

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

**Application No.:** TDD/DOA-2020-01444  
**Application Name:** Delray Marketplace Preserve  
**Control No./Name:** 2004-00616 (Delray Marketplace)  
**Applicant:** West Boynton Farms Inc  
 TG Land LLC  
**Owners:** West Boynton Farms Inc  
 Krg Atlantic Delray Beach LLC  
 TG Land LLC  
**Agent:** JMorton Planning & Landscape Architecture  
 Jennifer Morton & Lauren McClellan  
**Telephone No.:** (561) 371-9384, (561) 721-4463  
**Project Manager:** Timothy Haynes, Senior Site Planner

**TITLE:** an Official Zoning Map Amendment

**REQUEST:** to allow a rezoning from the Agricultural Reserve (AGR) Zoning District to Agricultural Reserve Traditional Marketplace Development (AGR-TMD) Zoning District.

**TITLE:** a Development Order Amendment

**REQUEST:** to modify the Site Plan to add and delete land area (Preserves); to allow for the release of a Conservation Easement; and to modify Conditions of Approval.

**APPLICATION SUMMARY:** Proposed is an Official Zoning Map Amendment and a Development Order Amendment (DOA) for the Delray Marketplace Preserve development. No development is proposed as part of this request. Specifically, the application is proposing to modify the AGR-TMD to:

- Delete a 2.052-acre Preserve Area known as Preserve #3 (Tract C);
- Release the associated Conservation Easement (ORB 22063, Page 409) for Preserve Area #3 (Tract C).
- Add a replacement 2.052-acre Preserve Area (new Preserve #5)
- Rezone the replacement Preserve area from Agricultural Reserve (AGR) to AGR-TMD Preserve; and
- Modify the Preliminary Site Plan (PSP) to reflect the above.

A concurrent Official Zoning Map Amendment and Class A Conditional Use (CA) request under application Z/CA-2020-01445, requests to rezone the deleted Preserve Area #3 from AGR-TMD to Commercial Low Office (CLO) to allow for the development of a Medical Office and a Professional Office use.

A concurrent Large-Scale Future Land Use Amendment (LGA 2021-008, Atlantis Medical Office) proposes to change the future land use designation on the deleted Preserve Area #3 from Agricultural Reserve (AGR) to Commercial Low Office with an Underlying Agricultural Reserve (CL-O/AGR), which is consistent with the proposed CLO Zoning District.

**SITE DATA:**

Location:	North side Atlantic Avenue, approx. 0.28 miles west of Lyons Road.
<b>To be deleted:</b> Property Control Number(s): Existing Future Land Use: Proposed Future Land Use: Existing Zoning: Proposed Zoning: Acres:	<b>Preserve #3</b> 00-42-46-18-09-003-0000 Agricultural Reserve (AGR) Commercial Low/AGR (CL/AGR) (by LGA 2021-008) AGR-TMD Preserve Area Commercial Low Office (CLO) (by Z/CA-2020-01445) 2.052 acres
<b>To be added:</b> Property Control Number(s): Existing Future Land Use: Proposed Future Land Use: Existing Zoning:	<b>Preserve #5</b> 00-41-45-12-01-007-0000 Agricultural Reserve (AGR) Agricultural Reserve (AGR) Agricultural Reserve (AGR)

Proposed Zoning: Acres:	AGR-TMD Preserve Area 2.052 acres
<b>AGR-TMD Development Area:</b> Property Control Number(s): Existing Future Land Use: Proposed Future Land Use: Existing Zoning: Proposed Zoning: Acres:	<b>Delray Marketplace</b> 00-42-46-17-12-001-0000 Commercial Low/AGR (CL/AGR) Commercial Low/AGR (CL/AGR) AGR-TMD Development Area AGR-TMD Development Area 36.72 acres
Total Acreage:	97.66 acres (entire AGR-TMD with Development and Preserve Areas)
Affected Acreage:	2.05 acres
Tier:	Agricultural Reserve
Overlay District:	None
Neighborhood Plan:	West Boynton Area Community Plan
CCRT Area:	None
Municipalities within 1 Mile:	None
Future Annexation Area:	None

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

**PUBLIC COMMENT SUMMARY:** At the time of publication, Staff had received 0 contacts from the public regarding this application.

**PROJECT HISTORY:**

Application No.	Request	Resolution	Approval Date
TDD/R/W-2004-01029	Rezoning to the TMD Zoning District; Requested Uses for Indoor Entertainment and 4 single tenants over 25,000 sq. ft.; and, a Waiver for the TMD main street.	R-2005-1626, R-2005-1627, and R-2005-1628	August 25, 2005
ZV-2006-01190	a Type II Variance to allow the primary frontage arcaded sidewalks to not be contiguous.	ZR-2007-005	January 5, 2007
TDD/DOA/R-2006-01190	Rezoning to add a commercial parcel at the southeast corner of the site (Helena Chemical) and a Development Order Amendment (DOA) to add land area, reconfigure the site plan, and modify Conditions of Approval; and, a Requested Use for 22 Type I Restaurants.	R-2007-0082, R-2007-0083, and R-2007-0084	January 25, 2007
DOA-2007-00996	DOA to modify Engineering Conditions of Approval.	R-2008-0112	January 24, 2008
DOA/TDD-2007-02044	To delete land area.	R-2008-0263	February 28, 2008
TDD/DOA-2007-01606	Rezoning from Agricultural Reserve Planned Unit Development (Preservation Area) Zoning District to the Traditional Marketplace Development (Preservation Area) Zoning district, and a DOA to add and delete preservation land area.	R-2008-0263, R-2008-0266, and R-2008-0267	February 28, 2008
ZV/DOA/R-2008-00288	Type II Variances to allow an increase in height and frontage for Building A (Grocery Store); however, this building was subsequently redesigned in 2011.	ZR-2008-042	June 5, 2008
ZV/DOA/R-	DOA to reconfigure the site plan, modify and	R-2008-1136	June 30, 2008

2008-00288	delete Conditions of Approval; and an additional Requested Use for a single tenant over 25,000 sq. ft. to collocate the Indoor Entertainment (Bowling Alley) with the Indoor Theater (Movie) in Building I.	and R-2008-1137	
AI-2009-002	Zoning Director initiated an Administrative Inquiry (AI) to request BCC direction regarding implementing the April 6, 2005 Conceptual Plans for the Delray Marketplace TMD, which was shown to the BCC as part of the original "Beauty Contest" approval process. The BCC provided direction that the Development Review Officer (DRO) may certify application ZV/W/DOA-2008-1900 reduce the dwelling units to 73 and eliminate the vertical integration of the units; relocate the units to the north portion of the site; reduce commercial sq. ft.; delete the parking structure; and, directed Staff to reach out to the interested parties.		May 28, 2009
DOA-2008-1908	DOA to delete land area (preserve exchange)	R-2009-0705	April 23, 2009
TDD/DOA-2008-1912	Rezoning and DOA to add land area (preserve exchange)	R-2009-0708; R-2009-0709	April 23, 2009
ZV/W/DOA-2008-01900	Type II Variance to eliminate transparency requirements for the Bowling Alley and Indoor Theater uses in Building I.	ZR-2009-036	October 1, 2009
ZV/W/DOA-2008-01900	DOA to reconfigure the site plan, reduce the number of dwelling units from 86 to 73, reduce commercial sq. ft., restart the Commencement of Development clock, modify/delete Conditions of Approval, and a Waiver for surface parking.	R-2010-0446 and R-2010-447	March 31, 2010
AI-2011-002	The Zoning Director initiated an AI to provide the BCC, property owner, surrounding residents, and original residents who participated in the 2004 AGR-TMD Design Charrette with an overview of the proposed plan amendments; and, for BCC confirmation that the proposed amendments will be consistent with the April 6, 2005 Conceptual Plan. The main modifications included: 1) Relocate Building A (Grocery Store) to accommodate a large front parking area and reduce of the length of Main Street resulting a negative impact to pedestrian circulation; 2) Redesign and Relocate Buildings along Main Street; 3) Additional on-street angled parking on Main Street; 4) Relocate access point to accommodate Building A; and 5) Relocate and modify the Central Plaza, and create the Amphitheater Plaza adjacent to parking. The BCC moved to allow the project to proceed with waivers and variances.		February 24, 2011

ZV/DOAW-2011-00419	6 Type II Variances for alternative Main Street street cross sections; Free-Standing Structures (Grocery Store and Financial Institution); single-tenant frontage (Grocery Store); on-street parking; queuing spaces; and, an increase in the height of Building I.	ZR-2011-015	July 7, 2011
ZV/DOAW-2011-00419	DOA to reconfigure the Site Plan, reduce sq. ft., modify/delete Conditions of Approval, and restart the Commencement of Development; and a Waiver for the Main Street and block lengths. The DRO approved the Final Site Plan on December 14, 2011.	R-2011-1110; R-2011-1111	July 28, 2011
ZV-2011-02632	Type II Variances to allow internally illuminated signs and an increase in distance from the development's entrances for Entrance Signs.	ZR-2012-002; ZR-2012-008	February 2, 2012
ZV-2012-01582	Type II Variance to allow a reduction in building transparency.	ZR-2012-025	August 2, 2012
ZV-2012-02098	Type II Variance to allow an increase in Wall Sign sq. ft. for Building A-1.	ZR-2012-028	October 4, 2012
ZV-2012-03120	Type II Variance to allow an increase in the projection from a wall for a Wall Sign and a decrease in the setbacks for Directional Signs	ZR-2013-001	January 4, 2013
ZV/W/TDD/DOA-2013-02069	Rezoning from Agricultural Reserve to TMD; DOA to reconfigure the Site Plan and add land area; Type 2 Waiver for structured parking in the AGR Tier; and, Type 2 Variance to allow an increase in the maximum number of parking spaces and decrease in the minimum dimensions for a plaza.	ZR-2014-0020	April 3, 2014
		R-2014-565 R-2014-566 R-2014-567	April 24, 2014
DOA/R-2014-01619	DOA to modify the Master Plan, add square footage; and a Requested Use for an Elementary or Secondary School	R-2015-0537; R-2015-0538	April 23, 2015
CRB-2015-02229	To correct Conditions of Approval	R-2015-1733	December 3, 2015

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve (AGR)  
 Supporting: Agriculture (Triple C Groves, Control No. 1974-0061)

**SOUTH (across Atlantic Ave.):**

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve (AGR)  
 Supporting: Agriculture (Agricultural Sales & Services aka Mecca Farms, Control No. 1994-0070)

FLU Designation: Agricultural Reserve (AGR)  
 Zoning District: Agricultural Reserve (AGR)  
 Supporting: Agriculture (No Control Name & No.)

**EAST (across Lyons Road):**

FLU Designation: Agricultural Reserve (AGR)

Zoning District: Agricultural Reserve Planned Unit Development (AGR-PUD)  
Supporting: Agricultural Preserve (Valencia Cove Preserve Area, Control No. 2004-00369)

FLU Designation: Commercial, with an underlying IL (C/IL)  
Zoning District: Community Commercial (CC)  
Supporting: Commercial (Fina Service Station, Control No. 1977-0147)

**WEST:**

FLU Designation: Agricultural Reserve (AGR)  
Zoning District: Agricultural Reserve (AGR)  
Supporting: Vacant (Palm Beach Farms Plat 1, Control No. 2013-00315)

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**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.*

PLANNING DIVISION COMMENTS:

- o *Consistency with the Comprehensive Plan:* The proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan.
- o *Prior Land Use Amendments:* The site was the subject of three previous Large Scale land Use Amendments. The most recent was a Large Scale Land Use Amendment known as Delray Marketplace Expansion (LGA 2014-005; ORD 2014-07). The amendment added 3.90 acres and changed its land use designation to (CL/AGR); amended the total number of dwelling units from 86 to 96, and deleted conditions associated with Ord. No. 2006-034. The amendment was adopted with the following condition that applies to the overall 37.33-acre Development area:

- 1. The site shall be limited to a maximum of 320,000 square feet of non-residential uses and 96 dwelling units.

The two previous Large Scale Land Use approvals are as follows: Delray Marketplace Residual (LGA 2006-009; ORD 2006-034), with two conditions of approval; and, Atlantic Avenue/Lyons Road TMD (LGA-2005-006; ORD 2005-40), with one condition of approval.

The subject request would remove a 2.052-acre portion of Preserve 3, and replace it with a 2.052-acre preserve area that will become new Preserve 5. The exchange of preserve area does not affect the previously approved 278,940 total square feet and 73 dwelling units approved within the Delray Marketplace TMD, which is consistent with the Land Use condition.

- o *Relevant Comprehensive Plan Policies for Interconnectivity:* The subject request would remove a 2.052-acre parcel from Preserve 3 from the overall Delray Marketplace TMD approval. This parcel is along Atlantic Avenue immediately west of the development area, and subject to a Large Scale Future Land Use amendment (Atlantic Medical LGA-2022-008). That request proposes amending the Future Land Use from Agricultural Reserve (AGR) to Commercial Low Office with an underlying Agricultural Reserve (CL-O/AGR) with a condition of approval requiring cross access to the Delray Marketplace TMD. The condition ensures compliance with FLUE Policies 4.3-g and 4.3-k that require interconnectivity between like and similar land uses. The site plan for the Atlantic Avenue Medical shows two locations for pedestrian and one vehicular cross access along the western

property line of the Marketplace. Staff has added a condition of approval for the subject Delray Marketplace to amend the site plans, and provide interconnectivity, consistent with the locations identified on the adjacent site, upon the next request for alterations to the Site Plan involving the Commercial portions of the overall approval. New condition 19 is as follows:

19. At such a time as changes are proposed for the Delray Marketplace Commercial site plan, vehicular and pedestrian cross access shall be required to line up with the adjacent parcel to the west, consistent with the locations identified on the Atlantic Avenue Medical Site Plan (C#2020-178). Vehicular and pedestrian cross access is required for consistency with FLUE Policies 4.3-g and 4.3-k, as they require interconnectivity between complimentary land use designations and commercial uses. The County Attorney and Planning shall approve the cross access easement prior to recordation, and the Orb/Pg shall be indicated at both locations on the site plans prior to final approval of the request that amends the plans.

The FLUE Comprehensive Plan policies regarding interconnectivity are as follows:

Policy 4.3-g: Where appropriate, similar and/or complementary neighboring land uses shall employ access management techniques such as shared entrances (to reduce the number of curb cuts) and vehicular and/or pedestrian cross access between like development projects (to encourage inter-connectivity both within and between sites, and reduce the need to use the primary street system to access adjacent sites).

Policy 4.3-k: The County shall require, where feasible, that commercial land uses employ access management techniques, such as shared entrances and vehicular cross access, between adjacent existing and proposed commercial land uses.

○ *Density, Intensity and AGR TMD Requirements:* FLUE Policy 1.5.1-n.(pg. 37), states that an AGR TMD shall provide a minimum of 60% of preserve area and 40% maximum developable area. The Preserve areas are not required to be contiguous with the development area. The request to swap out equitable acreage of preserve area remains within the parameters of the policy requirements.

Per the above policy, the 60/40 calculation is as follows:

Total acreage:	97.664 acres
Less ROW:	<u>5.341 acres</u>
Net acreage =	92.323 acres

Net acreage x 60%:  $92.323 \times 60\% = 55.394$  acres minimum preserve required (Applicant proposes 55.602 acres or 60%)

Net acreage x 40%:  $92.323 \times 40\% = 36.929$  acres maximum development allowed (Applicant proposes 36.72 acres or 40%)

The policy states that the request has to provide a minimum of 60% preserve lands and a maximum of 40% for the developable area. Providing more than required preserve, and less than the maximum of development area is consistent with this policy.

FLUE Policy 1.5.1-o (pg. 38), states that the preserve area of a 60/40 AGR-TMD shall be subject to an agricultural conservation easement in favor of Palm Beach County or deeded to the County. A full release of the 2.052 acres of Preserve 3 has been executed and will be an exhibit with a separate motion for the Staff report that goes forward to the Board of County Commissioners (BCC). Once approved it will be recorded and submitted with the Final DRO approval. New Preserve 5 is located on the west side of State Road 7 (441) and is currently in Agricultural Production. A recorded conservation easement shall be required prior to final approval by the DRO.

○ *Special Overlay District/ Neighborhood Plan/Planning Study Area:* The subject site is not within located within a special overlay district, neighborhood plan, or special planning area.

**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.***

- **Minimum Preserve Area:** The approved overall TMD has utilized the 60/40 development option where 60% or 55.60-acres of total 92.32-net acres are reserved for Preservation Area and 40% or 36.93-acres account for Development Area. The Applicant seeks to remove and replace a 2.05-acre preserve parcel with a new preserve parcel totaling the same acreage to maintain the 60% preserve requirement. Article 3.E.2.F.3 AGR-PUD, (Preserve Area) permits the preservation area to be located noncontiguous to the associated development area. However, such preservation areas must be a Legal Lot of Record that is accessible by a street, and which only allows uses as indicated in the Use Matrices contained in Art. 4, Use Regulations, and where specified by the Preserve Management Plan as approved by ERM. The Code also requires a preserve parcel to meet the minimum ARG PDRs. The new preserve parcel is 35.405 acres and is location on the west side of State Road 7, north of Boynton Beach Boulevard. The site is currently utilized as row crops. The western 17.21 acres on the parcel currently serves as a preserve area for the Countryside Meadows AGR-PDD (Control No. 2003-035) and the remaining 18.20 acres is unencumbered by conservation or preserve land. As such, the new preserve parcel complies with the other sections of the Code as the site is accessible by State Road 7 and exceeds the minimum 5-acre requirement and all other PDRs for an AGR preserve parcel and can be appropriately designated as a Preservation Area.

- **Location:** The Preserve Area is to be located contiguous to the TMD or noncontiguous to the boarder of another preserve area of at least 150 acres. The proposed Preserve is non-contiguous stated how it complies with of 1, 2, and 3. The preserve is a legal lot of record and is accessible by State Road 7.

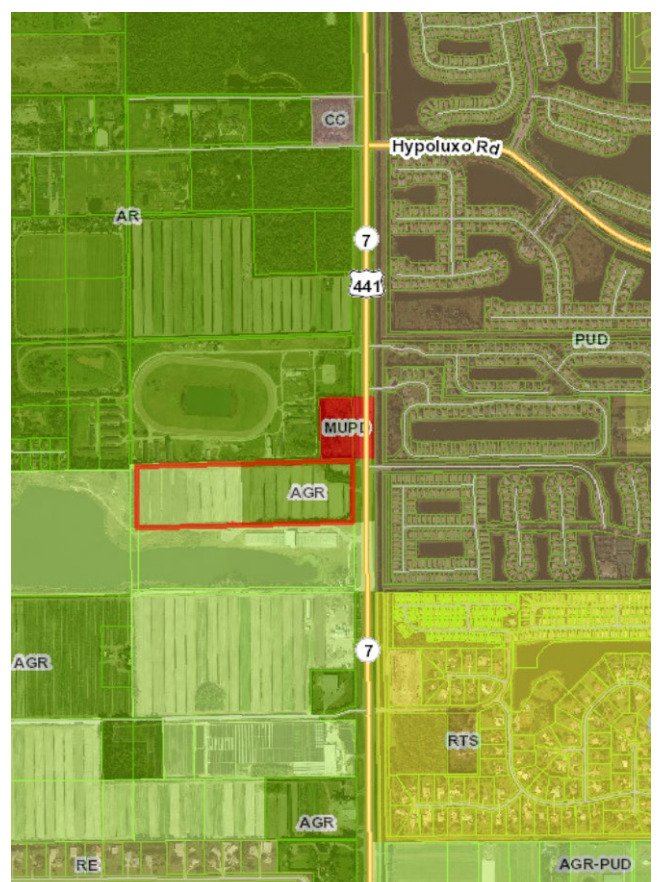
- **Preserve Area:** The proposed Preserve Area is supported with vacant farm land which is a use compliant with Article 4.B.6, Agricultural Uses for allowable uses within the TMD- Preserve Area.

**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 newly proposed preserve area will be consistent with the surrounding uses and character of the surrounding area. The site is adjacent to agricultural uses to the north, west, and south. The properties to the west and south serve as preserve areas for Ag Planned Unit Developments. To the east of the site is a PUD which is separated by the SR7 Right-of-Way and appropriate perimeter landscape buffering. The corridor of along SR7, which the newly proposed AGR-TMD parcel will be located, consists of predominately agricultural uses as seen in the figure to the right. As such, the proposed rezoning of the subject parcel as a preserve for the Delray Market Place TMD will remain compatible with overall area.

**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.***

The newly designated preserve parcel will be designed to minimize adverse impacts as the site will remain consistent with the bonafide agricultural uses of the surrounding preserves. Additionally, the properties along the west side of SR7 are predominately comprised of agricultural land uses and zoning designations. No increased density or intensity are proposed on site. The new preserve parcel will meet the Preserve Area requirements as previously stated, and not create any incompatibilities or nonconformities as a result of the rezoning request. The proposed request deletes preserve adjacent to the development area of the TMD, and proposes to add preserve area that is not adjacent to the TMD, but is adjacent to existing preserve areas and other existing agricultural uses. The modification would allow the existing farm to remain under preserve, while the area adjacent to non-residential commercial



type uses would be developed with non-residential uses

With regards to the removed preserve area parcel, as previously stated this site is subject to a concurrent application that would allow the site to be redeveloped with a Professional and Medical Office use, which is a compatible use with surrounding development and will have minimal adverse impacts on adjacent lands.

- 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 property has been cleared for agricultural uses.

**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 rezoning will remain in a logical and orderly development pattern of the surrounding area. As stated in the Compatibility with Surrounding Uses standard above, the overall area to the west of SR7 consists mostly of agricultural land uses and zoning designations. The proposed rezoning does not seek to add intensity or density to the area as part of the requests, and as such, the agricultural character will remain.

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

ENGINEERING COMMENTS:

The proposal will not result in any traffic impacts.

There are no proposed engineering conditions at this time.

PALM BEACH COUNTY HEALTH DEPARTMENT:

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

FIRE PROTECTION:

Staff has reviewed this application and have no comment.

SCHOOL IMPACTS:

Staff has reviewed this application and have no comment.

PARKS AND RECREATION:

Staff has reviewed this application and have no comment.

- 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 desires to delete the land area of the existing preserve parcel from the Delray Marketplace TMD and to rezone the site to CL-O/AGR to be consistent with the proposed CL-O/AGR



FLU as well as maintain compatibility with overall development pattern along the Atlantic Avenue corridor. The proposed modifications necessitate a new designation of a preserve parcel, and as such poses a demonstrated change of site conditions and circumstances requiring the requests.

**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 are recommending approval as per the Conditions of Approval in Exhibit C-1 and C-2.

CONDITIONS OF APPROVAL

**EXHIBIT C-1: Official Zoning Map Amendment**

**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: Development Order Amendment

#### ALL PETITIONS

1. Previous ALL PETITIONS Condition 1 of Resolution R-2015-538, Control No.2004-00616, which currently states:

The approved Preliminary Site Plan is dated January 15, 2015. 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 (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission.

#### Is hereby amended to read:

The approved Preliminary Site Plan is dated October 12, 2021. Modifications to the Development Order inconsistent with the conditions of approval, or changes to the uses or site design beyond the authority of the Development Review Officer (DRO) as established in the Unified Land Development Code (ULDC), must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

2. Previous ALL PETITIONS Condition 2 of Resolution R-2015-538, Control No.2004-00616, which currently states:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2014-567 (Control No. 2004-00616), have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified.

#### Is hereby amended to read:

All previous conditions of approval applicable to the subject property, as contained in Resolution R-2015-538, have been consolidated as contained herein. The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

3. Based on Article 2.E of the Unified land Development Code, this Development Order meets the requirements to receive a new three (3) year review date from date of approval of this resolution. (Previous ALL PETITIONS Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. Prior to platting in accordance with the Unified Land Development Code (ULDC) Article 3.F.1.H.2, Control No. 1974-00061 (Triple C Groves) shall be amended or abandoned to resolve all geographic overlap with the boundary of the Development Area. Overlap with Preserve Area may be permitted only if consistent with the ULDC and Conditions of Approval. (PLAT: ZONING - Zoning) [Note: COMPLETED] (Previous ALL PETITIONS Condition 4 of Resolution R-2015-538, Control No.2004-00616)

#### ARCHITECTURAL REVIEW

1. Prior to final approval by the Development Review Officer (DRO), architectural elevations for Building A1 and Building I shall be submitted simultaneously with the site plan for final architectural review and approval. The elevations shall be designed to be consistent with Articles 5.C and 3.F., as amended, of the Unified Land Development Code (ULDC) and shall reflect a character that is generally consistent with the elevations prepared by Scott Partnership dated June 21, 2005. Development shall be consistent with the approved architectural elevations, the DRO approved site plan, all conditions of approval, and all ULDC requirements. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Design of gutters and downspouts shall be integrated into the architectural design of each building, excluding the freestanding multifamily buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. Each freestanding multifamily dwelling unit shall include a garage that exceeds the minimum residential parking dimensions or a separate storage closet for trash receptacles, as deemed acceptable to the Architectural Review Section. (BLDGPMT/DRO/ONGOING: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. Decorative gates, doors or other acceptable means of screening shall be provided for the opening to the service areas of Buildings B1, D, E, FG, H and I. These screening features shall:

- have a minimum height of eight (8) feet measured from finished grade to highest point;
- have a maximum height no greater than the height of the adjacent building facade;
- be architecturally consistent with the building;
- remain closed when the service areas are not in use; and,
- be subject to review and approval by the Architectural Review Section. (BLDGPMT: ZONING - Zoning) (Previous ARCHITECTURAL REVIEW Condition 4 of Resolution R-2015-538, Control No.2004-00616)

5. The drive-thru facility for Building C1 shall incorporate an overhead canopy designed to the following standards:

- a minimum length and width adequate to cover all queuing lanes below;
- a maximum height of twenty-five (25) feet measured from finished grade to highest point;
- a pitched roof with a minimum slope of 4:12. No flat roof shall be permitted;
- lighting for the canopy shall be flush mounted or recessed;
- a maximum of one (1) canopy sign not exceeding eighteen (18) inches in height shall be permitted. Signage shall be limited to the side of the canopy providing vehicle entry only; and,
- the final design and details for the canopy shall be subject to review and approval by the Architectural Review Section. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 5 of Resolution R-2015-538, Control No.2004-00616)

6. Prior to final approval by the Development Review Officer (DRO), the design and detail for the following amenities shall be subject to review and approval by the Architectural Review Section and reflected on the Regulating Plan:

- plazas;
- amphitheater;
- pedestrian gathering areas;
- trellis
- water features;
- bus shelters;
- entry features;
- street furniture;
- freestanding light fixtures;
- Building I focal point; and,
- Building A2 focal point consistent with rendering "Option 1" dated February 22, 2011.

All amenities shall be designed to be compatible with the architectural character of the principal buildings and to establish a consistent theme for the project. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 6 of Resolution R-2015-538, Control No.2004-00616)

7. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate a trellis with climbing vine or other entry feature acceptable to the DRO as follows:

- over each sidewalk at the entryways from West Atlantic Avenue; and,
- the final design and detail for these amenities shall be subject to review and approval by the Architectural Review Section. (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 7 of Resolution R-2015-538, Control No.2004-00616)

8. In addition to ULDC requirements at least 60% of the Primary Frontages shall have arcades a minimum of 10 feet in width and 12 feet minimum height. The requirement for the arcades to be contiguous may be amended subject to a variance approval. [ZR-2007-005] (DRO: ARCHITECTURAL REVIEW - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 8 of Resolution R-2015-538, Control No.2004-00616)

9. Prior to building permit application, the architectural elevations for the residential units shall be submitted for review and approval by the Architectural Review Section. All elevations shall be:  
a. given a similar architectural treatment that is generally consistent with the architectural character of the principal structures in the development. (BLDGPM: ZONING - Zoning) [Note: COMPLETED] (Previous ARCHITECTURAL REVIEW Condition 9 of Resolution R-2015-538, Control No.2004-00616)

## **ENGINEERING**

1. In order to comply with the mandatory Traffic Performance Standards, the Property Owner has relied on the Atlantic Avenue CRALLS designation (Policy 1.2-f.35 of the transportation element of the Comprehensive Plan) and as such must enter into a funding agreement to the satisfaction of County Engineer, to pay for the construction of the 6-laning of West Atlantic Avenue from Florida's Turnpike to Jog Road and the 4-laning of West Atlantic Avenue from Lyons Road to Starkey Road. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Engineering Condition 2 was deleted under R-2014-567

3. The concurrency approval is subject to the project aggregation rule set forth in the Traffic Performance Standards Ordinance. (ONGOING: ENGINEERING - Engineering) (Previous ENGINEERING Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. The Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at the Project's north Entrance and Lyons Road. Signalization shall be a mast arm structure installation.

a. No Building Permits shall be issued until the developer provides acceptable surety in the form of a cash bond or escrow agreement to the Traffic Division in an amount as determined by the Director of the Traffic Division. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED]

b. In order to request release of the surety for this traffic signal the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 4 of Resolution R-2015-538, Control No.2004-00616)

5. Prior to December 1, 2005, the Property Owner shall fund the cost of signal installation if warranted as determined by the County Engineer at Lyons Road and West Atlantic Avenue.

a. Signalization shall be a mast arm structure installation. The cost of signalization shall also include any required utility relocation. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. In order to request release of the surety for the traffic signal at this intersection the Property Owner shall provide written notice to the Traffic Division stating that the final certificate of occupancy has been issued for this development and requesting that a signal warrant study be conducted at both intersections. The Traffic Division shall have 24 months from receipt of this notice to either draw upon the monies to construct the traffic signal or release the monies. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 5 of Resolution R-2015-538, Control No.2004-00616)

6. The location of back-out angled parking on the main streets in the TMD is subject to review and approval by the County Engineer, and may be required to be removed or relocated prior to final DRO approval. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 6 of Resolution R-2015-538, Control No.2004-00616)

7. CORRIDOR CONVEYANCE OF RIGHT OF RIGHT OF WAY The property owner shall convey to Palm Beach County Land Development Division by road right of way warranty deed for the roads below. All Right of way conveyances shall be free of all encumbrances and encroachments, unless noted otherwise. Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor also agrees to provide Palm Beach County an environmental report, subject to the approval of County Engineer, demonstrating that this property meets all appropriate and applicable environmental agency requirements. In the event the report makes a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees, Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up prior to dedication. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and Corner Clips.

a. Lyons Road 55 feet from centerline, prior to January 1, 2006. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. West Atlantic Avenue an additional 70 feet of right of way to provide for a total of 126 feet of right of way. Right of way shall be free and clear of all encumbrances and encroachments prior to widening of Atlantic Avenue. Prior to final DRO approval for the development parcel, Property Owner shall enter into an agreement with Right of Way Acquisition Section to allow encroachments until right of way is required for widening. The agreement shall require that the property owner be responsible for the costs associated with removing and relocating all encroachments within the ultimate right of way. (DRO: ENGINEERING - Engineering) [Note: COMPLETED]

c. Expanded Intersection right of way at West Atlantic Avenue and Lyons Road on an alignment approved by the County Engineer. Right of way shall be free and clear of all encumbrances and encroachments prior to widening of Atlantic Avenue. Prior to final DRO approval for the development parcel, Property Owner shall enter into an agreement with Right of Way Acquisition Section to allow encroachments until right of way is required for widening. The agreement shall require that the property owner be responsible for the costs associated with removing and relocating all encroachments within the ultimate right of way. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 7 of Resolution R-2015-538, Control No.2004-00616)

8. Prior to issuance of a building permit the property owner shall convey to Palm Beach County Land Development Division by warranty deed additional right of way for the construction of right turn lanes on West Atlantic Avenue at both of the project's entrances. This right of way shall be a minimum of 280 feet in length, twelve feet in width, and a taper length of 50 feet or as approved by the County Engineer. This additional right of way shall be free of all encumbrances and encroachments and shall include corner clips where appropriate as determined by the County Engineer. Property owner shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. (BLDG/PMT: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 8 of Resolution R-2015-538, Control No.2004-00616)

9. The Property owner shall construct:

i. Right turn lane east approach on West Atlantic Avenue at both Project Driveways.

ii. Left turn lane west approach on West Atlantic Avenue at the Project's west driveway OR a traffic separator within Atlantic Avenue at the Project's west driveway to restrict left turns in and out of this driveway, subject to FDOT approval.

iii. Left turn lane south approach on Lyons Road at the Projects north entrance.

iv. Right turn lane north approach on Lyons Road at both Project entrances.

v. A temporary access to West Atlantic Avenue at existing Lyons Road that provides a minimum 200 foot throat distance and a north approach left, through and right turn lane.

a. Any and all costs associated with this construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right-of-way. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

b. Construction for the improvements in a 9.i., 9.ii., and EITHER 9.iii. and 9.iv. OR 9.v. shall be completed prior to the issuance of the first Certificate of Occupancy. (CO: MONITORING - Engineering) [Note: COMPLETED]

c. If both driveways on Lyons Road are not constructed as part of the first phase of development or are not constructed at the same time, then the right turn lanes required in 9.iv. shall be constructed concurrent with the associated driveway or as otherwise required by the County Engineer. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 9 of Resolution R-2015-538, Control No.2004-00616)

10. The property owner shall:

a. Reimburse Palm Beach County \$175,000 for right of way acquisition costs for construction of Lyons Road as a 2-lane median divided section from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes on the north approach at Atlantic Avenue and Lyons Road, prior to April 30, 2010. (DATE: MONITORING - Engineering) [Note: COMPLETED]

b. Make a payment to Palm Beach County to cover all costs to extend the TCE for Parcels 903 and 904, the construction easements or portion of easements required for the construction of Lyons Road, for an amount of time sufficient to cover the length of construction, if the property owner has not completed that portion of Lyons Road prior to the expiration of the TCEs under Condition 17.a., within thirty (30) days written notice from the County Engineer. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 10 of Resolution R-2015-538, Control No.2004-00616)

11. On or before August 1, 2006, the property owner shall prepare and provide to the County all necessary right-of-way acquisition documents including but not limited to surveys, property owners maps, legal descriptions for acquisition, and parceled right-of-way maps required for the construction of Lyons Road a minimum of 110 feet in width plus provisions for Expanded Intersection Details at the intersection of Lyons Road and West Atlantic Avenue. These documents shall include a title search for a minimum of 25 years. Notification shall be given to the Land Development Division. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 11 of Resolution R-2015-538, Control No.2004-00616)

12. Prior to September 30, 2010, the property owner shall make available to Palm Beach County Land Development for bidding purposes:

a. Construction plans for Lyons Road as a 2-lane median divided section from the north project driveway south to West Atlantic Avenue. The plans shall include separate left turn, right turn and through lanes at the north approach at Atlantic Avenue and Lyons Road. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 12 of Resolution R-2015-538, Control No.2004-00616)

13. Prior to July 1, 2005 the property owner shall convey a temporary roadway construction easement along Lyons Road and West Atlantic Avenue to Palm Beach County. Construction by the Applicant within this easement shall conform to all Palm Beach County Standards and Codes. The location, legal sketches and the dedication documents shall be approved by the County Engineer prior to final acceptance. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 13 of Resolution R-2015-538, Control No.2004-00616)

14. On or before January 1, 2006, the property owner shall convey to Palm Beach County sufficient road drainage easement(s) through the project's internal drainage system, as required by and approved by the County Engineer, to provide legal positive outfall for runoff from those segments of West Atlantic Avenue and Lyons Road along the property frontage; and up to a maximum of an additional 800 feet of these adjacent roadway(s). The limits of this additional 800 feet of drainage shall be determined by the County Engineer. Said easements shall be no less than 20 feet in width. Portions of such system not included within roadways or waterways dedicated for drainage purposes will be specifically encumbered by said minimum 20-foot drainage easement from the point of origin, to the point of legal positive outfall. The drainage system within the project shall have sufficient retention/detention, Compensating storage within this projects retention system as required by all permitting agencies, and conveyance capacity to meet the storm water discharge and treatment requirements of Palm Beach County and the applicable Drainage District, as well as the South Florida Water Management District, for the combined runoff from the project to accommodate the ultimate Thoroughfare Plan Road Section(s) of the included segment. If required and approved by the County Engineer the property owner shall construct within the proposed drainage easements a minimum of 24 inch closed piping system and appropriate wingwall or other structures as required by and approved by the County Engineer. Elevation and location of the entire drainage system shall be approved by the County Engineer. Any and all excess fill material from excavation by Palm Beach

County within said easements shall become the property of Palm Beach County, which at its discretion may use this fill material. (DATE: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 14 of Resolution R-2015-538, Control No.2004-00616)

15. Prior to final DRO approval, the site plan shall be amended to comply with the FDOT conceptual approval letter at both project driveways on West Atlantic Avenue. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 15 of Resolution R-2015-538, Control No.2004-00616)

16. Condition number 9.b. which requires turn lane improvements on Lyons Road to be completed prior to issuance of the first Certificate of Occupancy shall be considered complied with when payments or construction required in Condition number 17 have been made within the timeframe required in that condition. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 16 of Resolution R-2015-538, Control No.2004-00616)

17. The Property Owner shall either:

a. Commence construction of Lyons Road as a 2-lane median divided section built to PBC Thoroughfare Road standards from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes and tapers on the north approach at Atlantic Avenue and Lyons Road, prior to bid opening for both the County's portion of Lyons Road and Atlantic Avenue. The construction for Lyons Road shall tie into road conditions at the Atlantic Avenue north right of way line at the time of Lyons Road construction. Any and all costs associated with the construction shall be paid by the property owner. These costs shall include, but are not limited to, utility relocations and acquisition of any additional required right of way. During construction, the property owner shall provide access to Palm Beach County contractors for construction of the County's portion of Lyons Road as well as maintain access to adjacent farms, as necessary. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

b. Or, if Lyons Road construction has not commenced prior to bid opening for both the County's portion of Lyons Road and Atlantic Avenue, the Property Owner shall make a payment to Palm Beach County Engineering Department for an amount of the bid amount plus 10%, for all construction costs, including administration, testing and construction management, associated with the construction of Lyons Road as a 2-lane median divided section built to PBC Thoroughfare Road standards from Atlantic Avenue to the north project driveway, including separate left turn, right turn and through lanes and tapers on the north approach at Atlantic Avenue and Lyons Road, within thirty (30) days written notice from the County Engineer. The bid amount shall be based on bid received by Palm Beach County for this work. The developer shall be responsible for any and all costs in excess of this amount. If any of the actual costs exceed this amount, the developer shall pay Palm Beach County Engineering Department for that excess amount within sixty (60) days written notice from the County Engineer. If the payment amount is in excess of the actual costs, Palm Beach County shall refund the excess amount to the Property Owner. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

c. At time of payment as required in 17.b, all permits from all regulating agencies required to construct the improvements above shall be transferred to Palm Beach County and copies provided to Land Development. (ONGOING: ENGINEERING - Engineering) [Note: COMPLETED]

d. If Property Owner elects to construct Lyons Road, construction of Lyons Road shall be completed prior to issuance of the first Certificate of Occupancy for the site or within 6 months from commencement of Lyons Road construction, whichever shall occur first. (Previous Engineering Condition 18 of Resolution R-2010-0447, Control No. 2004-616) (CO/ONGOING: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 17 of Resolution R-2015-538, Control No.2004-00616)

18. Prior to final site plan approval by the DRO, the property owner shall amend the drainage easement providing legal positive outfall to include all of the private property between this project site and the point of legal positive outfall. (DRO: ENGINEERING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 18 of Resolution R-2015-538, Control No.2004-00616)

19. Prior to issuance of the first building permit, the property owner shall combine the property into a single lot of record in accordance with Article 11 of the ULDC. (BLDGPM: MONITORING - Engineering) [Note: COMPLETED] (Previous ENGINEERING Condition 19 of Resolution R-2015-538, Control No.2004-00616)



## **HEALTH**

1. Property owners and operators of facilities generating industrial, hazardous, or toxic wastes shall not deposit or cause to be deposited any such wastes into the sanitary sewer system unless adequate pretreatment facilities approved by the Florida Department of Environmental Protection (FDEP), the Palm Beach County Health Department and the agency responsible for sewage works are provided and used. (ONGOING: CODE ENF - Health Department) (Previous HEALTH Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. The property owner shall utilize Best Management Practices to minimize the breeding of mosquitoes in the surface water management system. Management of the system shall include control methods that minimize the need for aerial spraying and reduce the impacts of mosquito control activities on the surrounding natural areas. (ONGOING: HEALTH DEPARTMENT - Health Department) (Previous HEALTH Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. Prior to the issuance of the first building permit the property owner shall submit a written detailed plan acceptable to the Palm Beach County Health Department for the control of fugitive dust particulates on the site during all phases of site development. The property owner or a representative of the property owner shall be available to meet with Staff of the Air Pollution Control Section of the Palm Beach County Health Department on request to clarify and discuss the scope and potential effectiveness of the proposed dust control measures. (BLDGPM: MONITORING - Health Department) [Note: COMPLETED] (Previous HEALTH Condition 3 of Resolution R-2015-538, Control No.2004-00616)

## **LANDSCAPE - GENERAL**

1. All palms required to be planted on the property by this approval shall meet the following minimum standards at installation:

- a. palm heights: twelve (12) feet clear trunk;
- b. clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. credit may be given for existing or relocated palms provided they meet current ULDC requirements. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Field adjustment of wall, fence, and plant material locations may be permitted to provide pedestrian sidewalks/bike paths and to accommodate transverse utility or drainage easements crossings and existing vegetation. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - GENERAL Condition 2 of Resolution R-2015-538, Control No.2004-00616)

## **LANDSCAPE - INTERIOR**

3. Landscaped diamonds with a minimum planting area of twenty-five (25) square feet shall be provided within all rows of abutting 90-degree parking. These diamonds shall be located at the common intersection of four (4) parking spaces and be spaced a maximum of four (4) parking spaces apart. A minimum of one (1) canopy tree, palm, flowering tree, or accent tree and appropriate ground cover shall be provided within each diamond. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - INTERIOR Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. Notwithstanding ULDC requirements, foundation planting or grade level planters shall be provided along the following:

- a. north facade of Building B1;
- b. south facades of Buildings C1, C2, and D;
- c. west facade of Building H;
- d. north and east facade of Building I;
- e. the minimum width of these landscape areas shall be ten (10) feet;
- f. the length of these landscaped areas shall be no less than sixty (60) percent of the total length of the applicable building facade;
- g. landscape areas shall be planted with a minimum equivalent of one (1) canopy tree, pine tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover; and,
- h. trees and/or palms required within the above referenced areas of Building I only shall have the following minimum height at installation:
  - 1) twenty-four (24) feet or greater for a minimum twenty-five (25) percent of all required trees and/or palms;

- 2) eighteen (18) feet to twenty-four (24) feet for a minimum fifty (50) percent of all required trees and/or palms; and,
- 3) sixteen (16) feet to eighteen (18) feet for a maximum twenty-five (25) percent of all required trees and/or palms. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - INTERIOR Condition 4 of Resolution R-2015-538, Control No.2004-00616)

#### **LANDSCAPE - INTERIOR-FOCAL POINT WEST OF BUILDING I**

5. Prior to final approval by the Development Review Officer (DRO), the site plan shall indicate a landscape focal point at the terminus of the access drive on the west side of Building I. The design and location of this landscape focal point shall be subject to Zoning Division review and approval. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 5 of Resolution R-2015-538, Control No.2004-00616)

#### **LANDSCAPE - INTERIOR**

6. Prior to final approval by the Development Review Officer (DRO), the Regulating Plan shall be amended to include details of the landscape plantings for the divider median and terminal island adjacent to the north and west of Building I's dumpster and loading service area. The planting program shall screen the service area from the view of the multifamily units. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous LANDSCAPE - INTERIOR Condition 6 of Resolution R-2015-538, Control No.2004-00616)

#### **LANDSCAPE - PERIMETER**

7. In addition to ULDC requirements the north and west perimeter landscape buffers shall be upgraded to include:

- a. a minimum of one (1) native palm for each twenty (20) linear feet of the applicable property line with a maximum spacing of sixty (60) feet between clusters and
- b. a minimum of one (1) pine tree for each thirty (30) linear feet of the applicable property line. Pines shall be planted in clusters with a minimum of five (5) pines, and with a maximum spacing of one hundred and fifty (150) feet between clusters. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 7 of Resolution R-2015-538, Control No.2004-00616)

8. A minimum of fifty (50) percent of all (new and replacement) trees to be planted in the landscape buffers shall meet the following minimum standard at installation: Tree height: fourteen (14) feet. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 8 of Resolution R-2015-538, Control No.2004-00616)

9. In addition to ULDC requirements, the south right-of-way buffer shall be upgraded to include:

- a. a minimum of one (1) native palm or one (1) pine tree for each thirty (30) linear feet of the applicable property line. The palms or pines may be planted in clusters. (ONGOING: ZONING - Zoning) (Previous LANDSCAPE - PERIMETER Condition 9 of Resolution R-2015-538, Control No.2004-00616)

#### **LIGHTING**

1. All outdoor, freestanding lighting fixtures exceeding twenty (20) feet in height shall be setback a minimum distance of forty (40) feet from the north and west property lines. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning) (Previous LIGHTING Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. All outdoor, freestanding lighting fixtures shall be extinguished no later than one-half (1/2) hour after operating hours, excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material or street lighting. (ONGOING: CODE ENF - Zoning) (Previous LIGHTING Condition 3 of Resolution R-2015-538, Control No.2004-00616)

#### **MASS TRANSIT**

1. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Preliminary Development Plan and/or final plan prior to final

approval of the DRO. The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous MASS TRANSIT Condition 1 of Resolution R-2007-82, Control No.2004-00616)

2. Prior to issuance of the first Building Permit or recordation of the plat, whichever shall first occur, the property owner shall convey and or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to, a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran. (BLDG PERMIT/PLAT: MONITORING-Eng) (Previous MASS TRANSIT Condition 2 of Resolution R-2007-82, Control No.2004-00616)

#### **PALM TRAN**

1. Previous Mass Transit Condition 1 of Resolution R-2008-0112, Control No. 2004616 of Application No. 2007-996, which currently states:

The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran.

#### **Is hereby amended to read:**

The location of two easements for Bus Stop Boarding and Alighting Areas, subject to the approval of Palm Tran, shall be shown on the Master Plan and/or site plan prior to final approval by the Development Review Officer (DRO). The purpose of these easements are for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM-TRAN - Palm-Tran) (Previous PALM TRAN Condition 1 of Resolution R-2008-267, Control No.2004-00616)

2. Previous Mass Transit Condition 2. of Resolution R-2008-0112, Control No. 2004616 of Application No. 2007-996, which currently states:

Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required.

#### **Is hereby amended to read:**

Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County easements for Bus Stop Boarding and Alighting Areas in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm tran is required. (PLAT: ENGINEERING - Palm-Tran) (Previous PALM TRAN Condition 2 of Resolution R-2008-267, Control No.2004-00616)

3. The location of an easement for a Bus Stop Boarding and Alighting Area, subject to the approval of Palm Tran shall be shown on the Master Plan and/or site plan prior to final approval of the Development Review Officer (DRO). The purpose of this easement is for the future construction of mass transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN-Palm Tran) (Previous PALM TRAN Condition 3 of Resolution R-2008-112, Control No.2004-00616)

4. Prior to Plat Recordation, the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT: ENGINEERING - Palm-Tran) (Previous PALM TRAN Condition 4 of Resolution R-2008-112, Control No.2004-00616)

#### **PLANNED DEVELOPMENT-TRADITIONAL MARKETPLACE DEVELOPMENT (TMD)**

1. Prior to the recordation of the first plat, all property included in the legal description for the development area of this application shall be subject to a Declaration of Restrictions and Covenants acceptable to the County Attorney's office which shall include the following:

- a. Formation of a single master property owner's association, automatic voting membership in the master association by any party holding title to any portion of the subject property, and assessment of all members of the master association for the cost of maintaining all common areas.
- b. All indoor recreation space shall be deed restricted to recreation for the use of the residents of the development. At the time of turnover to the POA/HOA, the indoor recreation space shall be turned over to the association at no cost to the residents.
- c. The property shall not be subject to the Declaration of Restrictions in phases. Approval of the Declaration must be obtained from the County Attorney's office prior to the recordation of the first plat for any portion of the traditional development. This Declaration shall be amended when additional units or square footage is added to the TMD. (PLAT: COUNTY ATTORNEY - Zoning) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2015-538, Control No.2004-00616)

### **PLANNED DEVELOPMENT**

1. Prior to the recordation of the Delray Marketplace replat, all property included in the legal description for the development area of application ZV/W/TDD/DOA-2013-0269 shall be subject to the Declaration of Restrictions and Covenants as approved by the County Attorney's office. (PLAT: ZONING - County Attorney) [Note: COMPLETED] (Previous PLANNED DEVELOPMENT Condition 1 of Resolution R-2015-538, Control No.2004-00616)

### **PLANNED DEVELOPMENT-PLANNED DEVELOPMENT - TRADITIONAL MARKETPLACE DEVELOPMENT (TMD)**

2. The property owner shall include in homeowners documents as well as written sales brochures, sales contracts, and site plans a disclosure statement identifying and notifying of the existence of active agricultural uses in the vicinity of the development and of Florida Statute 823.14, the Florida Right to Farm Act." The property owner shall submit documentation of compliance with this condition on an annual basis to the Monitoring Section of Planning, Zoning and Building beginning on August 25, 2006, and shall continue on an annual basis until all residential units within the development have been sold or the property owner relinquishes control to a homeowners association. (DATE/ONGOING: MONITORING - Zoning) (Previous PLANNED DEVELOPMENT Condition 2 of Resolution R-2015-538, Control No.2004-00616)

### **PLANNING**

1. Prior to final approval by the Development Review Officer (DRO), the Applicant shall provide a Rural Parkway Landscape Plan, for the entire Delray Marketplace TMD Rural Parkway Preserve area, subject to approval by the Planning Division, to include a minimum of 60% native shrubs and a minimum of 90% native trees and palms. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Prior to final approval by the Development Review Officer, submit a signed copy of the AGR Preserve Management Plans approved by ERM for each Agricultural Preserve parcel. (DRO: ENVIRONMENTAL RESOURCES MANAGEMENT - Planning) [Note: COMPLETED] (Previous PLANNING Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. Prior to final site plan approval by the Development Review Officer (DRO), the Property Owner shall add a Preservation Area/Proposed Uses" notes section on page 1 of the Master Plan and include the following:

- a. The preservation areas approved, as part of this application shall be restricted to preservation uses as follows, with the exception of areas designated as environmentally sensitive in the conservation easement:

### **PERMITTED USES:**

- 1) Crop production, pasture or equestrian purposes;
- 2) Civic purposes, such as schools, libraries or fire stations;
- 3) Regional water storage areas to serve as water management functions or to serve as a Water Preserve Area if designated by the South Florida Water Management District: to serve regional water

management purposes as certified by either Lake Worth Drainage District or South Florida Water management District, or for water management purposes not directly related to the AGR-TMD if approved by the Department of Environmental Resources Management and managed for environmental resource values;

4) Wetland or bona fide agricultural uses per the ULDC;

5) Other uses as permitted by the required conservation easements;

6) Other uses as may be permitted within the protected area of an AGR-TMD consistent with the Comprehensive Plan and the Unified Land Development Code. (DRO/ONGOING: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. Prior to plat recordation for the Delray Marketplace TMD development area, the conservation easements for all of the Preservation parcels shall be recorded, as approved by the County Attorney's Office, the Department of Environmental Resources Management, and the Planning Division.

The conservation easements for all of these preserve parcels shall contain:

a) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;

b) a list of permitted uses, uses not permitted, and prohibited activities.

c) Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENGINEERING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 4 of Resolution R-2015-538, Control No.2004-00616)

5. Prior to plat recordation for the Delray MarketPlaceTMD Development area, the conservation easement for the 100-foot Lyons Road Rural Parkway Preserve Area shall be recorded for the development area and for the Preserve Parcel 1 as approved by the County Attorney's Office, the Engineering Department, and the Planning Division. The conservation easement for the 100' Lyons Road Rural Parkway Preserve Area shall contain:

a. A Landscape Plan that conforms with the approved Rural Parkway Landscape Plan, but not be limited to the following items:

1) 90% native trees and palms, and 60% native shrubs;

2) a multipurpose path and an equestrian path;

3) undulating berms, no taller than five feet; and

4) benches/pedestrian gathering area. At least one (1) pedestrian gathering area shall be provided within the 100-foot wide Lyons Road Rural Parkway along this project frontage.

b. The Rural Parkway easement shall not include:

1) walls; and,

2) structures with the exception of a bus shelter and benches/pedestrian gathering areas.

c. The Rural Parkway easement may include:

1) A bus stop easement;

2) other drainage/utility easements may only be permitted which traverse (run perpendicular to) the Lyons Road Rural Parkway Easement to place drainage/utilities in the developable portion of the TMD; and,

3) Other drainage easements may be permitted in the Rural Parkway Easement for the purposes of draining the Rural Parkway, subject to approval by the County Engineering Department and the Planning Division.

4) A ten (10) foot utility easement located adjacent to the Lyons Road right-of-way.

d. A maintenance agreement for continual maintenance of the Rural Parkway that will contain language allowing for the transfer of maintenance to a property owners association or a deed to the County for the County's ownership and maintenance.

e. Title insurance for this easement shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division. (PLAT: ENGINEERING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 5 of Resolution R-2015-538, Control No.2004-00616)

6. Should the 100-foot wide Lyons Road Rural Parkway conservation easement not be placed on this property in a form acceptable to the County Attorney, Engineering Department, and Planning Division, prior to February 1st, 2010, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by Staff to revoke the Development Order. (DATE: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 6 of Resolution R-2015-538, Control No.2004-00616)

7. Should conservation easements not be recorded for the Preservation properties in a form acceptable to the County Attorney prior to March 1st, 2016, then the approval of this Development Order (DO) shall be scheduled for review by the Board of County Commissioners with a recommendation by Staff to revoke the Development Order. No administrative time extension for this condition shall be allowed. (DATE: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 7 of Resolution R-2015-538, Control No.2004-00616)

8. Prior to the issuance of a building permit for any buildings on site, the Property Owner shall commence construction of the Rural Parkway. [Note: COMPLETED] (Previous PLANNING Condition 8 of Resolution R-2015-538, Control No.2004-00616)

9. Prior to the issuance of a Certificate of Occupancy for any buildings on site, the Property Owner shall complete construction of the Rural Parkway. [Note: COMPLETED] (Previous PLANNING Condition 9 of Resolution R-2015-538, Control No.2004-00616)

10. Development on the site shall be limited to a maximum of 320,000 square feet of non-residential uses and 96 dwelling units. (ONGOING: PLANNING - Planning) (Previous PLANNING Condition 10 of Resolution R-2015-538, Control No.2004-00616)

11. Prior to final site plan approval by the Development Review Officer (DRO), the Property Owner shall provide draft updated conservation easements reflecting the change in the development parcel, allowable/prohibited uses and governing Control numbers. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 11 of Resolution R-2015-538, Control No.2004-00616)

12. Prior to final site plan approval by the Development Review Officer (DRO), the Property Owner shall provide the final draft of the Rural Parkway Conservation Easement and Planting Plan for all parcels abutting Lyons Road. (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 12 of Resolution R-2015-538, Control No.2004-00616)

13. Submit an as-built of the entire Rural Parkway associated with the Development Order prior to final approval by the Development Review Officer (DRO). (DRO: PLANNING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 13 of Resolution R-2015-538, Control No.2004-00616)

14. The Single Family structure located on Preserve 3 shall either be converted to an allowable use as identified in the ULDC or removed, with all applicable approvals and or completed demolition permits prior to the approval of the Plat. (PLAT: MONITORING - Planning) [Note: COMPLETED] (Previous PLANNING Condition 14 of Resolution R-2015-538, Control No.2004-00616)

15. Prior to Final Approval by the Development Review Officer (DRO), the conservation easements for the new Preservation parcel 5 shall be recorded, as approved by the County Attorney's Office, the Department of Environmental Resources Management, and the Planning Division.

The conservation easement shall contain:

a) a legal description, site location, including the address of the parcel and a sketch including the area subject to the easement depicting reference points such as main streets and showing the location of the preserve within the context of the Ag Reserve;

b) a list of permitted uses, uses not permitted, and prohibited activities.

c) Title insurance for these easements shall be provided to Palm Beach County subject to approval by the County Attorney and in an amount acceptable to the Department of Environmental Resources Management and the Planning Division.

(DRO: PLANNING - Planning)

16. Prior to Final Approval by the Development Review Officer (DRO), submit applicable plans and documents consistent with the BCC direction given at the adoption of the companion LGA 2021-008 Atlantic Avenue Medical. (DRO: PLANNING - Planning)

17. Prior to final approval by the Development Review Officer, submit a signed copy of the AGR Preserve Management Plans approved by ERM for both P3 and new P5 Agricultural Preserve parcels. (DRO: PLANNING - Planning)

18. Prior to final approval by the Development Review Officer, submit a recorded copy of the full release of Conservation Easement for P3 Tract C. (DRO: PLANNING - Planning)

19. At such a time as changes are proposed for the Delray Marketplace Commercial site plan, vehicular and pedestrian cross access shall be required to line up with the adjacent parcel to the west, consistent with the locations identified on the Atlantic Avenue Medical Site Plan (C#2020-178). Vehicular and pedestrian cross access is required for consistency with FLUE Policies 4.3-g and 4.3-k, as they require interconnectivity between complimentary land use designations and commercial uses. The County Attorney and Planning shall approve the cross access easement prior to recordation, and the Orb/Pg shall be indicated at both locations on the site plans prior to final approval of the request that amends the plans. (ONGOING: 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 be assigned to the public school closest to their residences. School Board policies regarding levels of service or other boundary policy decisions affect school boundaries. 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) (Previous SCHOOL BOARD Condition 1 of Resolution R-2014-567, Control No.2004-00616)

2. Prior to the issuance of the first Certificate of Occupancy (CO), the 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(s) shall be the responsibility of the residential Property Owner. (CO: MONITORING - School Board) (Previous SCHOOL BOARD Condition 2 of Resolution R-2014-567, Control No.2004-00616)

## **SIGNS**

1. Wall signs shall be prohibited on the north and west facade of Building I. (BLDG/PMT/ONGOING: BUILDING DIVISION - Zoning) (Previous SIGNS Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Painted wall signs shall be prohibited. (ONGOING: CODE ENF - Zoning) (Previous SIGNS Condition 2 of Resolution R-2015-538, Control No.2004-00616)

## **SITE DESIGN**

1. Prior to final approval by the Development Review Officer (DRO), a minimum of 60 percent of the building facade shall be designated as Primary Frontage and designed to the Standards for Primary

Frontage (excepting the “contiguous” requirement) with the remainder of the building facade designed to Standards for Secondary Frontage for the following facades:

- a. Building A2 (Freestanding Building) east facade;
- b. Building B1 south facade;
- c. Building C2 north facade; and,
- d. Building H north facade. (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to indicate additional decorative paving treatment (pre-cast concrete paver blocks or stamped concrete) as follows:

- a. within the intersections located immediately north of the access drives from West Atlantic Avenue; and,
- b. this paving shall cover the entire area of the applicable drive aisle surface as shown on the approved plan. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. Prior to final approval by the Development Review Officer (DRO), the site plan shall be amended to show 100% Primary Frontage for Buildings I-SE west faade and I-SW east faade; and, 100% Secondary Frontage for Freestanding Building C1 north and west facades. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to eliminate any overlap of the Parking Plaza with the required minimum dimensions and plantings of the Terminal Islands. (DRO/ONGOING: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 4 of Resolution R-2015-538, Control No.2004-00616)

5. Prior to final approval by the Development Review Officer (DRO), the site plan shall be revised to provide a minimum of three (3) additional trellis structures to shade the benches indicated in the Parking Plaza for a total of seven (7) trellis structures provided in the Parking Plaza. (DRO: ZONING - Zoning) [Note: COMPLETED] (Previous SITE DESIGN Condition 5 of Resolution R-2015-538, Control No.2004-00616)

## **USE LIMITATIONS**

1. Outdoor storage or placement of any material, refuse, equipment or debris shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 1 of Resolution R-2015-538, Control No.2004-00616)

2. Repair or maintenance of vehicles shall not be permitted on the property, excluding incidental and emergency repairs. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 2 of Resolution R-2015-538, Control No.2004-00616)

3. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property, excluding events in the Amphitheater Plaza or other events authorized by a Special Permit. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 3 of Resolution R-2015-538, Control No.2004-00616)

4. One (1) single tenant occupying more than 25,000 square feet shall be permitted within each of the following buildings only, as indicated on the site plan dated April 18, 2011:

- a. Building A1;
- b. Building B1;
- c. Two (2) single tenants occupying more than 25,000 square feet shall be permitted within Building I; and
- d. The indoor entertainment use shall be considered one of the approved single tenants occupying more than 25,000 square feet. The indoor entertainment use may be located within Building B1 or Building I. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 4 of Resolution R-2015-538, Control No.2004-00616)

5. One Type I restaurant that exceeds 1,500 square feet shall be permitted and shall remain in the location as designated on the master plan or shall be subject to the ULDC as amended whichever is



less restrictive. (ONGOING: CODE ENF - Zoning) (Previous USE LIMITATIONS Condition 5 of Resolution R-2015-538, Control No.2004-00616)

## **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 1 - Land Use Map (Development Area and Preserve Area to be removed)

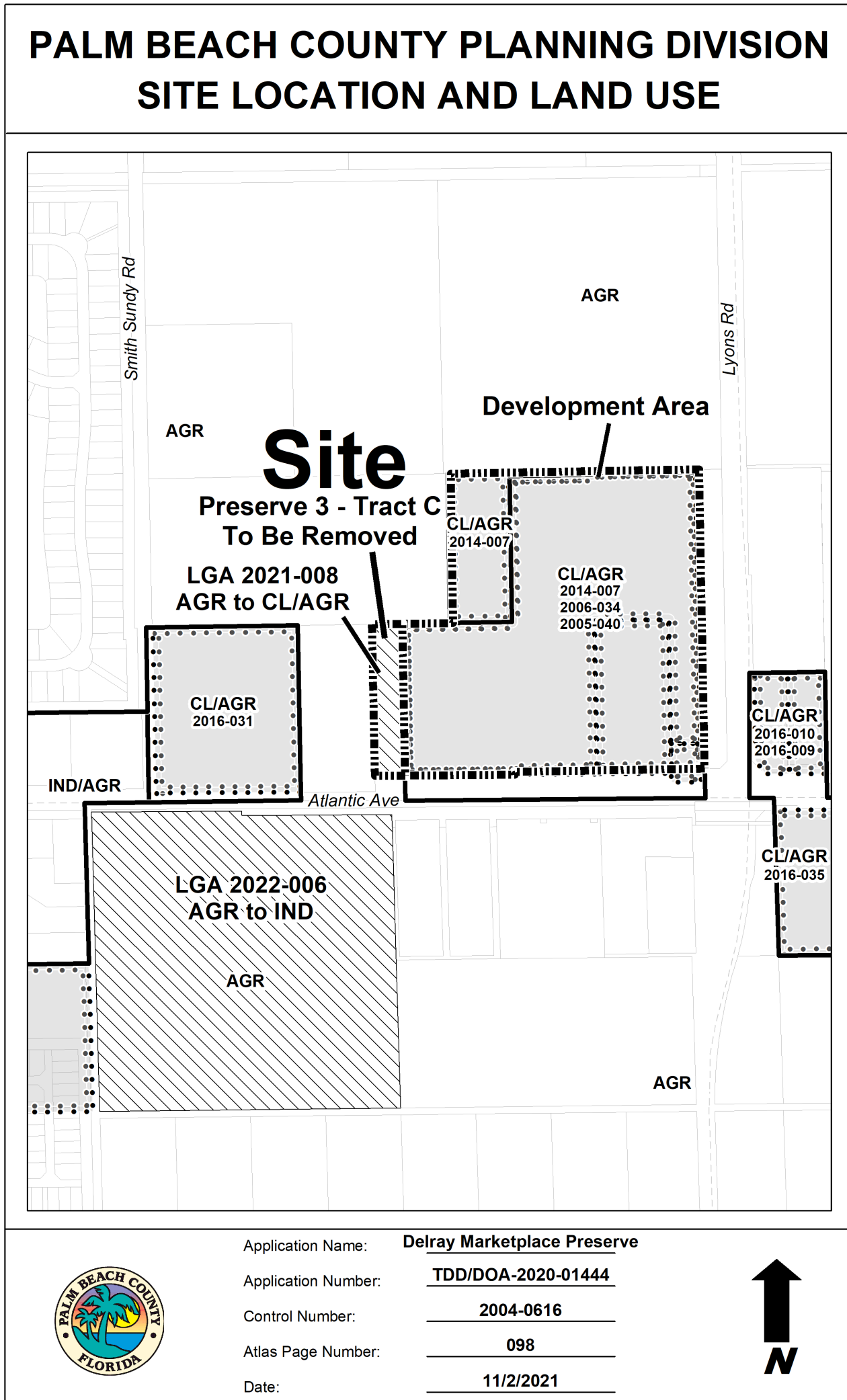


Figure 2: Land Use Map (New Preserve Area)

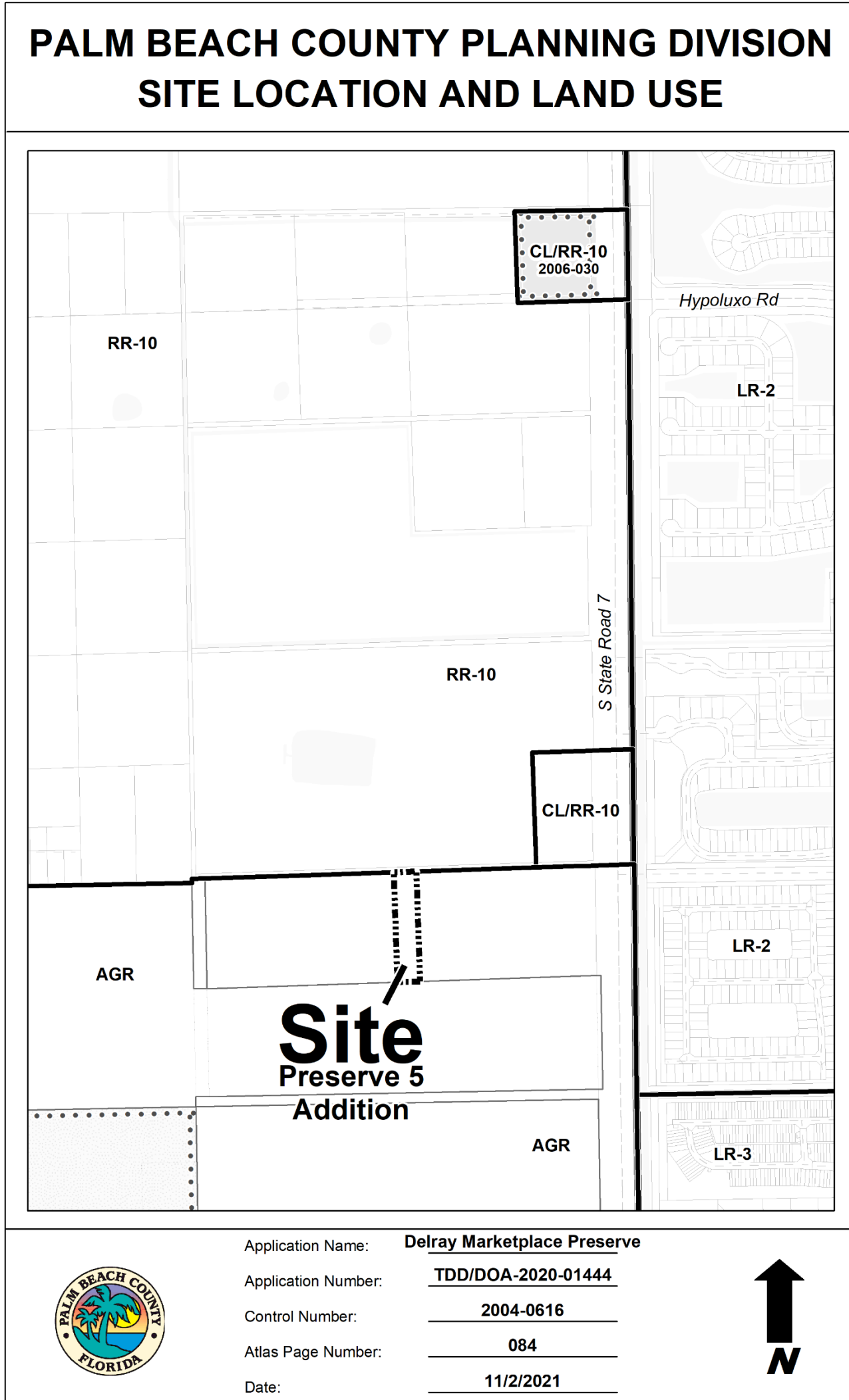


Figure 3 - Zoning Map (Development Area and Preserve Area to be removed)

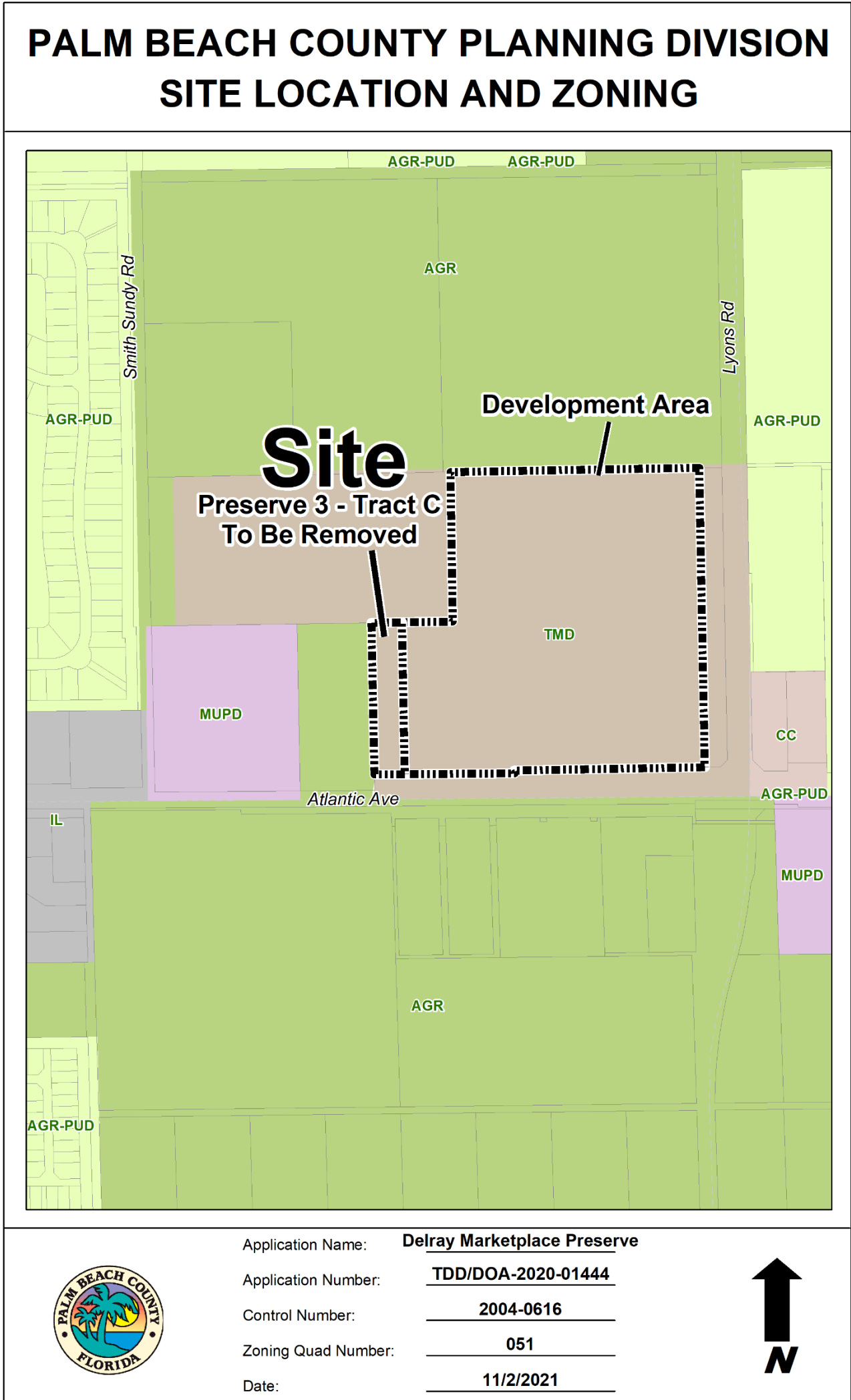


Figure 4: Zoning Map (New Preserve Area)

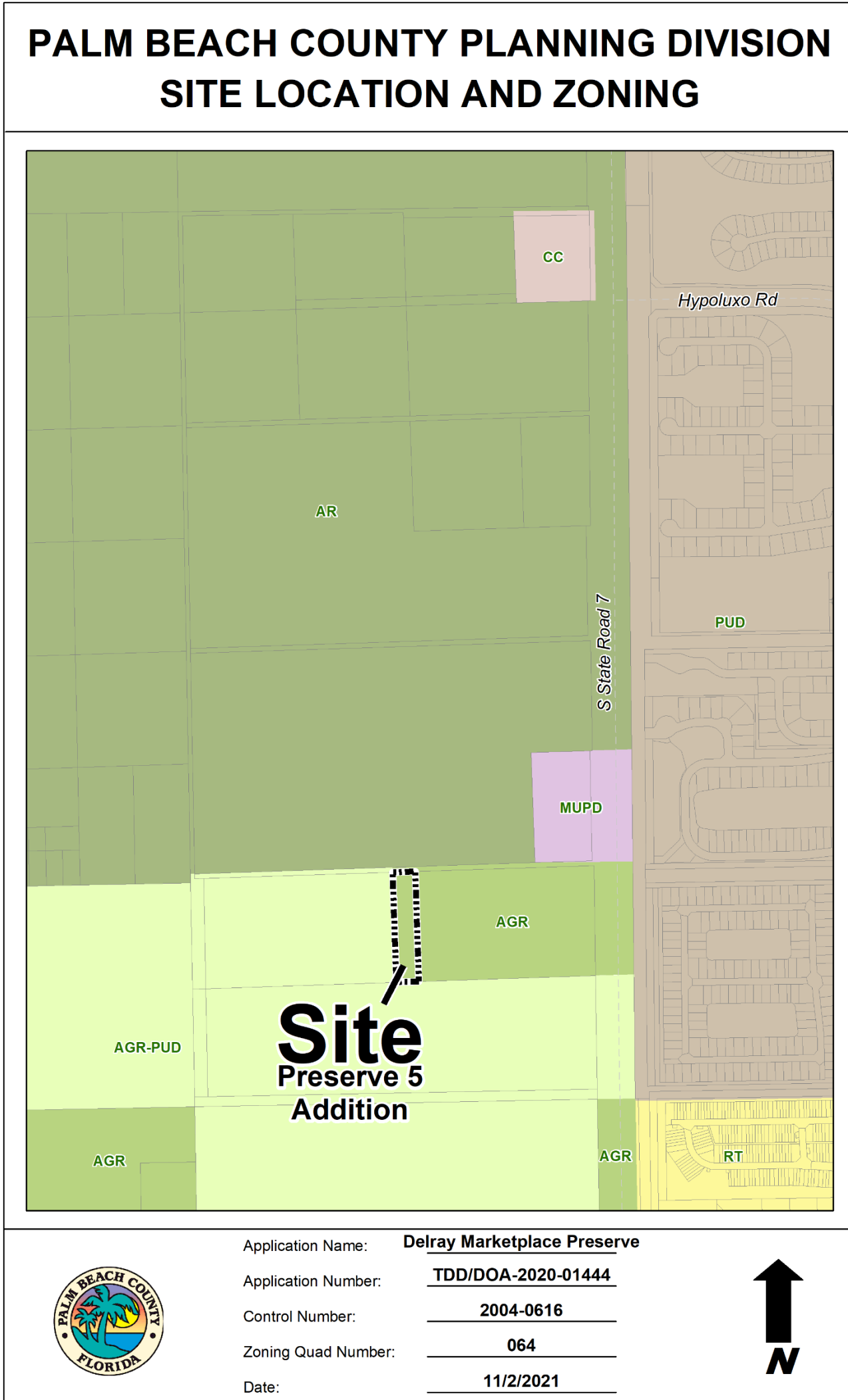
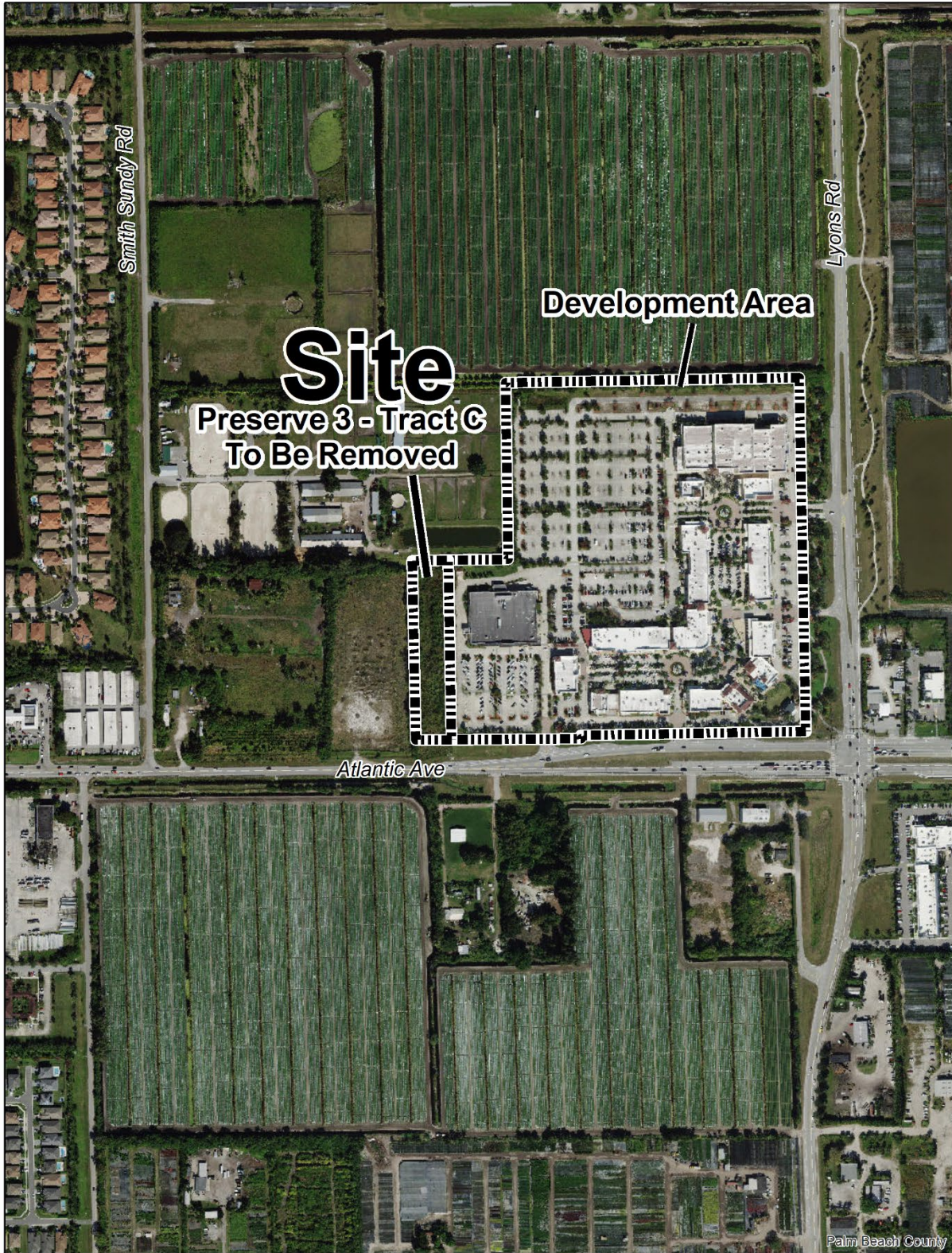


Figure 5 – Aerial (Development Area and Preserve Area to be removed)

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION

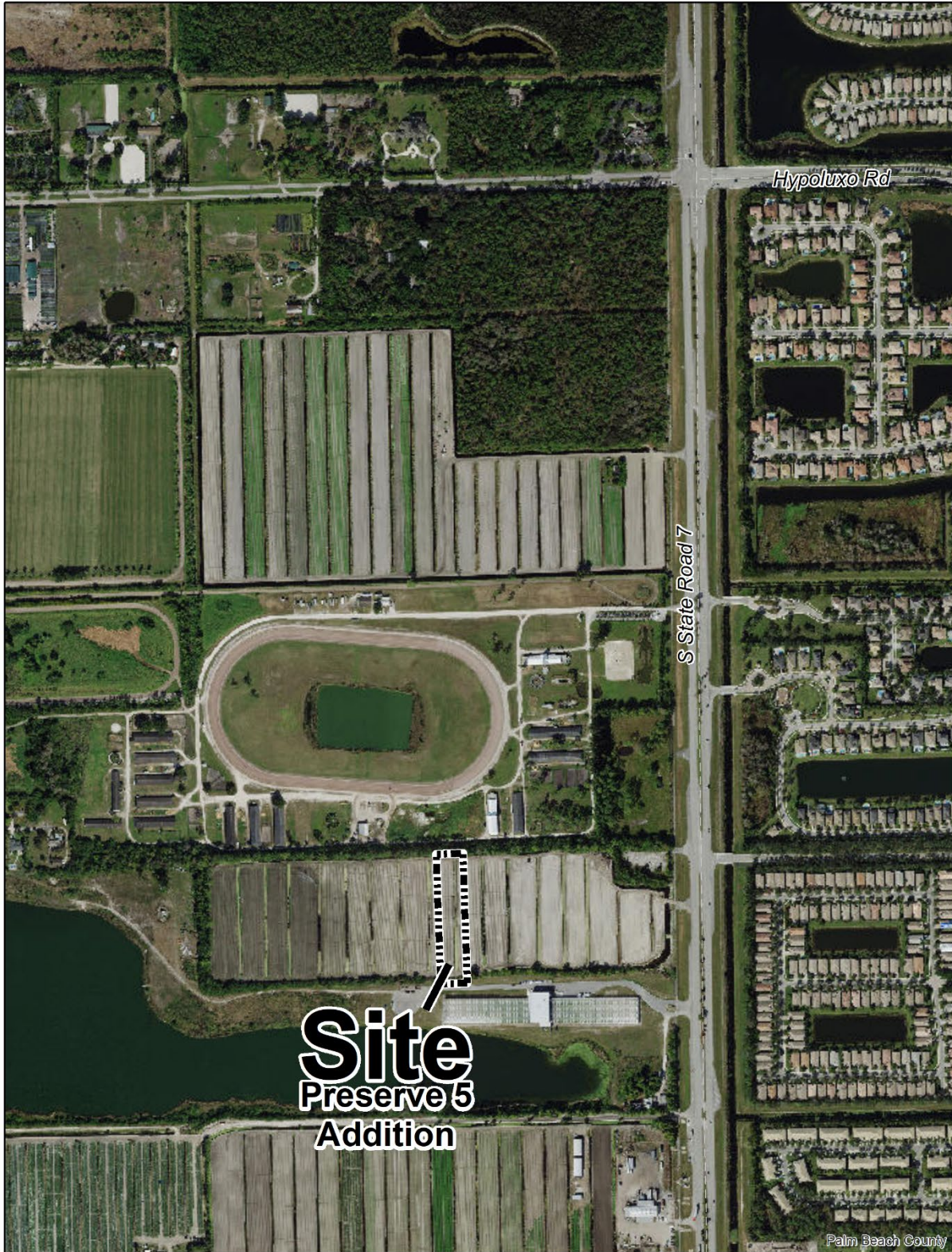


Application Name:	<b>Delray Marketplace Preserve</b>
Application Number:	<b>TDD/DOA-2020-01444</b>
Control Number:	<b>2004-0616</b>
Atlas Page Number:	<b>098</b>
Date:	<b>11/2/2021</b>



Figure 6: Aerial (New Preserve Area)

# PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	<b>Delray Marketplace Preserve</b>
Application Number:	<b>TDD/DOA-2020-01444</b>
Control Number:	<b>2004-0616</b>
Atlas Page Number:	<b>084</b>
Date:	<b>11/2/2021</b>



Figure 7 – Preliminary Site Plan (PSP-1 of 3), dated October 12, 2021

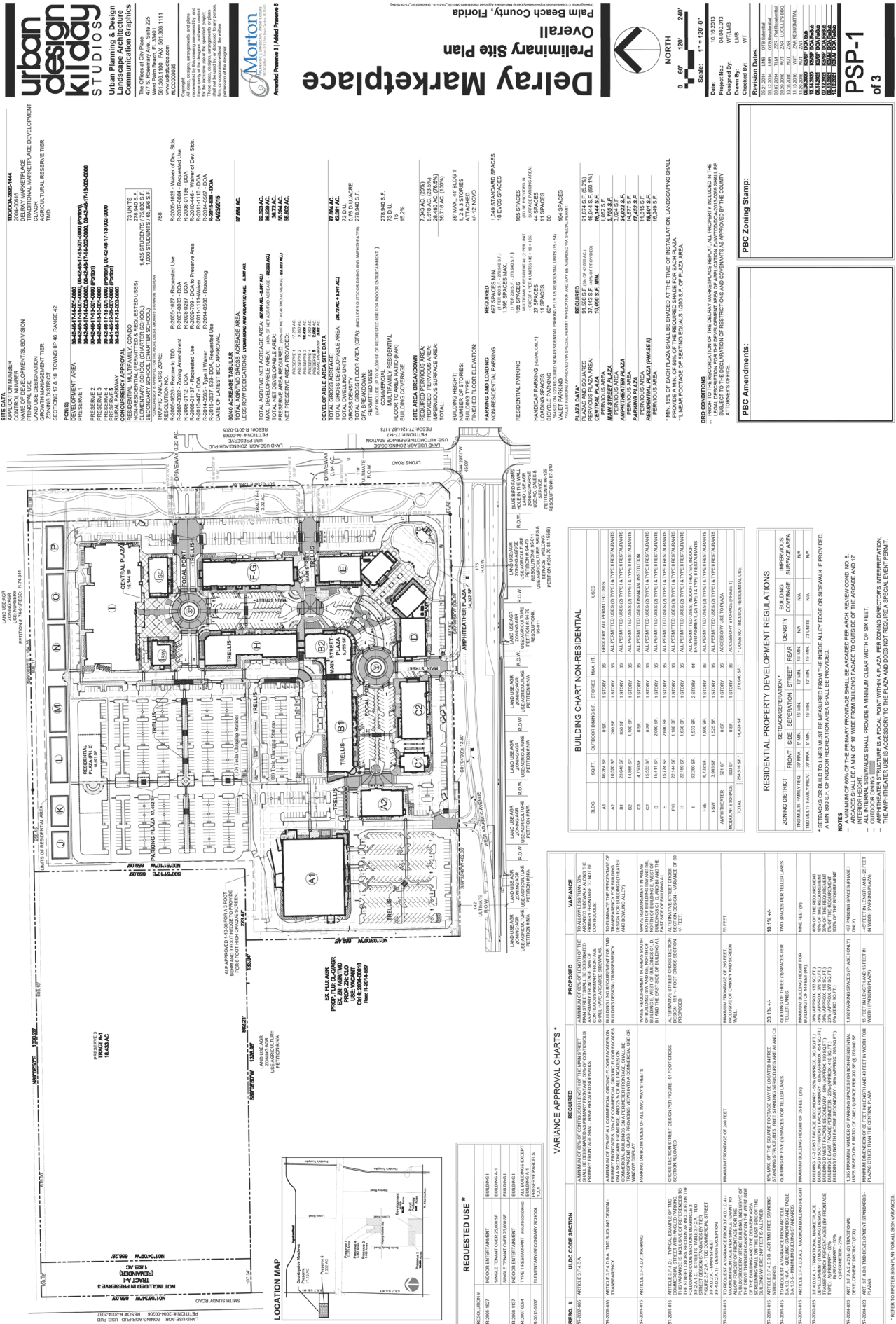




Figure 8 – Preliminary Site Plan (PSP-2 of 3), dated September 13, 2021

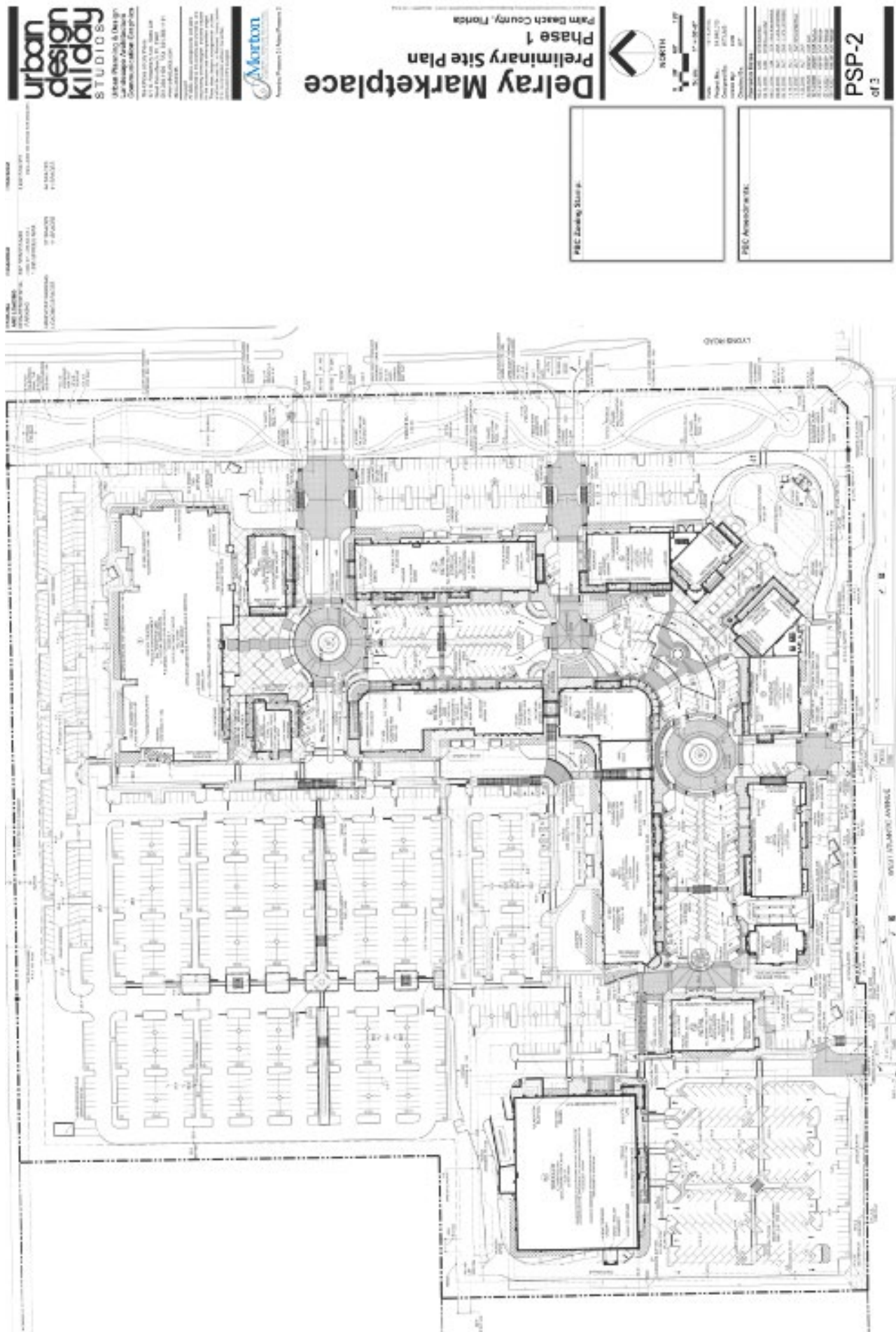


Figure 9 – Preliminary Site Plan (PSP-3 of 3), dated September 13, 2021

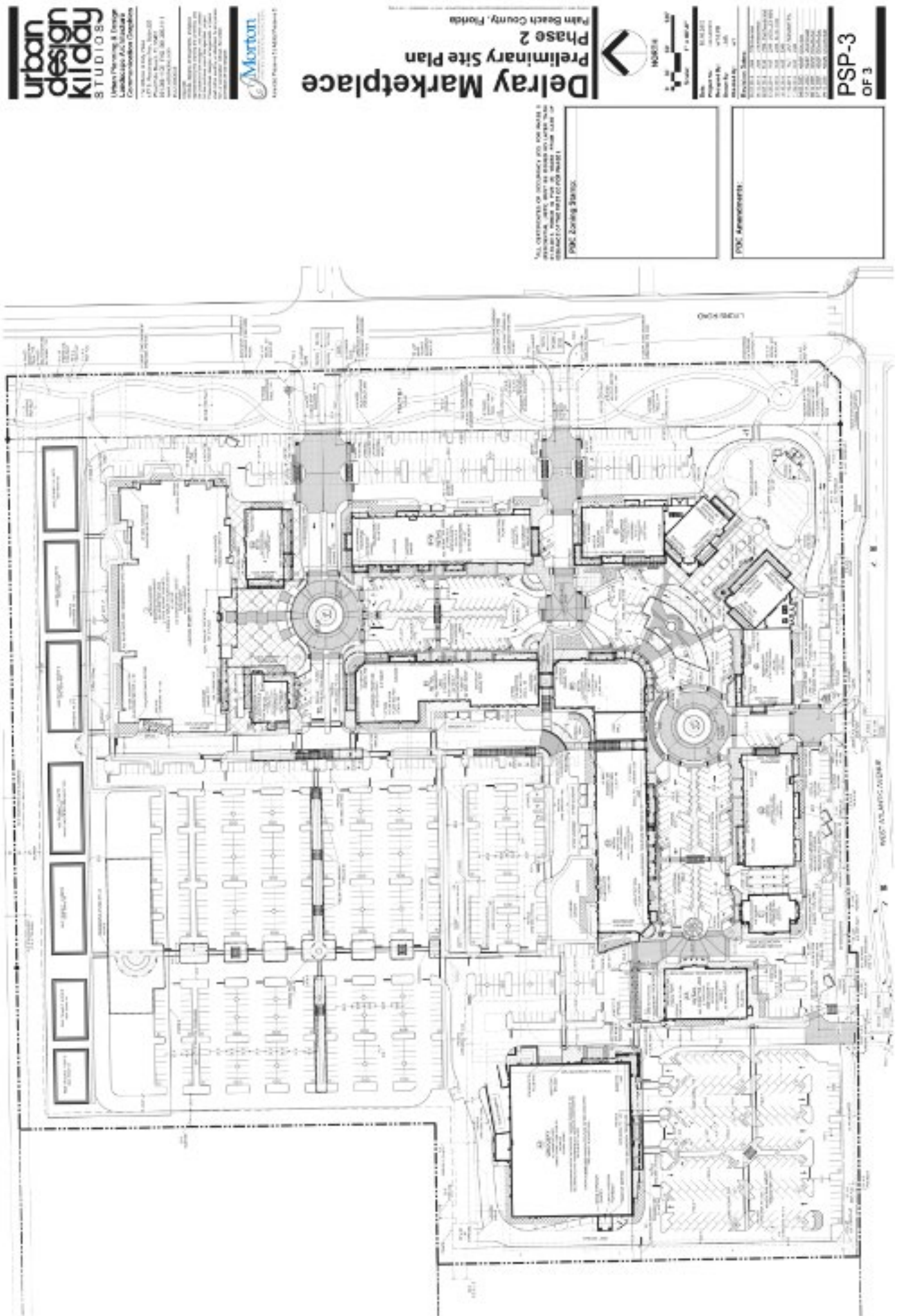


Figure 10 – Preliminary Regulating Plan (PRP-1 of 13), dated September 13, 2021

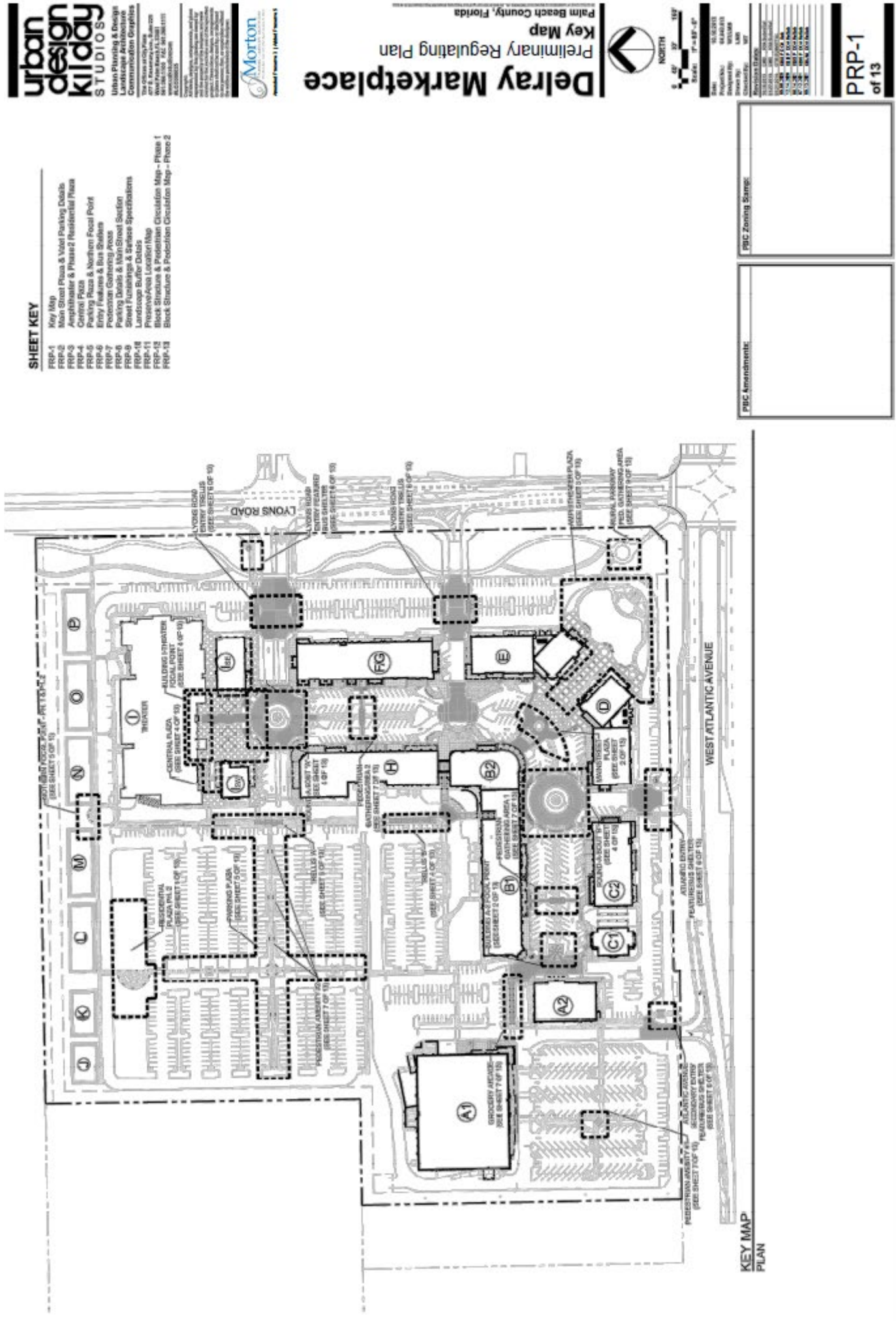


Figure 11 – Preliminary Regulating Plan (PRP-2 of 13), dated September 13, 2021

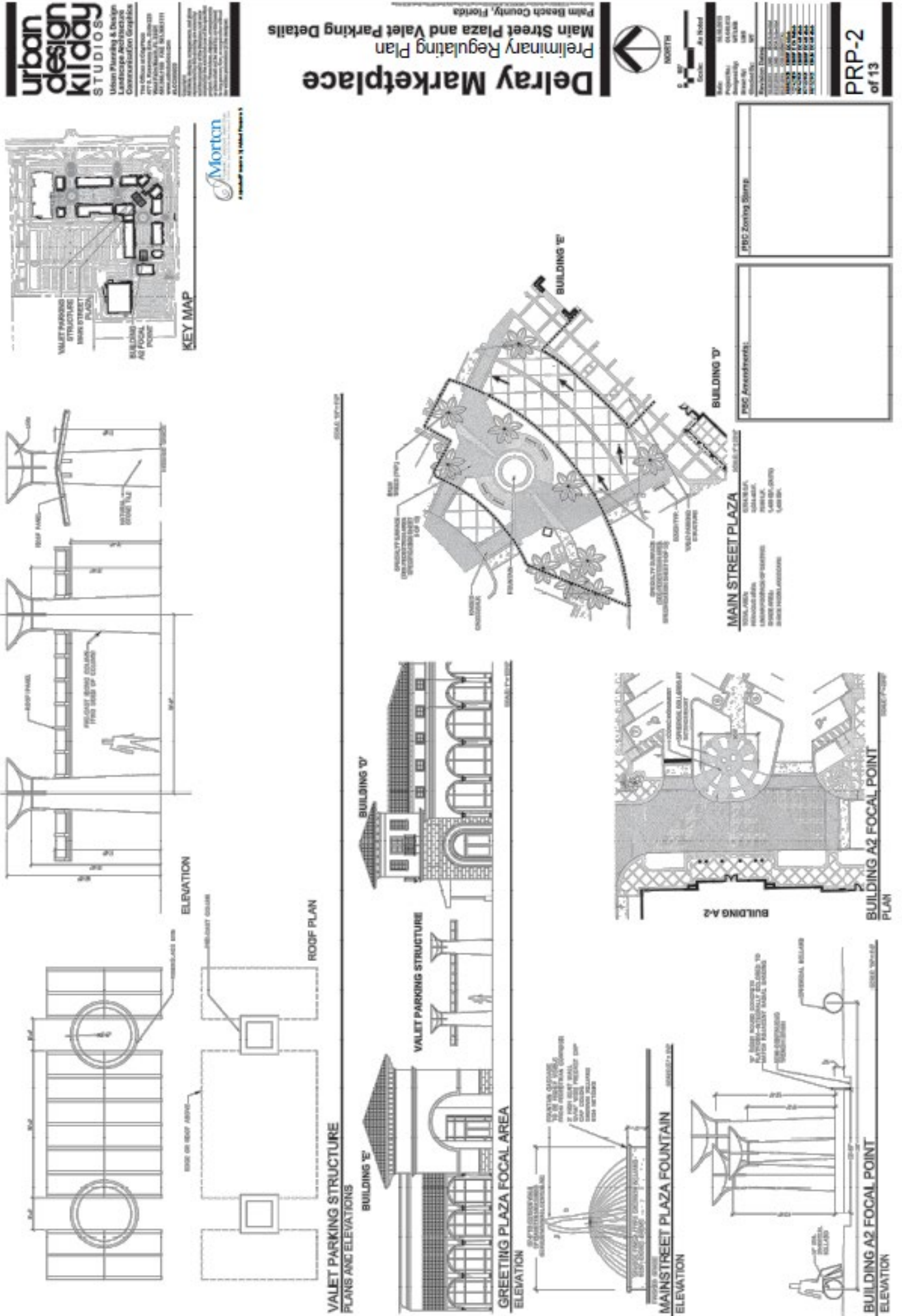




Figure 13 – Preliminary Regulating Plan (PRP-4 of 13), dated September 13, 2021

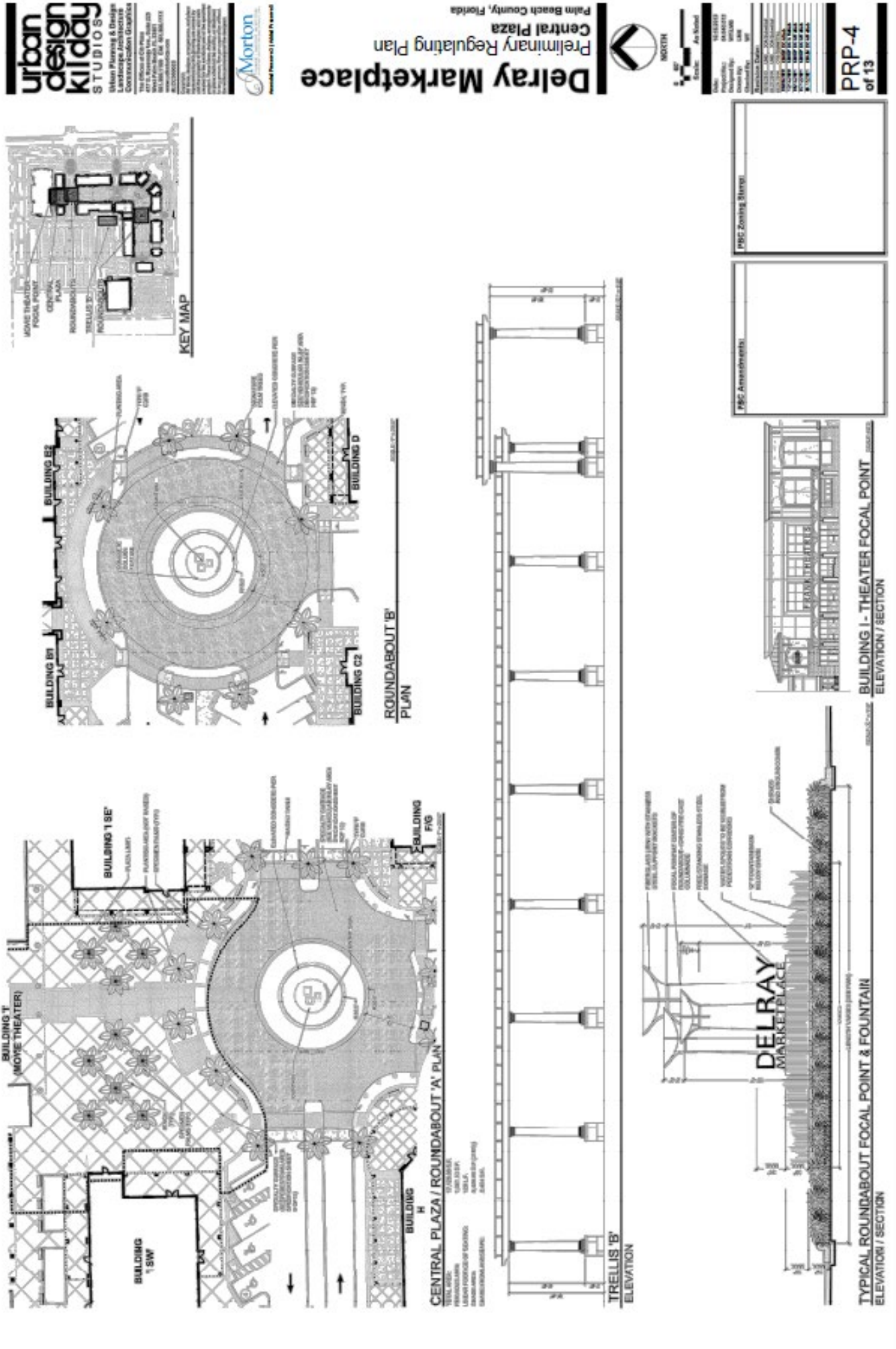


Figure 14 – Preliminary Regulating Plan (PRP-5 of 13), dated October 12, 2021

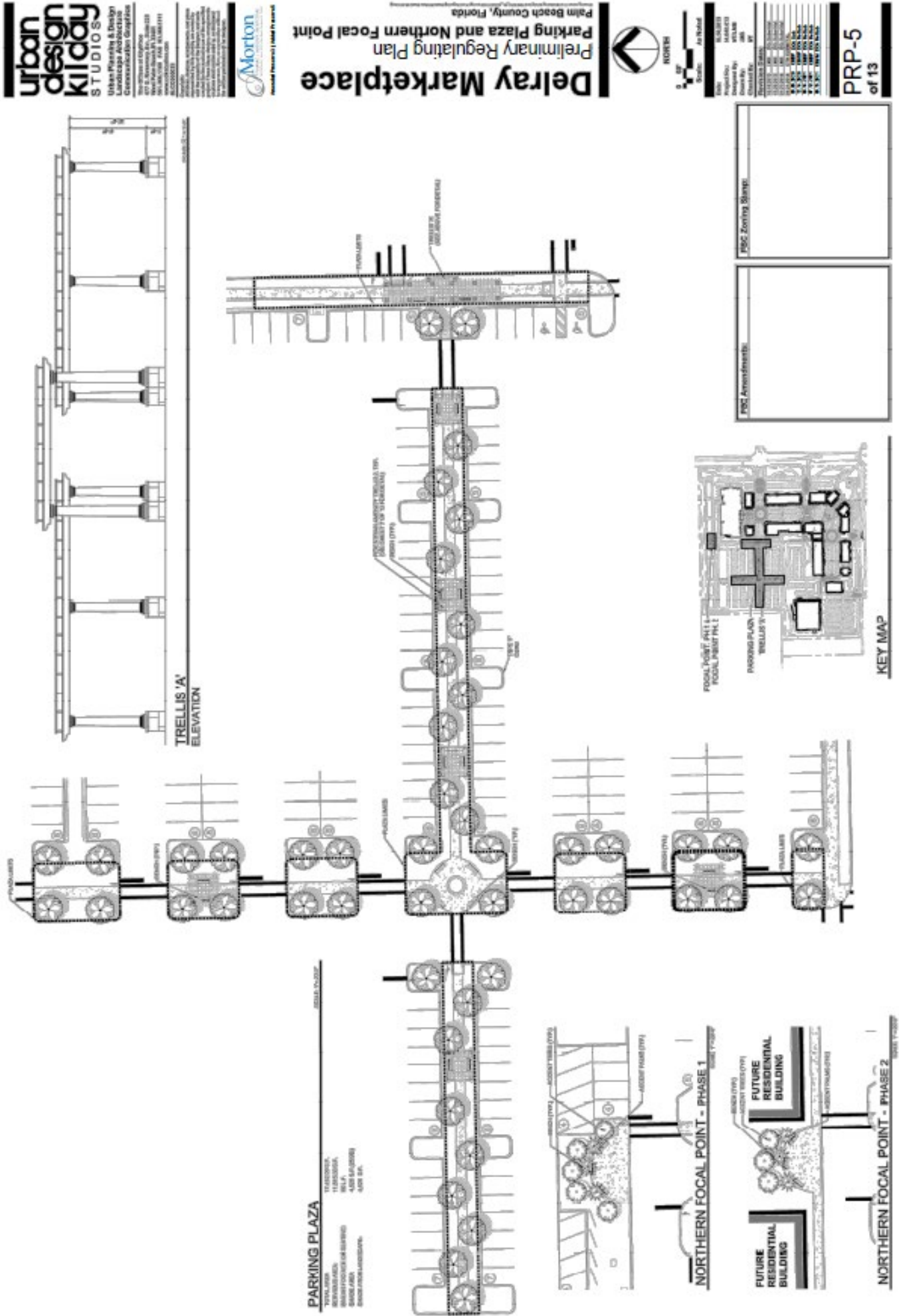
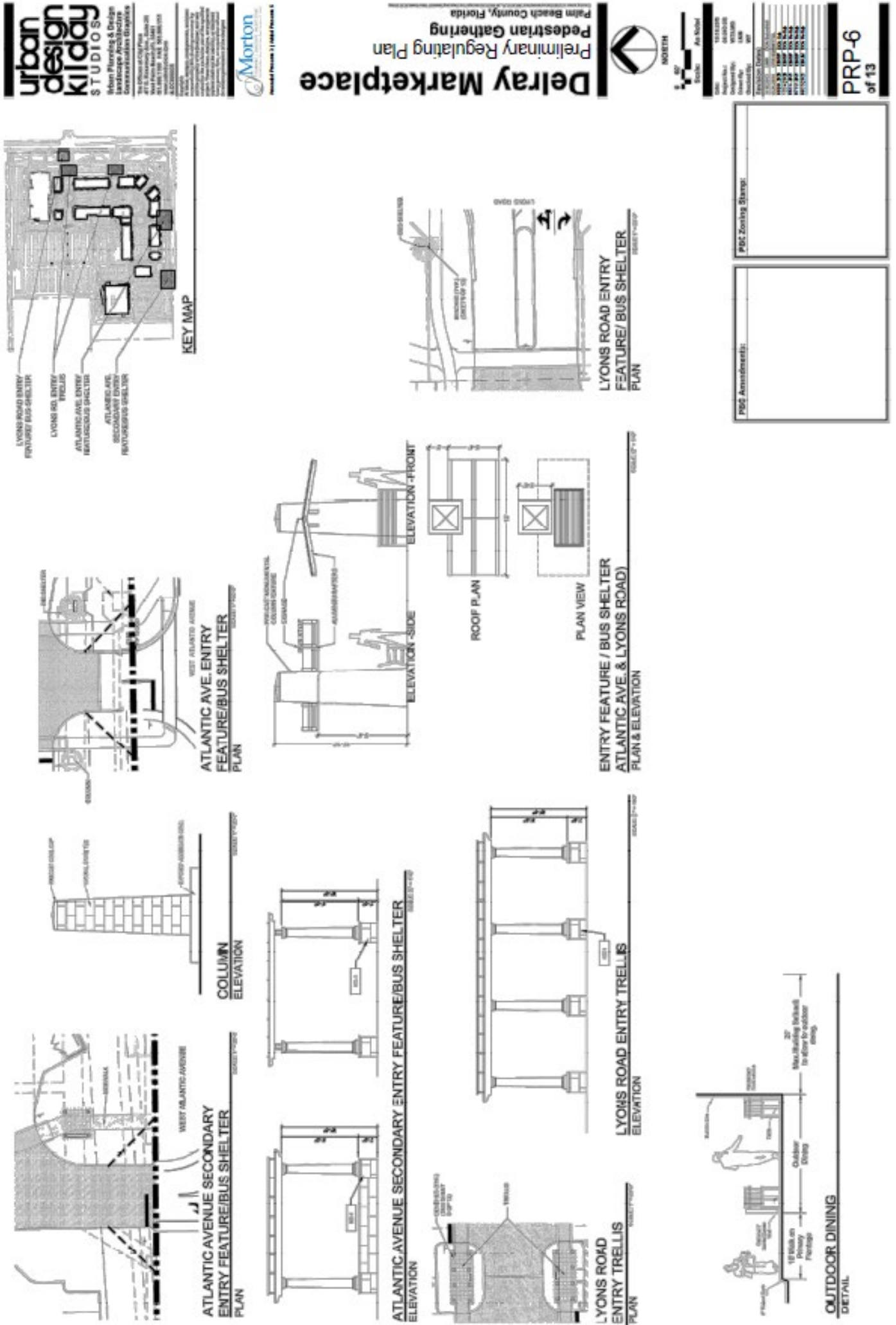


Figure 15 – Preliminary Regulating Plan (PRP-6 of 13), dated September 13, 2021



**urban design kilday STUDIOS**  
 Urban Planning & Design  
 Landscape Architecture  
 Construction Graphics  
 1400 NE 10th Ave, Suite 200  
 Ft. Lauderdale, FL 33304  
 954.575.1100 FAX 954.575.1101  
 www.urbandesignkilday.com

**Morton**  
 Licensed Professional Engineer  
 1400 NE 10th Ave, Suite 200  
 Ft. Lauderdale, FL 33304  
 954.575.1100 FAX 954.575.1101  
 www.morton-engineering.com

**Delray Marketplace**  
 Preliminary Regulating Plan  
 Pedestrian Gathering  
 Palm Beach County, Florida



PROJECT NO.	15122020
DATE	09/13/2021
DESIGNER	URBAN DESIGN KILDAY STUDIOS
DRAWN BY	MM
CHECKED BY	MM
DATE	09/13/2021
PROJECT NO.	15122020
DATE	09/13/2021
DESIGNER	URBAN DESIGN KILDAY STUDIOS
DRAWN BY	MM
CHECKED BY	MM
DATE	09/13/2021

**PRP-6**  
 of 13

PSC Ammendments:

PSC Zoning Stamp:



Figure 16 – Preliminary Regulating Plan (PRP-7 of 13), dated September 13, 2021

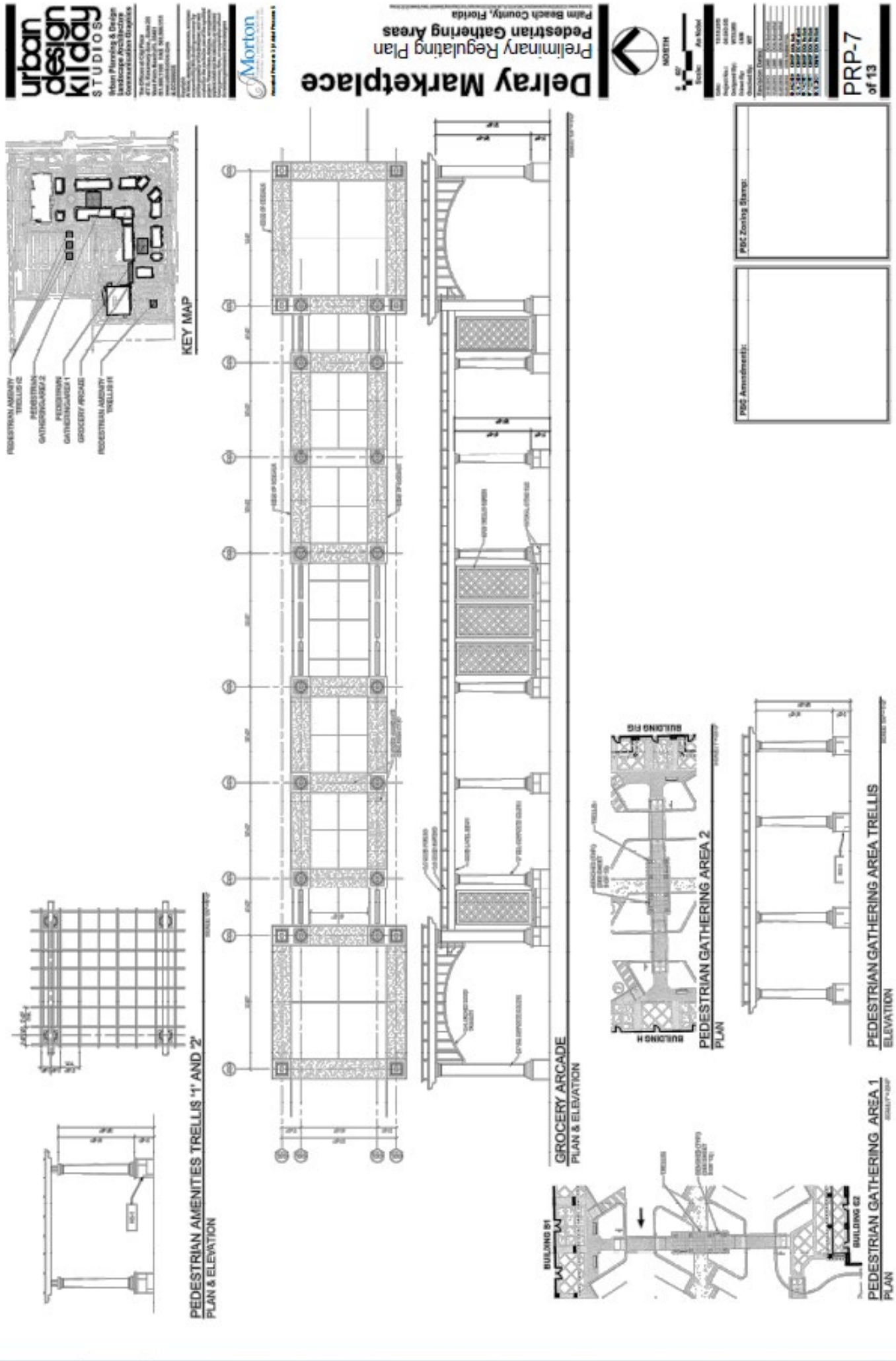




Figure 18 – Preliminary Regulating Plan (PRP-9 of 13), dated September 13, 2021

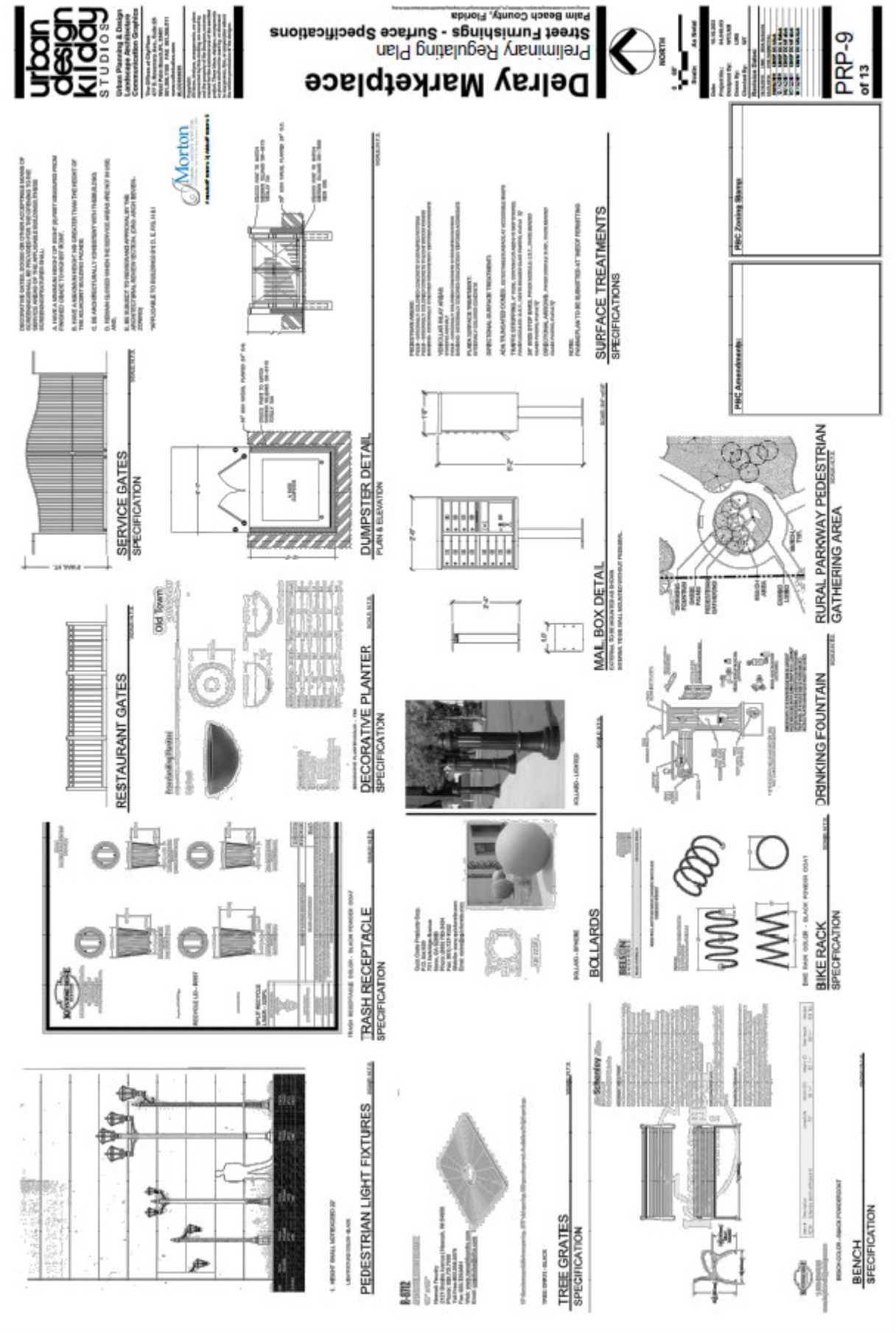


Figure 19 – Preliminary Regulating Plan (PRP-10 of 13), dated September 13, 2021

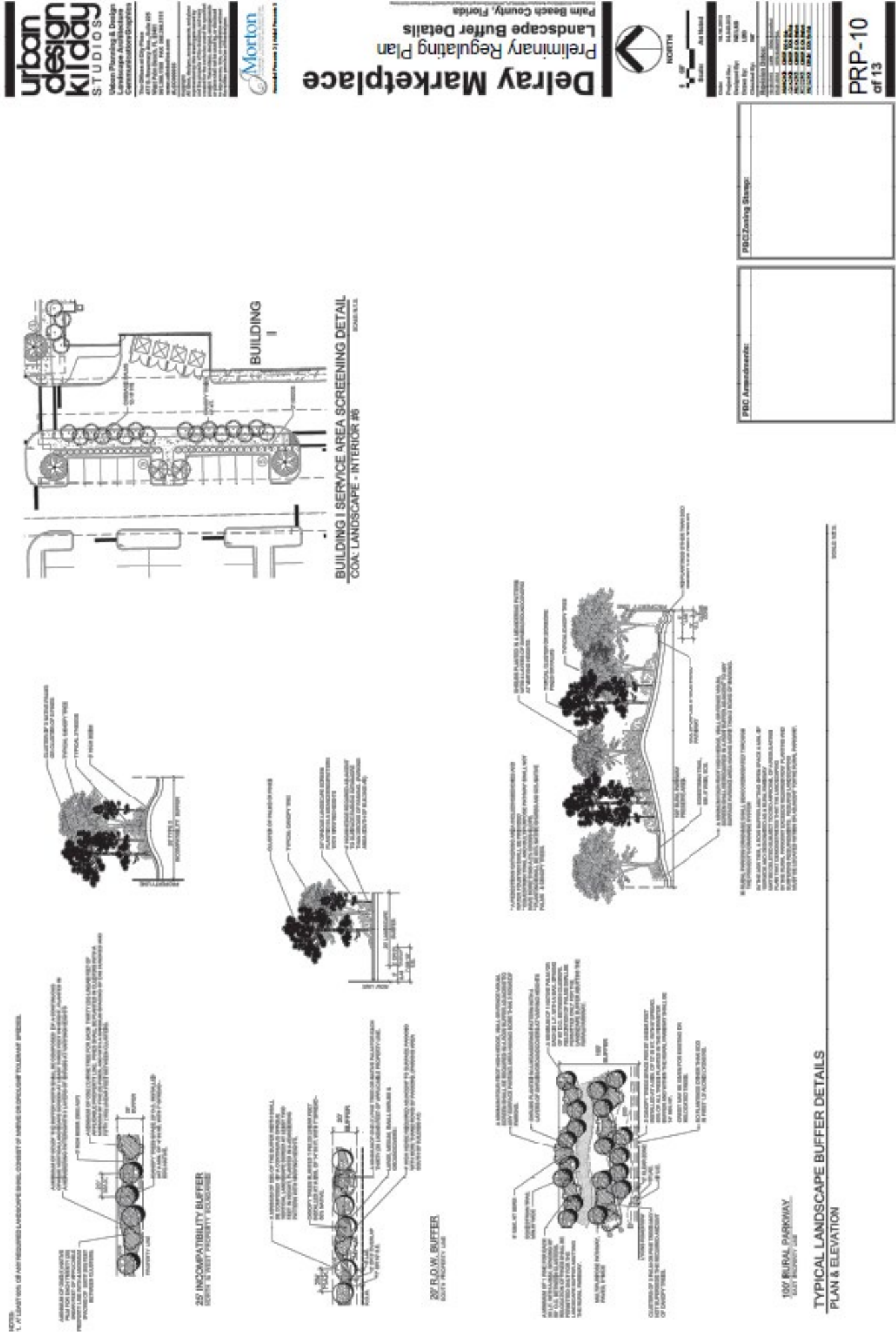


Figure 20 – Preliminary Regulating Plan (PRP-11 of 13), dated September 13, 2021



Figure 21 – Preliminary Regulating Plan (PRP-12 of 13), dated September 13, 2021

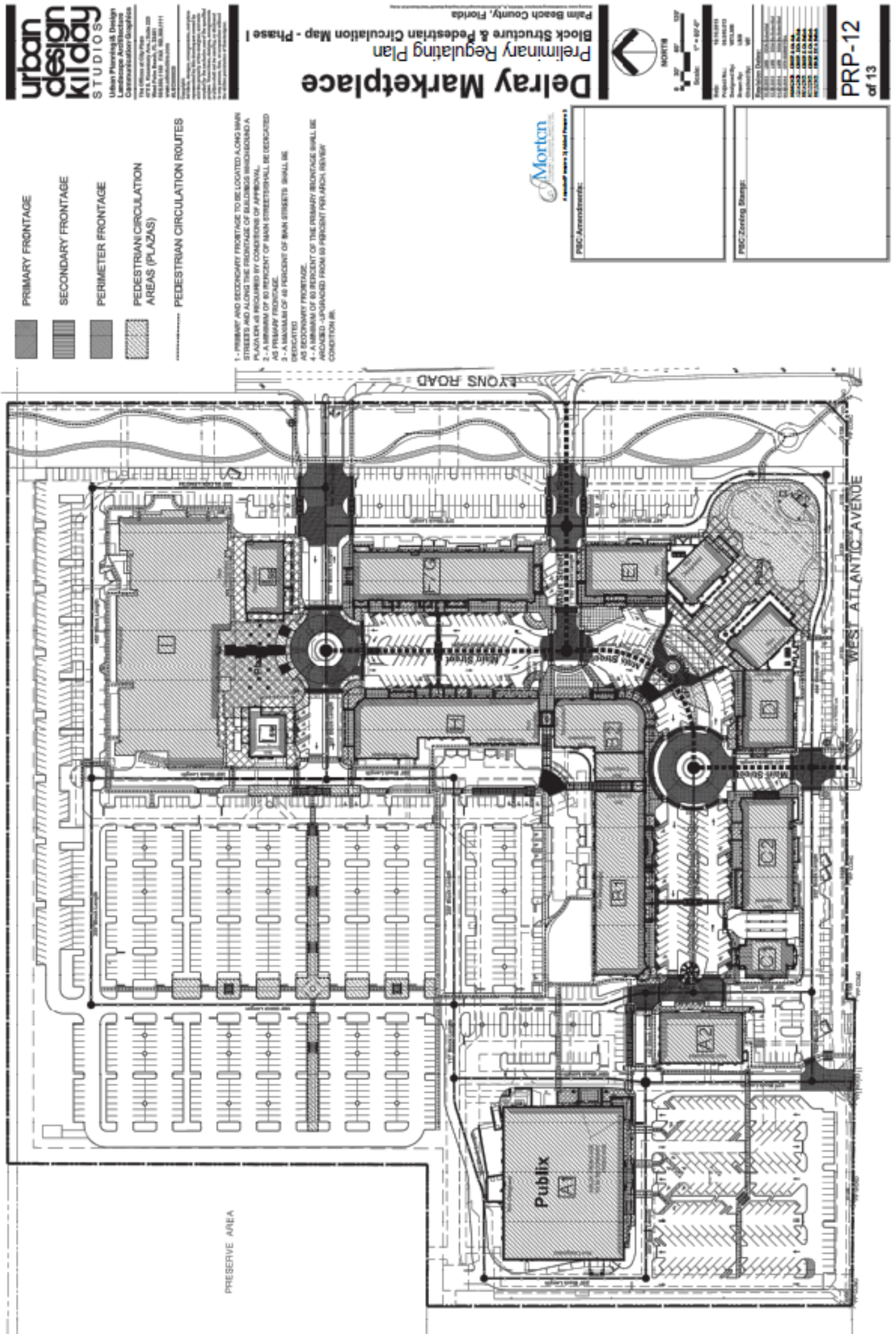


Figure 22 – Preliminary Regulating Plan (PRP-13 of 13), dated September 13, 2021

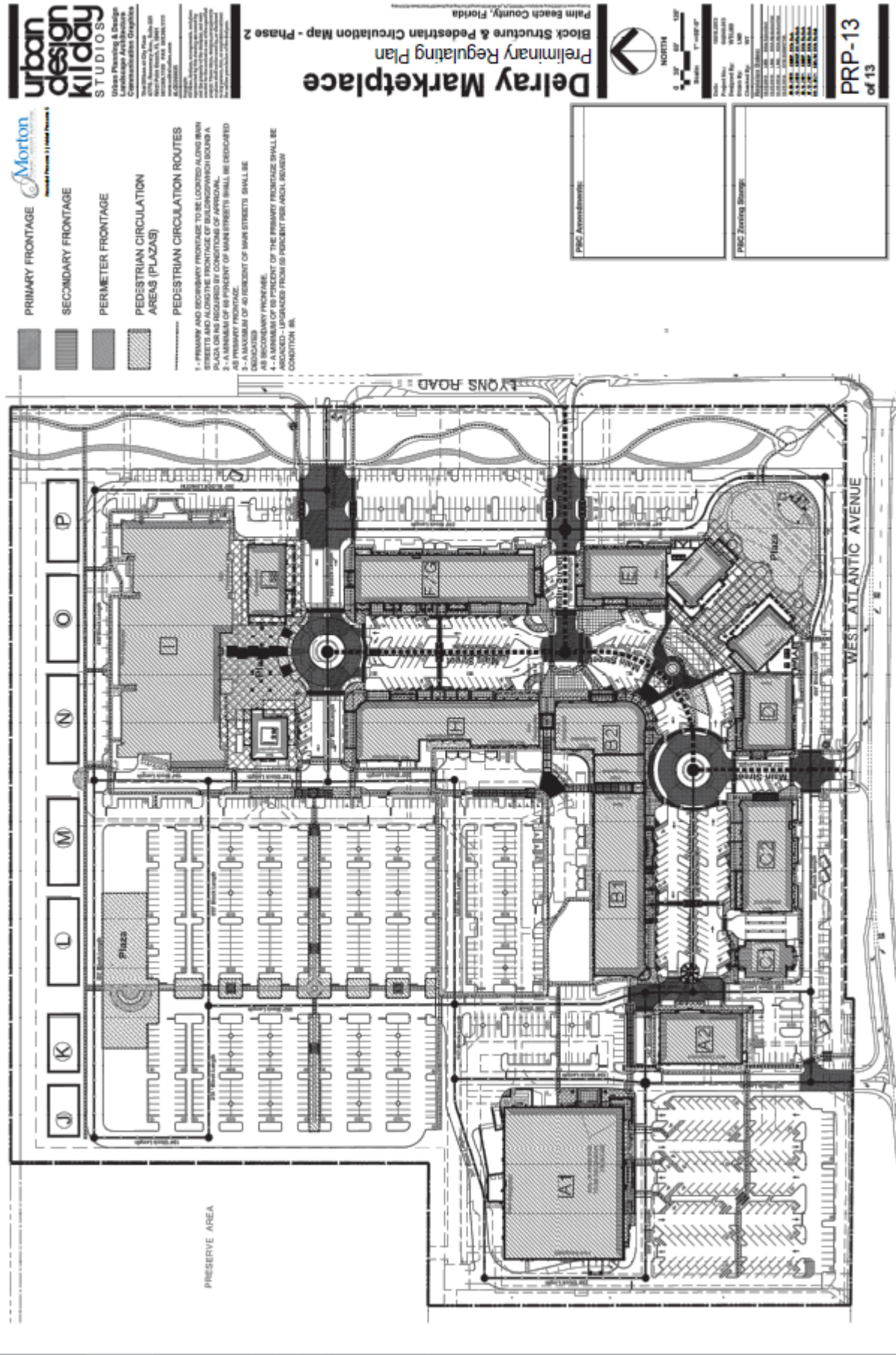


Exhibit D – Disclosure of Ownership

PALM BEACH COUNTY - ZONING DIVISION

FORM # 9

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

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

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

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared VIRGINIA PALMOR, AS TRUSTEE UNDER THE BROWN/PALMOR REVOCABLE TRUST AGREEMENT, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows: *VIA/D 06/05/17*

1. Affiant is the  individual or  VIRGINIA PALMOR, AS TRUSTEE UNDER THE BROWN/PALMOR REVOCABLE TRUST AGREEMENT VIA/D 6/5/17 [position - e.g., president, partner, trustee] of \_\_\_\_\_ [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: PO Box 502  
BOYNTON BEACH, FL 33425

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.

Virginia Palmhof  
Virginia Palmhof, Affiant

(Print Affiant Name)

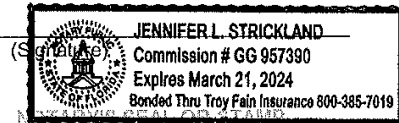
\* VIRGINIA PALMHOF, AS TRUSTEE UNDER THE  
BROWN/PALMHOF REVOCABLE TRUST AGREEMENT  
O/A/D 06/05/17

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 11<sup>th</sup> day of OCTOBER, 2021 by VIRGINIA PALMHOF (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).

Jennifer L. Strickland  
(Name - type, stamp or print clearly)



My Commission Expires on: 3/21/2024

EXHIBIT "A"

PROPERTY

A PORTION OF TRACT G, "LIPTON PLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 104 AT PAGES 52 AND 53 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT G; THENCE SOUTH 88°06'43" WEST, ALONG THE SOUTH LINE OF SAID TRACT G, A DISTANCE OF 1058.02 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°06'43" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 135.45 FEET; THENCE NORTH 01°56'19" WEST, ALONG THE EAST LINE OF A CONSERVATION EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 18012 AT PAGE 348 OF SAID PUBLIC RECORDS, A DISTANCE OF 660.01 FEET; THENCE NORTH 88°06'43" EAST, ALONG THE NORTH LINE OF SAID TRACT G, A DISTANCE OF 135.45 FEET; THENCE SOUTH 01°56'19" EAST, A DISTANCE OF 660.01 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 2.052 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

Name	Address
VIRGINIA PALHOFF, AS TRUSTEE UNDER THE BROWN/PALHOFF REVOCABLE TRUST AGREEMENT V/A/D 6/5/17	PO BOX 502 BOYNTON BEACH, FL 33425
100% INTEREST	

**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

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

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

STATE OF FLORIDA  
COUNTY OF PALM BEACH

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

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

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

FURTHER AFFIANT SAYETH NAUGHT.

[Signature]  
Garrett Bender, Affiant  
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [] physical presence or [ ] online notarization, this 11 day of August, 20 20 by Sheree Katzman (name of person acknowledging). He/she is personally known to me or has produced N/A (type of identification) as identification and did/did not take an oath (circle correct response).

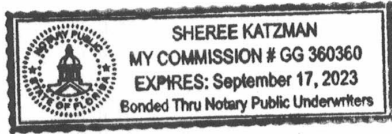
Garrett Bender

[Signature]  
(Name - type, stamp or print clearly)

Sheree Katzman  
(Signature)

My Commission Expires on: 9-17-2023

NOTARY'S SEAL OR STAMP



**EXHIBIT "A"**

**PROPERTY**

Lot Tract C, Delray Market Place Preserve 3, as recorded in Plat Book 111, Page(s) 95-97, according to the plat thereof on file in the Clerk of the Circuit Court in and for Palm Beach County, Florida.

**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY**

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

Name	Address
Garrett Bender	506 Andrews Avenue, Delray Beach, FL 33483
Teri Gevinson	3299 Harrington Drive, Boca Raton, FL 33496

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 James Alderman, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

- 1. Affiant is the  individual or  President *[position - e.g., president, partner, trustee]* of West Boynton Farms, Inc. *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]* that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
- 2. Affiant's address is: PO Box 740631  
Boynton Beach, FL 33474
- 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.

*J. M. A.*  
James Alderman, 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 24<sup>th</sup> day of August, 2020 by James Alderman (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).

Lauren McClellan  
(Name - type, stamp or print clearly)

*Lauren L. McClellan*  
(Signature)

My Commission Expires on: 2/28/21

NOTARY'S SEAL OR STAMP


 LAUREN L MCCLELLAN  
MY COMMISSION # GG 043160  
EXPIRES: February 28, 2021  
Bonded Thru Budget Notary Services

EXHIBIT "A"

PROPERTY

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SAID LANDS SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 2.052 ACRES, MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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Name	Address
50% Interest:	
James Aldreman	PO Box 740631 Boynton Beach, FL 33474
50% Interest:	
Virginia Palhof, Co-Trustee of the Brown/Palhof	PO Box 502 Boynton BEach, FL 33435
Revocable Trust Agreement u/a/d June5, 2017	

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