

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

**Application No.:** ZV-2020-02120  
**Application Name:** Delray Self Service Storage  
**Control No./Name:** 1994-00053  
**Applicant(s):** West Atlantic Commercial Properties, LTD  
**Owner(s):** West Atlantic Comm'l Prop LTD  
**Agent(s):** WGINC - Yoan Machado  
**Telephone No.:** (561) 687-2220  
**Project Manager:** Imene Haddad, Senior Site Planner

**TITLE:** a Type 2 Variance **REQUEST:** to allow for the reduction in minimum lot size.

**APPLICATION SUMMARY:** The Applicant is seeking a Type 2 Variance from minimum property development regulations to reduce the minimum lot size from 5-acres to 4.53-acres for a property within the Multiple Use Planned Development (MUPD) Zoning District. acres. A subsequent application (PDD/CA-2021-00829) for an Official Zoning Map Amendment to rezone the property to the Multiple Use Planned Development District (MUPD) is contingent on decision for the variance request.

The Preliminary Site Plan (PSP), dated October 12, 2021, indicates two, one-story buildings and one, five-story building, which includes 140,140 square feet (sq. ft). of Limited Access Self Storage, a 2,000 sq. ft. Car Wash and a 4,370 sq. ft. Gas Station with Convenience Store with 8 pumps/16 fueling positions. One access point to the site is proposed to West Atlantic Avenue.

**SITE DATA:**

Location:	North side of West Atlantic Avenue, approximately 0.25 miles west of South Military Trail.
Property Control Number:	00-42-46-14-00-000-5300
Existing Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Existing Zoning District:	General Commercial District (CG)
Proposed Zoning District:	Multiple Use Planned Development (MUPD)
Acreage:	4.53 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile:	Delray Beach
Future Annexation Area"	Delray Beach
Commission District	District 5, Commissioner Maria Sachs

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

**ACTION BY THE ZONING COMMISSION:** At the November 23, 2021 ZC Hearing, the Applicant requested a postponement to the January 6, 2022 hearing so that they may address concerns from the area residents. Following the November hearing, the hearing the Applicant met with the Delray Alliance and gave them a presentation of the proposal on December 14, 2021. The Applicant contacted the High Pointe Development Home Owners Association (HOA), which abuts the subject site to the north and was in process of coordinating additional meetings.

At the January 6, 2022 ZC Hearing, the Applicant requested a second postponement to February 3, 2022, as they needed additional time due to the holiday's to meet with the residents. The request was approved with a vote of 9-0-0.

At the February 3, 2022 ZC Hearing, the Applicant requested a third postponement to the March 3, 2022 ZC Hearing as they continued to work with the residents. The ZC approved the request with a vote of 7-0-0

At the March 3, 2022 ZC hearing the Applicant requested a fourth postponement to the May 5, 2022 hearing, to finalize site design modifications based on concerns from the residents. The ZC approved with a vote of 6-0-0.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received 70 responses in objection from the public regarding this project. Reasons for objections include the following:

- Concerns related to additional traffic on West Atlantic Avenue.
- The Retail Gas and Fuel Sales use being incompatible with the surrounding uses.
- The Self-Service Storage use being incompatible with the surrounding uses.

**PROJECT HISTORY:** The subject site has no previous Public Hearing approvals. It was approved through a Development Review Committee (DRC) administrative approval process application DRC-1994-00053, for a Flea Market and the site is currently utilized as such. As previously stated, the Applicant seeks the variance to allow for the site to be rezoned to MUPD to allow for the development of a Gas Station with Convenience Store, a Car Wash, and a Self-Service Storage Facility.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: High Residential (RH-8)  
Zoning District: Medium Residential (RM)  
Supporting: Residential (High Point of Delray West, Control No. 1974-00066)

**SOUTH: (across West Atlantic Avenue):**

FLU Designation: General Commercial (City of Delray Beach)  
Zoning District: Planned Office Center (City of Delray Beach)  
Supporting: Commercial (Control Name and No. N/A)

**EAST:**

FLU Designation: General Commercial (City of Delray Beach)  
Zoning District: General Commercial (City of Delray Beach)  
Supporting: Commercial (Control Name and No. N/A)

**WEST:**

FLU Designation: Specialized Commercial (CS)  
Zoning District: Commercial High, with an underlying HR-8 (CH/8)  
Supporting: Commercial (Executive Square Plaza, Control No. 1980-00221)

**TYPE 2 VARIANCE SUMMARY**

#	ULDC Article	REQUIRED	PROPOSED	VARIANCE
V.1	Table 3.E.3.D, MUPD Property Development Regulations	Minimum Lot Size – 5 Acres for lands with a CH Future Land Use	4.53 Acres	-0.47 Acres

**FINDINGS - Type 2 Variance Standards:** When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under ULDC Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance which 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:**

**V.1 - YES.** The Applicant is requesting the variance to reduce the minimum lot size to allow for the subject site to be rezoned to the Multiple Use Planned Development (MUPD) district, for the purposes of developing a 140,140 sq. ft Limited-Access Self-Service Storage building, a 2,000 sq. ft. Car Wash, and a 4,370 sq. ft. Retail Gas and fuel with Convenience Store with 8 pumps/16 fueling positions (see Figure 4, Preliminary Site Plan). The site currently meets the property development regulations (PDRs) for the CG Zoning District, which makes it a conforming site. As the 4.53-acre subject site is surrounded by parcels that are completely built-out, there is no opportunity for the Applicant to acquire additional land area in order to meet the minimum 5-acre lot size required for an MUPD. Rezoning to an MUPD will allow for a range of development on the site, while meeting the MUPD development requirements outlined in Art. 3.

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

**V.1 - YES.** The circumstances were established at the time that the parcel was developed. Consequently, the lot size Variance is not a result of the actions by the Applicant. The Applicant states in the Justification Statement that the subject site was sold to the current owner in the same lot size and configuration in which it exists today.

The Applicant is unable to purchase additional land as the lands to the east, west and north are fully developed. Without the approval of this Variance, the current standard Zoning District would allow for limited development.

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:***

V.1 – YES. Granting the Variance will not confer upon the Applicant any special privilege denied by the Comprehensive Plan and this Code to other parcels of land, structures or buildings in the MUPD Zoning district. As the requested Variance is to allow relief from the minimum lot size, it will allow the subject site to be rezoned and developed as an MUPD. The existing 4.53-acre site has sufficient space to satisfy the minimum setback, frontage and lot depth requirements within the Property Development Regulations (Table 3.E.3.D). The Applicant has not been granted any special privilege as the subject site has a concurrent request for an for an Official Zoning map Amendment to allow a rezoning from General Commercial District (CG) Zoning District to Multiple Use Planned Development District (MUPD) Zoning District.

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:***

V.1 – YES. The literal interpretation of the Code would create an unnecessary and undue hardship on the Applicant, as the requested Variance to deviate from the required minimum lot size is a result of conditions that existed at the time the parcel was created. The literal interpretation of the Code would prevent the concurrent rezoning application to move forward, and would limit the form of development that would be able to be done on site. As previously noted, MUPDs allow for a wider range of development, which is evident based on the Preliminary Site Plan that has been provided, which contains multiple uses. Without this approval, the subject site would not be able to be developed in this manner, and as such there is a hardship that would deprive the landowner of rights others have for properties zoned MUPD.

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

V.1 – YES. The proposed Variance to allow the Applicant to deviate from the minimum lot size, is the minimum Variance that will make possible the reasonable use of the parcel of land. The subject site is surrounded by already developed properties, denying the opportunity for the property owner to acquire more land to satisfy the MUPD five acres minimum lot size.

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

V.1 – YES. The purpose of the MUPD district is to provide for an efficient use of land by the integration of multiple uses, or large single uses, within a unified development. Further, the intent of the MUPD district is to provide enlightened and imaginative approaches to community planning and design. Planned developments are held to a higher standard of development, and the Applicant has demonstrated on their Site Plan that they can meet all the requirements for an MUPD zoned parcel. This Variance does not conflict with the goals and objectives of the Code.

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

V.1 – YES. The Applicant has shown on the Preliminary Site Plan that the proposed development would meet all other requirements of a MUPD zoned parcel of land. As such, the granting of the variances would not be detrimental to the public welfare.

**CONCLUSION:** Staff has evaluated the standards listed under Article 2.B. and determined that there is a balance between the need for change and the potential impacts generated by this change. Staff is recommending approval of the request, subject to the recommended Conditions of Approval as indicated in Exhibit C.

## CONDITIONS OF APPROVAL

### EXHIBIT C

#### Type 2 Variance - Standalone

##### ALL PETITIONS

1. The approved Boundary Survey is dated October 11, 2021. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)
2. This Variance is approved based on the Boundary Survey, dated October 11, 2021. Only minor modifications by Board of County Commissioners or Development Review Officer shall be permitted provided the changes are consistent with this Boundary Survey. (ONGOING: ZONING - Monitoring)
3. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for PDD/CA-2021-00829. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Monitoring)
4. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM: BUILDING DIVISION - Zoning)

##### COMPLIANCE

1. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Zoning Commission for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)
2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:
  - a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
  - b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
  - c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
  - d. Referral to Code Enforcement; and/or
  - e. Imposition of entitlement density or intensity.

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

##### DISCLOSURE

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



### Figure 1 - Land Use Map

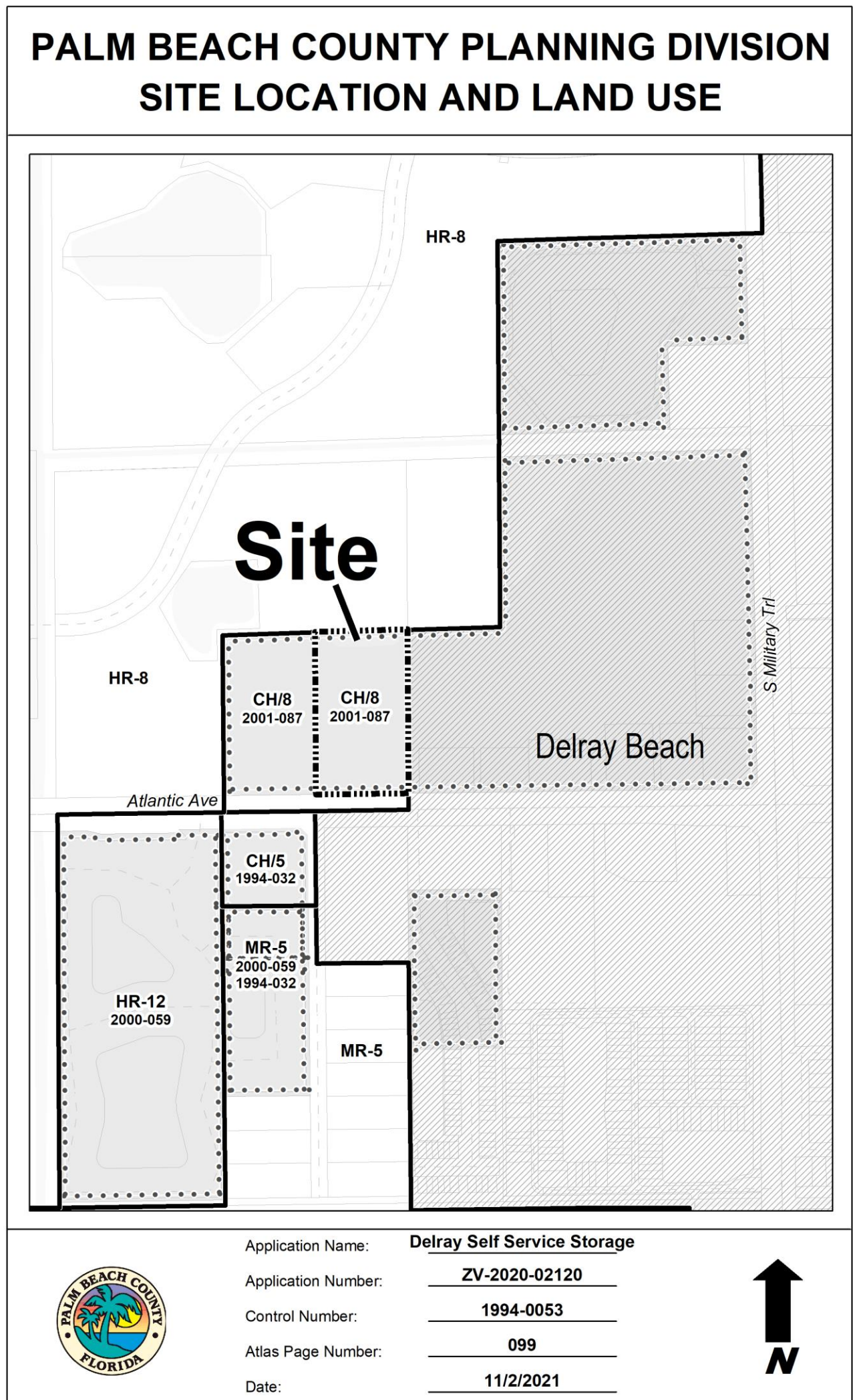


Figure 2 - Zoning Map

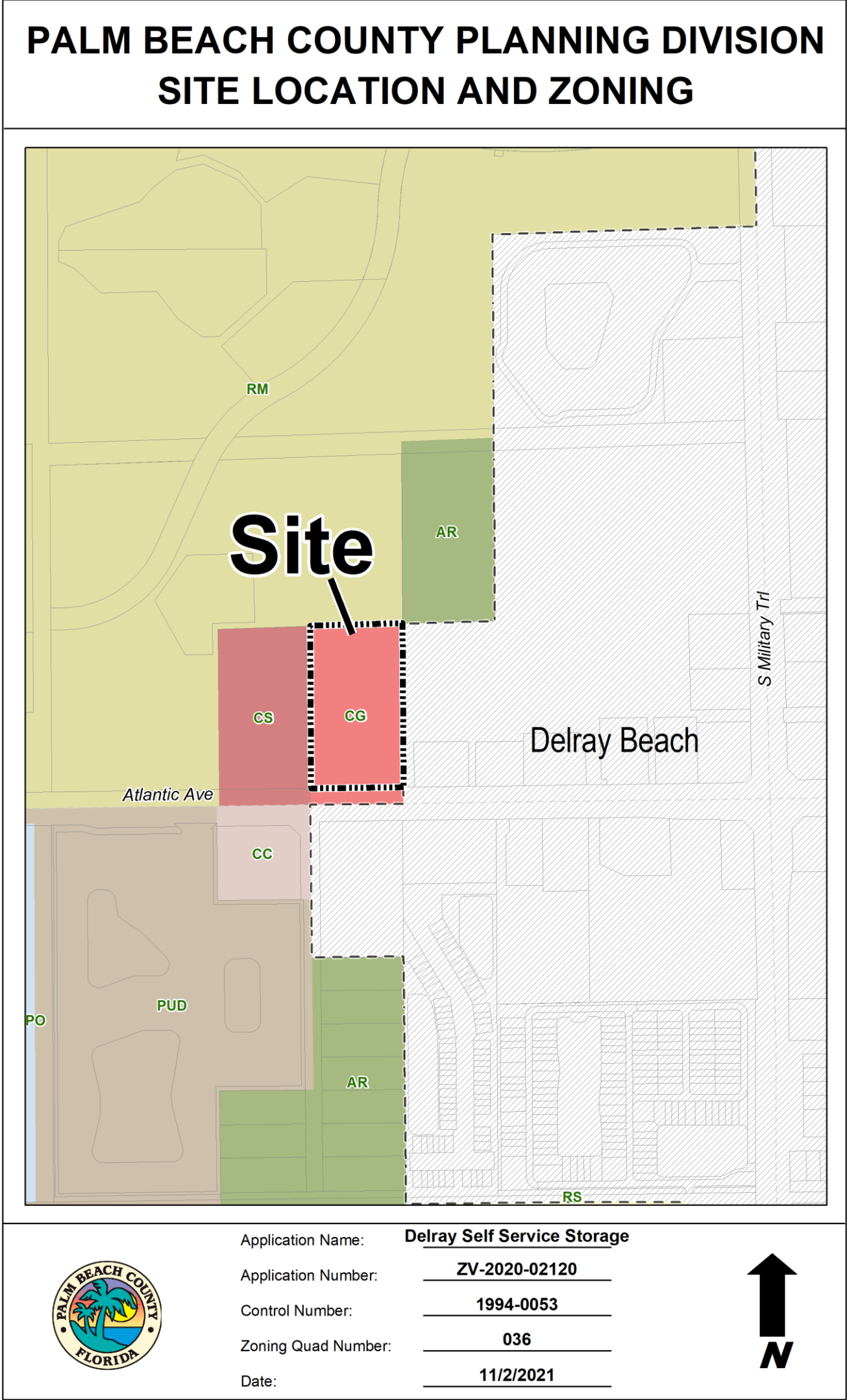
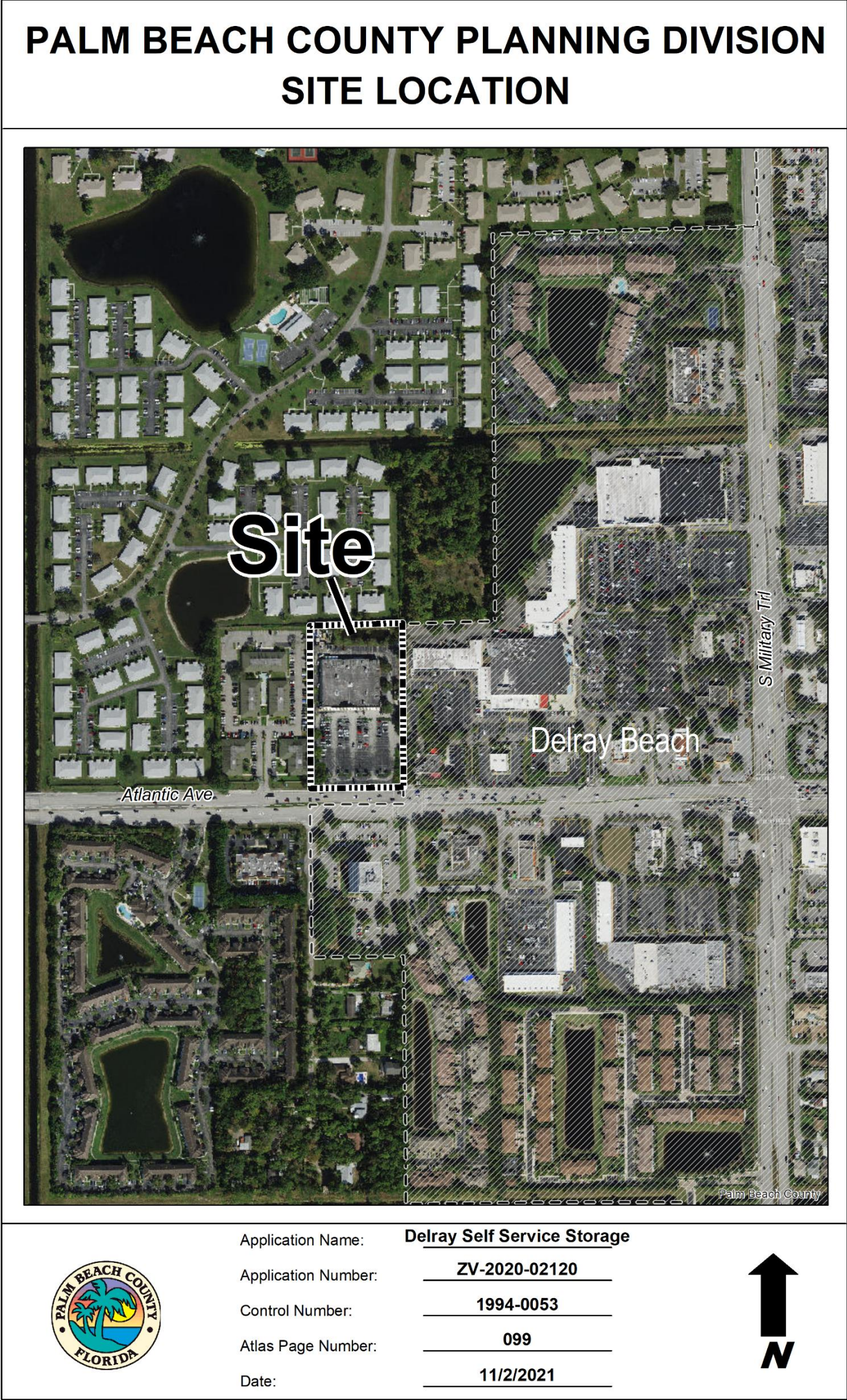




Figure 3 - Aerial





Page 8  
Delray Self Service Storage

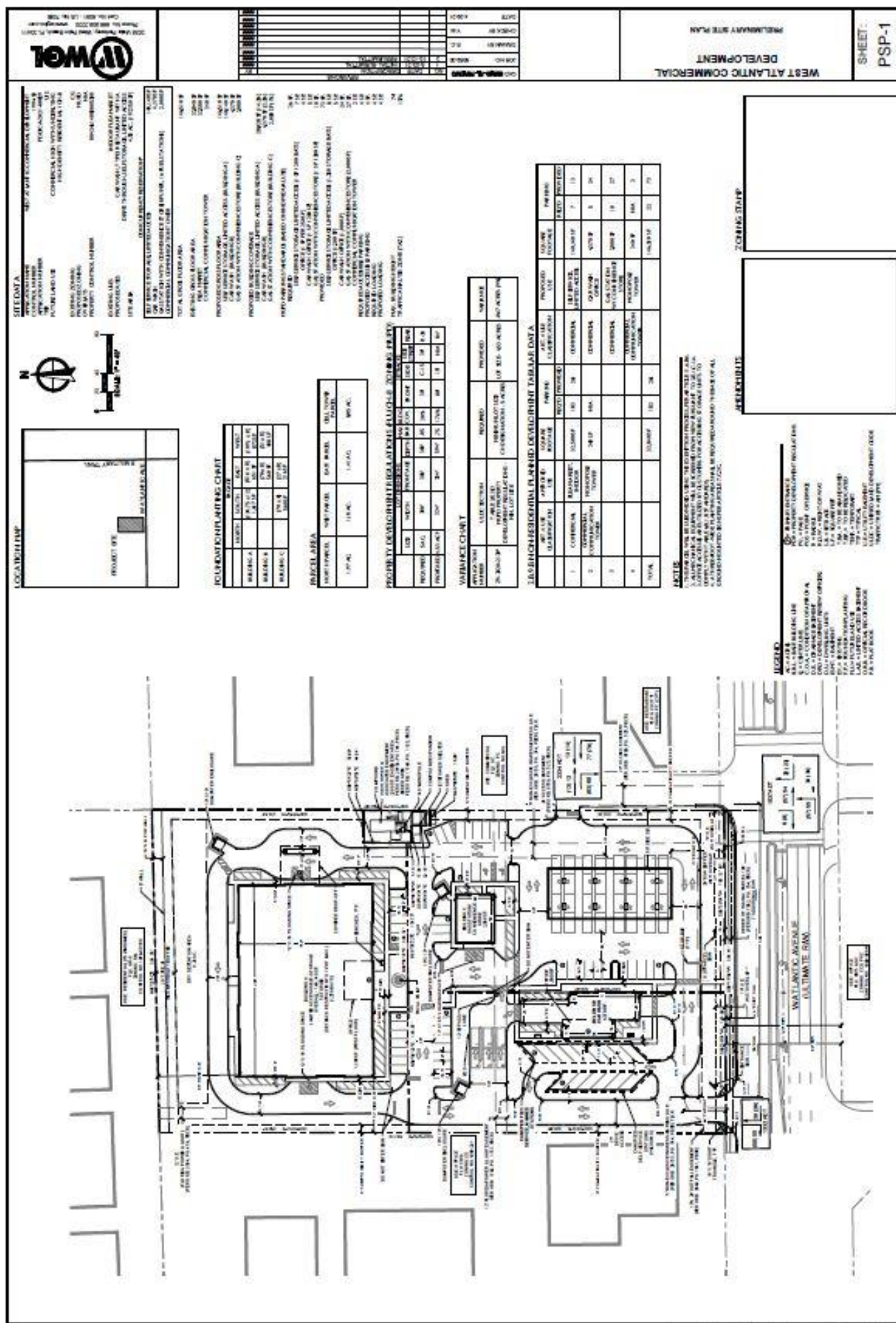






Exhibit D – Disclosure of Ownership

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 Laura K. Pugliese, 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 of WACP, Inc., the general partner [position -  
e.g., president, partner, trustee] of West Atlantic Commercial Properties, Inc. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 101 Pugliese's Way, Second Floor  
Delray Beach, FL 33444
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.

Laura K. Pugliese  
Laura K. Pugliese, 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 7th day of December, 2020 by Laura K. Pugliese (name of person acknowledging). He/she is personally known to me or has produced \_\_\_\_\_ (type of identification) as identification and did/did not take an oath (circle correct response).

\_\_\_\_\_  
(Name - type, stamp or print clearly)

[Signature]  
(Signature)



NOTARY'S SEAL OR STAMP

**EXHIBIT "A"**

**PROPERTY**

THE EAST HALF (E1/2) OF THE SOUTHEAST QUARTER (SE ¼) OF THE NORTHWEST QUARTER (NW ¼) OF THE SOUTHEAST QUARTER (SE ¼) OF SECTION 14, TOWNSHIP 46 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, LESS THAT PORTION DEEDED TO STATE ROAD DEPARTMENT OF FLORIDA AS SHOWN IN OFFICIAL RECORD BOOK 1015, PAGE 11 AND FURTHER LESS AND EXCEPTING THEREFROM THAT PARCEL, DESIGNATED PARCEL 108, TAKEN BY PALM BEACH COUNTY, IN THAT ORDER OF TAKING RECORDED IN OFFICIAL RECORD BOOK 7632, PAGE 704, BOTH OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.



EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address
Laura K. Pugliese	101 Pugliese's Way, 2nd Floor Delray Beach, FL 33444
Anthony V. Pugliese, IV	101 Pugliese's Way, 2nd Floor Delray Beach, FL 33444

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