

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

**Application No.:** CA-2020-02103  
**Application Name:** Evergreen Townhouse  
**Control No./Name:** 2019-00177 (Evergreen Townhouse)  
**Applicant:** Evergreen 1 LLC.  
**Owners:** Evergreen 1 LLC.  
**Agent:** Brahm Development LLC - Dave Persaud  
**Telephone No.:** (561) 373-2749  
**Project Manager:** Brenya Martinez, Site Planner II

**TITLE:** a Class A Conditional Use **REQUEST:** to allow over 24 Multifamily units in the Multifamily Residential (RM) Zoning District **TITLE:** a Class A Conditional Use **REQUEST:** to allow Workforce Housing Program Density Bonus greater than 50 percent

**APPLICATION SUMMARY:** Proposed are two Class A Conditional Uses for Evergreen Townhouse Development. The 4.52-acre site is currently vacant. However, the subject parcel had a recent Development Order approved by the Zoning Commission for a Subdivision Variance, which approved a request to allow access from a 30 foot (ft.) Right of Way (R-O-W) on November 23, 2021.

The Applicant is requesting two Class A Conditional Uses to allow more than 24 Multifamily units within the RM district and to allow over 50% Density Bonus through the Workforce Housing Density Bonus program. The proposed bonus would allow a 76 percent bonus for an additional 17 units. The Preliminary Site Plan (PSP) indicates 40 residential units, within seven two-story buildings. A total of 123 parking spaces, including 43 guest parking spaces are provided.

One access is proposed from a 30 ft. R-O-W known as Old Military Trail.

**SITE DATA:**

<b>Location</b>	West side of Old Military Trail, approximately 600 feet north of Orlando Avenue
Property Control Number(s)	00-42-43-24-00-000-3120
Existing Future Land Use Designation:	Medium Residential (MR-5)
Existing Zoning District:	Multi-Family Residential (Medium Density) (RM)
Total Acreage:	4.52 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	Old Trail
Municipalities within 1 Mile	West Palm Beach
Future Annexation Area	West Palm Beach
Commission District	District 2, Vice Mayor Gregg K. Weiss

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

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received two contacts from the public regarding this application. One to inquire information about the project with no opinion provided, and the second in opposition expressing traffic concerns.

**PROJECT HISTORY:** The vacant site has no prior Board of County Commissioner approvals. However, the subject site received a Zoning Commission approval on November 23, 2021 for a Subdivision Variance to allow access from a 30-foot R-O-W known as Old Military Trail.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
 Zoning District: Multiple Use Planned Development District (MUPD)  
 Supporting: Commercial (Crosstown Plaza , Control No 1975-00156)

**SOUTH:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Multi-Family Residential (Medium Density) District (RM)  
Supporting: Institutional (Earthen Vessels Evangelism INC., Control No 1978-00203)

**SOUTH:**

FLU Designation: Medium Residential (MR-5)  
Zoning District: Multi-Family Residential (Medium Density) District (RM)  
Supporting: Residential (Control No. N/A)

**EAST:**

FLU Designation: Commercial High, with an underlying HR-8 (CH/8)  
Zoning District: General Commercial District (CG)  
Supporting: Commercial (Coco Plum Plaza, Control No 1984-00079)

**WEST:**

FLU Designation: High Residential (HR-12)  
Zoning District: Multi-Family Residential (Medium Density) District (RM)  
Supporting: Residential (Tennis Club of Palm Beach PUD, Control No 1973-00065)

**FINDINGS:**

Standards for a Class A Conditional Use: When considering a DO application for a Rezoning to a PDD or a TDD, or a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHP), the BCC or ZC shall utilize the Standards a through h indicated below. An application which 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.*

o *Density and Workforce Housing Program (WHP):* The Planning Division reviewed the request for 40 residential units on the subject 4.53-acres site utilizing the Medium Residential, 5 units per acre (MR-5) land use designation and the Workforce Housing Program (WHP) bonus density program. The request for 40 units, with the Full Incentive Development Option results in a seven-unit WHP obligation as shown below.

<u>Standard, Max &amp; Bonus Density:</u>	<u>Workforce Housing (WHP):</u>
18.12 Standard units	0.91 WHP units (5%)
4.53 Maximum units	0.72 WHP units (16%)
<u>17.21 (76%) WHP Bonus units</u>	<u>5.85 WHP units (34%)</u>
39.86 or 40 total units	7.48 or 7 required WHP (rounded down)

o *Workforce Housing Program (WHP):* The WHP has both a mandatory and a voluntary component. This program requires that a percentage of units in new residential developments of ten or more units be provided as workforce housing, affordable to income qualified households having 60% to 140% of area Median Family Income (MFI). The program is applicable in the Urban Suburban Tier of the unincorporated County, and in other areas where required by conditions of approval. The program's optional component allows for a density bonus in exchange for a portion of the additional units being dedicated as workforce housing.

Per the WHP requirements, the request is obligated to designate and deed restrict a minimum of 7 units as Workforce Housing. The Applicant is choosing to provide the units onsite as for-sale Townhomes. The WHP density bonus was achieved through the point system, which yielded a 76% density bonus or 17.21 additional units based on the proposed townhouse units to be provided onsite as rentals. A higher bonus could have been permitted if the units were for sale and/or were proposed as single family. The request for a WHP Bonus density greater than 50% requires a compatibility analysis. The WHP letter dated March 11, 2022, determined that the proposed request for two story townhomes adjacent to existing single family was compatible.

o *Workforce Housing (WHP) Program Pricing & Income Categories:* The subject request was submitted December 2, 2020 while the 2020 WHP price schedule was in effect. In Palm Beach County, the 2020 area Median Family Income (MFI) was \$79,100 for a family of four (per HUD). The following are the sales and rental prices per income category for 2020 in Palm Beach County. The income categories are the same for both programs. These homes cannot be sold or rented at a higher price.

- **WHP Sales Prices:** The sales prices are based on US HUD annual median income figure.

WHP Income Category			2020 (WHP) Sales Prices
Low	60 -80%) of MFI	\$47,460 - \$63,280	\$166,110
Moderate 1	>80 -100%) of MFI	>\$63,280 - \$79,100	\$213,570
Moderate 2	>100 -120%) of MFI	>\$79,100 - \$94,920	\$261,030
Middle	>120 -140%) of MFI	>\$94,920 - \$110,740	\$308,490 *

*\*Does not apply to WHP units in projects approved under WHP Code adopted 8/22/2019.*

- **WHP Rental Prices:** The WHP rents are based on the annual Florida Housing Finance Corporation (FHFC) Multi-Family Rental Figures, adjusted for number of bedrooms, and any Utility Allowances are applied against gross maximum rent. WHP prices are set annually, based on the provisions of Article 5.G.1.A.3.c.2 of the Unified Land Development Code reflected below, and the following:

WHP Income Category			1 BR	2 BR	3BR	4BR
Low	60-70% of MFI	\$47,460 - \$55,370	\$ 988 - 1,153	\$1,186 - \$1,384	\$1,370 - \$1,598	\$1,528 - \$1,783
	>70-80% of MFI	>\$55,370 - \$63,280	\$1,153 - \$1,318	\$1,384 - \$1,582	\$1,598 - \$1,827	\$1,783 - \$2,038
Moderate 1	>80-90% of MFI	>\$63,280 - \$71,190	\$1,183 - \$1,483	\$1,582 - \$1,780	\$1,827 - \$2,056	\$2,038 - \$2,293
	>90-100% of MFI	>\$71,190 - \$79,100	\$1,483 - \$1,648	\$1,780 - \$1,978	\$2,056 - \$2,284	\$2,293 - \$2,548
Moderate 2	>100-110% of MFI	>\$79,100 - \$87,010	\$1,648 - \$1,813	\$1,978 - \$2,176	\$2,284 - \$2,512	\$2,548 - \$2,803
	>110-120% of MFI	>\$87,010 - \$94,920	\$1,813 - \$1,977	\$2,176 - \$2,373	\$2,512 - \$2,740	\$2,803 - \$3,057
Middle	>120-130% of MFI	>\$94,920 - \$102,830	\$1,977 - \$2,142	\$2,373 - \$2,571	\$2,740 - \$2,969	\$3,057 - \$3,312
	>130-140% of MFI	\$102,830 - \$110,740	\$2,142 - \$2,306	\$2,571 - \$2,768	\$2,969 - \$3,197	\$3,312 - \$3,566

- **Special Overlay District/Neighborhood Plan/Planning Study Area:** The site is located within the Urban Redevelopment Area (URA) and CCRT#10 Old Trail Area. The URA encourages redevelopment within this overall area and the proposed townhomes would further that goal. The Office of Community Revitalization (OCR) administers Countywide Community Revitalization Team (CCRT) areas. A community meeting was held October 20, 2021, and the majority of concerns raised were regarding access and additional traffic on Old Military Trail.

**b. Consistency with the Code -** *The proposed use or amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.*

- **FLU and Zoning Consistency:** RM and MR-5 are consistent if the property was zoned RM prior to the Plan's August 31, 1989 adoption. The ULDC allows MF within RM with different thresholds of review approval processes. With 4.52 acres and a land use of MR-5, the base density would be 23 units. In accordance with Art. 4.B.1.C.5, Multi-family, they would only have required a Class B Conditional Use to construct the 23 units. However, because this Applicant is proposing additional density pursuant to Art 5.G.1, Workforce Housing Program, the additional units proposed for this development over 24 now requires the Class A Conditional Use within the RM Zoning/MR-5 Land Use.

- **Property Development Regulations:** The site is consistent with Table 3.D.1.A, Property Development Regulations (PDR), with the minimum 65 feet (ft.) width/frontage requirement along Old Military Trail with 75 ft. in depth. The lot is 4.52-acres; 181.79 ft. in width; with a maximum of 522' in depth. The structures proposed complies with the applicable PDRs and design standards with the plan depicting 99' front; 19.83' side; greater than 47-foot separations, and 69.21' rear setbacks.

- **Architectural Review:** The proposed Multifamily Residential buildings are not required to comply with the Architectural review design guidelines as the number of units proposed are less than 16 units for each individual building. However, the Applicant has agreed to obtain Architectural review approval during Building Permit Review.

- **Workforce Housing (WHP):** The Applicant seeks a Class A Conditional Use approval to allow 76 percent Workforce Housing Program Density Bonus. the maximum units Permitted by Right is 23 with 17 additional units allowed through the WHP Bonus Program. With the total of 40 units proposed , seven have to dedicated as Workforce housing units . The Applicant requested to utilize the Full Incentive program per Art. 5.G.1.B.2, Full Incentive Option. The Planning Division completed an analysis for

the density bonus recommendation, as provided above under Consistency with the Plan and as indicated under Article 5.G.1.B.2.e.2)b) Factors for Consideration, which included the following:

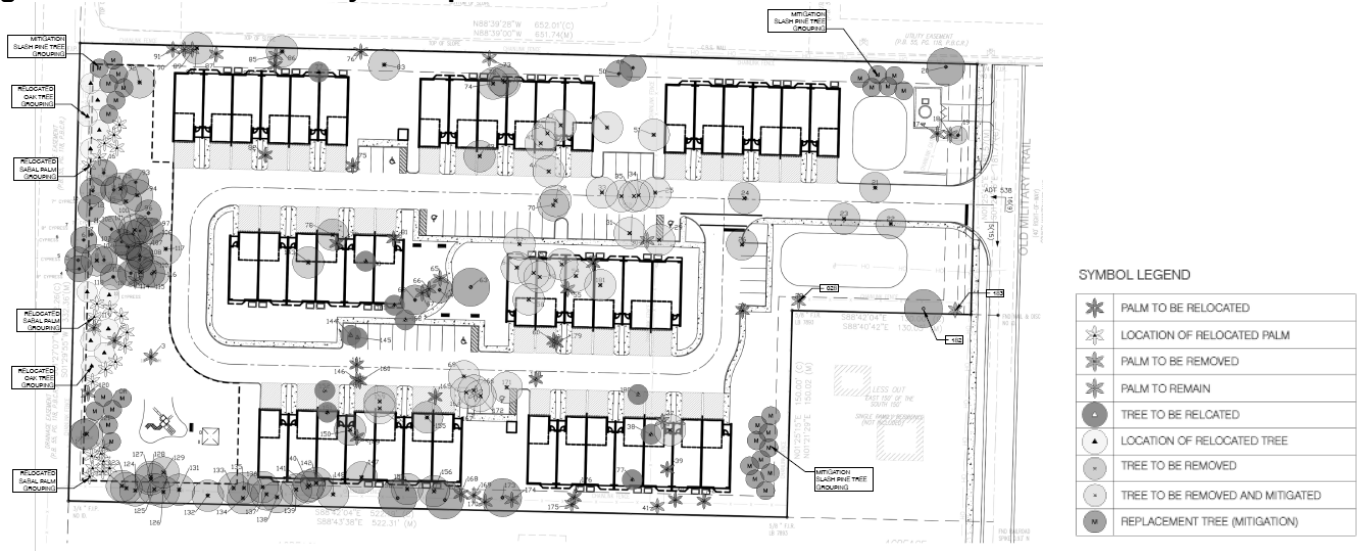
- 1) The extent of which the proposed WHP units further County objectives:
  - (a) The intent to provide the workforce housing units on site;
  - (b) The intent to provide Single Family ad for-sale workforce housing units;
  - (c) The proximity of the location where the WHP units are to be provided to employment centers;
  - (d) The concentration of the households with incomes in the WHP income categories, in the location where the WHP units are to be provided.
- 2) The potential impact of the proposed density bonus:
  - (a) The total number of units proposed, including any Transfer of Development Rights; and,
  - (b) The compatibility with the character of the adjacent and surrounding area in the location of the subject development.

○ **Parking:** The proposed Multifamily development is consistent with Table 6.B.1.B - Minimum Parking and Loading Requirements. The proposed request requires a minimum of 84 total parking spaces of which the Applicant has proposed a total of 123 parking spaces. Therefore, the parking provided exceeds the minimum parking code requirement.

○ **Landscape/Buffering:** A 15-ft Incompatibility Buffer is proposed to the north property line adjacent to a commercial use (Crosstown Plaza MUPD Control No. 1975-00156). The south property line depicts a 15-ft. Incompatibility Buffer adjacent to a Place of Worship (Earthen Vessels Evangelism INC., Control No 1978-00203). Engineering has granted a Base Building Line Waiver along Old Military Trail, as the road is less than 40 ft. in width. Because of the width of the R-O-W, a 15 ft. R-O-W Buffer is proposed to the east property line adjacent to Old Military Trail. A 10 ft. Incompatibility Buffer is proposed to the south and east property lines abutting an existing Single Family Residence. The west property line consists of an eight ft. Compatibility Buffer, which is adjacent to a Multifamily Residential development (Tennis Club of Palm Beach PUD, Control No 1973-00065).

The Applicant is proposing to preserve the existing vegetation throughout the site by either preserving within the same location in a manner that is not in conflict with the proposed development areas. Any other vegetation such as Sabal Palms, are to be relocated or mitigated according to the Tree Overlay and Disposition Plan provided on the Preliminary Regulating Plan (PRP-2) and the (PRP-3) Sheet (See Figure A and as indicated in Exhibits 6 & 7 at the end of the Staff report below ).

**Figure A: 10 ft. Tree Overlay & Disposition Exhibit**



○ **Signs:** The Applicant proposes one entrance sign to the proposed residential development that is consistent with Article 8 Table 8.G.2.C - Entrance Sign Standards.

**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 residential development is compatible with the surrounding uses, as described above under Surrounding Uses. The proposed development is consistent with the existing Multifamily development adjacent to the west and south residential development to the south, which is consistent with the RM zoning towards southeastern portion of Evergreen Townhouse site. The proposed use will serve as additional affordable housing for residents of Palm Beach County, and is in close proximity of Institutional and Commercial Developments that would serve the existing and proposed residents. The layout and function of the site, the preservation and mitigation of the vegetation additional density, and compliance with the policies of the board for providing workforce housing, addresses the compatibility of the use in this location for the

RM/MR-5 and the bonus density through the WFH program

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

As indicated in the Preliminary Site Plan (PSP). The site shall provide sufficient landscape buffering to provide visual screening from all adjacent properties and uses. As stated in the Consistency with the Code [Landscape/Buffering] section, the site will maintain all applicable vegetation and buffering to minimize adverse impacts on the adjacent properties. A 15 ft. Type 2 Incompatibility buffer with a six ft. high hedge will be installed on the north and south portions of the subject site within the affected area. A 10 ft. Type I Incompatibility Buffer is proposed on the south and east side adjacent to the existing Single Family Residential use. A 15 ft R-O-W Buffer is proposed to the east fronting Old Military Trail. There is an existing +/- 30 ft. access easement which separates the commercial use (Coco Plum Plaza, Control No 1984-00079) further east. In addition to the eight ft. Compatibility Buffer proposed to the west, the subject site will be further separated from the adjacent Residential Development (Tennis Club of Palm Beach PUD, Control No.1973-00065) by a proposed 15 ft. Incompatibility Buffer between Building 3 (Unit One) as required by code including a proposed +/- 0.5- acre Recreation area. The north side (Crosstown Plaza MUPD, Control No. 1975-00156) is further separated from the proposed development by an existing 1.03-acre water management tract, a ten ft. FPL easement and a six- foot wall. Thus, providing visual barriers that will minimize potential adverse impacts.

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

VEGETATION PROTECTION: This property has a mixture of native trees and exotic landscape varieties. Native trees that are not preserved in-place shall be relocated or mitigated on the site. A Tree Preservation Area has been established on the western side of the property.

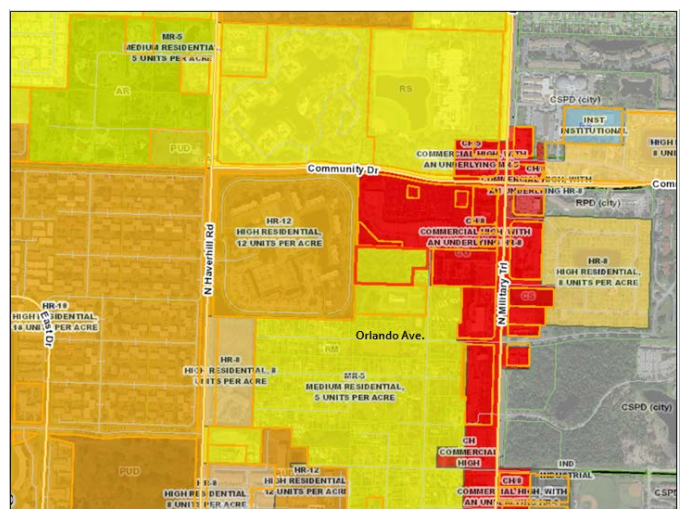
WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

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 amendment will result in a logical, orderly, and timely development pattern.*

The site is located adjacent towards N. Military Trail corridor towards its west. This corridor consist of an intense commercial node that runs north and south and located parallel to the proposed Multifamily Residential development. The development pattern consist of Low, Medium and High Residential uses along its corridor, including Institutional and Light Industrial uses. Thus, the CA request to allow more than 24 Multifamily units, including the CA for the density bonus over 50%, is consistent with the development patterns of the vicinity, which includes a mix of non-residential and residential developments. The requests would serve as a transition from less intense areas to more intense areas and would support the consistent increase in densities within the U/S tier. As such, the proposed development will result in a logical and orderly development pattern.



**g. Adequate Public Facilities** – *The extent to which the proposed use complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

**ENGINEERING COMMENTS:**

The proposed 40 dwelling unit apartment project is expected to generate 293 net daily trips, 18 net AM peak hour trips, and 22 net PM peak hour trips. The build out of the project is expected to happen by 2022.

The traffic impacts of this development will have an insignificant impact (as per definition in the Traffic

Performance Standards) on the area roadways and no detailed analysis is required.

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

Segment: Military Trail from Okeechobee Blvd to Community Dr

Existing count: Northbound=1477, Southbound=1718

Background growth: Northbound=215, Southbound=222

Project Trips: Northbound=6, Southbound=8

Total Traffic: Northbound=1698, Southbound=1948

Present laneage: 3 in each direction

Assured laneage: 3 in each direction

LOS "D" capacity: 2940 per direction

Projected level of service: Better than LOS D both directions.

The Property Owner shall configure the property into a legal lot of record prior to the issuance of the building permit.

**PALM BEACH COUNTY HEALTH DEPARTMENT:**

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

**FIRE PROTECTION:**

Staff has reviewed this application and have no comment.

**SCHOOL IMPACTS:**

In accordance with the adopted Coordinated Planning Interlocal Agreement, a School Capacity Availability Determination (SCAD) for 44 multi-family residential units had been approved on October 1, 2021 (SCAD Case #21092901D). The subject property is located in SAC 123A.

This project is estimated to generate approximately eleven (11) public school students. The schools currently serving this project area are: Egret Lake Elementary School, Bear Lakes Middle School and Palm Beach Lakes Community High School.

The School Capacity Availability Determination (SCAD) analysis for this application has determined that the proposal would exacerbate capacity deficiencies at the District high school level. The additional three (3) high school students generated by this proposal will increase the utilization percentage of Palm Beach Lakes Community High School to 104%.

**PARKS AND RECREATION:**

Project proposed 40 dwelling units requiring 0.24 acres of onsite recreation, 0.524 acres of recreation are provided, and therefore the recreational requirement is satisfied.

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

The existing site is vacant with no prior development approvals. The request would provide infill development and continue the residential development patterns as permitted in the RM zoning district and under the Future Land Use (FLU)/Planning Comprehensive Plan. The proposal will have access to local Commercial uses within walking distance, including Mass Transit and will serve to provide additional Workforce Housing to help address the increasing demand for Workforce Housing in Palm Beach County. Therefore, necessitating the request.

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**FINDINGS:**

**Conditional Use Workforce Housing Density Bonus**

When considering a DO application for a Conditional Use request for Density Bonus pursuant to Article 5.G.1, Workforce Housing Program (WHP), the BCC shall utilize the Standards indicated in Article 5.G.1.B.2.e.2)b), Factors for Consideration.

- 2) Full Incentive Developments Requesting a WHP Density Bonus Greater Than 50 Percent For developments requesting a WHP density bonus of greater than 50 percent, the Planning Director or designee shall review the request pursuant to the following process: **[Ord. 2019-033]**
  - a) *Density Bonus Pre-Application Appointment*

Requests received for density bonuses greater than 50 percent shall be scheduled for the next available Pre-Application Appointment, which shall be conducted regularly by the Planning Division, according to a schedule published by the PZB Department. Pre-Application Appointments shall include other appropriate County Departments and Agencies, as determined by the PZB

Department. The developer shall be required to participate in the Pre-Application Appointment for the proposed development, to discuss the proposed development and unit types, characteristics of the site and surrounding area, and other relevant factors. **[Ord. 2019-033]**

b) *Factors for Consideration*

Staff shall consider the following factors in developing a maximum density and density bonus recommendation. **[Ord. 2019-033]**

(1) The extent of which the proposed WHP units further County objectives: **[Ord. 2019-033]**

(a) The intent to provide the workforce housing units on site; **[Ord. 2019-033]**

(b) The intent to provide Single Family and for-sale workforce housing units; **[Ord. 2019-033]**

(c) The proximity of the location where the WHP units are to be provided to employment centers; **[Ord. 2019-033]**

(d) The concentration of households with incomes in the WHP income categories, in the location where the WHP units are to be provided. **[Ord. 2019-033]**

(2) The potential impact of the proposed density bonus: **[Ord. 2019-033]**

(a) The total number of units proposed, including any Transfer of Development Rights; and **[Ord. 2019-033]**

(b) The compatibility with the character of the adjacent and surrounding area in the location of the subject development. **[Ord. 2019-033]**

c) *Density Bonus Recommendation*

Within ten days following the Pre-Application Appointment, the Planning Director or designee shall provide a written WHP Letter of Determination identifying the recommended maximum density bonus and the total number of WHP units required, subject to further limitations due to property development regulations and other factors in the development review process. The Planning Director or designee shall provide the WHP Letter of Determination to the developer, DRO, ZC, or BCC, whichever is appropriate and may include recommended Conditions of Approval for the resulting Development Order. **[Ord. 2019-033]**

In addition to the Analysis completed by Planning Division for the Class A Conditional Use to allow more than 24 Multifamily units in the RM and MR-5 Zoning and FLU above. Planning Staff have concluded that the proposed density bonus is compliant with the Factors for Consideration based on the proposed request and find that the number of units, as well as the proposed design is compatible with the surrounding area. The Planning Division analysis is provided in Figure 8, and subject to the Conditions of Approval as indicated in Exhibit C-2.

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**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 Exhibits C-1 through C-2.

## CONDITIONS OF APPROVAL

### EXHIBIT C-1: Class A Conditional Use (More than 24 units RM/MR-5)

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 10, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

#### ENGINEERING

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

2. Prior to the issuance of the first Certificate of Occupancy, the Property Owner shall construct a drainage system for Old Military Trail from the project site to the point of legal positive outfall. The drainage shall provide for legal positive outfall for this project as well as to accept discharge from all other properties both adjacent to the road right of way and those discharging to the right of way. 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 for improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)

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

3. 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, 2022, 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)

4. The Property Owner shall reconstruct Orlando Avenue from Old Military Trail to Military Trail and Old Military Trail from Orlando Avenue to the north terminus to be consistent with Palm Beach County standards for a local street. 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 for Improvements identified above shall be obtained from Palm Beach County prior to the issuance of the first Building Permit. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM: MONITORING - Engineering)

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

5. Property Owner shall construct a 5 foot wide concrete sidewalk along the west side of Old Military Trail from the north property line to the intersection of Old Military Trail and Orlando Avenue. Any and all costs associated with the construction shall be paid by the Property Owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. The sidewalk shall be completed prior to the issuance of the first certificate of occupancy. If approved by the County Engineer, the Property Owner may submit payment in lieu of construction in an amount approved by the County Engineer and the condition shall be considered satisfied. (BLDGPM/CO: MONITORING - Engineering)

#### ENVIRONMENTAL

1. Prior to final approval by the Development Review Officer, the vegetation disposition chart shall be consistent with the requirements of the technical manual and the dispositions of each tree shall be reviewed and approved by the Department of Environmental Resources Management. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

2. All mitigation plantings shall be planted on-site or as approved by ERM. (CO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)



3. Prior to final approval by the Development Review Officer, a Tree Preservation Area Management Plan shall be provided to ERM for review and approval. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

4. The Applicant shall relocate native understory growth (e.g., saw palmetto, cocoplum, etc.) where feasible. (VEGPMT: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

### **PARKS**

1. Correct justification statement for recreation provided at final DRO. (DRO: PARKS AND RECREATION - Zoning)

2. Only 20% of the Certificates of Occupancy may be issued until the recreational common elements are complete and open to the residents. Unless a phasing plan is entered into with the Parks and Recreation Department. (CO: PARKS AND RECREATION - Parks and Recreation)

### **SCHOOL BOARD**

1. The Property Owner shall post a notice of annual boundary school assignments for students from this development. A sign 11" X 17" shall be posted in a clear and visible location in all sales offices and models with the following:

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

School age children may not necessarily be assigned to the public school closest to their residences. Students in Palm Beach County are assigned annually to schools under the authority of the School Board and, by direction of the Superintendent, public school attendance zones are subject to change. Please contact the Palm Beach County School District Boundary Office at (561) 434-8100 for the most current school assignment(s). (ONGOING: SCHOOL BOARD - School Board)

### **COMPLIANCE**

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

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

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: 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 (Workforce Housing Density Bonus Greater Than 50 Percent)

#### ALL PETITIONS

1. The approved Preliminary Site Plan is dated March 10, 2022. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners. (ONGOING: ZONING - Zoning)

#### PLANNING

1. The subject request for 40 units with a 7-unit Workforce Housing Program (WHP) obligation was calculated based on Full Incentive Development Option with the WHP units to be MF rental and will be provided onsite. A 76% WHP density bonus, or 17.21 units, was utilized. Should any change occur to the calculation, the site shall require resubmittal and recalculation in whatever process it originated. (ONGOING: PLANNING - Planning)

2. The Property Owner shall notify Planning and DHES at the commencement of leasing. (ONGOING: PLANNING - Planning)

3. Prior to Final DRO approval, the plans and all applicable documents shall be updated to reflect the correct WHP information. (DRO: PLANNING - Planning)

4. Prior to the issuance of the first residential Building Permit, the Property Owner shall record in the public records of Palm Beach County a Declaration of Restrictive Covenants, in a form acceptable to the Palm Beach County Attorney. The site plan shall also be modified to include the OR Book and Page of the recorded document and provide a copy of the revised site plan to Planning. (BLDGPM: MONITORING - Planning)

5. Prior to the release of the first Building Permit, the Property Owner shall provide documentation demonstrating compliance with the required design standards: compatible exteriors, provision of a dry model. (BLDGPM: MONITORING - Planning)

6. Prior to the release of the 4th Building Permit (20 units), Fifty percent of WHP units (4) must receive Certificates of Occupancy (CO). (BLDGPM: MONITORING - Planning)

7. Prior to the release of the 6th Building Permit (34 units), All WHP units (7) must receive Certificates of Occupancy (CO). All Plans and covenants must be consistent with what has been constructed, and shall be amended if necessary. (BLDGPM: MONITORING - Planning)

8. Prior to the release of the first Certificate of Occupancy (CO), the Property Owner shall provide documentation demonstrating compliance with the required proof of notification to interested parties and the design standards, such as but not limited to: compatible exteriors, size and number of bedrooms per WHP unit installation of required appliances, provision of a dry model (ULDC Article 5.G.1.3.h). (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: ZONING - Zoning)

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

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use,

Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: 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

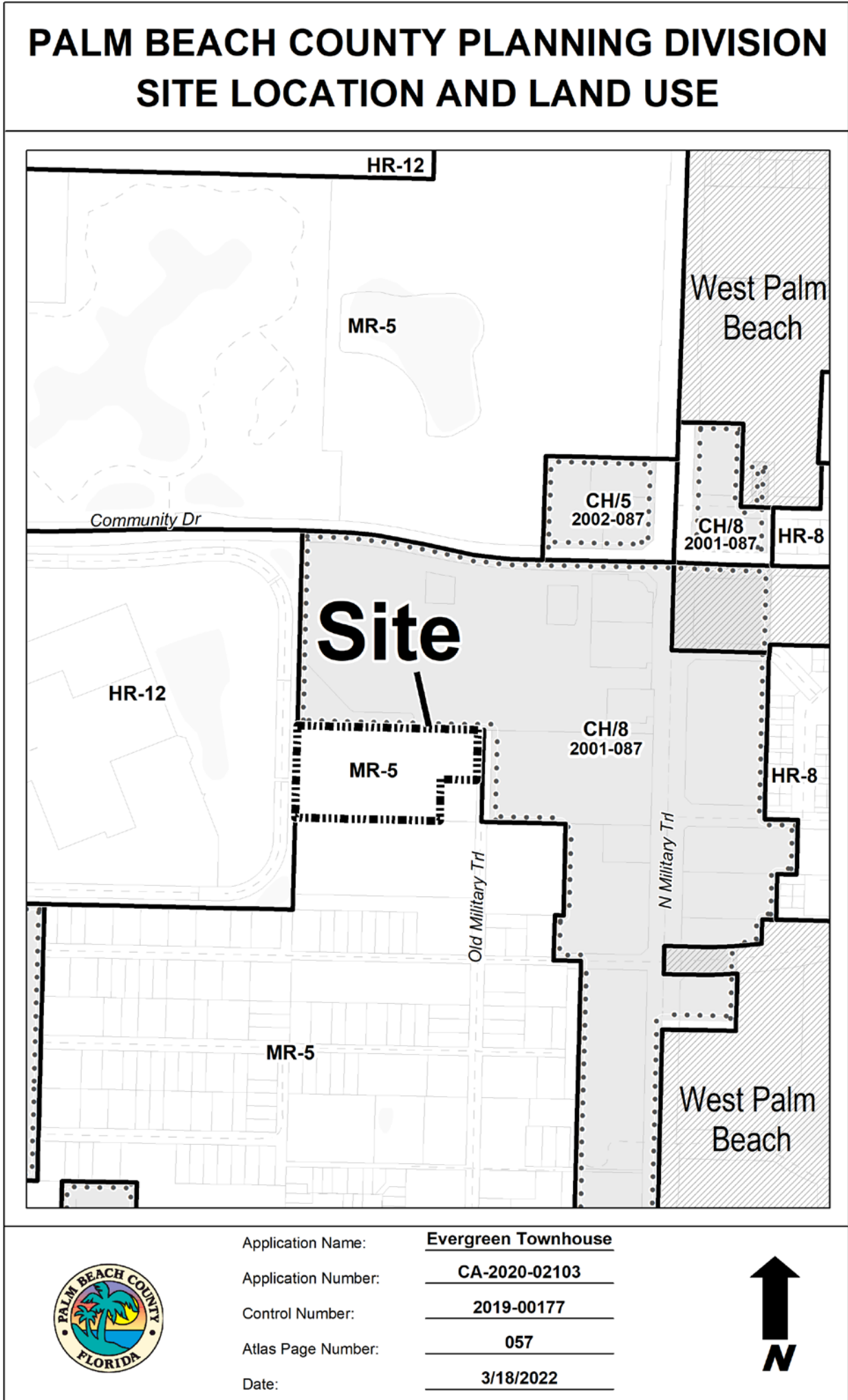


Figure 2 - Zoning Map

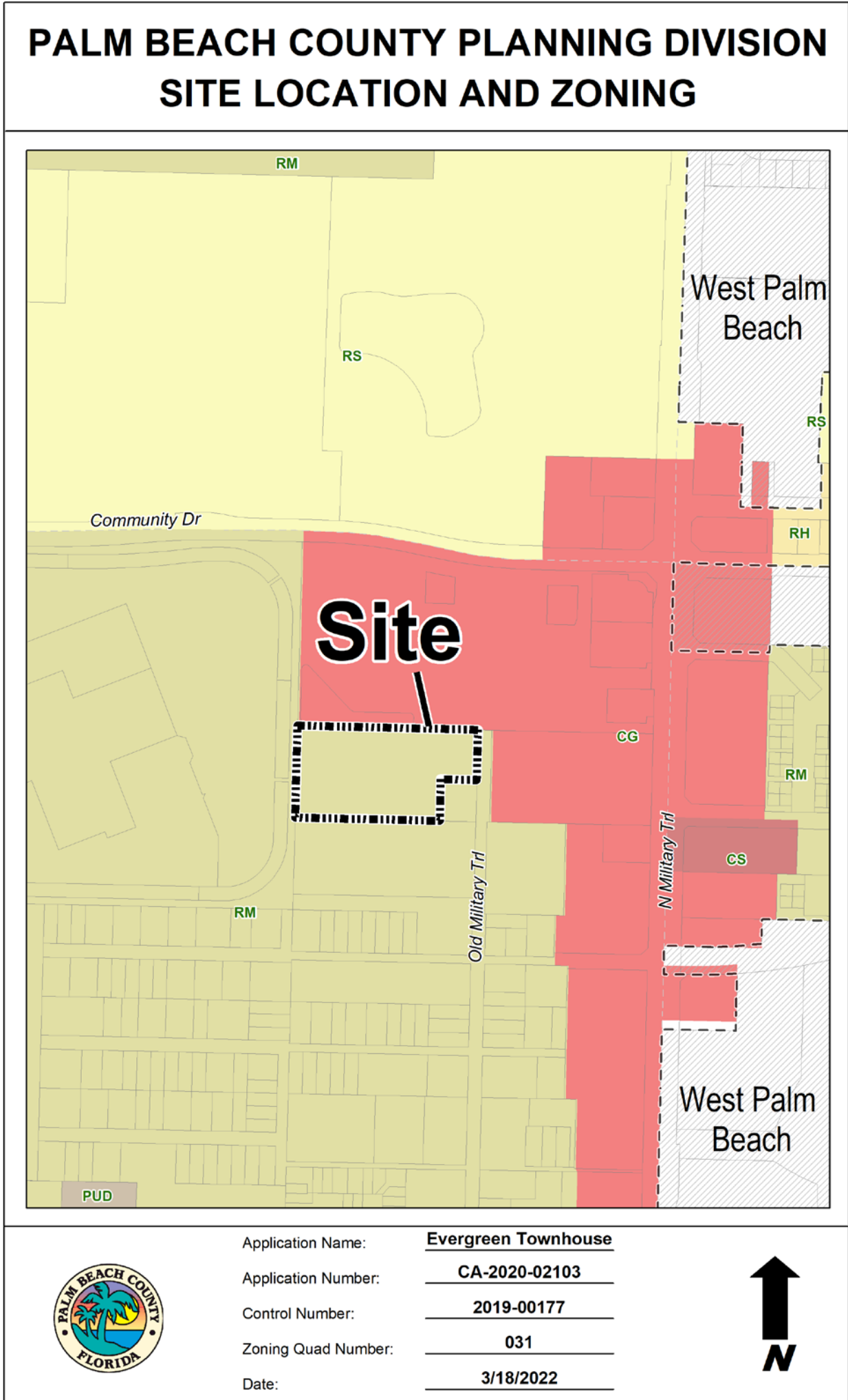
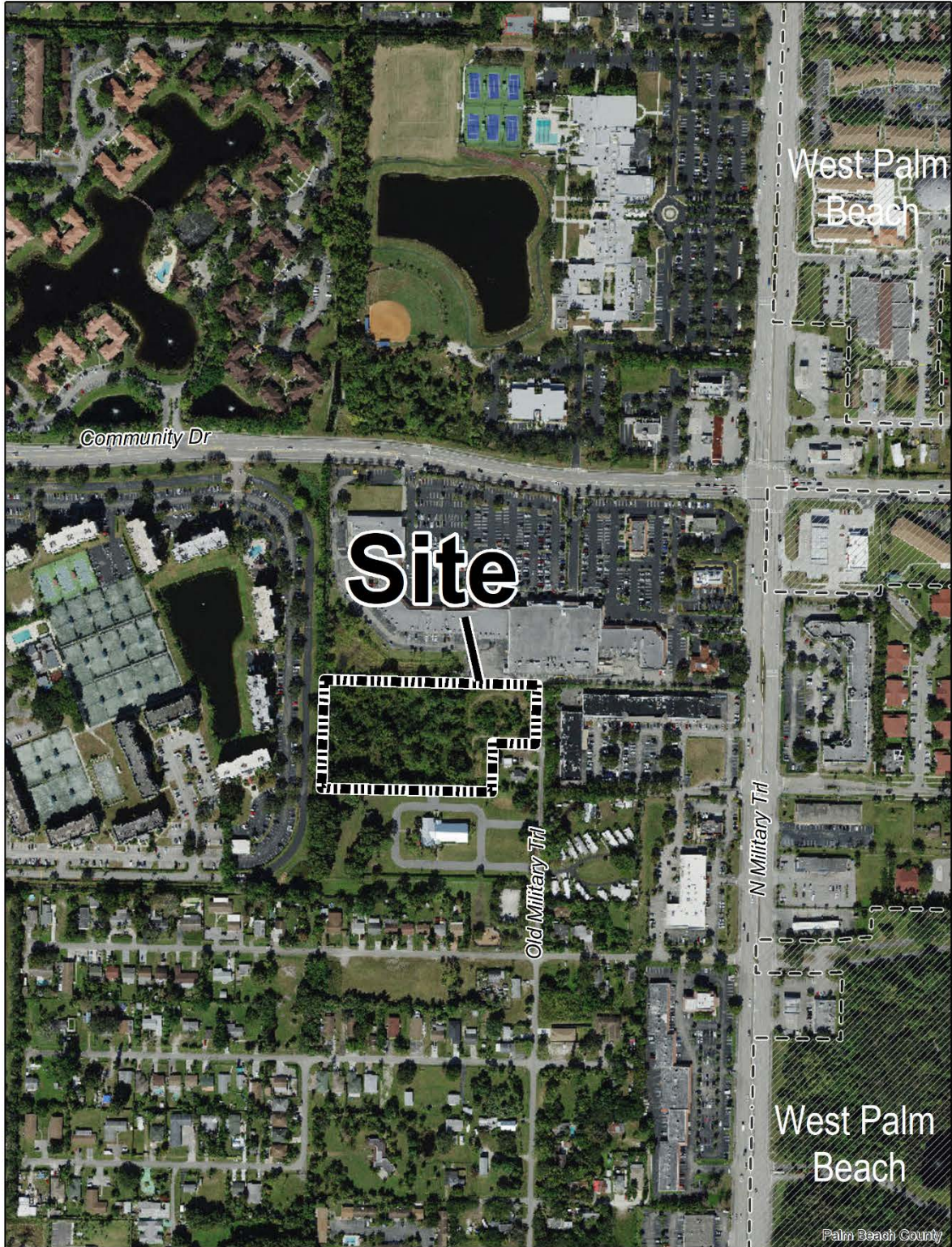


Figure 3 - Aerial

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	<u>Evergreen Townhouse</u>
Application Number:	<u>CA-2020-02103</u>
Control Number:	<u>2019-00177</u>
Atlas Page Number:	<u>057</u>
Date:	<u>3/18/2022</u>



Figure 4 – Preliminary Site Plan (PSP-1) dated March 10, 2022

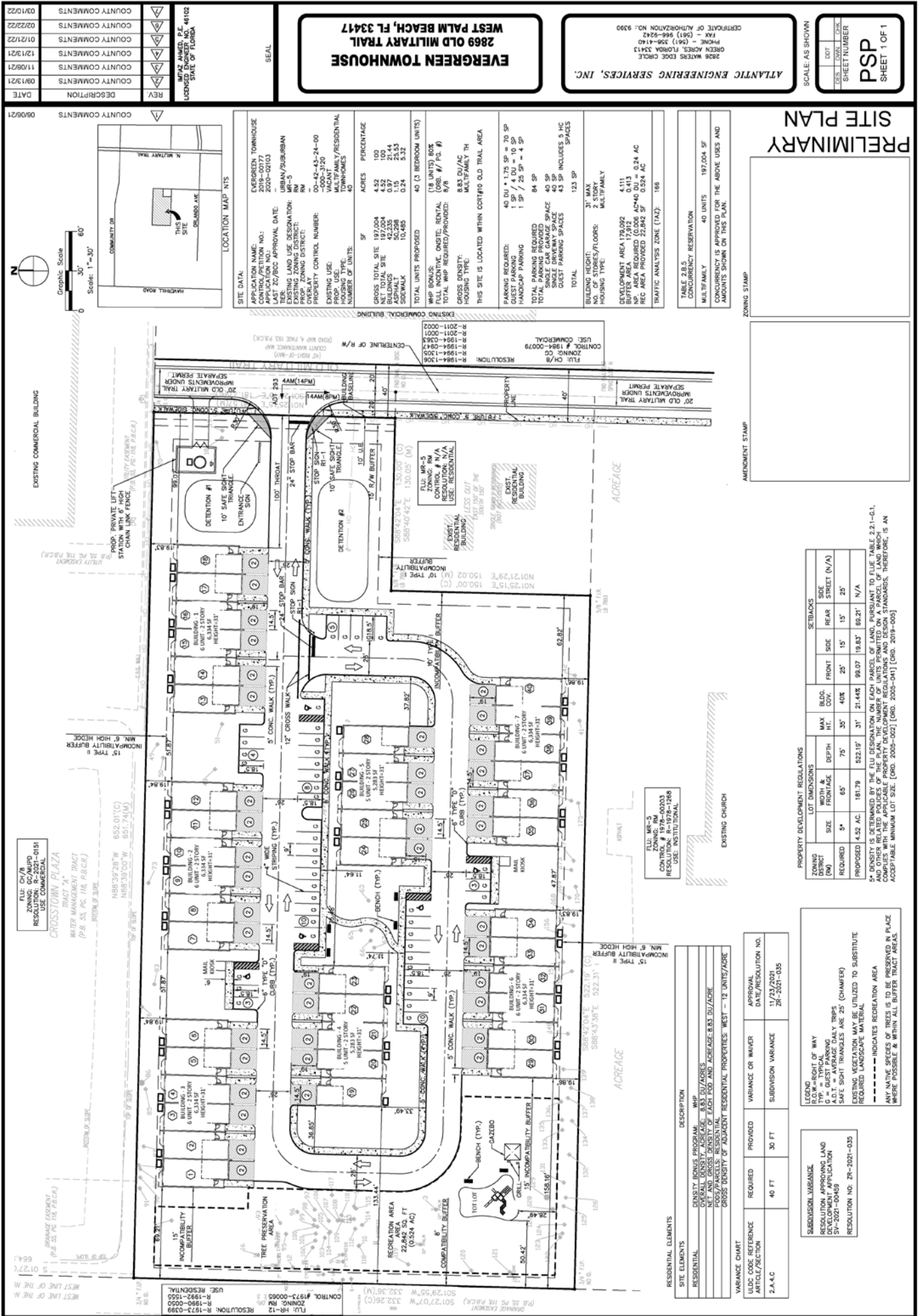


Figure 5 – Preliminary Regulating Plan (PRP-1) Sheet 1 of 3, dated March 10, 2022

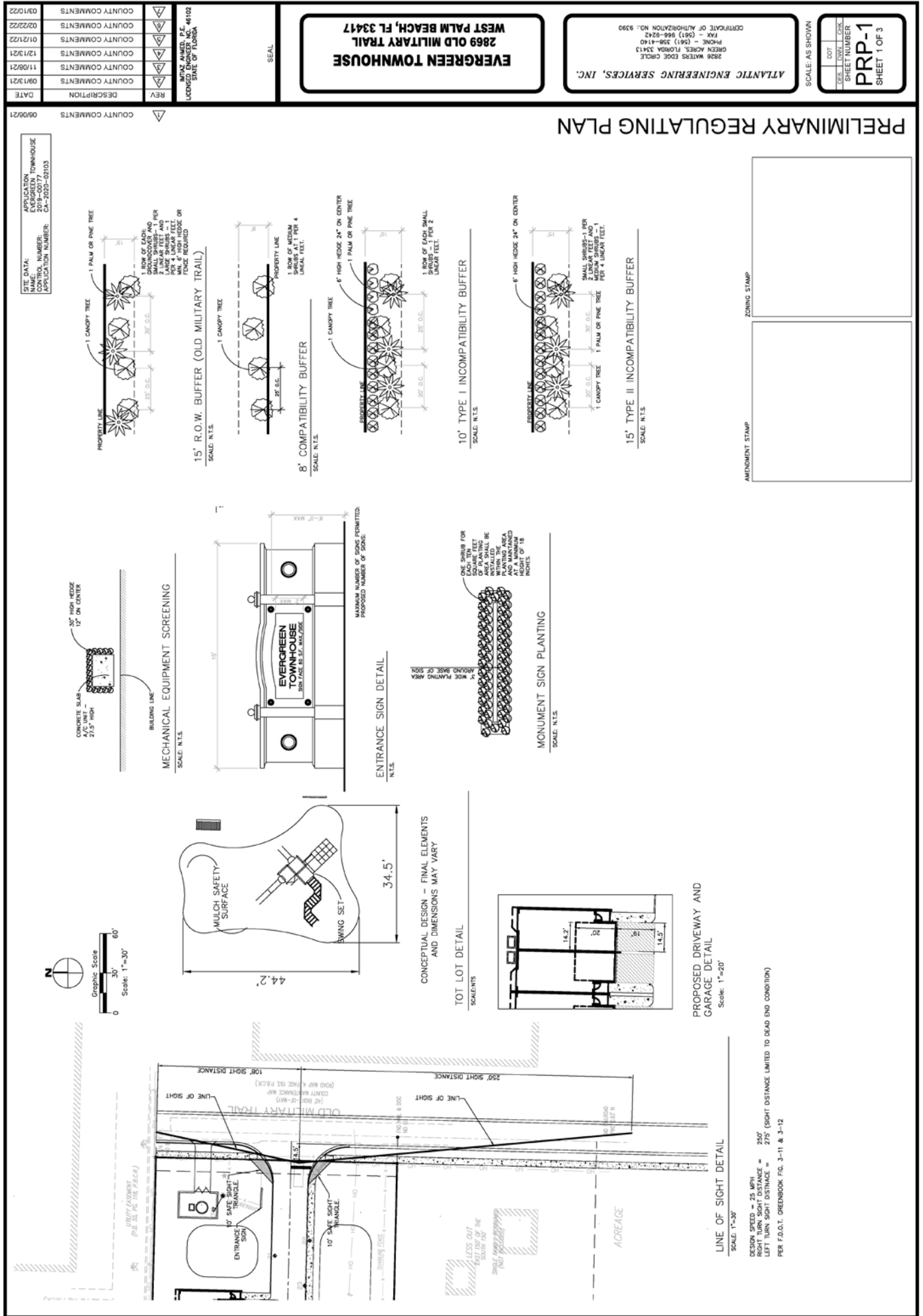




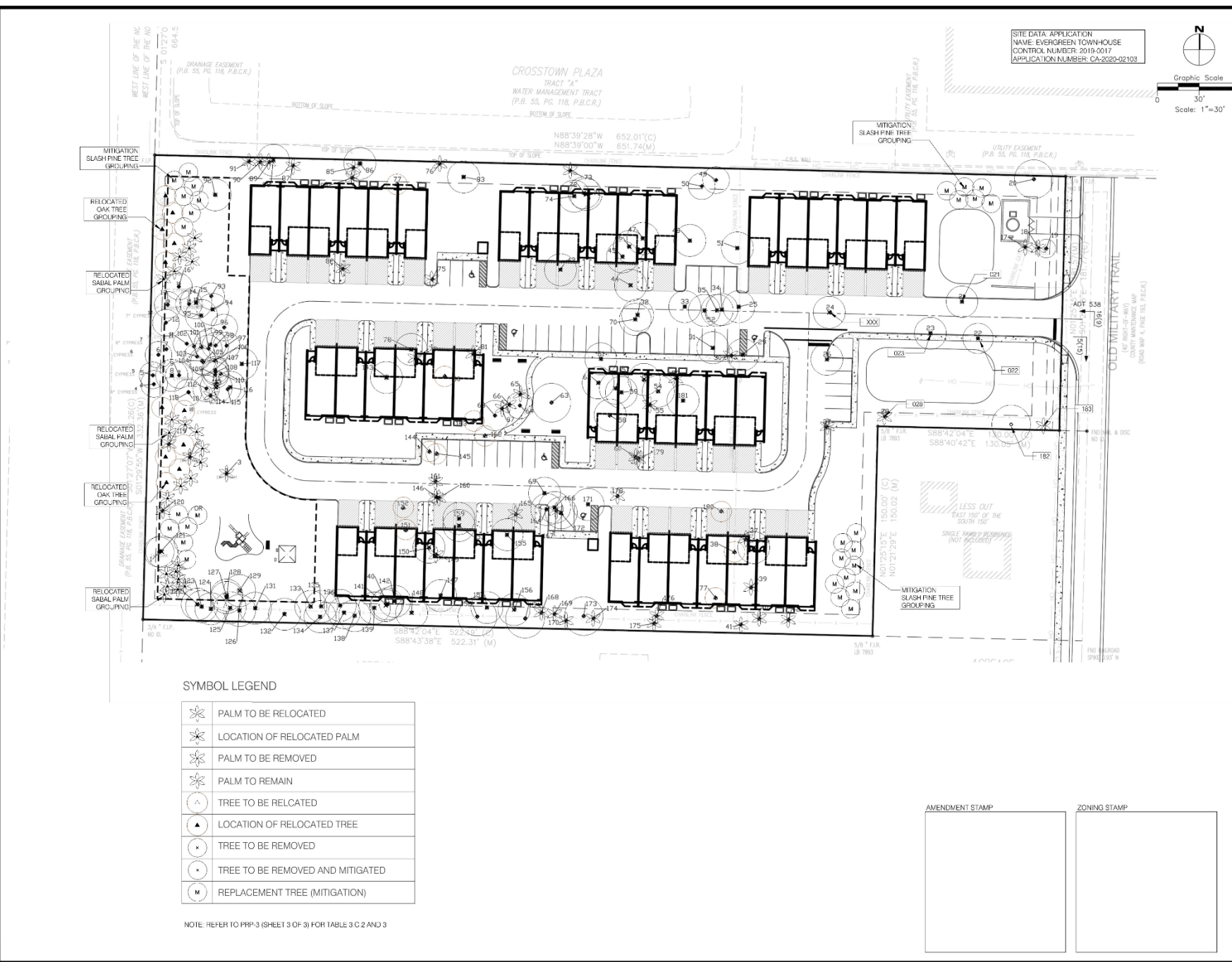
Figure 6 – Preliminary Regulating Plan (PRP-2) Sheet 2 of 3, dated March 10, 2022

REV	DESCRIPTION	DATE
7/A	COUNTY COMMENTS	06/06/22
6/A	COUNTY COMMENTS	11/08/21
5/A	COUNTY COMMENTS	12/13/21
4/A	COUNTY COMMENTS	01/21/22
3/A	COUNTY COMMENTS	02/21/22
2/A	COUNTY COMMENTS	03/10/22

<b>EVERGREEN TOWNHOUSE</b> 2869 OLD MILITARY TRAIL WEST PALM BEACH, FL 33417	
ATLANTIC ENGINEERING SERVICES, INC. 2826 WATERS EDGE CIRCLE GREEN ACRES, FLORIDA 33413 TEL - (561) 986-5242 FAX - (561) 986-5242 CERTIFICATE OF AUTHORIZATION NO. 9390	
SCALE: AS SHOWN	
DDT	CHK
DES	DOWN
SHEET NUMBER 2 OF 3	
<b>PRP-2</b>	
DATE DRAWN OCT. 2020	

TREE OVERLAY AND DISPOSITION PLAN





**Figure 8 – Planning Letter of the Determination- for Workforce Housing Program (WHP) greater than 50% page 1 of 3**



**Department of Planning,  
Zoning & Building**

2300 North Jog Road  
West Palm Beach, FL 33411-2741  
(561) 233-5000

Planning Division 233-5300  
Zoning Division 233-5200  
Building Division 233-5100  
Code Enforcement 233-5500  
Contractors Certification 233-5525  
Administration Office 233-5005  
Executive Office 233-5228  
www.pbcgov.com/pzb

**Palm Beach County  
Board of County  
Commissioners**

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

**County Administrator**

Verdenia C. Baker

*"An Equal Opportunity  
Affirmative Action Employer"*

printed on sustainable  
and recycled paper

March 17, 2022

Dave Persaud  
Brahm Development LLC.  
388 Waymen Circle  
West Palm Beach, FL 33413  
Email: [dper101@gmail.com](mailto:dper101@gmail.com)

Dear Dave:

This corrected letter of determination follows your 40 unit request with no TDRs on the referenced Old Military Trail (Evergreen TH) property. This letter is required for sufficiency in the zoning approval process.

This information provided in this letter is based on the project information you provided:

PCNs:	00-42-43-24-00-000-3120
Total Acreage:	4.53 acres (Survey)
Future Land Use Designation	MR-5
Subject Development unit type	TH (Townhome) two-story
Request	40 total units
Subject Development: Rent or sale	Rental
WHP units to be addressed through	On-site
WHP units: Rent or Sale	Rental
WHP unit type	TH (Townhome) two-story
Incentive Option: Limited or Full	Full
TDRs to be used, if any	No TDRs requested

**Staff Recommendation:** You have requested a letter of determination based on your application for 40 units. As explained below, the staff recommendation is for a total of 40 units, using a 76% density bonus and no TDRs. The WHP obligation would be 7 units. This total is based on the two-step point system and compatibility review used by staff to review requests for density bonuses greater than 50%. The Board of County Commissioners may choose to approve a density bonus that differs from the staff recommendation, and you are not precluded from continuing through the zoning process with a request for a higher percentage than recommended by staff.

**Summary of Staff Review and Basis for Staff Recommendation:** Per the WHP process for density bonuses greater than 50%, staff applied the point system to determine the percentage of density bonus "earned" by the project's proposed approach to meeting its workforce housing obligation. Second, the total potential density for the project, including the bonus identified through the point system, was then reviewed for compatibility and



appropriateness for the site. The result of this two-step process is summarized below, and forms the basis for staff's recommendation.

Step 1: Density Bonus Earned Through Application of WHP Points System

The project earned an 80% density bonus based on meeting its WHP obligation through the provision of multi-family rental townhouse units, on-site. A 76% density bonus is needed to reach the 40 unit request. Additional points and potentially a higher percentage of density bonus would be earned if the WHP units provided were for-sale units and/or were provided as single-family units.

Step 2: Compatibility and Site-suitability Considerations:

Existing residential uses should be considered when determining the placement and height of buildings along the southeast boundary, in order to minimize impacts on the existing residents. The proposed use of two-story townhouse units or other structures of similar mass and scale is compatible with the single-family residential at the southeast corner of the site.

In considering this information, please be aware of the following:

- *Density bonuses greater than 50% are available only under the Full Incentive Option.*
- *All WHP unit exteriors are required to be compatible with market rate units, if any, and models are required.*

In addition, note that the recommendation provided herein does not guarantee a certain number of units, and does not create additional property rights for a landowner. The actual number of dwelling units that may be built on a parcel may be further limited by the zoning district's property development regulations and other considerations in the development review process.

Sincerely,

A handwritten signature in blue ink that reads "Michael Howe".

Michael Howe, Senior Planner

T:\Planning\CURRENT\WHP\Old Military Trail (Evergreen TH)\2022\Evergreen TH\_More than 50% - Final\_031722.docx

**Figure 8 – Planning Letter of the Determination- for Workforce Housing Program (WHP) greater than 50% page 2 of 3**

<b>Workforce Housing Program Analysis</b>											
<b>Greater Than 50% Density Bonus (Full Incentive Only)</b>											
Date: 03/17/2022											
<b>Property Information:</b>											
Property or PCN:			2869 Old Military Trail (Evergreen TH) PCN: 00-42-43-24-00-000-3120								
Acreage:			4.53 acres (Survey)								
Future Land Use Designation:			MR-5								
Request:			40 total units								
Part of PUD/Golf Course? No			Existing LOD? Out of date			CHHA? No		CCRT Area? Yes Yes: Old Trail #10			
Surrounding Land Uses:			N		S		E		W		
Existing:			Commercial		Church		Com/Residential		Residential/Tennis Club		
Future:			CH/8		MR-5		CH/8 & MR-5		HR-12		
Potential FLU Density: (4.53 acres x 5 = 22.65 units )											
<b>Density Bonus Determination:</b>											
Part 1: Point system based on proposed approach to meeting WHP obligation											
Proposed method to meet WHP obligation	WHP Objectives & Points										
	Delivers units?	Onsite?	WHP Unit type?			WHP Rental/ For-sale?		WHP Concentration in Census tract?		POINTS EARNED	POTENTIAL DENSITY BONUS
	(1) to (6)	(10)	MF (1)	TH (3)	SF (10)	R (1)	FS (10)	>39% (0)	<39% (6)		
	6	10	3			1		0		20	80%
Part 2: Compatibility and Other Site Considerations: (See Compatibility and Site-suitability Considerations above)											
Staff Recommendation for Density Bonus: 80% (See Density Bonus Earned Through Application of WHP Points System above)											
<b>TDR Units, if applicable:</b>											
TDR Density: should Transfer of Development Rights be used, the following would apply:											
TDR Eligibility: 4 TDRs/acre			Old Trail area, CCRT #10								
TDR Units permitted: 18			4.53 x 4 = 18.12								
<i>TDR units purchased shall proportionally reflect the unit mix of the non TDR units. The applicant may elect to purchase some or all of the non-WHP TDRs at TDR WHP prices; if purchased at WHP prices, those units must be restricted as Low Income category WHP units.</i>											
<b>WHP Obligation:</b>											
Density Component:	Required Percentage					Calculations					
	Rental WHP		For Sale WHP			Possible Units			WHP Obligation		
Standard Density:	5%		4.375%								
Maximum Density:	16%		14%								
Density Bonus:	34%		29.75%								
Multiplier for For-Sale projects providing WHP as off-site rentals: 1.5x obligation (Not applicable to TDRs)											
Discount for on-site, For Sale WHP units: 20% for SF, 10% for TH											
TDRs, if any:			34%								
TOTALS											
<b>Alternative Unit Specific Calculation, if Requested: 40 Units</b>											
Density Component:	Required WHP Percentage					Calculations					
	Rental WHP		For Sale WHP			Units			WHP Obligation		
Standard Density:	5%		4.375%			4.53 x 4 = 18.12			18.12 x 5% = 0.91		
Maximum Density:	16%		14%			4.53 x 1 = 4.53			4.53 x 16% = 0.72		
Density Bonus: 76%	34%		29.75%			22.65 x 76% = 17.21			17.21 x 34% = 5.85		
1.5x Multiplier -- For-Sale projects providing WHP as off-site rentals (Not applicable to TDRs)											
TDRs, if any:			34%			0			0		
TOTALS											
39.86 or 40 total units											
7.48 or 7 WHP											
<i>The estimates provided in this worksheet do not guarantee a certain number of units, and do not create additional property rights for a landowner; the actual number of dwelling units that may be built on the parcel may be further limited by compatibility considerations, property development regulations and other factors in the development review process. Any hypothetical land use employed in the calculations is subject to the Comprehensive Plan amendment process, and may not be approved.</i>											

**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 Vivian Cavata MS, 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 Evergreen LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
- 2. Affiant's address is: 5340 N Federal Hwy  
Suite 100  
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.

PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

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.

  
Vipin Gupta, M.D., 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 10<sup>th</sup> day of March, 2022 by Vipin Gupta (name of person acknowledging). He/she is personally known to me or has produced FLDL: 6130-860-73-166-0 (type of identification) as identification and  did not take an oath (circle correct response).

Liliana P. Humphreys  
(Name - type, stamp or print clearly)

  
(Signature)

My Commission Expires on: Oct. 30, 2022

NOTARY'S SEAL OR STAMP

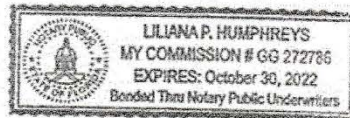


EXHIBIT "A"

PROPERTY

A parcel of Land in Palm Beach County, Florida more particularly described as:

The north 1/4 of the Southwest 1/4 of the Northeast 1/4 of the Northwest 1/4 of Section 24, Township 43 South, Range 42 East, Less the East 150 feet of the South 150 feet thereof, and the Right of Way of Old Military Trail.

SIZE: 4.52 AC

Street Address: 2869 Old Military Trail, West Palm Beach, FL 33417



PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

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
Vipin Gupta, MD	5340 N Federal Hwy, suite 110 light house point, FL 33064

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