

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

**Application No.:** PDD/CA/W-2021-01361  
**Application Name:** Atlantic AGR Commercial and Self Storage  
**Control No./Name:** 2021-00083 (Atlantic AGR Commercial and Self Storage)  
**Applicant:** Pebb Atlantic II LLC & SOCRO LLC  
JDR Development, LLC - Jason Sher  
**Owners:** Pebb Atlantic II LLC &  
**Agent:** WGINC - Jeff Brophy  
**Telephone No.:** (561) 687-2220  
**Project Manager:** Timothy Haynes, Senior Site Planner

**TITLE:** an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District to Multiple Use Planned Development (MUPD) Zoning District

**TITLE:** a Class A Conditional Use **REQUEST:** to allow a Multi-Access and Limited Access Self-Service Storage Facility

**TITLE:** a Class A Conditional Use **REQUEST:** to allow a Car Wash

**TITLE:** a Type 2 Waiver **REQUEST:** to allow an alternative Type 3 Incompatibility Buffer

**APPLICATION SUMMARY:** The proposed requests are for the 9.89-acre Atlantic AGR Commercial development. The site is currently vacant, and is a Preserve Parcel for the Sussman AGR-PUD.

The request will modify the zoning from the Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District to the Multiple Use Planned Development (MUPD) Zoning District in order to allow for the development of commercial uses, including Retail, Multi-Access and Limited Access Self-Service Storage (Conditional Use), and a Car Wash (Conditional Use). In addition, there is a request for an Alternative Type 3 Incompatibility Buffer to include an different type of six foot barrier and location along the east property line. The Preliminary Site Plan (PSP) indicates six commercial buildings with a total of 107,800 square feet (sq. ft.). In addition, the PSP indicates 146 parking spaces and access will be from Atlantic Avenue.

The requests are contingent upon a concurrent Large Scale Future Land Use Amendment (LCA-2022-00004) to change the future land use designation from Agricultural Reserve (AGR) to Commercial Low, with an underlying Agricultural Reserve (CL/AGR) and Zoning Application PDD/DOA-2021-01373 Sussman AGR-PUD to remove the subject parcel from the Development Order and release the Conservation Easement.

<b>SITE DATA:</b>	
Location:	South side of Atlantic Avenue, approximately 783 feet east of Lyons Road
Property Control Number(s)	00-42-46-20-01-000-0130
Existing Future Land Use Designation:	Agricultural Reserve (AGR)
Proposed Future Land Use Designation:	Commerical Low with an Underlying Agricultural Reserve (CL/AGR)
Existing Zoning District:	Agricultural Reserve Planned Unit Development (AGR-PUD) Zoning District
Proposed Zoning District:	Multiple Use Planned Development (MUPD) Zoning District
Total Acreage:	9.89 acres
Tier:	Agricultural Reserve
Overlay/Neighborhood Plan/CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A
Commission District	District 5, Commisioner Maria Sachs

**RECOMMENDATION:** Staff recommends approval of the requests, subject to the Conditions of Approval as indicated in Exhibit C-1 through C-4.

**ACTION BY THE ZONING COMMISSION:** At the September 1, 2022 ZC hearing, this item was on the Consent Agenda. Prior to the hearing the Agent submitted a letter requesting a postponement to the October 6, 2022 ZC hearing, in order to work with the Alliance of Delray regarding their concerns about the proposed Car Wash use. Assistant Attorney Stone advised the Board that in addition to postponing the subject request, the concurrent application Sussman AGR-PUD PDD/DOA 2021-

01373 would need to be postponed also Commissioner Beatty made a motion to postpone, which was seconded by Commissioner Scarborough and passed by a vote of 7-0-0.

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received one contact from the public regarding this application with concerns of the proposed Car Wash use.

**PROJECT HISTORY:** The subject site exists as undeveloped preserve parcel for the Sussman ARG-PUD which was approved as a preserve on September 22, 2016 under application ZV/PDD/DOA-2016-00269 through Resolution R-2016-1235.

**FINDINGS:**

Conditional Uses, Official Zoning Map Amendment to a PDD or TDD and Development Order Amendment:

When considering a Development Order application for a Rezoning to a PDD or a TDD, a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), or a Development Order Amendment, the BCC and ZC shall utilize the Standards a – h listed in Article 2.B.7.B, Standards. The Standards and Staff Analyses are indicated below. A Conditional Use, Rezoning to PDD or TDD, or Development Order Amendment that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

The proposed application includes requests for an Official Zoning Map Amendment, Conditional Use, and a Development Order Amendment and the analysis of all requests have been consolidated herein below.

- a. **Consistency with the Plan** – *The proposed use or amendment is consistent with the purposes, goals, objectives and policies of the Plan, including standards for building and structural intensities and densities, and intensities of use.*

PLANNING DIVISION COMMENTS:

- o *Consistency with the Comprehensive Plan:* Should the BCC approve the amendment request, then the proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.

- o *Concurrent and Prior Land Use Amendments:* The site is the subject of a Future Land Use Atlas (FLUA) amendment known as Atlantic Commercial & Self Storage LGA-2022-004. The request seeks to amend the Future Land Use from Agricultural Reserve (AGR) to Commercial Low with an underlying Agricultural Reserve (CL/AGR) on 9.89 acre parcel. The amendment was transmitted by the BCC with a unanimous vote, on May 4, 2022 with the following conditions:

1. A maximum of 13,357 sq. ft. of commercial uses (other than self-storage) and a maximum of 100,000 sq. ft. of self-storage uses.
2. Vehicular cross access shall be provided to the west of the site.

The current request proposes 13,331 sq. ft. of retail, 94,469 sq. ft. of self-storage and interconnectivity to the west, which complies with both FLUA amendment conditions. The conditions are carried forward with the Zoning application, to ensure consistency with the Future Land Use amendment.

- o *Relevant Comprehensive Plan Policies:* Agricultural Reserve Commercial and Mixed Use Developments (AGR MUPD) are subject to Ag Reserve Design Elements as outlined in FLUE Policy 1.5.1-r as follows.

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

The subject request addresses each of these criteria as follows: providing 24,057sf or 0.55 acres of Usable Open Space in the form of pedestrian gathering areas with extra landscaping and larger

facades along the storefronts; 3.82 acres of pervious landscaped areas, vehicular interconnectivity and a pedestrian sidewalk system that connects throughout this site and to the adjacent parcel to the west. These features are detailed on Regulating Plan FRP-1.

Future Land Use Element Policy 1.5-n limits commercial uses to 1,015,000 sq.ft of commercial uses within the Ag Reserve Tier. However, Self-Storage uses are not subject to the commercial cap. Prior to this amendment, the approved/proposed retail and office square footages within the Tier amounted to 1,004,860 sq.ft. The proposed project, subject to the limitation in the condition, would yield a net reduction of 87 sq. ft., or 1,004,773 sq. ft. are already allocated to development, with a further 10,227 sq. ft. of commercial uses are theoretically possible under the commercial square footage cap (see Exhibit 9, of the concurrent future land use amendment staff report for a detailed breakdown of the commercial cap).

- *Intensity:* The site is subject to a land use condition (LGA-2022-004) limiting the uses to a maximum of 13,357 sq. ft. of commercial uses (other than self-storage) and a maximum of 100,000 sq. ft. of self-storage uses. Without the limiting condition the permitted FAR for CL in the AGR is 0.20 and for Self-storage a maximum of 0.65. The current request proposes 13,331 sq. ft. of retail and 99,459 sq. ft. of self-storage, which is consistent with both the FLUA amendment conditions as well as the allowable FAR without the condition, as calculated independently. The breakdown of proposed FAR is as follows, and is consistent with the Plan:

For the Commercial Retail portion: 13,331 sq. ft. / 234,613 sf or 5.39ac = 0.06 FAR

For the Self-Storage portion: 94,469sf / 196,200sf or 4.50ac = 0.48 FAR

- *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The subject property is not located within any overlays, neighborhood plans, or study areas.

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

- *Design Objectives and Performance Standards:* The proposed development is subject to Art. 3.E.1.C PDD Design Objectives and Performance Standards, as well as Art. 3.E.3.B, Objectives and Standards for a MUPD. The Applicant has met these requirements.

- *Property Development Regulations (PDR):* The proposed MUPD is consistent with the Future Land Use Amendment request to CL/AGR pursuant to Table 3.A.3.B – Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. The site is subject to the requirements of the MUPD Zoning District per Table 3.E.3.D – MUPD Property Development Regulations. The 9.89-acre parcel exceeds the minimum 3-acre requirement. Further, the lot exceeds the 200 ft. width and frontage by providing 331 ft. and also exceeds the 200 ft. lot depth by providing 1300 ft.

The proposed zoning requests are consistent with the FLUA. As previously mentioned, the FLUA includes a condition limiting commercial uses other than self-storage uses to 13,357 sq. ft. The PSP indicates only 13,331 sq. ft. for the Car Wash and Retail uses. Additionally, the condition requiring vehicular cross access to the west of the site is fulfilled with the incorporation of two cross access points connecting the subject parcel to the Plaza Delray MUPD.

The Ag Reserve Design Elements pursuant to FLUE Policy 1.5.1-r requiring 5% open space has been satisfied with the incorporation of 24,057 sq. ft. or 0.55-acres of Useable Open space for pedestrian gathering areas as indicated on the Useable Open Space area breakdown on the Preliminary Regulating Plan (PRP-1) of Exhibit 4. Staff is recommending a Condition of Approval that the Site Plan be updated to indicate all Useable Open Space areas consistent to what is provided on the PRP.

- *Use specific criteria-Multi-Access and Limited Access Self-Service Storage:* The proposed Multi-Access Self-Service Storage for buildings E and F and Limited Access Self-Service Storage buildings C and D are permitted in the MUPD Zoning District with a CL FLU through a Class A use approval per Table 4.B.2.A – Commercial Use Matrix. The proposed uses are subject to the use regulations as indicated under Art. 4.B.2.37., Self-Service Storage.

Limited Access Self- Service storage consist of individual, self-contained units that are leased for the storage of business, household, or other personal goods with limited access points from the exterior of the building to interior halls that serve individual storage units. The Limited Access buildings are in the central area of the site, proposed as one story with Building C being a minimum of 45 feet from the eastern property line. The PSP indicates landscape buffering along the east property line which includes a 12 ft. height screen wall adjacent to the loading area, as required by Art. 6.E.4.A.3.b. Loading Area Screening. Staff is recommending a Condition of Approval that the 12 ft. high wall be extended from the north side of Building C to the south side of Building B to further screen the loading area from visibility of the adjacent residents to the east. No outdoor storage areas and windows utilizing fenestration for the visibility of storage units are proposed as a part of this use.

Multi-Access Self-Service Storage consists of two one-story Self-Service Storage buildings with multi-access points from the exterior of the building to individual storage units. The PSP indicates landscape buffering along the east property line and includes a 6 ft. height screen wall adjacent to the bays. Staff is recommending a Condition of Approval that an 8 ft. high wall be installed Buildings C and E and between Buildings E and F to further screen any visibility of the use to from the adjacent residential properties to the east. The drive aisle for the Multi-Access buildings meets the minimum 30 feet aisle way between storage structures for two-way traffic. No outdoor storage areas and windows utilizing fenestration for the visibility of storage units are proposed as a part of this use.

- Use specific criteria - Car Wash: The proposed Car Wash use for building A is permitted in the MUPD Zoning District with a CL FLU through a CA approval per Table 4.B.2.A – Commercial Use Matrix and subject to the use regulations per Art. 4.B.2.4., Car Wash which have been acknowledged and addressed within the Applicant's Justification Statement.

- *Architectural Review:* This use will be required to comply with the Architectural Guidelines specified in Article 5.C, Design Standards. No Architectural elevations have been provided at this time. Staff is recommending a Condition of Approval requiring Architectural review approval to be completed at the time of final Development Review Officer (DRO) approval for the proposed structures.

- *Parking:* The Applicant has requested to utilize the parking requirements per Table 6.B.1.B – Minimum Parking and Loading Requirements. The Car Wash use requires one parking space, and 34 spaces are provided with 17 vacuum spaces. A minimum of 5 queuing spaces are required for an automatic drive-through Car Wash use. Staff is recommending a Condition of Approval to relocate point of service location for the Car Wash in order to provide no more than 5 queuing spaces in accordance with Table 6.B.3.A – Minimum Queuing Standards, or modify to provide bypass lane. The Limited Access and Multi-Access Self-Service Storage use, requires 13 spaces and 76 spaces are provided. The Limited-Access Self-Service Storage use also requires a minimum of two loading spaces at each entry into the building. The PSP indicates two loading spaces at the entry of both Buildings C and D as required. Two loading spaces are also provided on the south side of Retail Building B, which exceeds 10,000 sq. ft., in compliance with Table 6.E.4.A – Dimensions.

Two cross access points are provided along the western property line adjoining the Plaza Delray MUPD development which is connected to the parking areas of the subject site.

- *Landscape/Buffering:* The PSP indicates a 10 ft. Right-Of-Way Buffer along the northern property line along Atlantic Avenue. Table 7.C.2.A R-O-W Buffer Landscape Requirement requires a minimum R-O-W width of 20 feet. There is an 80 ft. wide canal separating the property from Atlantic Ave. Per Art. 7.C.2.A.3.a, a 50% width reduction is allowed when a project is separated from a R-O-W by a canal with a minimum width of 80 feet.

A 10 ft. R-O-W Buffer is provided along the property line to the south bordering 152<sup>nd</sup> Place South. However, this portion of the site must indicate the appropriate Base Building Line dimensions. As such, Staff is recommending a Condition of Approval to indicate the Base Building Line on the Site Plan and adjust the R-O-W Buffer accordingly.

To the east, a 20 ft. Type 3 Incompatibility Buffer is required per Art.3.E.3.B.2.b. Landscape buffer where non-residential uses are adjacent to residential. However, the Code also allows an alternative buffer subject to a Type 2 Waiver Process. As such, the Applicant has requested to provide an alternative Type 3 Incompatibility Buffer along the east property line abutting the residential use which utilizes the lineal building orientation for the Self-Service Storage facility to screen objectionable use functions of the site. There are 355 linear feet of wall provided along the northeast portion of the eastern buffer ranging from six feet to 12 feet in height, adjacent to the loading areas and 6 ft. in height located along the west side of Retail Building B. A 6 ft. high screen wall is provide between Buildings E and F and between Buildings C and E. However, Staff is proposing a Condition of Approval that the walls are modified to 8 ft. in height between these buildings to limit visibility of the bays for the Multi-Access Self-Service Storage use. Additionally, Staff is proposing a Condition of Approval requiring 18 feet high canopy trees be installed along the eastern property line for approximately 652 feet between the south side of Building E and the 12 foot wall provided on the northeast corner Building C in combination with 12 ft. high hedges to help mediate any adverse visual impacts of the MUPD site adjacent to the residential use. Staff is also recommending a Condition of Approval for an opaque fence or 6 feet wall to be provided parallel to the eastern property line, extending 244 ft. from the southern property line to the southernmost Building E, which will provide screening for the open water management tract of the subject parcel.

Finally, an 8 ft. wide Compatibility buffer is provided along the western property line.

- *Signs:* The Applicant has submitted a Preliminary Master Sign Plan (PMSP). The PMSP indicates two freestanding monument signs along Atlantic Avenue in accordance with Table 8.G.2.A-



Freestanding Sign Standards. However, the northern most freestanding sign is currently shown within the 66.5 ft. L.W.D.D. Canal Easement. Staff is recommending a Condition of Approval requiring the Applicant obtain easement release to allow the sign placement, or relocate the sign outside of the easement. Building A proposes two wall signs along the north and east facades. Building B proposes two wall signs along the north and west facades. Building C proposes one wall sign along the north façade. Building D proposes two wall signs along the north and west facades. Building E and F propose one wall sign each along the north facades. All proposed wall signage is in accordance with Table 8.G.1.A – Wall 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 rezoning to the MUPD Zoning District will be consistent with the commercial lands to the west of the subject site. Although the residential development to the immediate east is an incompatible land use, the site design, architecture, intensity, and screening provisions through Staff proposed Conditions of Approval will provide allow the site to operate in harmony with the surrounding lands and adjacent uses. Across the R-O-W and Canal to the north, is an Agricultural Preserve parcel of a Planned Unit Development with an AGR-PUD Zoning District designation. Northwest, about 500 feet from the site are two (2) parcels with the Community Commercial Zoning District, supporting commercial uses (Dells Suburban Market, and Fina Station). To the south is the remaining portion of the Preserve Parcel 9 for the Sussan AGR-PUD consisting of 5 acres.

East of the site is the Delray Estates PUD residential development, with 96 single family lots. A 20 ft. wide Type 3 Incompatibility Buffer with a screen wall ranging from 6 to 12 feet in height along the northeast portion of the parcel, is provided along the eastern property line. The Delray Estates PUD includes an existing 25 ft. wide landscape buffer along the east property line of the adjoining parcel, creating a total separation of 75 ft. from the development portion of the site. To the west, are Plaza Delray MUPD and Feurring Commercial MUPD developments within the MUPD Zoning District and CL/AGR Future Land Use. Further west along the Atlantic Avenue corridor are a mix of commercial, industrial and agricultural uses. On the northwest corner of Atlantic Avenue and Lyons Road is the Delray Market Place Traditional Marketplace Development, which serves as a multiple use shopping plaza with commercial and multi-family residential approvals. The adjacent land uses of the surrounding area are compatible with the proposed rezoning.

- *Uses specific criteria (Self-Service Storage and Car Wash):* The Self Service Storage (Multi-access and Limited access) and Car Wash Conditional Uses are generally consistent with the adjacent commercial uses of the MUPD developments to the west and commercial developments to the northwest and along the western portion of the Atlantic Avenue corridor. The proposed uses are internally oriented in a way that will allow the site functions to remain compatible with the surrounding lands, site circulation and parking areas having limited proximity to the residential use to the east. In addition the proposed buildings are all one-story, with a maximum height of 35 ft., which is consistent with the heights of the structures on the adjacent lands. The site design proposes landscape buffering and wall screening of the bays and loading areas along the eastern property line so that the proposed uses may exist cohesively with the surrounding properties.

- 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 previously stated, the MUPD rezoning request will remain consistent with the zoning designation and land use of the adjacent property to the west, and the other commercial land uses along Atlantic Avenue. The proposed rezoning also will be consistent the proposed CL/AGR FLU and will not create land use incapability.

The MUPD Zoning District allows for the subject land to be utilized for commercial proposes. As such, the proposed Self Service Storage (Multi-access and Limited access) and Car Wash Conditional Uses are similar to the commercial uses to the immediate west, northwest and other commercial uses along Atlantic Avenue near the subject parcel. The proposed building orientation and perimeter buffering with the screening wall provided for the bays and loading area along the east property line will mitigate adverse visual and sound impacts to the adjacent residents, along with the proposed Conditions of Approval.

Staff is also recommending a Condition of Approval for Additional larger canopy trees 18 ft. in height in combination with hedges at 12 ft. in height be provided along eastern property line between the southern portion of Building F and the norther east corner of Building C. Further, a Condition of Approval is also recommended for a 6 ft. high solid fence or wall be provided at the southern portion of the site adjacent to the water management tract. Also, a Condition of Approval prohibiting the playing of loud speakers or music is also recommended to prevent adverse sound impacts of the site.

The proposed uses will not impose adverse traffic impacts to adjacent roadways.

**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:* The site is currently vacant land that supports both native and invasive tree species. The applicant is proposing to either preserve in place, or relocate all native trees.
- *Site Contamination:* The property owner will need to continue to work with the Florida Department of Environmental Protection to resolve the contamination issues, as per Chapter 62-780, F.A.C. During the DRO process, ERM will confirm that the applicant is coordinating with FDEP.
- *Wellfield Protection Zone:* The property is not located within a Wellfield Protection Zone.
- *Irrigation Conservation Concerns And Surface Water:* All new installations of automatic irrigation systems shall be equipped with a water sensing device that will automatically discontinue irrigation during periods of rainfall pursuant to the Water and Irrigation Conservation Ordinance No. 93 3. Any non stormwater discharge or the maintenance or use of a connection that results in a non stormwater discharge to the stormwater system is prohibited pursuant to Palm Beach County Stormwater Pollution Prevention Ordinance No. 93 15.
- *Environmental Impacts:* There are no significant environmental issues associated with this petition beyond compliance with ULDC requirements.

**f. Development Patterns** – *The proposed use or amendment will result in a logical, orderly and timely development pattern.*

The proposed MUPD rezoning and the requested uses for the Multi-Access and Limited Access Self-Service Storage, Car Wash and Retail are consistent with development of the area. The proposed rezoning requests is consistent with the logical and orderly development pattern presented in FLUA. As previously mentioned, the FLUA includes a condition limiting commercial uses other than self-storage uses to 13,357 sq. ft. which is represented on the site plan providing 13,331 sq. ft. for the Car Wash and Retail uses. Additionally, the interconnectivity requirement is fulfilled with the incorporation of two cross access points connecting the subject parcel to the Plaza Delray MUPD. Useable Open space for pedestrian gathering areas has also been included in the development design. The limitations on the intensity for retail and Self-Service Storage uses are orderly and timely with the FLUA and do not propose to exceed the allowable square footage.

Additionally, the western Atlantic Avenue corridor has seen several rezoning and land use changes for non-agricultural or residential uses. The uses are appropriately located on a site proposed as a MUPD which allows commercial development within the CL/AGR FLU. The proposed rezoning, along with the associated proposed commercial uses are logical and remain in an orderly and timely development pattern of the surrounding area.

**g. Adequate Public Facilities** – *The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards).*

**ENGINEERING COMMENTS:**

The proposed commercial development is expected to generate 784 net daily trips, 24 net AM peak hour trips, and 66 net PM peak hour trips. The build out of the project is expected to happen by 2027.

Traffic impacts of the proposed project will have insignificant impacts on the area roadways, as per the definition of Traffic Performance Standards (TPS). Addition of this parcel to the already existing commercial development to the west and providing cross access will greatly improve the traffic circulation, as far as access to the site from Atlantic Ave is concerned.

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

The Property Owner shall submit a drainage study that identifies historical flows that currently enter the site prior to the Final Site Plan approved by the DRO.

The Property Owner shall install landscaping within the median of Atlantic Avenue along the project frontage in accordance with OTIS.

**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. The subject site is located within the boundaries of PBC Fire Station 42.



**SCHOOL IMPACTS:**

The School Board has no comment regarding this non-residential application.

**PARKS AND RECREATION:**

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

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

The Applicant's justification statement indicates that site is currently undeveloped preserve land. The requests includes a concurrent FLUA to CL/AGR. The land use conditions a maximum of 13,357 sq. ft. of commercial uses (other than self-storage) and a maximum of 100,000 sq. ft. of self-storage uses. The current request proposes 13,331 sq. ft. of retail and 99,459 sq. ft. of self-storage, which is consistent with both the FLUA amendment conditions. The application request seeks to appropriately rezone the property MUPD Zoning District for the utilization of several commercial uses as discussed in this Staff Report and to be consistent with the FLUA. The subject request are necessary to permit reasonable use of the land. Other properties within proximity of the subject site have receive similar amendments to allow commercial and non-residential development. Staff finds that there are demonstrated change in the circumstances that necessitate the amendment.

**TYPE 2 WAIVERS. SUMMARY:**

ULDC Article	Required	Proposed	Waiver
3.E.3.B.2.b Landscape Buffers	6’ high opaque wall in Type 3 Incompatibility Buffer adjacent to east property line.	355’ L.F. of wall adjacent to self storage Building C. Utilize proposed building and screen wall (877 L.F.) for barrier in place of the required 6’ high opaque wall within the Type 3 Incompatibility Buffer.	Provide an Alternative Type 3 Imcompatibility buffer along 877 L.F. adjacent to east property line.

**FINDINGS: Type 2 Waiver:**

When considering a Development Order application for a Type 2 Waiver, the BCC shall consider the Standards listed under in Article 2.B.7.D.3, Standards for a Type 2 Waiver, and any other Standards specific to a Type 2 Waiver. The Standards and Staff Analyses are indicated below. A Type 2 Waiver that fails to meet any of the Standards, shall be deemed adverse to the public interest and shall not be approved.

a. ***The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the Zoning District or Overlay;***

**YES.** The requested waiver does not create additional conflicts with the other requirements of the ULDC, and will remain consistent with the stated purpose and intent of the proposed MUPD Zoning District. Art.3.E.3.B.2.b. Landscape Buffers, allows for an alternative Type 3 Incompatibility Buffer. As such, the Applicant is proposing an alternative buffer, utilizing the lineal building orientation, along with provided screen walls along 877 lineal feet of the eastern property line. The PSP indicates 355 lineal feet of wall at 12 ft. high adjacent to the loading area and 6 ft. high adjacent to the Retail Building B, along the eastern property line. The commercial uses associated with the development will still maintain the intent of the MUPD Zoning District, and the screening of the subject uses will still be maintain through buffer separation and the wall provided along the 355 lineal feet of the eastern property line.

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

**YES.** The waiver will not cause detrimental effects on the overall design and development standards of the project. The alternative Type 3 Incompatibility Buffer, utilizing the buildings as a wall barrier will still allow the site to function harmoniously with the proposed layout. No other site modifications are needed to accommodate the waiver requests. Utilizing the buildings as the barrier provides additional green space and separation from the residential neighborhood and doesn't interfere with their existing barriers.

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

**YES.** The alternative design seeks to incorporate the lineal building design along the eastern property line, with a combination of screening walls in place of the 6 ft. high wall barrier within the Type 3 Incompatibility Buffer. A wall is provided along 355 ft. of the eastern property line to help mitigate adverse visual impacts on the adjoining residential parcels. Staff have also recommended a Condition of Approval that canopy trees at 18 feet in height be provided every 20 feet between the south side of Building F and northeast corner of Building C for approximately 652 feet in combination with hedges at 12 ft. in height, along the eastern property line adjacent to the residential development to further mitigate adverse visual impacts of the proposed development. In addition, Staff recommends a Condition of Approval that an opaque fence or wall be installed along the southern 244 ft. of the property line extending from the southern property line to the southernmost building, to screen the open water management tract from the residents to the east. The 6 ft. high walls provided between Building E and F and between Buildings E and C will also be condition to be 8 ft. in height to screen the Self-Service Storage uses.

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**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. Therefore, Staff is recommending approval of the requests as per the Conditions of Approval as indicated in Exhibits C-1 through C-4.



## CONDITIONS OF APPROVAL

### EXHIBIT C-1: Non Residential Planned Development District

#### ALL PETITIONS

1. The approved Site Plan is dated July 15, 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)

#### ARCHITECTURAL REVIEW

1. Prior to final Development Review Officer (DRO) approval, architectural elevations shall be submitted in accordance with Article 5.C. for buildings A, B, C, and D. (DRO: ZONING - Zoning)

#### ENGINEERING

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

a. No Building Permits for the site may be issued after December 31, 2027, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

2. The Property Owner shall provide cross access to the property to the west before the first CO is issued. (BLDGPMT/CO: MONITORING - Engineering)

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

4. The Property Owner shall provide an acceptable drainage study identifying any historical drainage from offsite parcels, including proposed grading cross sections. The project's stormwater management system shall be designed to address any historical drainage. The Property Owner shall provide drainage easements, as required, to accommodate offsite drainage.

a. Drainage study shall be provided the Land Development Division prior to final approval of the Site Plan by the DRO. (DRO: ENGINEERING - Engineering)

b. Any required drainage easements shall be dedicated in conjunction with any required lot combination or recorded prior to issuance of the first building permit, whichever shall occur first. (BLDGPMT/PLAT: MONITORING - Engineering)

5. Landscape Within the Median of Atlantic Avenue

The Property Owner shall design, install and perpetually maintain median landscape within the median of all abutting right of way of Atlantic Avenue. This landscaping and irrigation shall strictly conform to the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires County Engineer approval. Median landscaping installed by Property Owner shall be perpetually maintained by the Property Owner, his successors and assigns, without recourse to Palm Beach County, unless the Property Owner provides payment for maintenance as set forth in Paragraph c below.

a. The necessary permit(s) for this landscaping and irrigation shall be applied for from the Florida Department of Transportation prior to the issuance of the first building permit, or as approved by the County Engineer. (BLDGPMT: MONITORING - Engineering)

b. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy, or as approved by the County Engineer. (BLDGPMT/CO: MONITORING - Engineering)

c. Alternately, at the option of the Property Owner or if the construction of the required landscape and irrigation is not possible due to physical constraints, the Property Owner may make a contribution to Palm Beach County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beautification program prior to the issuance of the first Building Permit, or as approved by the County Engineer. This payment option is only available if the roadway segment is included in the County's current OTIS Master Plan or a corridor proposed to be added to the OTIS Master Plan and shall be based on the project's front footage along Atlantic Avenue. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (BLDGPMT: MONITORING - Engineering)

#### PLANNING

1. Per LGA-2022-004, condition 1: Development of commercial retail and/or office uses on the site are limited to a maximum of 13,357 square feet of commercial uses (other than self-storage) and a maximum of 100,000 square feet of self-storage uses. (ONGOING: PLANNING - Planning)

2. Per LGA-2022-004, condition 2: Vehicular cross access shall be provided to the west of the site. (ONGOING: PLANNING - Planning)

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

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

5. Prior to the release of the Certificate of Occupancy, the Property Owner shall construct, and pave to the property line, the cross access as shown on the Final Site Plan. (CO: PLANNING - Planning)

## **SIGNS**

1. Prior to final Development Review Officer (DRO) approval, the Applicant shall obtain easement release for the sign placement within the easement along the northern property line fronting Atlantic Avenue, or relocate the sign out of the easement. (DRO: ZONING - Zoning)

## **SITE DESIGN**

1. Prior to final Development Review Officer (DRO) approval, the Site Plan shall be modified to indicate the Base Building Line along the southern property line abutting 152nd Place South. The Right-of-Way Buffer along the southern property line shall be adjusted accordingly. (DRO: ZONING - Zoning)

2. Prior to final Development Review Officer (DRO) approval, the Site Plan shall be modified to indicate all Useable Open Space areas and acreages consistent to what is provided on the Regulating Plan. (DRO: ZONING - Zoning)

## **COMPLIANCE**

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

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

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

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

## **DISCLOSURE**

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

## CONDITIONS OF APPROVAL

### **EXHIBIT C-2: Class A Conditional Use (Multi-Access and Limited Access Self-Service Storage)**

#### **ALL PETITIONS**

1. The approved Site Plan is dated July 15, 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)

#### **COMPLIANCE**

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

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

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

#### **DISCLOSURE**

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

## CONDITIONS OF APPROVAL

### EXHIBIT C-3: Class A Conditional Use (Car Wash)

#### ALL PETITIONS

1. The approved Site Plan is dated July 15, 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)

#### SITE DESIGN

1. Prior to final Development Review Officer (DRO) approval, the site plan shall be modified to relocate the Point of Service area for the Car Wash to reflect no more than five queuing space or, a bypass lane shall be included if more than five queuing spaces are provided. (DRO: ZONING - Zoning)

#### COMPLIANCE

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

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

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

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

#### DISCLOSURE

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



## CONDITIONS OF APPROVAL

### EXHIBIT C-4: Type 2 Waiver

#### ALL PETITIONS

1. The approved Site Plan is dated July 15, 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)

#### SITE DESIGN

1. Prior to final Development Review Officer (DRO) approval, the Site Plan shall be modified to incorporate a landscape barrier in the form of a solid opaque fence or opaque hedge at six (6) feet in height along the southern 224 feet of the eastern property line. (DRO/ONGOING: ZONING - Zoning)

#### COMPLIANCE

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

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

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

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

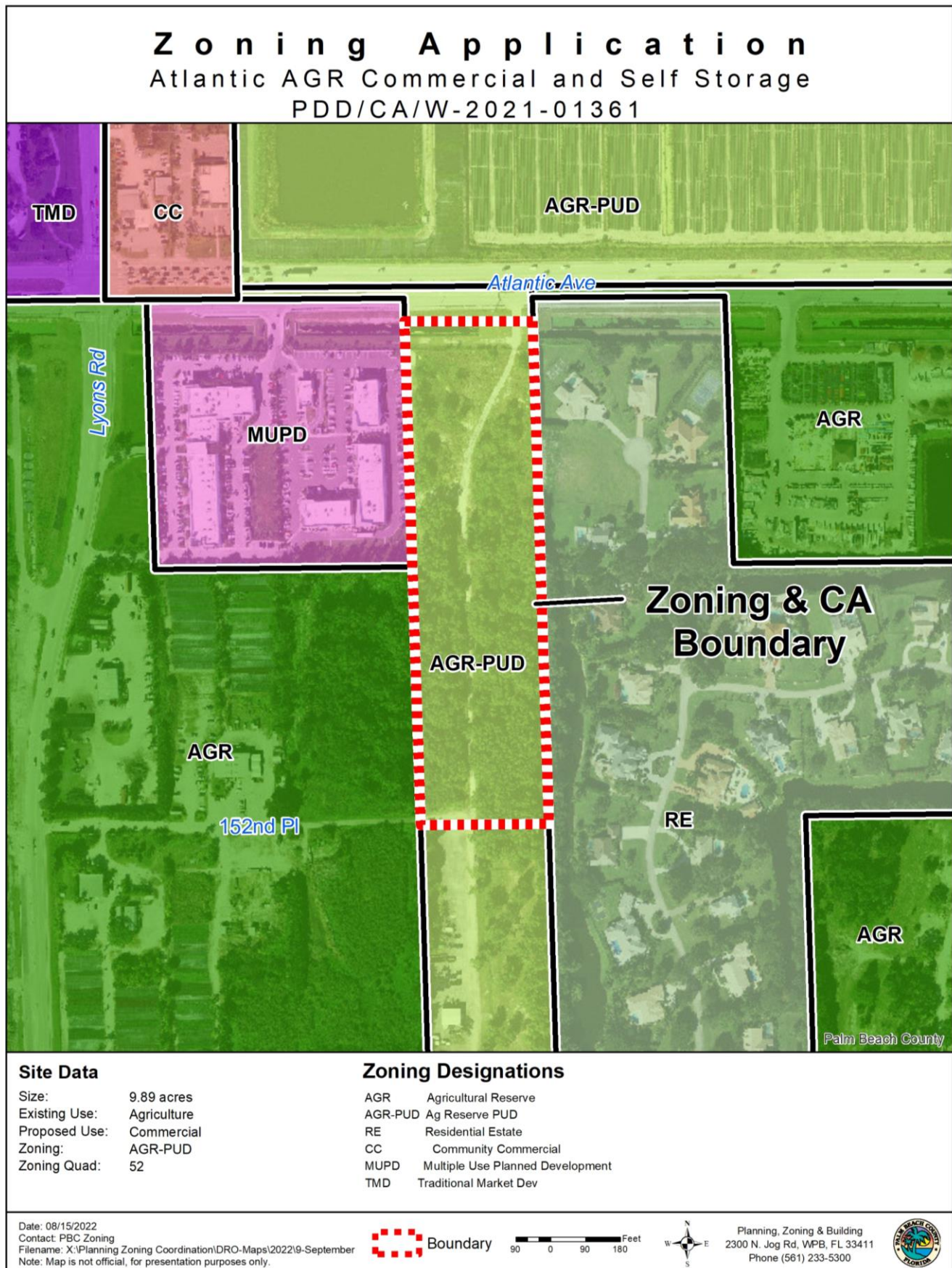
#### DISCLOSURE

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

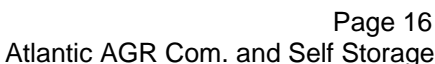




### Figure 2 - Zoning Map

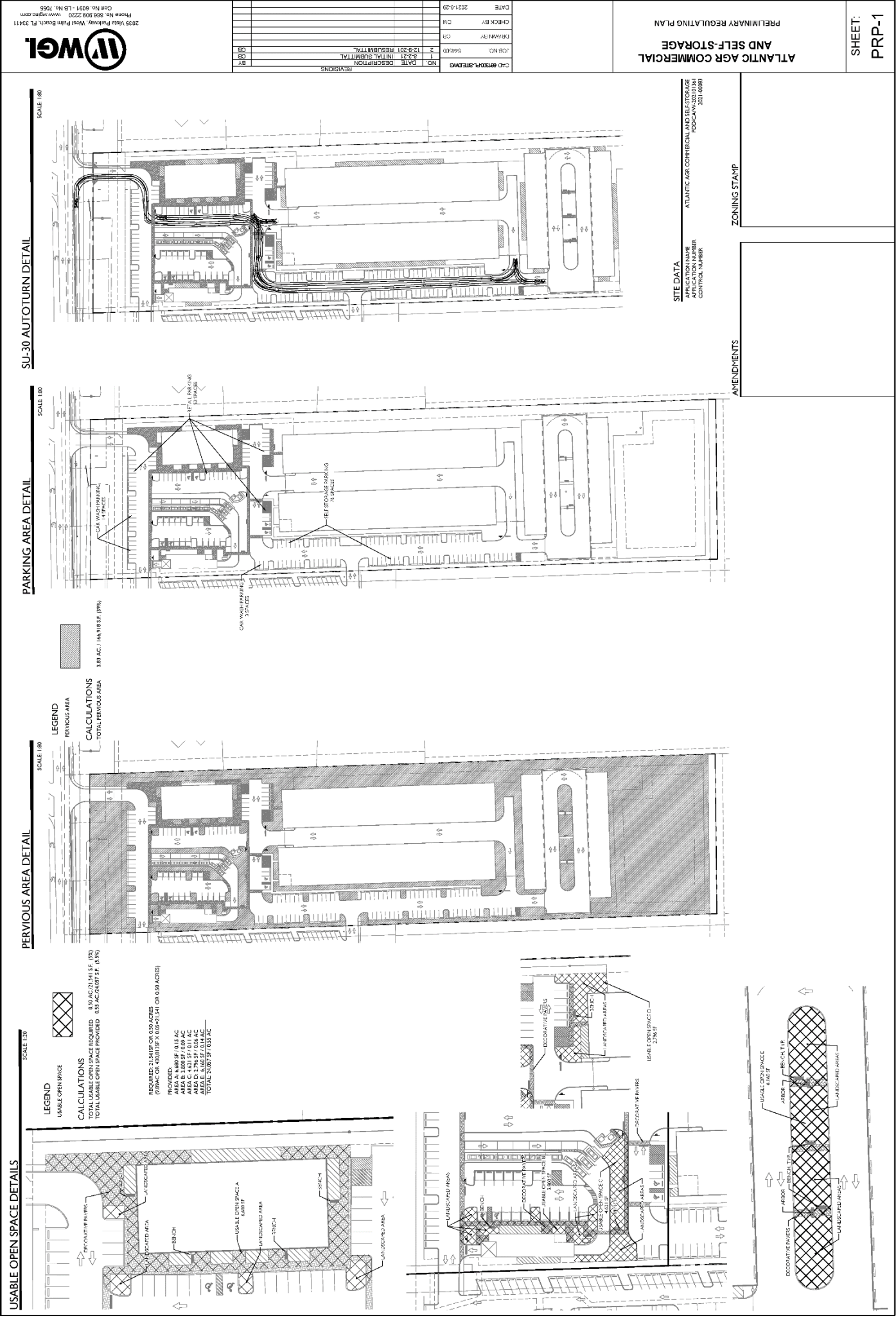


Zoning Commission  
PDD/CA/W-2021-01361

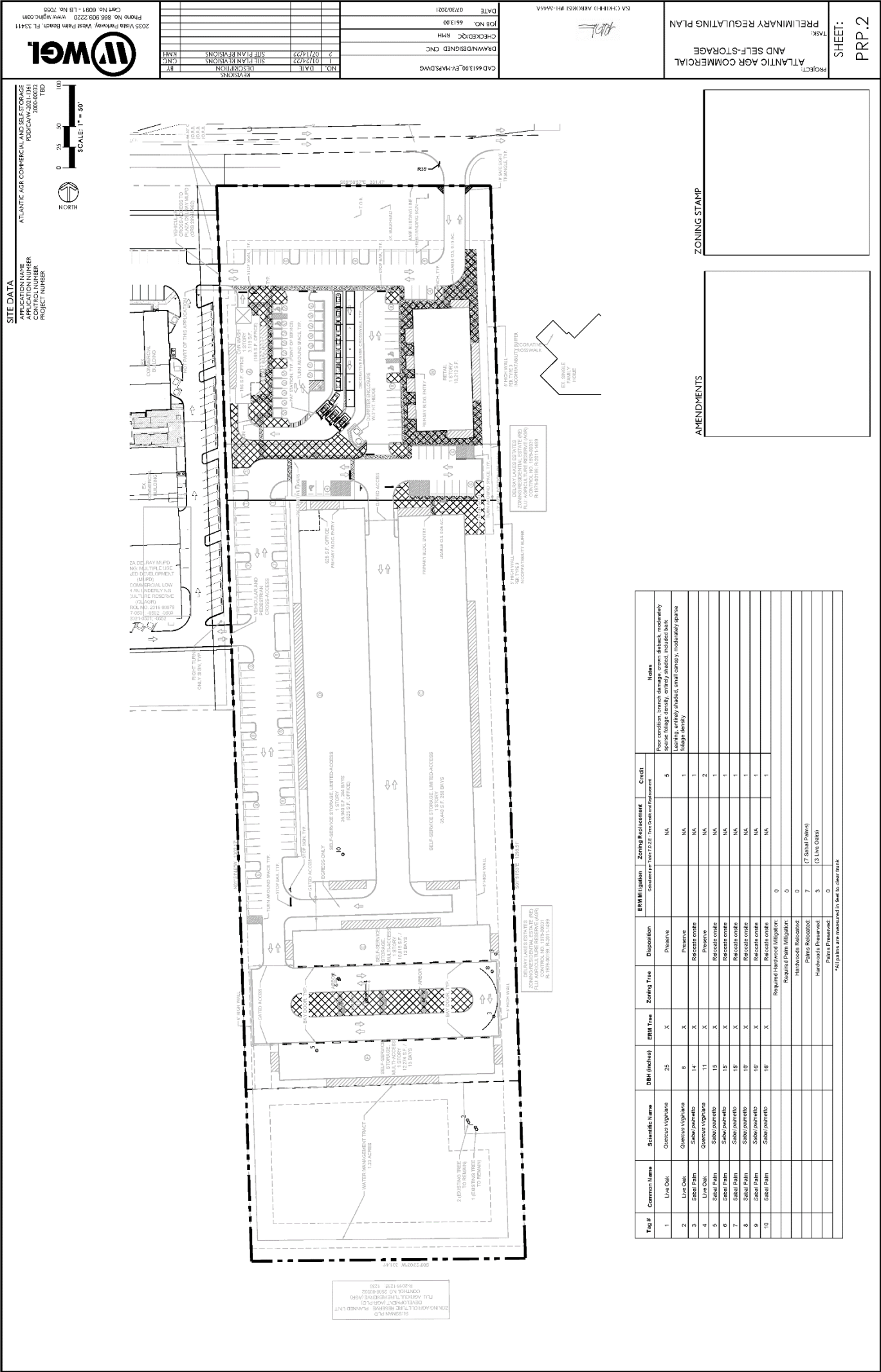




**Figure 4 – Preliminary Regulating Plan (1 of 2) dated July 15, 2022**



**Figure 5 – Preliminary Regulating Plan (2 of 2) dated July 15, 2022**



Zoning Commission  
PDD/CA/W-2021-01361

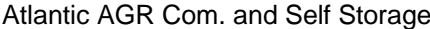


Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Jason Sher, 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] Title MGR \_\_\_\_\_ [position—e.g., president, partner, trustee] of JDR Development \_\_\_\_\_ [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant"). Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 2200 Butts Road, Suite 300, Boca Raton, FL 33431  
\_\_\_\_\_  
\_\_\_\_\_
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



  
\_\_\_\_\_  
Jason Sher, 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 31 day of August, 2022 by  
Jason Sher (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).

Tyler Kopecki  
(Name - type, stamp or print clearly)

  
(Signature)

My Commission Expires on: \_\_\_\_\_

NOTARY'S SEAL OR STAMP



TYLER KOPECKI  
Commission # HH 216584  
Expires March 20, 2026

**EXHIBIT "A"**

**PROPERTY**

Tract 13, LESS the North 52.49 feet, and Tract 20, in Section 20, Township 46 South, Range 42 East, of The Palm Beach Farms Co. Plat No. 1, according to the map or plat thereof, as recorded in Plat Book 2, Page 26, Public Records of Palm Beach County, Florida.

Said Lands situate in Section 20, Township 46 South, Range 42 East, Palm Beach County, Florida.

Containing 430,813 Square Feet/ 9.8901 Acres, More or Less.

## EXHIBIT "B"

### DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

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

Name

**Address**[illegible]

**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

**[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]**

**TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Jason Sher, 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 ☒ Title MGR \_\_\_\_\_ [position - e.g., president, partner, trustee] of Socro 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: 2200 Butts Road, Suite 300, Boca Raton, FL 33434  
\_\_\_\_\_  
\_\_\_\_\_
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Jason Sher, 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 31 day of August, 2022 by Jason Sher (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)

My Commission Expires on: \_\_\_\_\_

NOTARY'S SEAL OR STAMP



TYLER KOPECKI  
Commission # HH 216584  
Expires March 20, 2026

**EXHIBIT "A"**

**PROPERTY**

Tract 13, LESS the North 52.49 feet, and Tract 20, in Section 20, Township 46 South, Range 42 East, of The Palm Beach Farms Co. Plat No. 1, according to the map or plat thereof, as recorded in Plat Book 2, Page 26, Public Records of Palm Beach County, Florida.

Said Lands situate in Section 20, Township 46 South, Range 42 East, Palm Beach County, Florida.

Containing 430,813 Square Feet | 9.8901 Acres, More or Less.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address

Exhibit E – Applicant’s Justification Statement dated June 27, 2022



JUSTIFICATION STATEMENT  
Atlantic AGR Commercial & Self-Storage  
Rezoning | Class A Conditional Use  
Application No. PDD/CA/W-2021-1361 | Control No. 2021-00083  
Intake: August 2, 2021  
Insufficiency Intake: October 4, 2021  
Resubmittal: December 13, 2021, January 24, 2022, February 22, 2022, March 28, 2022, April 25, 2022, May 23, 2022, June 27, 2022

REQUEST

On behalf of the Applicant, Banyan Development (under JDR Development LLC.), WGI is requesting the following:

- 1) **Official Zoning Map Amendment** to rezone 9.89 acres from the Agricultural Reserve (AGR) District to the Multiple Use Planned Development (MUPD);
- 2) **Class A Conditional Use** to allow a car wash;
- 3) **Class A Conditional Use** to allow a self-service storage facility (multi-access and limited access); and
- 4) **Type 2 Waiver** to allow an alternative for the Type 3 Incompatibility Buffer.

CONCURRENT FUTURE LAND USE AND ZONING APPLICATIONS

There are multiple concurrent applications that are submitted along with this request, as follows:

Future Land Use Amendment Applications:

This application combines several amendments under one Planning Staff Report with three LGA applications for Atlantic Commercial and Self-Storage (LGA-2022-004); Feurring II (LGA 2022-008) and Seneca II (LGA 2022-009);

- Atlantic Commercial and Self-Storage: This amendment proposes to change the future land use on a 9.89-acre site from AGR to Commercial Low (CL) FLU designation. Conditions are the following:  
  
Condition #1 – A maximum of 13,357 square feet of commercial uses (other than self-storage) and a maximum of 100,000 square feet of self-storage uses.  
  
Condition #2 – Vehicular cross access shall be provided to the west of the site.  
  
Condition #3 – The adoption of the future land use amendment and zoning application shall be held on the same date.
- Feurring II: Add a new condition to limit the site for commercial retail and/or office uses for a maximum of 36,170 square feet in total; and
- Seneca II: Development of the site is subject to the conditions of approval by Ordinance 2017-006 shown below with the deleted text struck out and added text underlined.

Development of commercial retail and/or office uses on the site area are limited to a maximum of ~~38,538~~ 31,700 square feet total.

Please note that LGA-2022-004, LGA-2022-008, and LGA-2022-009 were transmitted to the State for review per unanimous approval from the BCC on May 4<sup>th</sup>, 2022.

Zoning Applications:

The Applicant is also submitting a separate companion application (Application # PDD/DOA-2021-01373) for the subject site to the Zoning Division, which includes the following:

Justification Statement  
Atlantic AGR Commercial & Self Storage

June 27, 2022  
Page | 1





1. A rezoning of PCNs: 00-42-46-19-01-000-1040 and 00-42-46-20-01-000-0910 from AGR to AGR-PUD (preserve). This is to allow the north 9.89-acre Preserve Parcel #9 of the Sussman AGR-PUD to swap preserve parcels under Request 2 below; and
2. A Development Order Amendment (DOA) for Sussman AGR-PUD (Control No. 2000-032) to swap preserve parcels.
3. Partial Release of Conservation of Preserve Parcel 9 (9.89 acres from the total 14.961 acres, thus a remainder of 5.071 acres) from O.R.B. 29063, Page 88.

#### **SITE INFORMATION**

The subject site is 9.89 acres in size and is located approximately 700 feet east of the intersection of Lyons Road and W Atlantic Avenue, on the south side of West Atlantic Avenue within the jurisdictional limits of unincorporated Palm Beach County. The subject site is comprised of one parcel identified by the following Parcel Control Number (PCN): 00-42-46-20-01-000-0130 and has the address of 8778 Atlantic Avenue. The parcel is owned by both PEBB Atlantic II and Socro LLC.

The subject site is unimproved and is identified by a Future Land Use (FLU) designation of AGR and a Zoning district classification of Agricultural Reserve – Planned Unit Development (AGR-PUD).

#### **SURROUNDING USES**

The subject site has frontage and an approved access point onto West Atlantic Avenue. The following chart summarizes the uses and approvals located immediately adjacent to the subject site.

Adjacent Lands	Existing Use	Future Land Use	Zoning
North (across from Atlantic Avenue)	<b><u>Valencia Cove AGR-PUD</u></b> Control No. 2004-00369 R-2015-11 Existing Land Use: Agriculture Approved Land Use: Preserve Area	Agriculture Reserve (AGR)	Agriculture Reserve – Planned Unit Development (AGR-PUD)
Northwest	<b><u>Dells Suburban Market</u></b> Control No. 1980-00039 R-2016-1069 Existing Land Use: Commercial	Commercial Low with an underlying Agriculture Reserve (CL/AGR)	Community Commercial (CC)
	<b><u>Fina Service Station</u></b> Control No. 1977-00147 R-1987-1173; R-2016-1070 Existing Land Use: Commercial	Commercial Low with an underlying Agriculture Reserve (CL/AGR)	Community Commercial (CC)
	<b><u>Delray Marketplace</u></b> Control No. 2004-00616 R-2015-537, 0538 Existing Land Use: Multifamily Residential, and Commercial DU: 73 Gross Density: 0.75 DU/AC 278,940 GFA, 15% FAR	Commercial Low with an underlying Agriculture Reserve (CL/AGR)	Traditional Marketplace Development (TMD)

Justification Statement  
Atlantic AGR Commercial & Self Storage

June 27, 2022  
Page | 2



<b>South</b>	<b><u>Sussman PUD</u></b> Control No. 2000-00032 R-2016-1235; - 1236 Existing Land Use: Vacant Approved Land Use: Preserve Area	Agriculture Reserve (AGR)	Agriculture Reserve – Planned Unit Development (AGR-PUD)
<b>East</b>	<b><u>Delray Lakes Estates</u></b> Control No. 1979-00031 R-1979-00199; R-2011- 1499 Existing Land Use: Single Family DU: 96 Gross Density: 0.74 DU/AC	Agriculture Reserve (AGR)	Residential Estate (RE)
<b>West</b>	<b><u>Plaza Delray MUPD</u></b> Control No. 2016-00078 R-2017-0501; -0502; -0503 R-2021-0551; -0552 Land Use: Commercial Max SF: 38,538 SF Built SF: 30,693 SF (7,845 SF unused)  <b><u>Feurring Commercial MUPD</u></b> Control No. 2013-00213 R-2016-1560 Land Use: Commercial Max SF: 42,689 SF Built SF: 35,169 SF (7,520 SF unused)	Commercial Low with an underlying Agriculture Reserve (CL/AGR)	Multiple Use Planned Development (MUPD)
<b>Southwest</b>	Existing Land Use: Vacant	Agriculture Reserve (AGR)	Agriculture Reserve (AGR)

#### **DEVELOPMENT HISTORY**

The 9.89-acre subject site was approved for the rezoning from AGR to AGR PUD as a preserve for the Sussman AGR Planned Unit Development (PUD) via Resolution R-2016-1235. The rezoning allowed for the development of 325 detached single-family units and 418 zero-lot line homes, for a total of 743 dwelling units, approximately 0.75 miles to the southwest of subject site along State Road 7. The approved Final Master Plan for Sussman AGR PUD details two different development areas, Sussman South (Saturnia Isles) and Sussman North, which include their own designated preserve parcels and equal approximately 446 acres in size. Per the Final Master Plan for the 743-acre PUD, the subject site is incorporated within Preserve 9 (14.961 acres) for Sussman North. The following table is a summary of the previous zoning approvals with Control Number 2000-00032:

<b>Approval Date</b>	<b>Application No.</b>	<b>Application Name</b>	<b>Approval</b>	<b>Resolution No.</b>
August 24, 2000	PDD 2000-032	Sussman AGR-PUD	Official Map Amendment (PDD) from Agriculture Reserve (AGR)	R-2000-1236

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			to AGR Planned Unit Development (PUD) and two AGR/PUD (Preserve)	
September 28, 2000	PDD 2000-032	Sussman AGR-PUD	Corrective Resolution to amend L.2 Condition. (certified survey for civic site)	R-2000-1570
January 25, 2001	PDD/DOA/EAC 2000-032(A)	Sussman AGR-PUD	Official Map Amendment (PDD) from Agricultural Reserve (AGR) to AGR Planned Unit Development (PUD) (preserve).	R-2001-0142
January 25, 2001	PDD/DOA/EAC 2000-032(A)	Sussman AGR-PUD	To add and delete land area.	R-2001-0143
June 25, 2001	PDD/DOA/EAC 2000-032(A)	Sussman AGR-PUD	Corrective Resolution to amend legal description for Parcel 2A of R-2001-0143.	R-2001-0973
June 25, 2001	PDD/DOA/EAC 2000-032(A)	Sussman AGR-PUD	Corrective Resolution to amend legal description of R-2001-0142.	R-2001-0974
September 1, 2016	ZV/PDD/DOA 2016-00269	Sussman AGR-PUD	A Type II Variance to allow a reduction in the width of a Type 3 Incompatibility Buffer	ZR-2016-0046
September 1, 2016	ZV-2016-00650	Sussman AGR-PUD	A Type II Variance to allow a reduction in the front setback for front loading garages for Single-family and Zero Lot Line homes	ZR-2016-0047
October 4, 2016	ZV/PDD/DOA 2016-00269	Sussman AGR-PUD	Official Map Amendment (PDD) from Agricultural Reserve (AGR) to AGR Planned Unit Development (PUD).	R-2016-1235
October 4, 2016	ZV/PDD/DOA 2016-00269	Sussman AGR-PUD	DOA to reconfigure the Master Plan, add land area, and units and add an access point.	R-2016-1236
October 26, 2017	EAC 2017-01452	Sussman AGR-PUD	Expedited Application Consideration to delete a Condition of Approval (Landscaping)	R-2017-1641

**DEVELOPMENT PROGRAM**

The associated Zoning applications for this subject site are being requested to allow for the development of the following uses:

Proposed Use Details		
Building Name	Use	Square Footage
A	Retail	10,212
B	Car Wash	3,119 (including 156 SF of Office)
C & D	Limited-Access Self Storage Use (502 Bays)	71,380 (including 625 SF of Office)
E & F	Multi-Access Self Storage Use (25 Bays)	23,089
Total SF:		107,800

The car wash and retail buildings are located along Atlantic Avenue frontage, while the multi-access self-service storage facility is located in the rear of the subject site. The current access point off Atlantic Avenue

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will be retained for the proposed MUPD, and include a vehicular cross-access to the west with Plaza Delray MUPD. A pedestrian circulation system is located internal to the proposed development, which connects the commercial and self-service storage uses. The proposed development provides 0.54 acres of usable open space in form of seating areas with the car wash and self-service storage uses and an outdoor patio with seating around the retail building. A 1.23-acre water management tract is located at the rear of the subject site.

#### **STANDARDS FOR COMPLIANCE – REZONING**

Pursuant to Article 2.B.7.B.2 - Standards

*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 \(WHF\)](#), 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.*

**Response:** The proposed rezoning of the 9.89-acre subject site to the MUPD zoning District would be consistent with the MUPD Zoning, contingent upon the BCC's approval of the FLU Amendment from the AGR to CL (LGA-2022-004). The proposed square footage of the MUPD on the commercial portion of the site falls within the 1,015,000 commercial cap square footage of the AGR Tier per Policy 1.5-n of the County's Comprehensive Plan, and shall not exceed 13,357 square feet as limited by LGA-2022-004, Condition #1. The proposed development proposes 13,331 square feet between the retail and car wash and 99,459 square feet of self-storage uses, thus falling below the maximum square footages per LGA-2022-004, as identified below. Under the current practice, Planning Division Staff will carry forward the LGA intensity limitation under this Rezoning request.

The Applicant is processing concurrent Future Land Use Amendment applications with conditions of approval as detailed below:

- Atlantic Commercial and Self-Storage (LGA-2022-004): This amendment proposes to change the future land use on a 9.89-acre site from AGR to Commercial Low (CL) FLU designation.

Condition #1 – A maximum of 13,357 square feet of commercial uses (other than self-storage) and a maximum of 100,000 square feet of self-storage uses.

Condition #2 – Vehicular cross access shall be provided to the west of the site.

Condition #3 – The adoption of the future land use amendment and zoning application shall be held on the same date.

- Feurring II (LGA-2022-008): Development of commercial retail and/or office uses on the site are limited to a maximum of 36,170 square feet total.
- Seneca II (LGA-2022-009): Development of the site is subject to the conditions of approval by Ordinance 2017-006 shown below with the deleted text struck out and added text underlined.

Development of commercial retail and/or office uses on the site area are limited to a maximum of ~~38,538~~ 31,700 square feet total.

The proposed Site Plan meets the following requirements for AGR developments per Policy 1.5.1-r of Palm Beach County's Comprehensive Plan, as detailed below:

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- 1) *A minimum of 5% usable open space as defined by the Introduction and Administration Element, prominently located within the project to act as a community gathering place;*

**Response:** The proposed development includes 23,647 S.F. (0.54 acres) of usable open space which meets the requirement of 5% usable open space per Article 3.E.3.B.2.f.4. of the ULDC (430,813 SF x 0.05 = 21,540 SF). The landscaped, pervious surfaces are found on Preliminary Regulating Plan Sheet 1 (PRP-1). The proposed development provides 6,960 square feet of usable open space at the retail building, 8,420 square feet of usable open space around the car wash, and 6,160 square feet of usable open space within the self-service storage facility.

- 2) *Landscaped, pervious surfaces that incorporate native landscape species in the site design, with an emphasis along roadway frontages, at entry features, and the provision of exceptional landscape buffers to ensure compatibility with adjacent residential or agricultural properties;*

**Response:** The project will incorporate native landscape species in the site design to the greatest extent possible. All buffer requirements will be met to preserve compatibility with adjacent uses. The proposed ingress/egress point and future cross access point will include landscape enhancements within the buffers that are in addition to ULDC requirements, including native vegetation. The buffer between the proposed self-storage facility and the eastern single-family development includes a 6-foot-high hedge in lieu of the 6-foot-high wall, which spans from the northern part of the self-storage facility to the southern property line. A proposed wall for the entire stretch of the eastern boundary would create a dead space between the wall and the eastern facades of the self-storage use, therefore a six-foot hedge serves as a more appropriate buffer.

- 3) *Interconnected, well landscaped pedestrian systems that link buildings with useable open space, sidewalk and other trail systems, to promote pedestrian circulation and encourage pedestrians to walk between uses;*

**Response:** The site location is situated prominently on Atlantic Avenue which has existing sidewalks allowing pedestrian circulation to Feurring Commercial and Plaza Delray. In addition, the Site Plan for Plaza Delray shows pedestrian sidewalks connecting to both Feurring and Atlantic AGR Commercial, thus completing the pedestrian walkway circulation system. The proposed development complies with Condition 2 of LGA-2022-004, in that it provides vehicular cross access to the west of the site.

- 4) *Building placement designed to foster pedestrian connectivity with surrounding parcels;*

**Response:** With the previously approved/built Feurring MUPD, and the approved/pending on development Plaza Delray and the proposed Atlantic Commercial buildings, the buildings will line up with frontage on Atlantic Avenue. Safe pedestrian walkways are and will be provided between Plaza Delray MUPD and the proposed development on the subject site.

- 5) *Compatible building heights consistent with the character of the community; and*

**Response:** Architecture will comply with Article 5.C, Design Guidelines per the ULDC. The proposed one-story building height for the development is consistent with the character of the eastern single-family development (Delray Lake Estates) and the one-story commercial uses to the west.

- 6) *Public amenities such as sidewalks, lighting, seating, signage, gathering space, water features, landscaping, public art, and provisions for outdoor dining and merchant displays.*

**Response:** Public amenities found on Preliminary Regulations Plat (PRP-1). The plan proposes public amenities such as sidewalks, lighting, seating, a public gather space, coordinating



landscaping and signage. Seating areas with benches and shade structures are provided in the proposed usable open spaces.

- 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.*

**Response:** The proposed CL MUPD is consistent with the development regulations set forth for Planned Development Districts (PDDs), as well as MUPDs. Compliance with regulations are as follows:

**PDD Objectives and Standards – Design Objectives**

- a. *Contain sufficient depth, width, and frontage on a public street, or appropriate access thereto, as shown on the PBC Thoroughfare Identification Map to adequately accommodate the proposed use(s) and design;*

**Response:** The proposed development is consistent with this PDD Design objective, as the proposed MUPD has approximately 331 feet of frontage with one access point along a major 142’ feet Arterial Street of Atlantic Avenue. The lot depth for the subject is 1,300.00 feet and the lot width is 331.00 feet, thus meeting the PDR regulations for the proposed MUPD.

- b. *Provide a continuous, non-vehicular and pedestrian circulation systems which connect uses, public entrances to buildings, recreation areas, amenities, usable open space, and other land improvements within and adjacent to the PDD;*

**Response:** The development program provides for a continuous, non-vehicular circulation system to all commercial and self-service storage buildings, building entrances, and usable open space. The internal pedestrian circulation system connects to the existing sidewalks to the west with the Plaza Delray MUPD and along Atlantic Avenue, which provides connectivity to the adjacent uses such as Delray Marketplace.

- c. *Provide pathways and convenient parking areas designed to encourage pedestrian circulation between uses;*

**Response:** Sidewalks with decorative pavers, crosswalks and pathways are provided throughout the entire proposed development and allows for the safe travel of pedestrians throughout the site and to the retail, car wash, and self-service storage uses.

- d. *Preserve existing native vegetation and other natural/historic features to the greatest possible extent;*

**Response:** The proposed development will not result in significant adverse impacts on the natural environment since there is no significant native vegetation and/or natural/historic features on the subject site. The proposed buildings are setback far away enough to limit any impacts on native vegetation on surrounding properties.

- e. *Screen objectionable features (e.g., mechanical equipment, loading/delivery areas, storage areas, dumpsters, compactors) from public view and control objectionable sound;*

**Response:** The proposed development has appropriate screening walls and/or foundation planting where ground mounted mechanical equipment, loading, and dumpsters are being proposed. The proposed dumpster enclosure is screened with 3-foot-wide foundational planting. Any proposed mechanical equipment positioned on the roof of the buildings will be screened on all sides by an opaque barrier constructed of material and color compatible with the building or structure.



- f. *Locate and design buildings, structures, uses, pathways, access, landscaping, water management tracts, drainage systems, signs, and other primary elements to minimize the potential for any adverse impact on adjacent properties;*

**Response:** Buildings, structures, pathways, access, landscaping, drainage systems, and signs will be designed to minimize the potential for any adverse impact on adjacent properties. All other setback, buffers, landscaping, building location and site elements have been designed in such a way as to minimize adverse impacts and comply with PBC ULDC requirements. Both the retail building and self-storage buildings have a side setback of 30 feet along the eastern property line, thus meeting the requirement when adjacent to residential. A 20-foot Type 3 Incompatibility Buffer sits along the eastern boundary adjacent to the existing single-family use. In addition, on the other side of the eastern property line is a 25-foot buffer, planting and utility easement which provides additional buffering with the Delray Lakes Estates neighborhood.

- g. *Minimize parking through shared parking and mix of uses;*

**Response:** The MUPD will consist of a mix of uses that minimize parking for a more sustainable planned development. The MUPD allows for a range of parking from 4 spaces per 1,000 square feet to 6 spaces per 1,000 square feet, and the proposed development is providing parking spaces based on the individual uses per Article 6 parking requirements of the ULDC. A parking summary of the proposed MUPD has been provided for reference below.

Parking Program			
Proposed	Use	Required	Provided
	Self-Service Storage Limited-Access (502 storage bays) (625 SF of Office)	13 spaces (1 space per 200 bays; minimum 5 spaces) (1 space per 200 SF of office)	76
	Self-Service Storage Mutli-Access (25 bays)		
	Retail (10,212 SF)	51 spaces (1 space per 200 SF)	53
	Car Wash (156 SF Office)	1 space (1 space per 200 SF of office, retail, or indoor seating area)	34 (including 17 vacuum spaces)
Total		65 spaces	146 spaces

- h. *Creation of a strong pedestrian system through the design and placement of buildings connected to a common public space or usable open spaces; and,*

**Response:** An integrated and inter-connected system of pedestrian circulation is proposed throughout the site. The pedestrian system connected all proposed uses on the site and is connected to a mix of usable open spaces areas and public spaces.

- i. *For PDDs with non-residential uses, a minimum of one pedestrian amenity for each 100,000 square feet of non-residential GFA, or fraction thereof, shall be incorporated into the overall development to create a pedestrian friendly atmosphere. Suggested amenities include, but are not limited to:*
- 1) *public art;*
  - 2) *clock tower;*
  - 3) *water feature/fountain;*
  - 4) *outdoor patio, courtyard, or plaza; and,*
  - 5) *tables with umbrellas for open air eating in common areas and not associated with tenant use (i.e. restaurant) or outdoor furniture.*

**Response:** The proposed development provides an outdoor patio that surrounds the retail building, which includes bench seating, foundational planters, and usable open space.



**ULDC Art. 3.E.1.C.2 – PDD Performance Standards**

***Planned developments shall comply with the following standards:***

***a. Access and Circulation***

***1) Minimum Frontage***

*PDDs shall have a minimum of 200 linear feet of frontage along an arterial or collector street unless stated otherwise herein.*

**Response:** The current development proposal meets this requirement as it currently provides 331 feet of frontage along Atlantic Avenue, an arterial roadway.

***2) PDDs shall have legal access on an arterial or collector street.***

**Response:** The development program has been designed to provide legal access from Atlantic Avenue, an arterial roadway.

***3) Vehicular access and circulation shall be designed to minimize hazards to pedestrians, non-motorized forms of transportation, and other vehicles. Merge lanes, turn lanes and traffic medians shall be required where existing or anticipated heavy traffic flows indicate the need for such controls.***

**Response:** The proposed development provides for the safe integrating and coexistence of non-vehicular, pedestrian pathways and vehicular driveways. Ample open space, medians, and separated decorative pedestrian walkways will ensure that the site is designed to minimize hazards for both pedestrians and motorists.

***4) Traffic improvements shall be provided to accommodate the projected traffic impact.***

**Response:** Traffic improvements will be provided based on the recommendations of the approved TPS Letter for the proposed development.

***5) Cul-de-sacs***

*The objective of this provision is to recognize a balance between dead end streets and interconnectivity within the development. In order to determine the total number of local streets that can terminate in cul-de-sacs, the applicant shall submit a Street Layout Plan, pursuant to the Technical Manual. The layout plan shall indicate the number of streets terminating in cul-de-sacs, as defined in Article 1 of this Code, and how the total number of streets is calculated. During the DRO certification process, the addressing section shall confirm the total number of streets for the development, which would be consistent with how streets are named. Streets that terminate in a T-intersection providing access to less than four lots, or a cul-de-sac that abuts a minimum 20 foot wide open space that provides pedestrian cross access between two pods shall not be used in the calculation of total number of cul-de-sacs or dead end streets.*

***a) 40 percent of the local streets in a PDD may terminate in a cul-de-sac or a dead-end by right.***

**Response:** No cul-de-sacs or dead-ends are being proposed by this project.

***6) Nonresidential PDDs shall provide cross access to adjacent properties where possible, subject to approval by the County Engineer.***





**Response:** Proposed cross access is being provided along the western boundary along the Plaza Delray MUPD development. A recorded cross access easement has been submitted with this application (O.R.B. 23305, PG. 494).

- 7) *Streets shall not be designed nor constructed in a manner which adversely impacts drainage in or adjacent to the project.*

**Response:** All streets and internal vehicular use areas have been designed in a manner to not adversely impact drainage for the proposed development or uses adjacent to the site.

- 8) *Public streets in the project shall connect to public streets directly adjacent to the project. If no adjacent public streets exist, and the County Engineer determines that a future public street is possible, a connection to the property line shall be provided in a location determined by the County Engineer. This standard may be waived by the BCC.*

**Response:** The proposed development is proposing access to Atlantic Avenue, an existing public street.

b. *Street Lighting*

Streetlights shall be a maximum of 25 feet in height and shall be installed along all streets 50 feet in width or greater. The light fixture shall be designed to direct light away from residences and onto the sidewalk and street and shall comply with Article 5.E, PERFORMANCE STANDARDS.

**Response:** Any future street lighting will comply with Article 5.E. for illumination levels and height.

c. *Median Landscaping*

*Refer to the most recent Engineering and Public Works Operations - Streetscape Standards available from the PBC Engineering Department.*

**Response:** Acknowledged.

d. *Street Trees*

*Street trees shall meet the Canopy tree requirements of Article 7, LANDSCAPING and planting standards pursuant to Engineering and Public Works Operations – Streetscape Standards, and as follows:*

- 1) *Street trees shall be spaced an average of 50 feet on center. Palms meeting the requirements of Article 7, LANDSCAPING and Engineering and Public Works Operations - Streetscape Standards, may be planted as street trees if spaced an average of 40 feet on center.*
- 2) *Street trees shall be located along both sides of all streets 50 feet in width or greater and shall be planted between the edge of pavement and sidewalk. Appropriate root barrier techniques shall be installed where applicable.*
- 3) *Street trees shall be installed in accordance with the phasing of the Planned Development pursuant to Art. 7.E.4.B.1, Planned Developments. For Residential PDDs, planting of street trees shall be completed prior to the issuance of the final certificate of occupancy within that phase or pursuant to conditions of approval.*
- 4) *This requirement may be waived or modified by the County Engineer if the location of the proposed street trees conflict with requirements of Art.11, SUBDIVISION, PLATTING AND REQUIRED IMPROVEMENTS.*

**Response:** The proposed development will be landscaped in accordance with Article 7, LANDSCAPING.

e. *Bike Lanes*



Bike lanes shall be provided in all streets 80 feet in width or greater, unless an alternative is approved by the County Engineer in accordance with Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS.

**Response:** The above requirement is not applicable as there are no streets within the commercial development that are 80 feet in width or greater.

*f. Mass Transit*

*All nonresidential PDDs over five acres and 50,000 square feet, and all PUDs over 50 units, shall comply with the following, unless waived by the DRO:*

- 1) The location of a Bus Stop, Boarding and Alighting Area shall be shown on the master plan and/or final site plan prior to approval by the DRO, unless written conflicts that one is not required. The purpose of this easement is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran;*
- 2) Prior to the issuance of the first building permit, the property owner shall convey to PBC an easement for a Bus Stop, Boarding and Alighting Area, in a location and manner approved by Palm Tran. As an alternative, prior to Technical Compliance of the first plat, the property owner shall record an easement for a Bus Stop, Boarding and Alighting Area in a manner and form approved by Palm Tran. The property owner shall construct continuous paved pedestrian and bicycle access compliant with the Americans with Disabilities Act (ADA) to and through the Bus Stop Boarding and Alighting Area; and*
- 3) All PDDs with more than 100 units shall comply with the following requirement:*

*Prior to the issuance of the building permit for the 100th unit, the petitioner shall construct a Palm Tran approved mass transit shelter with appropriate access lighting, trash receptacle and bicycle storage. The location of the shelter shall be within an approved Bus Stop Boarding and Alighting Area easement. Any and all costs associated with the construction and perpetual maintenance shall be funded by the petitioner.*

**Response:** The proposed development includes a 10,212 square foot retail building, a 3,119 square foot car wash (including 781 square of office), and approximately 94,469 square feet of self-service storage. The self-storage and car wash uses will not generate a demand for mass transit. The total development square footage is 107,800 square feet, thus exceeds the 50,000 square foot threshold requiring a bus stop location. A 87 foot wide canal, L.W.D.D. L-34 Canal, is located between the ROW of West Atlantic Avenue and the front of the proposed development, therefore limits any area for a bus stop to be located near West Atlantic Avenue on the subject site. The Applicant is coordinating with Palm Tran to receive confirmation that a bus stop location is not required for the subject site. In addition, there is no Palm Tran bus route along Atlantic Avenue west of the Turnpike. The nearest bus stop is Palm Tran Stop 6409 on the east side of the Turnpike along Atlantic Avenue.

*g. Utilities*

*All utility services located in a utility easement, such as telephone, cable, gas, and electric, shall be installed underground or combination/alternative acceptable to the DRO.*

**Response:** Utility services for the subject site will comply with this standard and be installed underground.



h. *Parking*

1) *Residential Uses*

*Parking for residential uses shall comply with Article 6, PARKING. The DRO may require a covenant to be recorded limiting the affected area to a specific use or uses.*

**Response:** The proposed development includes only commercial uses, thus this standard does not apply to the subject site.

2) *Nonresidential Uses*

*Nonresidential uses located within a PDD may apply the parking standards indicated in Table 6.A.1.B, Minimum Off-Street Parking and Loading Requirements or the minimum/maximum parking standards below. The site plan shall clearly indicate which parking standards are being utilized for the entire site.*

**Response:** The non-residential uses proposed on the site will comply with Article 6, Parking and provides accessible parking for the future patrons of the anticipated uses. The proposed development provides 146 parking spaces, therefore exceeds the requirement of 74 parking spaces.

3) *Design*

*Parking areas open to the public shall be interconnected and provide safe efficient flow of traffic. Parking areas directly adjacent to other parking areas in the same project shall have cross access.*

**Response:** The development program provides interconnected public parking areas for patrons of the commercial uses on the subject site.

4) *Cross Access*

*Cross access shall be provided to adjacent internal uses/properties, if required by the DRO.*

**Response:** Cross access is being provided internally throughout the proposed uses on the site, as well as to the adjacent uses on the west of the subject site by way of cross access easements, or future vehicular/pedestrian connections. There is a reciprocal cross access agreement per O.R.B. 28946, Page 962.

5) *Location-Non-residential PDDs*

*A minimum of ten percent of the required parking shall be located at the rear or side of each building it is intended to serve.*

**Response:** The development program provides for parking to be located in close proximity to the uses proposed for the retail, car wash, and self-storage buildings.

6) *Distance*

*All parking spaces shall be located within 600 linear feet of a public entrance of the building which it is intended to serve.*

a) *Remote Parking Areas*

*Paved pedestrian pathways shall be provided to all parking areas in excess of 400 feet from a public entrance. Pathways shall be unobstructed grade separated and/or protected by curbs, except when traversing a vehicular uses area, and clearly marked.*



**Response:** The proposed parking is located within 600 linear feet the entrance along Atlantic Avenue. Furthermore, paved pedestrian pathways provide the appropriate connections and comply with this standard.

*i. Way Finding Sign*

**Response:** Any proposed on-site and off-site directional signs will comply with this standard.

**ULDC Art. 3.E.3.B.1 – MUPD Design Objectives**

***An MUPD shall comply with the following objectives:***

- a. Allow for both residential and non-residential uses within a project that is designed in a manner to foster compatibility within and adjacent to the project:*

**Response:** The proposed development consists of multiple different uses, including retail, car wash, and self-storage, within one cohesive and unified development. The MUPD does not propose any residential uses, however, it will be designed in a manner that will foster compatibility within the proposed commercial uses and to any adjacent uses. Adequate landscaping is utilized to ensure screening of the subject site from adjacent properties.

- b. Provide innovative building location and orientation:*

**Response:** The subject site adheres to the property development regulations for an MUPD, which foster innovative building location and orientation. The more intense retail and carwash uses are located closest to the heavily traveled Atlantic Avenue, while the self-service storage use is located at the rear of the property furthest away from the ROW.

- c. Protect adjacent residential uses from potential adverse impacts:*

**Response:** The proposed MUPD consists of a carwash, retail, and a multi-access self-storage facility. The potentially most impactful carwash is located furthest away from the adjacent residential use to the east, while the retail use is sufficiently screened and buffered by a 20-foot Type 3 Incompatibility Buffer. The multi-access self-storage facility that borders most of the eastern boundary is a less intense use and is also buffered by the 20-foot Type 3 Incompatibility buffer on top of the 25-foot buffer, planting and utility easement on the adjacent eastern properties.

With the incorporation of usable open space, well-designed circulation, and innovative building placement, the proposed development is ensuring that compatibility and function are of utmost importance. The placement of the buildings on the site ensures that prospective patrons and neighbors all find the development to be an exemplary multiple use project for the Atlantic Avenue and Lyons Road intersection.

- d. Provide interconnection between uses in and adjacent to the project;*

**Response:** The proposed development is proposing a well-integrated vehicular and non-vehicular circulation system to allow for the safe and efficient travel of motorists and pedestrians throughout the site and to adjacent uses. There is an existing future connection point to the adjacent commercial property to the west, which will be maintained. Both systems are being connected to existing pedestrian sidewalks and existing public street, Atlantic Avenue.

- e. Allow for landscape design that enhances the appearance of the project; and,*

**Response:** Landscape design that enhances the appearance of the project will be utilized. The MUPD will comply with the landscape standards in ULDC Article 7. Any opportunity for enhanced landscaping will be utilized.





- f. *An MUPD with an EDC FLU designation shall be primarily utilized by office and research parks, which may also include manufacturing and processing, research and development, wholesale distribution, and storage of products.*

**Response:** Not applicable.

**ULDC Art. 3.E.3.B.2 – MUPD Performance Standards**  
**An MUPD shall comply with the following standards:**

a. *Non-Vehicular Circulation*

- 1) *A MUPD shall be designed to provide for pedestrian and bicycle oriented circulation system throughout the development.*

**Response:** The proposed development is providing a well-integrated, non-vehicular circulation system to allow for the safe and efficient travel of pedestrians throughout the site. Pedestrian amenities, such as the outdoor patio and usable open space, are being proposed within the site to help foster a walkable development.

- 1) *Sidewalks*  
i. *Where sidewalks cross vehicular use areas, they shall be constructed of pavers, brick, decorative concrete, or similar pavement treatment.*

**Response:** The proposed development provides for sidewalk crossings that are constructed of pavers, brick, decorative concrete, or similar pavement treatment.

b. *Landscape Buffers*

1. *A Type 3 Incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The applicant may request for an alternative buffer subject to a Type 2 Waiver process.*

**Response:** The proposed MUPD's eastern property line is adjacent to the Delray Lakes Estates, single family residential community. As required by the MUPD performance standards, a Type 3 Incompatibility Buffer will be provided along the eastern property line.

c. *Cross Access*

1. *Parking lots and vehicular circulation areas shall be designed to facilitate cross access directly to adjacent parcels. Cross access shall be provided between a MUPD and adjacent land with a nonresidential FLU designation, if required by the DRO. The cross access shall be in a location and manner acceptable to the DRO.*

**Response:** The proposed development is being designed and planned to allow for efficient cross access between parking areas, the uses proposed on the site, and adjacent uses. Cross access is being proposed between the project area and adjacent parcels, which is recorded in O.R.B. 28946, Page 962.

d. *Parking*

1. *Off street parking areas shall comply with Art. 6, Parking, Art. 7, Landscaping, and the following:*  
1. *Parking Areas*  
a) *Groundcover or small shrubs 18 to 24 inches in height at installation, and maintained to achieve a maximum of 30 inches in height shall be planted in all landscape islands and divider medians.*  
b) *Where pedestrian access ways cross landscape islands or are provided within divider medians, they shall consist of brick, decorative concrete, or similar paving treatment.*

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- c) 20 percent of the required parking shall be located at the side or rear of non-residential uses, unless all spaces are provided within a parking structure per Article 6.B.2.E. Parking Structures.
- d) All required on-site parking shall be located within 400 feet of a public entrance to any non residential or individual access points of a residential building within the development.

2. Loading Area Screening  
Internally oriented loading areas shall provide an opaque wall of a height necessary to screen vehicles from view. Foundation planting shall be provided on the exterior side of the wall.

**Response:** The proposed development is being designed to allow for a well-integrated system of parking areas, drive aisles, and pedestrian connectivity. The project will comply with these standards by providing decorative pavers where crosswalks are situated. Both the retail building and self-service storage facility provide more than 20% of the required parking on the side or rear of the buildings.

ULDC Art. 3.E.3.D. – MUPD Property Development Regulations

**Response:** Both the retail building and self-storage buildings have a side setback of 30 feet along the eastern property line, thus meeting the requirement when adjacent to residential. The proposed development meets the Property Development Regulations for a MUPD as detailed below:

	Lot Dimensions			Max. Building Coverage	Minimum Setbacks			
	Size	Width/Frontage	Depth		Front	Side	Side Street	Rear
Required	5 AC.	300'	300'	25%	25'	C- 15' R- 30'	25'	C-20' R-30'
Proposed	9.89 AC.	331.00	1,300'	25%	147'	30'	N/A	218'

Buildings – The proposed commercial building (retail and car wash) will be one-story at a maximum height of 25 feet. The proposed architectural elevations at time of building permit will comply with Article 5.C, Design Guidelines.

- 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.*

**Response:** Compatibility pursuant to Definition, Article 1.H.2.C.50.b. means:  
“Land uses that are congruous, similar and in harmony with one another because they do not create or foster undesirable health, safety or aesthetic effects arising from direct association of dissimilar, contradictory, incongruous, or discordant activities, including the impacts of intensity of use, traffic, hours of operation, aesthetics, noise, vibration, smoke, hazardous odors, radiation, function and other land use conditions.”

The subject site is in the peripheral area of the Lyons and Atlantic commercial node and will be in line with the more recently approved commercial developments which area located directly to its west. The following provide an analysis explaining how the proposed Rezoning to an MUPD and with its uses will not generate any additional potential impact to the commercial node of the Atlantic Avenue corridor.

**North:** To the north, across the 220-foot wide Atlantic Avenue, is the Valencia Cove Preserve and two existing commercial sites (Fina Station LGA 2016-013 and Dells Suburban Market, LGA-2016-009). The proposed development provides a 10-foot wide ROW buffer along the northern developable area



boundary. A 87 foot-wide LWDD, L-34 Canal, separates the proposed R-O-W buffer from Atlantic Avenue, thus adding additional buffering between the proposed development and properties to the north.

**South:** To the south, across from 152nd Place, is a 4.98-acre preserve parcel, a portion of Preserve Parcel 9, of Sussman AGR PUD, and is currently vacant. The proposed development provides a 1.23-acre water management tract and an 8-foot wide Compatibility buffer along the southern portion of the subject site, thus limiting any adverse impacts on the southern property. The proposed use of the self-service storage facility provides security, and therefore, the facility is walled in as part of the building design.

**East:** To the east is the Delray Lakes Estates PUD, which exists prior to the creation of the AGR PUD provisions. The Applicant is proposing to address any potential negative impact that may generate from the commercial uses by installing a 20-foot Type 3 Incompatibility buffer along the east property line, as mentioned above that the proposed Self-Storage Facility will be walled in, and will provide additional screening to the adjacent existing residential homes. The proposed Type 3 Incompatibility Buffer requires a wall, but the Applicant is requesting a Type 2 Waiver to replace the wall with a 6-foot high edge along the south 909 feet of the east property line where the Self-Storage building will be located.

**West:** To the west of the site is Plaza Delray MUPD and Feurring MUPD, which both include neighboring retail and restaurant uses. Plaza Delray MUPD to the immediate west is currently under construction, which includes a 8-foot wide landscape buffer adjacent to the subject site and totals in 16 feet in width of compatibility buffers between both.

**d. Effect on the Natural Environment**

The proposed amendment will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

**Response:** The proposed MUPD does not create any environmental impacts. The proposed development will not have any adverse impacts to the vacant preserve property to south since the site plan proposes a 1.23-acre water management tract between the proposed uses and the southern existing vegetation.

**e. Development Patterns**

*The proposed use or amendment will result in a logical, orderly, and timely development pattern.*

**Response:** Subject to concurrency approval and conditions of approval relating to traffic performance standards, the proposed retail, car wash, and multi-access self-storage facility will be developed in an orderly and timely manner, and consistent with the commercial development pattern of the Atlantic and Lyons Road corridors. The subject site is located within the commercial node of Atlantic Avenue and Lyons Road. The Delray Marketplace to the northeast; commercial development (Feurring and Seneca Commercial) to the west, connects vehicle and pedestrian traffic to the western commercial developments, closes off the southeast corner of the intersection between Atlantic Ave and Lyons Road, and allows westward traffic from Atlantic Avenue to access the subject site and the western commercial development.

**f. Adequate Public Facilities**

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

**Response:** It is anticipated that adequate public facilities can be provided to the proposed MUPD. Concurrency has been requested for the proposed MUPD. Concurrency for Feurring Commercial and Seneca Commercial was approved via R-2016-1560 and R-2017-0501 respectively. Per the FLUA



application (LGA 2022-04) for the proposed development there are adequate public facilities and services available to support the amendment and it does not exceed natural or manmade constraints.

**g. Changed Conditions or Circumstances**

There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification.

**Response:** The subject site represents a tract of underutilized land and suited for redevelopment; however, it is no longer viable for agricultural nor residential uses due to its location at a major intersection of Atlantic Avenue and Lyons Road. This intersection acts as a commercial node in the Agricultural Reserve and includes the Delray Marketplace TMD at the northwest corner, which is a regional draw for the County. Although there are existing commercial uses situated within the Delray Marketplace TMD, such as are not neighborhood serving in nature. Over time, the need for neighborhood serving commercial uses has increased because of the influx of residents and new residential developments within the Agricultural Reserve Tier, including the following:

Name of Application	Control Number	Resolution No.	Number of Units
Sussman AGR PUD	2000-00032	2016-1235, -1236	743 units
Monticello AGR PUD	2005-00014	2005-1418, -1135, 1136; 2012-776; 2018-1703, 2018-1704	653 units
Valencia Cove AGR PUD	2004-00369	R-2020-0336; R-2020- 0337	1,404 units
Bridges-Mizner AGR PUD	2004-00250	R-2017-974, -975, -976, - 977	1,866 units
Hyder AGR PUD	2005-00455	R-2006-278, 2014-729, 2017-972	1,205 units

With the approval of the Delray Marketplace TMD at the northwest corner of Lyons Road and Atlantic Avenue, and subsequent requests for FLU amendments of properties in the immediate area, have created a new development pattern along the Atlantic and Lyons corridors; thereby completing a commercial node at this intersection.

With the change in Zoning district classification of AGR to MUPD of those parcels (Feurring Commercial, Seneca Commercial and Plaza Delray) that are located to the west of Atlantic Commercial, it is logical and reasonable to request a change of the site's zoning district classification to MUPD so that the uses on the site is in line with the neighboring properties.

**ULDC Art. 3.E.3.D – MUPD Property Development Regulations**

	Lot Dimensions			Max. Building Coverage	Minimum Setbacks			
	Size	Width/Frontage	Depth		Front	Side	Side Street	Rear
Required	3 AC.	300'	300'	25%	25'	C- 15' R- 30'	25'	C-20' R-30'
Proposed	9.89 AC.	331.00'	1,300.00'	25%	147'	30'	N/A	218'

**CLASS A CONDITIONAL USE STANDARDS – CAR WASH**

Pursuant to Article 2.B.7.B.2 of the ULDC, *“When considering a Development Order 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 (WHF), the BCC and ZC shall utilize the Standards a*

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through h indicated below. An application which fails to meet any of these Standards shall 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.*

**Response:** The ULDC implements the goals, objectives and policies of the Comprehensive Plan, the proposed car wash is considered as commercial use per the ULDC, therefore it is subject to the intensity limitation for a maximum of 13,357 square feet for the car wash and other proposed commercial uses for the CL portion of the subject site.

**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.*

**Response:**

The proposed development meets the use standards for a car wash per Article 4.B.2.C.4(a)-(e) of the ULDC as detailed below:

The proposed car wash is located along the western property line adjacent to the Plaza Delray MUPD. The facility consists of a 3,119-square foot automatic car wash building (including 156 square feet of office) with 3 queuing lanes, and 17 covered parking spaces are designated as self-service outdoor cleaning vacuum equipment. Since the car wash is one of three components that made up the MUPD, and analyses of code compliance for the MUPD has been addressed under the Rezoning Standards. The proposed car wash meets the use standards per Article 4.B.2.C.4. of the ULDC.

**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.*

**Response:**

Compatibility of the MUPD with the surrounding land uses has been provided under the Rezoning Standards for the MUPD; the proposed location of this car wash is placed at the northwest corner of the site abutting two 8-foot-wide Compatibility buffers (one along the subject site and one along the west property line of Plaza Delray MUPD), and parking spaces for the Plaza Delray. To the east of the subject site is residential uses of the Delray Lake Estates, the proposed car wash is located approximately 200 feet east of residential property line, and it will be screened from view by the proposed Type 3 Incompatibility buffer and the 10,212 square foot retail building; therefore, there should be no potential negative visual and noise impact being generated from the car wash activities on the residential uses.

**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.*

**Response:**

As mentioned above under c. Compatibility with Surrounding Uses, the car wash is intentionally placed in proximity to the commercial uses of Plaza Delray to the west. The queuing lanes are surrounded by landscape medians with an average width of 10 feet, which allows the installation of trees, palms, hedges and shrubs to screen the car wash activities, and provide shaded seating areas for the patrons and employees. The car wash structure is one-story, thus relates to the one-story commercial uses to the west; an 8-foot compatibility buffer is located between the car wash and the commercial uses to the west; foundation planning provided on the west side of the proposed car wash; the egress point for the



car wash is located close to the western commercial uses, rather than the residential uses to the east; the proposed covered spaces with vacuum equipment are internal to the proposed car wash use;

**e. Design Minimizes Environmental Impact**

*The proposed use and design minimize environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*

**Response:** The proposed MUPD does not create any environmental impacts related to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. The adjacent properties to the west and east are developed with commercial and residential uses, respectively. In addition, native plant materials will be selected to satisfy the landscape requirements, and a 1.23-acre of water management area will be provided at the south end of the subject site. The adjacent western property, closest to the car wash, has been developed with a commercial development thus environmental impacts on the adjacent property are limited. In addition, a 8-foot Compatibility Buffer is provided between the car wash and the western commercial development; the proposed covered spaces with vacuum equipment are internal to the proposed car wash use; a 10 foot ROW buffer mitigates any impact from the proposed car wash onto the L-34 canal.

**f. Development Patterns**

*The proposed use or amendment will result in a logical, orderly, and timely development pattern.*

**Response:** Subject to concurrency approval and conditions of approval relating to traffic performance standards, the proposed car wash will be developed in an orderly and timely manner, and consistent with the commercial development pattern of the Atlantic and Lyons Road corridors. The Commercial node of Atlantic Avenue and Lyons Road (located within the node); The Delray Marketplace to the northeast; commercial development (Fuerring and Seneca Commercial) to the west, connects vehicle and pedestrian traffic to the western commercial developments, closes off the southeast corner of the intersection between Atlantic Ave and Lyons Road, and allows westward traffic from Atlantic Avenue to access the subject site and the western commercial development.

**g. Adequate Public Facilities**

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

**Response:** It is anticipated that adequate public facilities can be provided to the proposed MUPD. Concurrency has been requested for the proposed MUPD. Concurrency for Fuerring Commercial and Seneca Commercial was approved via R-2016-1560 and R-2017-0501 respectively. Per the FLUA application (LGA 2022-04) for the proposed development there are adequate public facilities and services available to support the amendment and it does not exceed natural or manmade constraints.

**h. Changed Conditions or Circumstances**

*There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification.*

**Response:**

The subject site represents a tract of underutilized land and suited for redevelopment; however, it is no longer viable for agricultural nor residential uses due to its location at a major intersection of Atlantic Avenue and Lyons Road. This intersection acts as a commercial node in the Agricultural Reserve and includes the Delray Marketplace TMD at the northwest corner, which is a regional draw for the County. Although there are existing commercial uses situated within the Delray Marketplace TMD, such as are not neighborhood serving in nature. Over time, the need for neighborhood serving commercial uses such as car wash, and the storage facility has increased because of the influx of residents and new residential developments within the Agricultural Reserve Tier. With the Rezoning of the adjacent parcels (Fuerring Commercial, Seneca Commercial and Plaza Delray) from AGR to MUPD, it is logical



and reasonable to request a change of the site's zoning district classification to MUPD so that the neighborhood-oriented uses can be developed and in line with the adjacent commercial properties.

**CLASS A CONDITIONAL USE STANDARDS – SELF-SERVICE STORAGE (MULTI-ACCESS AND LIMITED ACCESS)**

Pursuant to Article 2.B.7.B.2 of the ULDC, *“When considering a Development Order 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 (WHF), the BCC and ZC shall utilize the Standards a through h indicated below. An application which fails to meet any of these Standards shall 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.*

**Response:** The Unified Land Development Code implements the goals, objectives and policies of the Comprehensive Plan, even though the ULDC considers a self-service storage a commercial use, however, pursuant to Policy 1.5-n, it clearly indicates that self-storage uses are not subject to the commercial cap. In addition, a self-storage facility is considered a neighborhood type of commercial uses, and therefore it is consistent with Policy 1.5-k, which will further provide the needs of the farmworker and residential community of the AGR Tier.

- 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.*

**Response:**  
The proposed development meets the use standards for a limited access self-storage facility per Article 4.B.2.C.37.a. and a muti-access self-storage facility per Article 4.B.2.C.37.b. as detailed below:

The proposed self-service storage facility (limited access and multi-access) consists of four buildings with the following intensity:

Building	Square Feet	# of Bays
C (Limited-Access)	35,440 SF	258
D (Limited-Access)	35,940 SF (Including 625 feet of office)	244
E (Multi-Access)	13,205 SF (Including 2,390 SF of Mezzanine)	12
F (Mutli-Access)	14,874 SF (Including 2,600 SF of Mezzanine)	13
Total Limited-Access Self-Storage Facility:	71,380 SF	502 bays
Total Mutli-Access Self-Storage Facility:	23,089 SF	25 bays
Total Self-Storage Facility	99,459 SF	527 bays

Since the self-storage facility is one of the three components that made up of the MUPD, and analyses of Code compliance for the MUPD has been addressed under the Rezoning Standards. The self-storage facility meets the use standards per Article 4.B.2.C.37.a. and b. of the ULDC. The multi-access and limited-access self-service storage facility provides a minimum width of 30 feet for two-way





aisleways between storage structures, thus meeting the minimum requirement of 30 feet. The self-service storage facility does not provide any outdoor storage areas. All proposed multi-access and limited-access self-service storage structures are one story in height. All access points and storage unit doors are screened from the adjacent residential use to the east by a 20-foot Type 3 Incompatibility Buffer and buffer, planting, and utility easements on the other side of the east property line. As per ULDC standards, Limited Access storage facilities require DRO approval for use.

In addition, the limited access storage facility proposes 4 Standard A loading spaces at the north ends of Building C and D, thus meeting the requirement of loading spaces.

**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.*

**Response:** Compatibility of the MUPD with the surrounding land uses has been provided under the Rezoning Standards for the MUPD; the proposed location of the storage facility is placed at the south portion of the site. Since the storage facility is designed for security purposes; therefore, there are no windows, and a minimum of emergency door openings will be located on the exterior facades. All bay accesses are located internal to the facility, and bay door openings will not be seen from the exterior.

A 20-foot-wide Incompatibility buffer will be installed along the east property line, and a 1.23-acre water management tract, which is considered as open space will be located at the south side of the facility.

Therefore, there should be no potential negative visual and noise impact being generated from the storage facility on the existing residential uses.

**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.*

**Response:**

As mentioned above under **c. Compatibility with Surrounding Uses**, the Comprehensive Plan does not consider the intensity of the storage facility to be included under the Commercial Cap of the AGR Tier.

The proposed storage facility is gated with control access to the individual bays with most of the traffic circulation limited to the west side of the subject site. The egress from Buildings C and D (with smaller size bays) is from the west end of the facility. Access to Buildings E and F (with larger size bays) will be from the southwest corner of the subject site, and therefore minimizes noise and traffic flow along the east residential property line; buildings heights are one-story, thus compatible with the building heights of Delray Lakes Estates; foundation planting on the east of the self-storage facility; fencing is provided to enclose the self-storage service facility, thus making it internal to the subject site and have no openings to the eastern residential development; a row of parking with landscaping islands and a 8 foot compatibility buffer is provided on the western boundary, thus adding a buffer between the proposed self-service facility and the western commercial uses; building setback for building F meets the regulations, also buildings e, and D have larger building setbacks; large 218 foot setback from Building F to southern property line; larger setback of 45 feet from Building C to residential development

In addition, most of the parking spaces for the MUPD is located away from the residential property line, there will also be a six-foot high wall to be located along the north 320 linear feet of the east property line. Therefore, adequate screening will be provided for the adjacent residential uses.

**e. Design Minimizes Environmental Impact**

*The proposed use and design minimize environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.*



**Response:**  
As mentioned under the Rezoning Standards, the proposed MUPD does not create any environmental impacts related to water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. The existing vegetation on the adjacent 4.98-acre preserve property (south part of Preserve #9) is separated from the proposed storage facility with a 1.23-acre water management tract, a 10-foot-wide R-O-W buffer and a rear building setback of 218 feet. A 20-foot-wide Type 3 Incompatibility Buffer is provided along the eastern property line, thus limiting any environmental impacts on the existing vegetation to the east. The proposed multi-access self-storage facility is self-contained and internal to the MUPD.

- f. Development Patterns**  
*The proposed use or amendment will result in a logical, orderly, and timely development pattern.*

**Response:** Subject to concurrency approval and conditions of approval relating to traffic performance standards, the proposed multi-access self-storage facility will be developed in an orderly and timely manner, and consistent with the commercial development pattern of the Atlantic and Lyons Road corridors. The Commercial node of Atlantic Avenue and Lyons Road (located within the node); The Delray Marketplace to the northeast; commercial development (Fuerring and Seneca Commercial) to the west, connects vehicle and pedestrian traffic to the western commercial developments, closes off the southeast corner of the intersection between Atlantic Ave and Lyons Road, and allows westward traffic from Atlantic Avenue to access the subject site and the western commercial development.

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

**Response:** It is anticipated that adequate public facilities can be provided to the proposed MUPD. Concurrency for the multi-access self-service storage facility has been requested under the proposed MUPD. It is anticipated that adequate public facilities can be provided to the proposed MUPD. Concurrency has been requested for the proposed MUPD. Concurrency for Fuerring Commercial and Seneca Commercial was approved via R-2016-1560 and R-2017-0501 respectively. Per the FLUA application (LGA 2022-04) for the proposed development there are adequate public facilities and services available to support the amendment and it does not exceed natural or manmade constraints.

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

**Response:** The subject site represents a tract of underutilized land and suited for redevelopment; however, it is no longer viable for agricultural nor residential uses due to its location at a major intersection of Atlantic Avenue and Lyons Road. This intersection acts as a commercial node in the Agricultural Reserve and includes the Delray Marketplace TMD at the northwest corner, which is a regional draw for the County. Although there are existing commercial uses situated within the Delray Marketplace TMD, such as are not neighborhood serving in nature. Over time, the need for neighborhood serving commercial uses, such as a multi-access self-service storage facility, has increased because of the influx of residents and new residential developments within the Agricultural Reserve Tier, including the following:

Name of Application	Control Number	Resolution No.	Number of Units
Sussman AGR PUD	2000-00032	2016-1235, -1236	743 units





Monticello AGR PUD	2005-00014	2005-1418, -1135, 1136; 2012-776; 2018-1703, 2018-1704	653 units
Valencia Cove AGR PUD	2004-00369	R-2020-0336; R-2020- 0337	1,404 units
Bridges-Mizner AGR PUD	2004-00250	R-2017-974, -975, -976, - 977	1,866 units
Hyder AGR PUD	2005-00455	R-2006-278, 2014-729, 2017-972	1,205 units

With the approval of the Delray Marketplace TMD at the northwest corner of Lyons Road and Atlantic Avenue, and subsequent requests for FLU amendments of properties in the immediate area, have created a new development pattern along the Atlantic and Lyons corridors; thereby completing a commercial node at this intersection. There are existing commercial uses situated within the Delray Marketplace TMD; however, such uses are not neighborhood serving in nature. Neighborhood based uses such as a self-service storage facility and general retail uses would support the viability of the Delray Marketplace TMD, by providing supportive commercial uses, while maintaining the entertainment destination nature of Delray Marketplace TMD.

#### **TYPE 2 WAIVER FOR THE TYPE 3 INCOMPATIBILITY BUFFER**

In accordance with Article 3. E.3.B.2.c Landscape Buffers under Performance Standards of an MUPD, which states:

*“A Type 3 Incompatibility Buffer shall be provided along the property lines of an MUPD, where mixed use and non-residential uses are adjacent to a residential use type or undeveloped land with a residential FLU designation. The Applicant may request for an alternative buffer subject to a Type 2 Waiver process.”*

The east property line of the proposed CL MUPD, measured 1,298.51 lineal feet, and abuts residential uses (Delray Lake Estates); and therefore requires a Type 3 Incompatibility Buffer. A Type 3 Incompatibility Buffer per Table 7.C.2.C.3. – Incompatibility Buffer Landscape Requirements require a 20-foot wide strip; 1 canopy tree per 20 lineal feet of the buffer length; 1 palm or pine per 30 lineal feet; one row of small and medium shrubs and a six-foot high wall. The Applicant is proposing an alternative design for the south 862 lineal feet of the east property line subject to a Type 2 Waiver approval by the BCC.

#### **Standards for a Type 2 Waiver**

Pursuant to Article 2.B.7.D.3, Standards for a Type 2 Waiver, which states: “ *When considering a DO application for a Type 2 Waiver, the BCC shall utilize the Standards indicated below and any other standards specific to a Type 2 Waiver. For a Unique Structure, refer to the Standards listed in [Art. 2.B.7.D.4](#) below, and for a Commercial Communication Tower, refer to [Art. 4.B.9.H.5.d, Criteria for Granting a Type 2 Waiver](#). For Minimum Legal Access for Collocated Landscape Service, refer to [Art. 11, Subdivision, Platting, and Required Improvements](#). A Type 2 Waiver, which fails to meet any of the Standards, shall be deemed adverse to the public interest and shall not be approved.*”

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

**Response:** The Waiver request is to replace the required six-foot high wall with a six-foot high hedge along 862 lineal feet of the south portion of the east property line, where it abuts the

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proposed self-service storage facility. The north 355 lineal feet of the east property line, where it abuts the proposed retail building will be provided with the six-foot high wall.

The proposed storage facility requires security, and therefore the facility is designed with no opening on the east facade of the storage buildings. The east facade of the building provides a walled-in type of design, and therefore it can be considered as a replacement of the six-foot wall. Other than replacement of the wall with a hedge, of which the latter provides a similar screening purpose, the other requirements of a Type 3 Incompatibility as described above will be met. Therefore, the requested Waiver will be consistent with the stated purpose or intent of the proposed MUPD.

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

**Response:** The Waiver will not cause a detrimental effect on the overall design and development standards of the project. The proposed development consists of a 10,212 square foot one-story retail building on that portion of the site (355 lineal feet of the east property line), which will be installed with a Type 3 Incompatibility buffer that complies with current Code requirements as set forth in Table 7.C.2.C.3 – Incompatibility Buffer Landscape Requirements. A multi-access self-service storage facility will be located in the southern portion of the subject site. The only buildings that back onto this portion of the Type 3 Incompatibility buffer is as follows:

- a. the rear facade of Building C, a 36,000 square foot one-story storage building; and
- b. the side facades of Buildings E and F which are connected with a six-foot high building wall.

Therefore, the required wall under the Type 3 Incompatibility buffer is requested to be waived based on the design layout of the storage facility, instead, the Applicant will provide a six-foot hedge to provide additional screening along the 862 lineal feet of the east property line. All other required plant materials such as trees; palms and shrubs will be provided.

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

**Response:** As mentioned in the response for Standard c, the Type 3 Incompatibility buffer along the entire east property line will comply with Table 7.C.2.C.3 – Incompatibility Buffer Landscape Requirements, except for the south 862 lineal feet of the buffer where the six-foot high wall will be substituted by a six-foot hedge, there is no elimination of the six foot landscape barrier, and the proposed alternative design will not diminish effective screening between non-residential uses and existing residences of the Delray Lake Estates.

In addition, all activities of the storage facility will occur within the internal aisles of the multi-access storage bays, and the facades of these buildings (C, E and F) which are located closest to the east property line will be all walled in with no openings. Therefore, the design building layout and the provision of the Type 3 Incompatibility buffer with an alternative landscape barrier will not cause any adverse impact to the adjacent residential properties.

- d. ***For the purpose of Medical Marijuana Dispensing Facility in [Art. 4.B.2.C.35.i](#), the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety, and welfare of the community.***

**Response:** Not Applicable to this Application.

**CONCLUSION**

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On behalf of the Applicant, WGI respectfully requests approval of this request to amend the subject site to a CL MUPD, allow a Class A Conditional Use for a car wash and self-service storage facility, and a Type 2 Waiver.

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