avenue. This Tract is currently fallow land and is bounded by approved development projects to the east and to the west. Concurrent with this rezoning request is a comprehensive plan amendment application to amend the future land use from Agricultural Reserve (AGR) to Commercial Low-Office (CL-O).

Concurrent with this rezoning application is a Development Order Amendment application to remove the Property from the Delray Marketplace TMD. Once removed from the TMD, the Property will have to be rezoned to be consistent with the proposed future land use designation. The Property is located within the boundaries of the Delray Alliance neighborhood association.

Development History

The Delray Marketplace TMD was designated as one of the two AGR-TMDs within the Agricultural Reserve. The Agricultural Reserve was established in 1995 and the Agricultural Reserve Master Plan was adopted in 2000. The Delray Marketplace was one of the first two commercial projects developed in the Ag Reserve in accordance with the Agricultural Reserve Master Plan. The Master Plan established two nodes, one at Boynton Beach Boulevard and Lyons Road and the other at Atlantic Avenue and Lyons Road. Since the original approval of this Traditional Marketplace Development, multiple amendments have been made to add land area to the development area, reconfigure the site plan, add/delete uses, and add preserve area. The table below summarizes these changes.

Control No.	Description	Action	Date	Resolution No.
74-061	Special Exception to allow Commercial Stable for the maintenance of training of horses, including grooms housing	Approved	April 25, 1974	R-1974-344
LGA-2005-006	Large Scale FLUA Amendment to change future land use from AGR and SA to CL/AGR	Approved	August 25, 2005	Ord No. 2005-040
2004-616	Rezoning from AGR and CG to AGR-TMD	Approved	August 25, 2005	R-2005-1626
2004-616	Requested Use for indoor entertainment and tenants above 25,000 SF	Approved	August 25, 2005	R-2005-1627
2004-616	Waiver from AGR-TMD requirement that a main street crosses through the entire length and width of TMD	Approved	August 25, 2005	R-2005-1628
74-061	Revoke Special Exception	Approved	May 25, 2006	R-2006-924
LGA-2006-009	Large Scale FLUA Amendment to change future land use from AGR to CL/AGR	Approved	August 21, 2006	Ord No. 2006-034
2004-616	Type II Variance to allow increase in building height and reduce required amount of arcaded sidewalk	Approved	January 5, 2007	ZR-2007-005
2004-616	Rezoning from CG to AGR-TMD	Approved	January 25, 2007	R-2007-082
2004-616	DOA to add land area, reconfigure Master Plan and modify conditions	Approved	January 25, 2007	R-2007-083
2004-616	Requested Use for Type I Restaurant	Approved	January 25, 2007	R-2007-084
2004-616	DOA to modify conditions of approval and add temporary access point	Approved	January 24, 2008	R-2008-112
2004-616	DOA to add land area	Approved	February 28, 2008	R-2008-267
2004-616	Type II Variance to increase building height and increase building frontage	Approved	June 5, 2008	ZR-2008-042
2004-616	DOA to reconfigure site plan and modify conditions of approval	Approved	June 30, 2008	R-2008-1136
2004-616	Requested Use Approval for tenant above 25,000 SF	Approved	June 30, 2008	R-2008-1137
2004-616	Type II Variance to reduce percentage of transparency of building façade	Approved	January 1, 2009	ZR2009-036

2004-616	DOA to add land area	Approved	April 23, 2009	R-2009-709
2004-616	Waiver from structured parking requirement to allow increase of surface parking	Approved	March 3, 2010	R-2010-446
2004-616	DOA to reconfigure the site plan, reduce the number of dwelling units and commercial SF, restart commencement clock, and modify conditions of approval	Approved	March 3, 2010	R-2010-447
2004-616	Type II Variance to allow alternative street sections, eliminate free standing structure limitation, increase in frontage for single tenant, allow streets without on-street parking, allow reduction in number of queuing spaces, and allow increase in height	Approved	July 7, 2011	ZR-2011-015
2004-616	DOA to reconfigure site plan, reduce square footage, and modify conditions of approval	Approved	July 28, 2011	R-2011-1110
2004-616	Waiver to allow reduction in length of main street and block length	Approved	July 28, 2011	R-2011-1111
2004-616	Type II Variance to allow an increase in distance from development entrances to signs	Approved	February 3, 2012	ZR-2012-002
2004-616	Type II Variance to allow internally illuminated signage	Approved	February 3, 2012	ZR-2012-008
2004-616	Type II Variance to allow reduction of building transparency	Approved	August 2, 2012	ZR-2012-025
2004-616	Type II Variance to allow increase in wall signage	Approved	October 4, 2012	ZR-2012-028
2004-616	Type II Variance to allow increase in sign projection from building façade and allow directional signage within the perimeter of the TMD	Approved	January 4, 2013	ZR-2013-001
2004-616	Special Permit to allow Valet Parking	Approved	September 9, 2013	Special Permit # 2013-2069
2004-616	Type II Waiver for structured parking	Approved	April 24, 2014	R-2014-565
2004-616	Rezoning from AGR to AGR-TMD	Approved	April 24, 2014	R-2014-566
2004-616	DOA to add land area and reconfigure Master Plan	Approved	April 24, 2014	R-2014-567

Surrounding Properties

The Property is surrounded by agricultural uses to the west, residential uses to the south, a place of worship to the east, and industrial uses to the north across Atlantic Avenue. A breakdown of the surrounding uses is provided below.

Adjacent Property	Land Use Designation	Zoning Designation	Existing Use	Control Number	Resolution Number
North	AGR	AGR-TMD	Delray MarketPlace TMD	04-616	R-2014-567
South	AGR	AGR	Agriculture & Agriculture Sales & Service	94-70 & 86-129	R-95-011 & R-87-510
East	CL	AGR-TMD	Delray MarketPlace TMD	04-616	R-2014-567
West	AGR	AGR	Vacant (Approved for Kennel & Veterinary Clinic)	2013-315	ZR-2015-008

REZONING STANDARDS

The Applicant is requesting to rezone the former Delray Marketplace Preserve Parcel from AGR-TMD to Commercial Low Office (CLO). Article 2.B.7.A. requires that seven (7) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all seven (7) criteria standards, as provided below.

A. Consistency with the Plan

The land area to be rezoned by this application is located within the Agricultural Reserve Tier, currently has an AGR Future Land Use designation and upon approval of the concurrent Development Order Amendment to remove the 2.052 acres from the Delray Marketplace TMD will be an isolated Property bounded by developed projects to the east and west. A concurrent Future Land Use Atlas Amendment (LGA 2021-008) is currently in process to amend the future land use designation from AGR to Commercial Low-Office, with an underlying AGR (CL-O/AGR). This Future Land Use Amendment was transmitted to DEO by the BCC on January 25, 2021. The proposed conditions of this amendment are as follows:

1. Development is limited up to a maximum of 17,860 square feet (0.20 FAR).
2. Vehicular and pedestrian cross access shall be provided to the east and west of the site.
3. The adoption of the future land use amendment and zoning application shall be held on the same date.

The proposed rezoning to Commercial Low Office (CLO) is consistent with the Commercial Low-Office future land use designation. There is available commercial square footage cap available to accommodate development of the Property. The Comprehensive Plan indicates that new commercial projects shall develop as planned developments, however the Property does not meet the minimum acreage requirements to be a Multiple Use Planned Development (MUPD). It is the Applicant's intent to develop the Property with office uses, which are a permitted use within the Commercial Low-Office future land use designation.

B. Consistency with the Code

The proposed rezoning from AGR-TMD to CLO is consistent with the stated purpose and intent of the ULDC. The Property meets the minimum property development regulations for the Community Commercial zoning district. The Property has frontage on Atlantic Avenue and any future development of office square footage will be designed with appropriate parking, setbacks and screening per the ULDC requirements.

The Property is proposed to be rezoned and developed independent of the Delray Marketplace as consent to combine with the existing TMD was not granted. Additionally, incorporation into the TMD would necessitate numerous variance requests related to block structure, main street design, and freestanding buildings. The Applicant will agree to provide cross access to the existing TMD should the Delray Marketplace be redeveloped in the future.

C. Compatibility with Surrounding Uses

The proposed rezoning to Commercial Low Office is compatible and consistent with the existing and approved uses of the surrounding properties. The intersection of Atlantic Avenue and Lyons Road is an established commercial node within the Agricultural Reserve Tier. Commercial uses are developed at the northwest, northeast and southeast corners of this intersection. Immediately to the east and west of the Property are commercial uses. The Publix supermarket is developed immediately to the east of the Property and to the west is an approved veterinary clinic and kennel. Further to the west are properties designated as Commercial Low on the Future Land Use Atlas. It is inevitable that commercial uses are developed on these properties in the near future.

The Atlantic Avenue corridor has become an important industrial and commercial corridor within the Agricultural Reserve. The proposed rezoning to Commercial Low Office will be consistent with the previous, current and future developments along this corridor. The proposed future office development will provide additional needed services to the residents and workers of the Agricultural Reserve.

D. Effect on the Natural Environment

The rezoning from AGR-TMD to CLO will not result in significant adverse impacts on the natural environment. The Property has previously been cleared and currently sits fallow. Any future development will be required to comply with current zoning, environmental and health department regulations. Many of the adjacent properties to the Property have already be cleared for commercial development or are already developed with commercial projects. Development of the Property will be consistent with those developments.

E. Development Patterns

The proposed rezoning from AGR-TM to CLO will result in a logical, orderly and timely development pattern. The small 2.052 acre Property is located within the existing, established commercial node of the Agricultural Reserve and is surrounded by approved and developed projects to the east and west. Atlantic Avenue has recently seen an increase in industrial approvals further to the west. It is anticipated that this corridor will continue to develop with uses to meet the needs of the surrounding residential communities. The proposed future office development will provide services and employment opportunities within the Ag Reserve and ultimately ensure that vehicle trips are retained within the Tier. A sustainable community is defined as having various needs and services available within close proximity to serve the surrounding residents.

F. Adequate Public Facilities

The proposed rezoning from AGR-TMD to CLO complies with Art. 2.F of the Unified Land Development Code related to Concurrency. The Traffic Division will review the concurrency application and the proposed uses at the time of building permit application or future site plan approval. Adequate public facilities are in place to accommodate the proposed rezoning which is consistent with the proposed CL-O future land use designation.

G. Changed Conditions or Circumstances

Numerous changes to existing future land use and zoning designations have occurred on properties within the Atlantic Avenue corridor of the Ag Reserve in recent years. Originally, commercial development was only permitted in the form of a Traditional Marketplace, however in 2015, the Board of County

Commissioners approved the development of smaller commercial properties. Additionally, the property to the west was approved for the development of a kennel and veterinary clinic leaving the Property as the only parcel of land within this section of Atlantic Avenue without approval for development. This segment of Atlantic Avenue has changed from an agriculture corridor to a mix of commercial and industrial projects.

Approval of the proposed rezoning will allow for infill development consistent with other projects along the corridor. The increased development of residential within the area has increased the need for services and employment opportunities. The proposed rezoning will provide both to the area residents. The Board of County Commissioners recently approved a self-storage facility on Boynton Beach Boulevard which allowed 28,000 square feet of commercial to be put back into the existing commercial cap of the Agricultural Reserve. The Applicant will be utilizing a portion of this available commercial square footage in order to develop office uses on the Property.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Rezoning to Commercial Low Office.

CONDITIONAL USE STANDARDS

The Applicant is requesting two conditional use approvals for medical and professional office. Article 2B.7.B. requires that seven (7) standards are addressed prior to approval by the Board of County Commissioners. The Applicant is in compliance with all seven (7) criteria standards, as provided below.

A. Consistency with the Plan

The Property is located within the Agricultural Reserve Tier and currently has an AGR Future Land Use designation and upon approval of the concurrent Development Order Amendment to remove the 2.052 acres from the Delray Marketplace TMD will be an isolated Property bounded by developed projects to the east and west. A concurrent Future Land Use Atlas Amendment is currently in process to amend the future land use designation from AGR to Commercial Low-Office, with an underlying AGR (CL-O/AGR).

The proposed medical and professional office uses are consistent with the Commercial Low-Office future land use designation. There is available commercial square footage cap available to accommodate development of the Property. The Comprehensive Plan indicates that new commercial projects shall develop as planned developments, however the Property does not meet the minimum acreage requirements to be a Multiple Use Planned Development (MUPD).

B. Consistency with the Code

The proposed medical and professional offices are consistent with the stated purpose and intent of the ULDC. The Applicant is proposing to develop 17,860 square feet of medical and professional office. This amount of office requires approval by the Board of County Commissioners. The Property meets the minimum property development regulations for the Commercial Low Office zoning district. The Property has frontage on Atlantic Avenue and the proposed office building will be designed with appropriate parking, setbacks and screening per the ULDC requirements.

The Property is proposed to be rezoned and developed independent of the Delray Marketplace as consent to combine with the existing TMD was not granted. Because access has not been agreed to by the adjacent property owner, the Applicant is requested a subdivision variance concurrent with this request. The Applicant will agree to provide cross access to the existing TMD should the Delray Marketplace be redeveloped in the future.

C. Compatibility with Surrounding Uses

The proposed office uses are compatible and consistent with the existing and approved uses of the surrounding properties. The intersection of Atlantic Avenue and Lyons Road is an established commercial

node within the Agricultural Reserve Tier. Commercial uses are developed at the northwest, northeast and southeast corners of this intersection. Immediately to the east and west of the Property are commercial uses. The Publix supermarket is developed immediately to the east of the Property and to the west is an approved veterinary clinic and kennel. Further to the west are properties designated as Commercial Low on the Future Land Use Atlas. It is inevitable that commercial uses are developed on these properties in the near future.

The Atlantic Avenue corridor has become an important industrial and commercial corridor within the Agricultural Reserve. The proposed medical and professional offices will be consistent with the previous, current and future developments along this corridor and the proposed office development will provide additional needed services to the residents and workers of the Agricultural Reserve.

D. Effect on the Natural Environment

The proposed office uses will not result in significant adverse impacts on the natural environment. The Property has previously been cleared and currently sits fallow. The proposed office building complies with current zoning, environmental and health department regulations. Many of the adjacent properties to the Property have already been cleared for commercial development or are already developed with commercial projects. Development of the Property will be consistent with those developments.

E. Development Patterns

Development of the Property with the proposed medical and professional office uses will result in a logical, orderly and timely development pattern. The small 2.052 acre Property is located within the existing, established commercial node of the Agricultural Reserve and is surrounded by approved and developed projects to the east and west. Atlantic Avenue has recently seen an increase in industrial approvals further to the west. It is anticipated that this corridor will continue to develop with uses to meet the needs of the surrounding residential communities. The proposed office development will provide services and employment opportunities within the Ag Reserve and ultimately ensure that vehicle trips are retained within the Tier. A sustainable community is defined as having various needs and services available within close proximity to serve the surrounding residents.

F. Adequate Public Facilities

The proposed uses comply with Art. 2.F of the Unified Land Development Code related to Concurrency. A traffic statement has been provided confirming that the office will not negatively impact adjacent roadways. Adequate public facilities are in place to accommodate the proposed office development.

G. Changed Conditions or Circumstances

Numerous changes to existing future land use and zoning designations have occurred on properties within the Atlantic Avenue corridor of the Ag Reserve in recent years. Originally, commercial development was only permitted in the form of a Traditional Marketplace, however in 2015, the Board of County Commissioners approved the development of smaller commercial properties. Additionally, the property to the west was approved for the development of a kennel and veterinary clinic leaving the Property as the only parcel of land within this section of Atlantic Avenue without approval for development. This segment of Atlantic Avenue has changed from an agriculture corridor to a mix of commercial and industrial projects.

Approval of the proposed medical and professional office uses will assist in meeting the increased demand for services and employment brought on by the increased development of residential within the area. The proposed office uses will provide both to the area residents. The Board of County Commissioners recently approved a self-storage facility on Boynton Beach Boulevard which allowed 28,000 square feet of commercial to be put back into the existing commercial cap of the Agricultural Reserve. The Applicant will be utilizing a portion of this available commercial square footage in order to develop office uses on the Property.

Based on the above justification and attached information, the Applicant respectfully requests approval of these Conditional Use requests for professional and medical offices.

SUBDIVISION VARIANCE

The proposal includes a request to allow access to a major street from the Property. When determining whether to support the Variance, the ZC shall consider and find that all seven criteria listed below have been satisfied by the Applicant prior to making a motion for approval of a variance:

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

This parcel is currently a platted preserve parcel for the Delray Marketplace TMD. The concurrent application to relocate the preserve to a property on the west side of State Road 7 will leave the Property as an independent platted parcel with frontage on Atlantic Avenue. The Property is not under the same ownership as either of the adjacent properties. The property to the west has been approved for the development of a kennel and veterinary hospital however it has yet to be constructed. The property to the east is developed with the Delray Marketplace TMD. A Publix grocery store is situated on the portion of the TMD adjacent to the Property. A request for cross access has been made to the Delray Marketplace owner, however consent has yet to be obtained therefore necessitating the variance request. This situation is a circumstance that exists and is peculiar to the subject Property and not to other parcels of land within the same district as no other TMD Preserve Parcels front on major rights-of-way.

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

The special conditions do not result from the actions of the Applicant. The Comprehensive Plan requires preserve parcels associated with TMDs to be utilized exclusively for agriculture production, pastureland or environmental resources. The Property currently sits fallow and is not of an appropriate size or configuration to support agriculture or pastureland. This situation has been unchanged since the development of the Delray Marketplace TMD in 2006. Additionally, the Applicant has reached out to both adjacent property owners. Neither property owner has agreed to provide the cross access that would be necessary to meet the County's access management standards. The Applicant has agreed to provide a stub out connection to the adjacent TMD for future cross access should the TMD redevelop in the future.

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

Granting the Variance will not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district. Other parcels of land in the same zoning district are eligible to apply for similar variances. Granting of this variance would allow access to Atlantic Avenue.

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

Literal interpretation of the ULDC would limit access to the Property solely through the adjacent TMD. This would deprive the Applicant of the ability to utilize the Property as the adjacent TMD has not agreed to this cross access.

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

The Applicant is requesting to allow one access point to Atlantic Avenue that will serve as a right-in, right-out driveway. This is the minimum variance that will make possible the reasonable use of the Property. If access to Atlantic Avenue is not permitted, no alternative access to the Property can be obtained.

- f. Granting the variance will be consistent with the purposes, goals, objectives and policies of the Plan and this Code; and,**
Granting this variance will be consistent with the purposes, goals, objectives and policies of the Plan and the Code.
- g. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**
Granting this variance will grant access to the Property via a right-in, right-out driveway. This proposed access will be reviewed by FDOT and Palm Beach County for compliance with ~~minimum~~ safety criteria.

Based on the above justification and attached information, the Applicant respectfully requests approval of this Type 2 Variance to allow access to Atlantic Avenue.

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