

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

Application No.: Z/CA-2021-02123
Application Name: Towns at Tidewater
Control No./Name: 2014-00014 (Tal Kuperman)
Applicant: Medjool Nurseries LLC
Owners: Medjool Nurseries LLC
Agent: JMorton Planning & Landscape Architecture - Jennifer Morton
 JMorton Planning & Landscape Architecture - Lauren McClellan
Telephone No.: (561) 721-4463 , (561) 371-9384
Project Manager: Donna Adelsperger, Senior Site Planner

TITLE: an Official Zoning Map Amendment **REQUEST:** to allow a rezoning from the Agricultural Residential (AR) Zoning District to the Single Family Residential (RS) Zoning District on 9.24 acres

TITLE: a Class A Conditional Use **REQUEST:** to allow Townhouse (TH) dwelling units on 9.24 acres

APPLICATION SUMMARY: The proposed requests are for the 9.24-acre Towns at Tidewater Development. The site currently supports a Single Family Residence and Agriculture use and has no prior approvals by the Board of County Commissioners (BCC).

The requests are for an Official Zoning Map Amendment to allow a rezoning from Agricultural Residential (AR) Zoning District to the Single-Family Residential (RS) Zoning District, and a Class A approval for the development of residential Townhouses. The Preliminary Subdivision Plan indicates 69 units, and access from Hypoluxo Road. The total number of units comes from a 50% density increase through the Workforce Housing program.

The request for the proposed increase in density and townhomes is contingent upon a concurrent Small Scale Future Land Use Amendment (Application SCA-2022-019) to amend the Future Land Use (FLU) designation from Low Residential 1 (LR-1) to Medium Residential 5 (MR-5). The proposed RS zoning is consistent with both the existing and proposed future land use designations.

SITE DATA:

Location:	South side of Hypoluxo Road approx. 0.83 miles east of Jog Rd
Property Control Number(s)	00-42-45-10-01-008-0030; 00-42-45-10-01-008-0020
Existing Future Land Use Designation:	Low Residential, 1 unit per acre (LR-1)
Proposed Future Land Use Designation:	Medium Residential, 5 units per acre (MR-5)
Existing Zoning District:	Agricultural Residential District (AR)
Proposed Zoning District:	Single Family Residential (RS)
Total Acreage:	9.24 acres
Tier:	Urban/Suburban
Overlay/Neighborhood Plan/CCRT Area:	West Boynton Community Plan
Municipalities within 1 Mile:	None
Future Annexation Area:	None
Commission District	District 2, Mayor Gregg K. Weiss

RECOMMENDATION: Staff recommends approval of the Official Zoning Map Amendment subject to the Condition of Approval as indicated in Exhibit C-1; and

Staff recommends denial of the Class A Conditional Use to allow Townhomes. Should the BCC approve this request it should be subject to the Conditions of approval as indicated in Exhibit C-2.

ACTION BY THE PLANNING COMMISSION (PLC): The Planning Commission, sitting as the Local Planning Agency, held a public hearing on October 14, 2022, recommended an alternate future land use designation of Low-Residential, 3 units per acre (LR-3) with a proposed condition of approval to require the purchase of Transfer of Development Rights (TDRs) to achieve the 69 townhomes. This Zoning Application and the FLUA will be presented for adoption on the same day. If the BCC does not approve the FLUA then this request does not move forward for a decision.

ACTION BY THE ZONING COMMISSION (ZC): At the November 3, 2022 ZC Hearing, this item was on the Regular Agenda. Eight members of the public spoke in opposition on this item regarding the application. Concerns were the density from the proposed development, change in the character of the area, that the area is a Rural Enclave and construction traffic using Ranches Road. Commissioners asked if the Agent had met with the residents and if they would agree to a postponement to have the chance to

meet with the residents. Agent responded that they did not meet with residents but had reach out to COWBRA for comments. Agent did not agree to the postponement but did agree to meet with the residents between ZC and BCC. Commissioner Scarborough made a motion to recommend approval of the Official Zoning Map Amendment, which was seconded by Commissioner Caliendo. The motion carried by a vote of (7-0-1 with Commissioner Beatty abstaining do to conflict). Commissioner Scarborough made a motion to recommend denial of the Class A Conditional Use, which was seconded by Commissioner Caliendo. The motion carried by a vote of (7-0-1 with Commissioner Beatty abstaining).

ACTION BY THE BOARD OF COUNTY COMMISSIONERS (BCC): At the November 28, 2022 BCC hearing this item was postponed to the February 23, 2023 Hearing. At the February 23, 2023 BCC hearing this item was postponed to the March 23, 2023 Hearing, at the request of the Applicant in order to allow additional time to continue discussions with the Ranches Road residents.

MEETINGS WITH APPLICANT AND RESIDENTS: A meeting was held on February 8, 2023 with the agent and the surrounding property owners. Staff was not in attendance and was not provided a summary of the discussion at the meeting. A meeting is scheduled for March 8, 2023 with the residents and the District Commissioners office to discuss the project. At time of publication staff was not provided a summary of the discussion at the meeting.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff has received no contacts from the public regarding this application.

PROJECT HISTORY: There have been no prior approvals by the Board of County Commissioners (BCC) for this site. The site currently supports a Single- Family residence, constructed in 1981, and a Wholesale Nursery.

FINDINGS: Official Zoning Map Amendment (Rezoning) to a Standards District:

When considering a Development Order application for a rezoning to a Standard Zoning District with or without a Conditional Overlay Zone (COZ), the BCC and ZC shall consider Standards a through g listed under Article 2.B.7.B.2, Standards. The Standards and Staff Analyses are indicated below. An amendment that fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

a. Consistency with the Plan - *The proposed amendment is consistent with the Plan.*

The subject request for rezoning is concurrent with a Small Scale Future Land Use Amendment (Application SCA-2022-019) to amend the Future Land Use (FLU) designation from Low Residential 1 (LR-1) to Medium Residential 5 (MR-5).

○ *Relevant Comprehensive Plan Policy:* The Future Land Use Element Policy 2.2.1-j establishes consistent residential zoning districts with their corresponding Future Land Use designation in Table 2.2.1-j.1, *Residential Future Land Use - Zoning Consistency*. The proposed RS Zoning District is consistent with both the existing Low Residential, 1 unit per acre (LR-1) Future Land Use designation and the proposed Medium Residential 5 units per acre (MR-5).

○ *Special Overlay District/Neighborhood Plan/Planning Study Area:* The request is located within the West Boynton Area Community Plan, which is administered by the Coalition of West Boynton Residents Association. The Applicant was advised to meet with the neighborhood group. No correspondence has been received by staff regarding the request.

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

○ *Property Development Regulations:* The lot meets the minimum size for the RS Zoning district of 6,000 square feet with a minimum of 65 feet of frontage and depth of 75 feet. The lot frontage, for the existing lots, are from Hypoluxo and Ranches Road.

○ *Overlays:* The development is not located within any Overlays.

○ *Workforce Housing, Parking, Landscape/Buffering and Signage:* See discussion under Class A Conditional Use for Townhomes dwelling units.

c. Compatibility with Surrounding Uses - *The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district.*

The rezoning to the RS Zoning District is generally consistent with the surrounding properties.

- To the east and south the properties are zoned Residential Transitional (RT);
- To the north, southeast, and west are zoned AR; and,
- To the northwest, the development is zoned RS with a Special Exception for as a Planned Unit Development.

The district is an appropriate zoning district for this location due to its proximity to RT and other RS developed properties. The uses and densities allowed in the proposed rezoning to the RS Zoning District are potentially compatible with the surrounding developments that consist of single-family dwelling units and a Place of Worship, subject to the specific densities approved through the FLUA amendment and associated Class A requests and density bonus. See discussion under Class A Conditional Use for Townhomes dwelling units.

d. Effect on 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.*

The proposed RS zoning is consistent with both the existing LR-1 and proposed MR-5 future land use designations per Table 2.2.1-j.1, *Residential Future Land Use - Zoning Consistency*, of the Future Land Use Element of the Comprehensive Plan. The rezoning itself does not result in impacts on the natural environment since the increase in development potential is stemming from the density increase in the concurrent FLUA amendment and the corresponding proposed Class A for the townhomes. See discussion under Class A Conditional Use for Townhomes dwelling units.

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

The proposed rezoning to RS will result in a logical, orderly, and development pattern. The property is located in an area of the County where it is developed primarily with residential developments. The property is located within the Urban/Suburban Tier where services and public facilities are already available. See discussion under Class A Conditional Use for Townhomes dwelling units.

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

The proposed RS zoning is consistent with both the existing LR-1 and proposed MR-5 future land use designations per Table 2.2.1-j.1, *Residential Future Land Use - Zoning Consistency*, of the Future Land Use Element of the Comprehensive Plan. The rezoning itself does not result in impacts on public facilities since the increase in development potential is stemming from the density increase in the concurrent FLUA amendment and the corresponding proposed Class A for the townhomes. See discussion under Class A Conditional Use for Townhomes dwelling units.

g. 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 request to increase the number of dwelling units allowed on the property through the FLUA amendment process have prompted the request to rezone the parcel with a zoning district that would accommodate the use and density proposed. Rezoning to RS does not prohibit the existing development to continue.

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.

- 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.*

The subject request for Townhouses is contingent upon the approval of the Future Land Use change. The Townhouse use is not allowed with an LR-1 FLU. The Planning Division finds that the requested Future Land Use of MR-5 is inconsistent with the purposes, goals, objectives and policies of the Plan. Therefore, Staff finds that the request for Townhouses **does not** meet this Standard, as it would not be allowed in the LR-1 FLU.

Should the BCC approve the proposed future land use amendment to MR-5 the following analysis would apply:

- o **Concurrent Land Use Amendments:** The site is the subject of a concurrent Small Scale Amendment known as Towns at Tidewater (SCA 2022-019). The request seeks to amend the land use from Low Residential 1 unit per acre (LR-1) to Medium Residential 5 units per acre (MR-5).
- o **Density and Workforce Housing Program (WHP):** The Planning Division reviewed the request for 69 residential units on the subject 9.24-acres utilizing the proposed Medium Residential 5 units per acre (MR-5) land use designation (9.24ac x 5du/ac = 46.2du per land use), with 50% WHP density bonus (23.1du) and no TDRs. The total units and subsequent WHP obligations utilizing the Full Incentive Development Option were achieved as follows:

<u>Proposed Density (MR-5):</u>	<u>WHP required:</u>
36.96 Standard units	1.85 WHP units (5%)
9.24 Maximum units	1.48 WHP units (16%)
<u>23.10 WHP Bonus units (50%)</u>	<u>7.85 WHP units (34%)</u>
69.3 or 69 units total (rounded down)	*11.18 or 11 required WHP (rounded down)

The Applicant has stated in the justification the intent to utilize Offsite - Option 1 Same Developer, (ULDC Article G.1.C.4.b.1. pg. 80) for the final disposition of the WHP obligation. The intent is to send the 11-unit obligation offsite to Villages of Windsor ABN/DOA/CA-2021-2125. Since the subject application is a For Sale Townhome project, and the receiving site is a Multifamily rental project, the obligation is subject to a 1.5 times multiplier in calculating the final WHP obligation being sent offsite as 17 (11X 1.5% = 16.77 or 17 rounded up).

Article G.1.C.4.b. "For-sale subject developments that opt to provide the required WHP units as off-site rental units through off-site construction ... shall have a WHP obligation one and one-half times the number of WHP units required if developed on site not including the on-site reduction."

- o **Workforce Housing (WHP) Program:** The WHP has both a mandatory and a voluntary component. This program requires that a percentage of units in new residential developments of 10 or more units are to be provided as workforce housing, affordable to income qualified households having 60 to 140% of area Median Family Income (MFI). The program is applicable in the Urban/Suburban Tier of the unincorporated County, and in other areas where required by conditions of approval. The program's optional component allows for a density bonus in exchange for a portion of the additional units being dedicated as workforce housing.
- o **Workforce Housing (WHP) Program Pricing & Income Categories:** The current request was submitted while the 2021 WHP pricing were in effect. In Palm Beach County, the 2021 area Median Family Income (MFI) is \$80,200 for a family of four (per US Department of Housing and Urban Development [HUD]). The following are the current sales and rental prices per income category for 2021 in Palm Beach County (based on the date of application and the pricing then in effect).

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

WHP Income Category		2021 (WHP) Sales Prices	
Low	60 -80%) of MFI	\$48,120 - \$64,160	\$168,420
Moderate 1	>80 -100%) of MFI	>\$64,160 - \$80,200	\$216,540
Moderate 2	>100 -120%) of MFI	>\$80,200 - \$96,240	\$264,660

- o **WHP Rental Prices:** The WHP rents are based on the annual Florida Housing Finance Corporation (FHFC) Multi-Family Rental Figures, adjusted for number of bedrooms and any Utility Allowances are applied against gross maximum rent. WHP prices are set annually, based on the provisions of Article 5.G.1.A.3.c.2 of the Unified Land Development Code. The following are the 2021 Rental Prices for projects approved pursuant to the Workforce Housing Program pricing.

WHP Income Category 2021			1 BR	2 BR	3BR	4BR
Low	60-70% of MFI	\$48,120 – \$56,140	\$963 - \$1,124	\$1,156 - \$1,349	\$1,335 - \$1,558	\$1,489 - \$1,738
	>70-80% of MFI	>\$56,140 - \$64,160	\$1,124 - \$1,285	\$1,349 - \$1,542	\$1,558 - \$1,781	\$1,738 - \$1,986
Moderate 1	>80-90% of MFI	>\$64,160 – \$72,180	\$1,285 - \$1,446	\$1,542 - \$1,735	\$1,781 - \$2,004	\$1,986 - \$2,235
	>90-100% of MFI	>\$72,180 - \$80,200	\$1,446 - \$1,606	\$1,735 - \$1,928	\$2,004 - \$2,226	\$2,235 - \$2,483
Moderate 2	>100-110% of MFI	>\$80,200 – \$88,220	\$1,606 - \$1,767	\$1,928 - \$2,121	\$2,226 - \$2,449	\$2,483 - \$2,731
	>110-120% of MFI	>\$88,220 - \$96,240	\$1,767 - \$1,927	\$2,121 - \$2,313	\$2,449 - \$2,671	\$2,731 - \$2,979
Middle	>120-130% of MFI	>\$96,240 – \$104,260	\$1,927 - \$2,088	\$2,313 - \$2,506	\$2,671 - \$2,894	\$2,979 - \$3,227
	>130-140% of MFI	>\$104,260 - \$112,280	\$2,088 - \$2,248	\$2,506 - \$2,698	\$2,894 - \$3,116	\$3,227 - \$3,475

○ *Special Overlay District/Neighborhood Plan/Planning Study Area:* The request is located within the West Boynton Area Community Plan, which is administered by the Coalition of West Boynton Residents Association. The Applicant was advised to meet with the neighborhood group. No correspondence from COBWRA has been received by Staff regarding the request.

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.*

The subject request for Townhouses is contingent upon the approval of the Future Land Use change. The Townhouse use is not allowed with an LR-1 FLU. Townhouses are an allowable use within the RS Zoning District, when the Future Land Use is LR-2 or higher. The process for a use approval when the property has an LR-2, LR-3 or MR-5 Future Land Use is a Class A Conditional Use. If the BCC denies the MR-5 FLU, the request for Townhouses is inconsistent with the ULDC.

Staff finds that the request for Townhouses **does not** meet this Standard, as it would not be allowed in the LR-1 FLU.

Should the BCC support the request to modify the Future Land Use to MR-5 the following analysis would apply:

- *Property Development Regulations:* The development exists with two legal lots of record. The Applicant proposes to subdivide to create 69 fee simple lots. The minimum lot width for a Townhouse is 16 feet and 50 feet for the depth. The lots in the proposed development vary, with the minimum lot width approximately 24 feet i. Each Townhouse lot must be a minimum of 800-sq. ft. The maximum height of the proposed units would be 25 feet.
- *Amenities and site features:* At the northwest corner of the development the Applicant proposes a recreation area for the residents of the community that includes a clubhouse, pool, recreation area, mail kioks, and bus shelter for students. A 1.31 acre water management tract is located near the center of the development including a walking path, and will act as a component of the on-site drainage.
- *Parking:* Each Townhouse unit is required to provide two parking spaces. Article 6 of the ULDC does not require guest parking for this type of development. As the recreation area is less than one acre in size no parking is required. The Applicant has provided two mail kiosk drop-off spaces near the recreation area for the delivery and retrieval of mail.
- *Landscape/Buffering:* The Preliminary Subdivision Plan indicates a 20-foot Right of Way (ROW) Buffer to the north and a 15-foot ROW Buffer to the south. A 15-foot Type 2 Incompatibility Buffer are shown for the east and west property lines.
- *Signs:* The Applicant has indicted one Entrance Wall Sign at the entrance on Lantana Road that complies with Article 8.

c. Compatibility with Surrounding Uses – *The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.*

With the proposed FLU of MR-5 Townhouses are a consistent residential use within the area, dependent on the layout and function.

The compatibility of the request was examined by Planning Staff as part of the FLUA amendment Staff report. Planning Staff findings indicate that the proposed development with 69 Townhomes at a proposed 7.5 unit per acre density is not consistent with the density, mass, and scale of the housing pattern in the area, particularly considering the rural enclave nature of the properties to the south, west, and east of the subject site.

However, if the density increase is approved by the BCC, the proposed modifications would be necessary to address compatibility:

- 1) Type 2 Incompatibility buffer along the west and south property lines shall be a minimum of 35 feet.
- 2) An additional native palm, pine, or canopy tree shall be provided for each 30 linear feet within the west incompatibility buffer and the south right of way buffer.
- 3) Townhouse lots and the recreation uses that abut the west and south property lines shall increase the rear setback by 10 feet for all setback requirements.
- 4) Staff would support redesign of the development to relocate the water management tract to the western and southern property lines to increase the setback and separation from the existing rural enclave developed community.

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.*

With the proposed FLU of MR-5 Townhouses are a consistent residential use within the area, dependent on the layout and function. Should the BCC approve the future land use amendment to MR-5 the following analysis would apply:

The Property is located within the Hypoluxo Road corridor, and is surrounded to the west, north and south with residential uses, and to the east with religious uses. The Property is located within the Urban/Suburban Tier where services and public facilities are already available. To address the visual impact and intensity of the proposed use adjacent to the Rural Enclave Community, as described above under Compatibility with Surrounding Uses increased setbacks and landscaping requirements, including the allowance to relocate the water management tract, will enhance compatibility and reduce the potential negative effects between the proposed townhouses and existing single family residential.

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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

- *Vegetation Protection:* The properties have been utilized as landscape nurseries. There are some native vegetation species (e.g., Slash Pines) that are naturally occurring on the site. The proposed plan creates Tree Mitigation Areas that will be regulated by a Management Plan to ensure the protection and longevity of mitigation trees that are planted on the project site.
- *Wellfield Protection Zone:* The parcels are 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 Palm Beach County Mandatory Year-Round Landscape Irrigation Conservation Measures Ordinance, Ordinance No. 2022-007. 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 development of the site with residential units will result in a logical, orderly, and timely development pattern. The Hypoluxo Road corridor in this area is nearly entirely developed with institutional and residential uses with the exception of the commercial development at major intersections.

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

ENGINEERING COMMENTS:

The proposed 69 unit residential development is expected to generate 505 net daily trips, 32 net AM peak hour trips, and 39 net PM peak hour trips. The build out is expected to happen by 2024.

The trips from the development will have insignificant traffic impacts within the radius of influence, as per the definition of Palm Beach County Traffic Performance Standards.

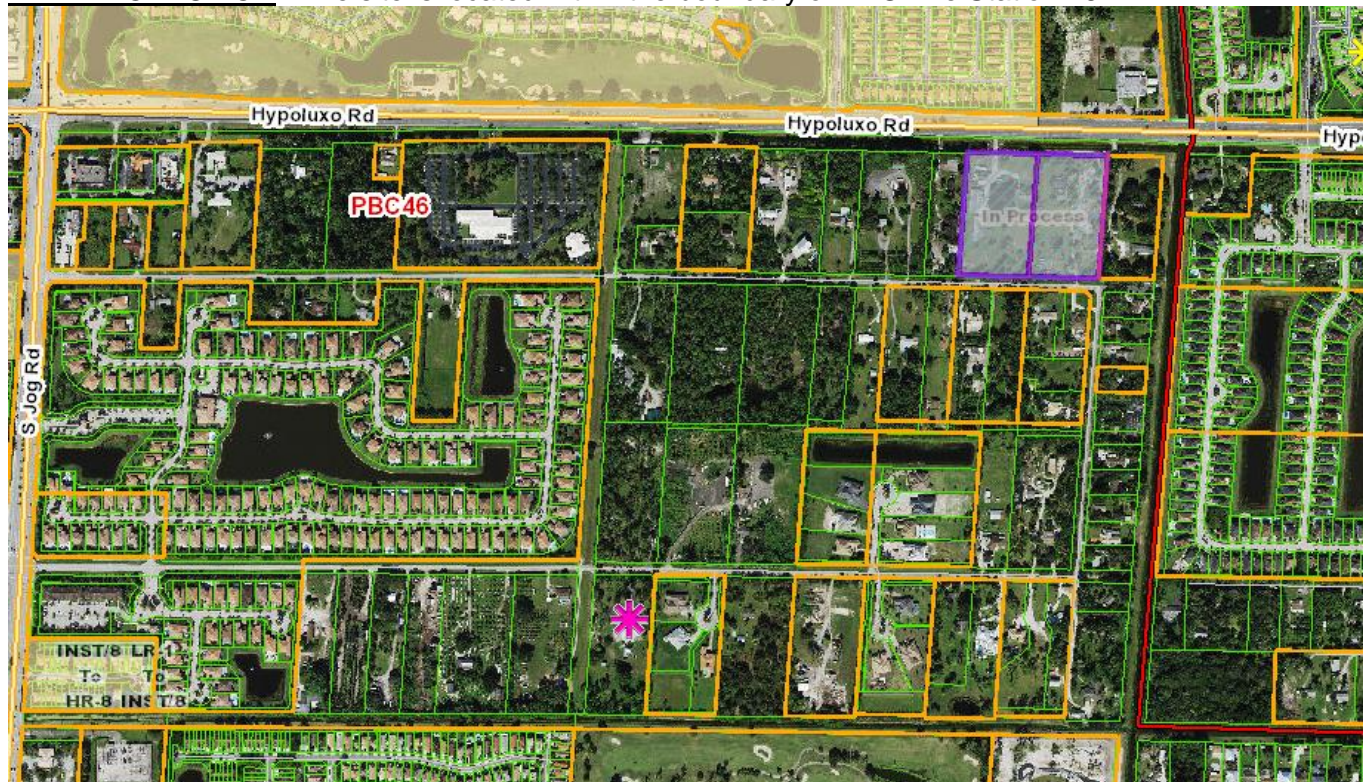
ADJACENT ROADWAY LEVEL OF SERVICE (PM PEAK)

Segment: Hypoluxo Rd from Jog Rd to Haverhill Rd
Existing count: Eastbound=1543, Westbound=1386
Background growth: Eastbound=285, Westbound=271
Project Trips: Eastbound=10, Westbound=15
Total Traffic: Eastbound=1838, Westbound=1672

Present laneage: 3 in each direction
Assured laneage: 3 in each direction
LOS "D" capacity: 2940 per direction
Projected level of service: Better than LOS D in both directions

PALM BEACH COUNTY HEALTH DEPARTMENT: This project has met the requirements of the Florida Department of Health.

FIRE PROTECTION: The site is located within the boundary of PBC Fire Station 46.



SCHOOL IMPACTS: In accordance with the adopted Coordinated Planning Interlocal Agreement, a School Capacity Availability Determination (SCAD) for 69 multi-family residential units had been approved on May 27, 2022 (SCAD Case #22042903D). The subject property is located in SAC 236B.

This project is estimated to generate approximately seventeen (17) public school students. The schools currently serving this project area are: Manatee Elementary School, Christa McAuliffe Middle School and Park Vista Community High School.

The School Capacity Availability Determination (SCAD) analysis for this application has determined that the proposal would exacerbate capacity deficiencies at the District middle and high school levels. The additional middle school students generated by this proposal will increase the utilization percentage of Christa McAuliffe Middle School to 124%. The additional high school students generated by this proposal will increase the utilization percentage of Park Vista Community High School to 109%.

The revised Preliminary Subdivision Plan (dated 8/22/22) shows one (1) 10' by 15' public school bus shelter location. A bus shelter condition of approval has been applied to this request.

PARKS AND RECREATION: Project proposes 69 dwelling units requiring 0.414 acres of onsite recreation, 0.34 acres are proposed. The petitioner has been granted a 17% reduction in recreation area because they have exceeded the County's cost average of required recreation by 25% and have provide alternative recreation in the form of a mulched trail with fitness stations around the lake.

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

Based on the analysis of the Planning Division Staff report for the request to modify the Future Land Use to MR-5, the Applicant has not demonstrated that there are changed circumstances that necessitates the amendment to allow the MR-5, which would then allow Townhouse units within and adjacent to the Single Family Rural Enclave Community.

However, if the BCC finds that the MR-5 is appropriate, the changed conditions or circumstances as presented in the Applicant's Justifications statement, to allow Townhouse units, would necessitate this transitional and alternative type residential unit adjacent to Single Family and the Major Thoroughfare. The proposed density and use for the proposed townhomes is not allowed under the current future land use designation; however, a BCC approval for a higher density future land use designation (as proposed concurrently) would essentially result in a changed site condition or circumstances.

CONCLUSION: Staff has evaluated the standards listed under Article 2.B, and recommends approval of the Official Zoning Map Amendment subject to the Condition of Approval as indicted in Exhibit C-1.

The proposed Class A for Townhomes is contingent upon the concurrent FLUA amendment. The Planning Commission recommends a lower FLU designation with purchase of 28 TDR units to achieve the proposed 69 Townhomes. The Planning Division recommends denial based upon the lack of mandatory TDRs and that the density is out of character with adjacent properties. Therefore, the Zoning Division recommends **denial** of the Class A Conditional Use for Townhouse dwelling units, as it doesn't meet the Findings for a. Consistency with the Plan and b. Consistency with the Code and h. Changed Circumstances.

If the BCC adopts the concurrent FLUA amendment, Staff recommends that the Class A be approved subject to the contingent on the approval of the SCA, and subject to the Conditions of Approval as indicated in Exhibit C-2.

CONDITIONS OF APPROVAL

EXHIBIT C -1

Official Zoning Map Amendment – 9.24 acres

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 – Townhouse 9.24 acres

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 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)

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, 2024, 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. 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. (BLDG/PMT: MONITORING - Engineering)

3. 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 to 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 the plat. (PLAT: MONITORING - Engineering)

4. Prior to the approval of the Final Subdivision Plan by the Development Review Officer, the Final Subdivision Plan shall be amended to include the street names. (DRO: ENGINEERING - Engineering)

ENVIRONMENTAL

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

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

3. Prior to Final Approval by the Development Review Officer, a Phase II Environmental Site Assessment shall be submitted to the Department of Environmental Resources Management (ERM). If the results of the Phase II Environmental Site Assessment indicate areas of on-site contamination, the project shall be referred to the Florida Department of Environmental Protection (FDEP) for the development of a mitigation plan and to oversee the remediation on the site. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Environmental Resources Management)

LANDSCAPE – PERIMETER (WEST AND SOUTH PROPERTY LINES)

1. In addition to the requirements for a Type 2 Incompatibility buffer for the west property line and a Right of Way buffer for the south property line the following shall apply:

a. Width: Minimum 35 feet; and,

b. One additional native palm, pine or canopy tree shall be provided for each 30 linear feet.

(DRO/BLDG PERMIT: ZONING- Zoning)

PLANNING

1. The request for 69 units was calculated based on the 9.24-acre site with the proposed MR-5 Future Land Use Designation via SCA-2022-19. The BCC may adopt WHP conditions that are more restrictive than what the ULDC requires, therefore, the final disposition of the WHP obligation, and subsequent applicable conditions, will be applied at Final DRO consistent with the BCC adoption. (ONGOING – PLANNING - Planning)

2. Prior to final approval by the Development Review Officer (DRO), all applicable conditions shall be applied consistent with the WHP disposition that is adopted by the BCC and all plans and documents shall be updated to be consistent with what was adopted by the Board of County Commissioners (BCC). (DRO: PLANNING – Planning)

SCHOOL BOARD

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

"NOTICE TO PARENTS OF SCHOOL AGE CHILDREN"

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

(ONGOING: SCHOOL BOARD - School Board)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 10-foot by 15-foot school bus shelter shall be constructed by the Property Owner in a location and manner acceptable to the Palm Beach County School Board. Provisions for the bus shelter shall include, at a minimum, a covered area, continuous paved pedestrian and bicycle access from the subject property or use, to the shelter. Maintenance of the bus shelter shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board)

SITE DESIGN

1. Relocation of the water management tracks to the west and south property lines, and shifting of the townhouse units internal to the development may be allowed through the Development Review Officer to provide increased buffering and distance from the west and south property lines. (DRO: ZONING – Zoning)

2. Townhouse lots and Recreation uses and structures shall increase the rear setback by 10 feet when adjacent to the south and west property lines. (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: ZONING - Zoning)

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

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

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

DISCLOSURE

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

Figure 1 - Land Use Map



Figure 2 - Zoning Map

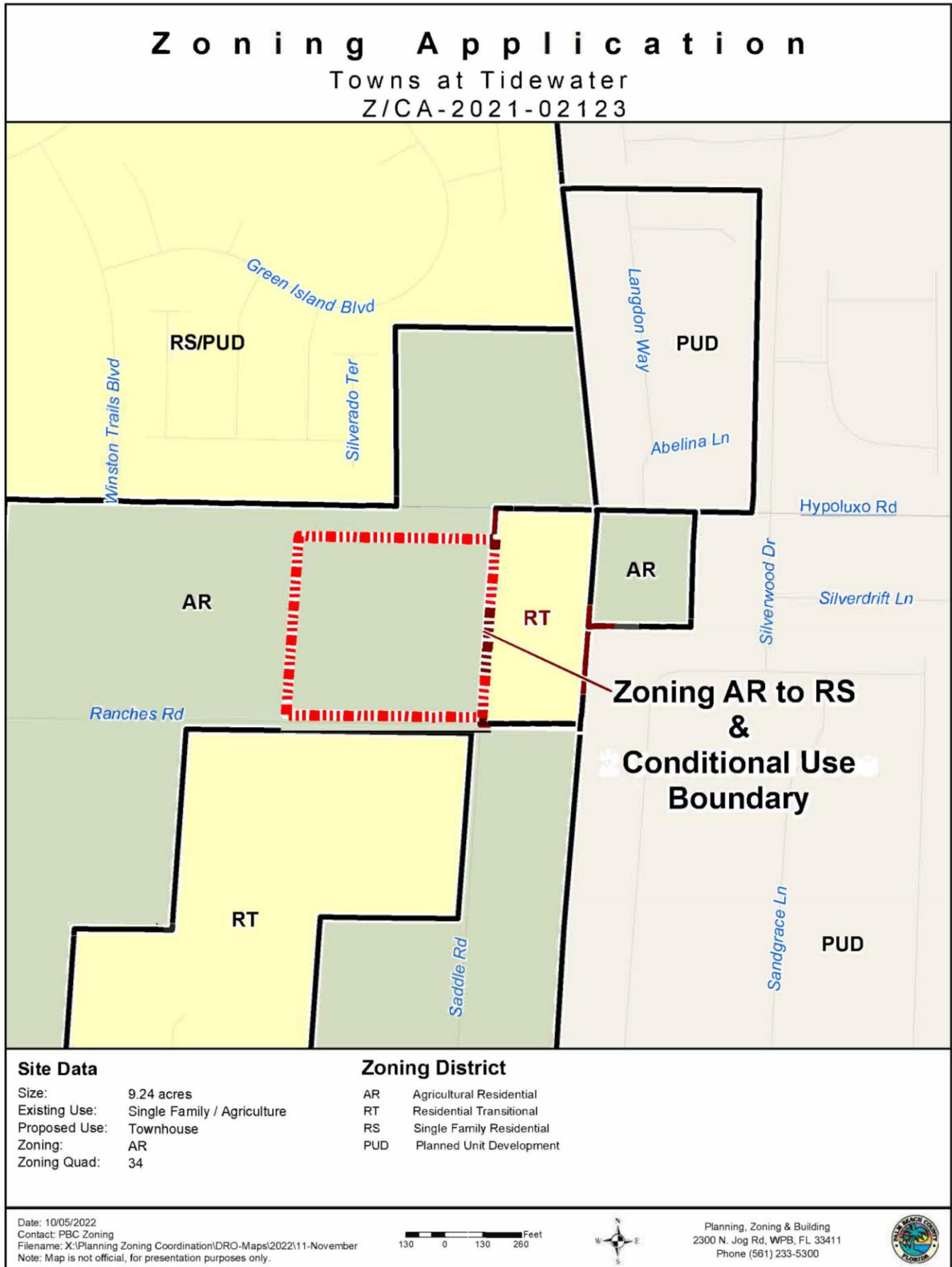


Figure 3 – Preliminary Subdivision Plan dated September 15, 2022

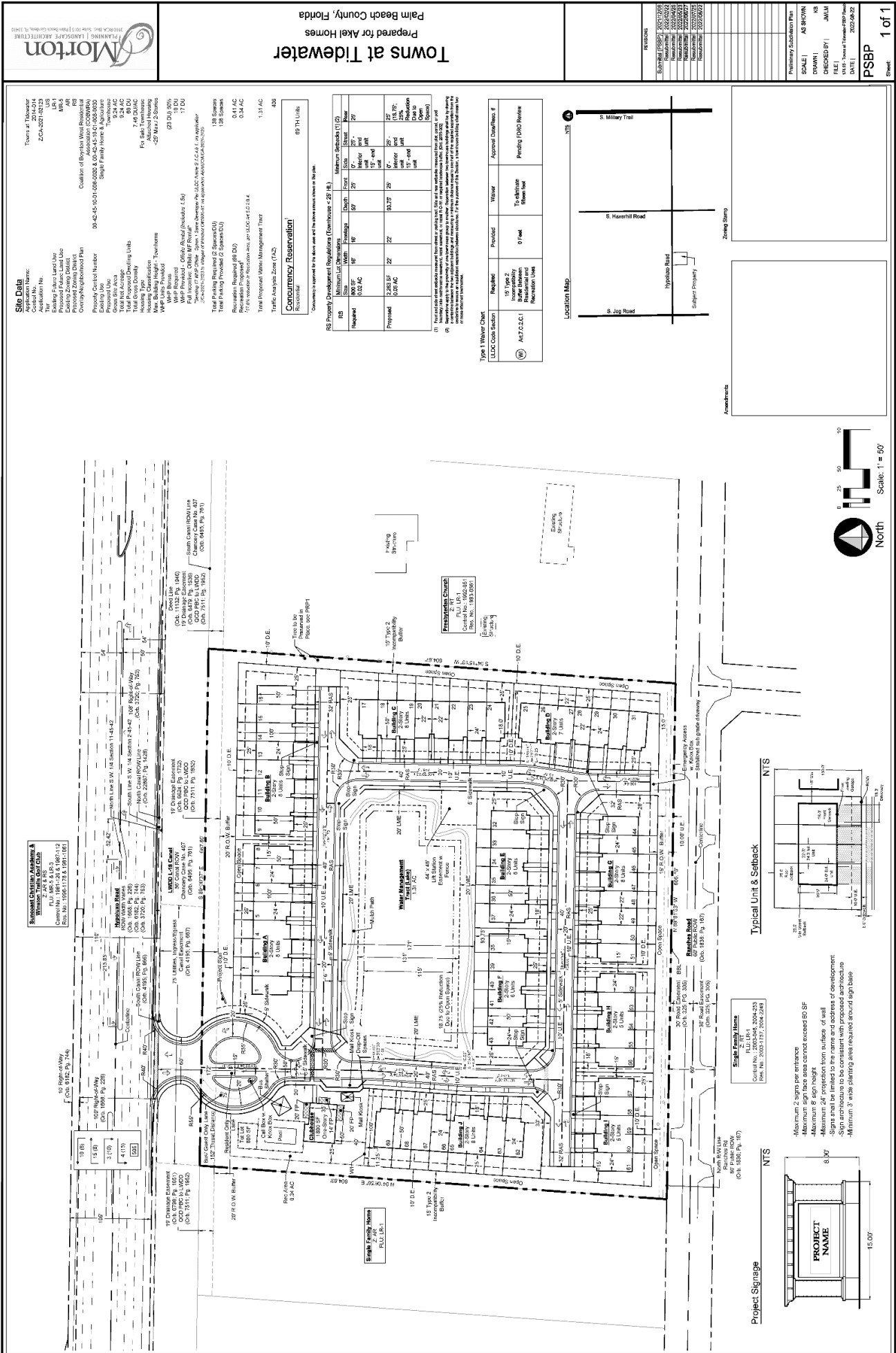


Figure 4 – Preliminary Regulating Plan dated August 22, 2022 (page 1 of 2)

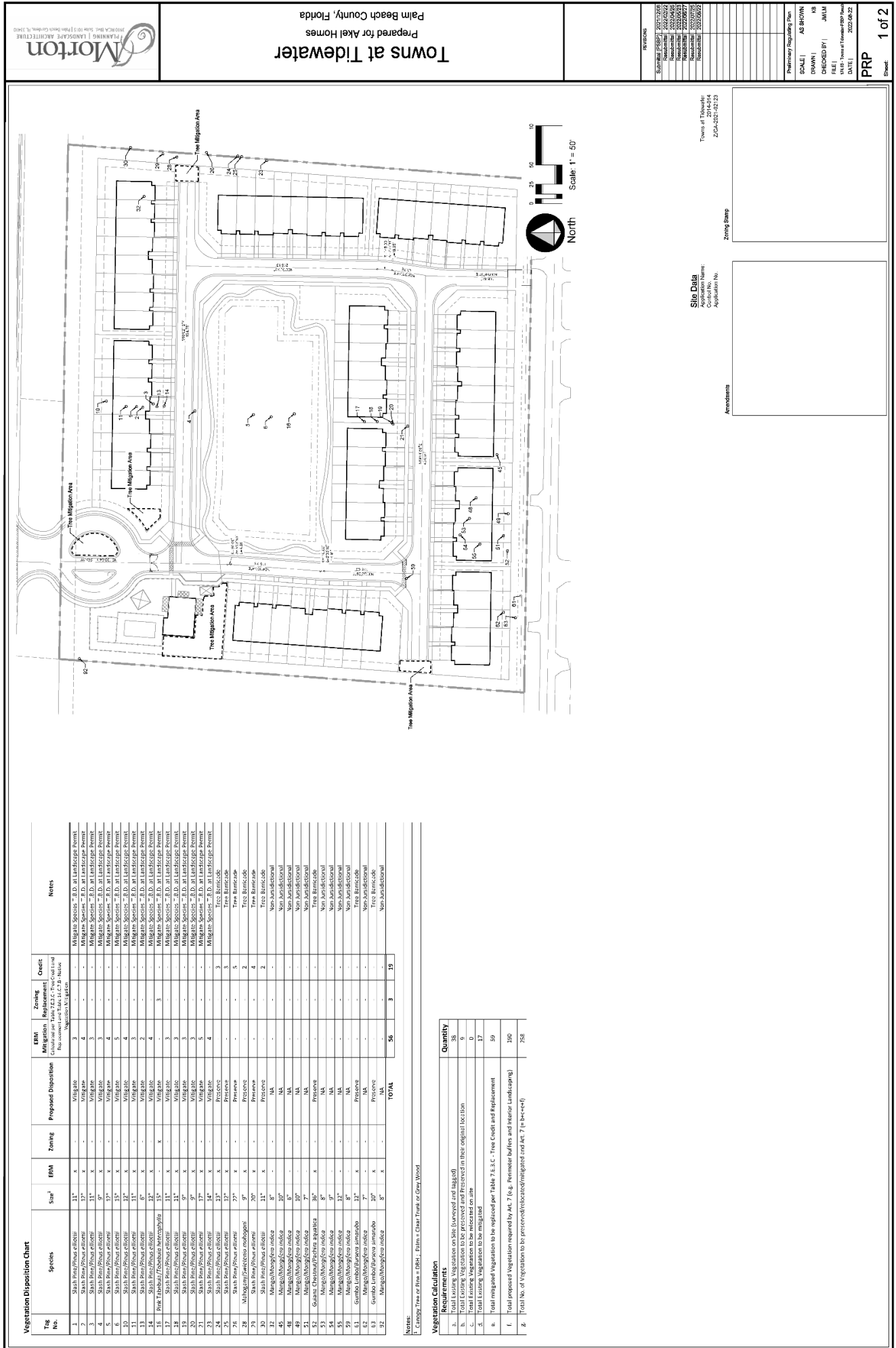


Figure 4 – Preliminary Regulating Plan dated August 22, 2022 (page 2 of 2)

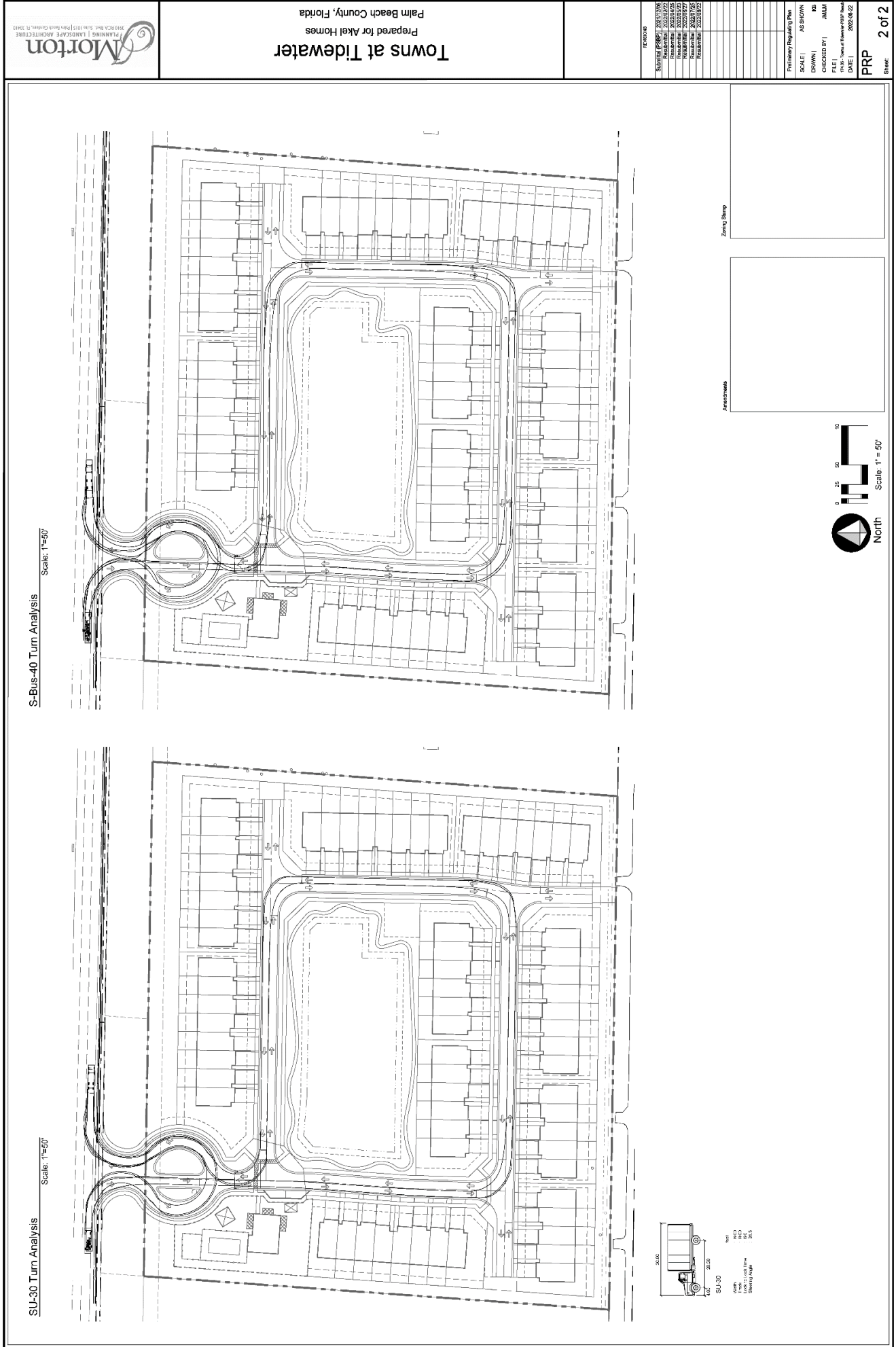


Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Alexander Akel, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- 1. Affiant is the [] individual or [x] Manager of Medjool Nurseries, LLC [position - e.g., president, partner, trustee] of Medjool Nurseries, 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: 5300 West Atlantic Avenue Suite 505 Boca Raton, FL 33487
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.



Alexander Akel, 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 17 day of November, 2021 by Alexander Akel (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).

Jessica Spies
(Name - type, stamp or print clearly)


(Signature)

My Commission Expires on: 5/16/2025

NOTARY'S SEAL OR STAMP

EXHIBIT "A"

PROPERTY

THE EAST ONE HALF (E. 1/2) OF THE NORTHWEST QUARTER (N.W. 1/4) OF THE NORTHEAST QUARTER (N.E. 1/4) OF THE NORTHWEST QUARTER (N.W. 1/4) OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA; LESS THE NORTH 56.0 FEET AND THE SOUTH 30.0 FEET THEREOF FOR ROAD AND CANAL PURPOSES. A/K/A PALM BEACH RANCHES (UNRECORDED) LOT 3 BLOCK 8.

TOGETHER WITH:

THE WEST HALF OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 45 SOUTH, RANGE 42 EAST, EXCEPT THE NORTH 56 FEET THEREOF, AND EXCEPT THE SOUTH 30 FEET THEREOF FOR ROAD AND CANAL PURPOSES. (ALSO KNOWN AS LOT 2, BLOCK 8, OF THE UNRECORDED PLAT OF PALM BEACH RANCHES.)

SAID LANDS LYING AND BEING IN PALM BEACH COUNTY, FLORIDA, AND CONTAINING 9.244 ACRES, MORE OR LESS.

SUBJECT TO EASEMENTS, RESTRICTIONS, RESERVATIONS, COVENANTS, AND RIGHTS-OF-WAY OF RECORD.

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

Ramzi Akel, 5300 West Atlantic Ave, Palm Beach FL 33484
