

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

Application No.: Z/CA-2020-01445
Application Name: Atlantic Avenue Medical
Control No./Name: 2020-00178 (Atlantic Avenue Medical)
Applicant: TG Land LLC
Owners: 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 Traditional Marketplace Development (TMD) Zoning District to the Commercial Low Office (CLO) Zoning District.
TITLE: a Class A Conditional Use **REQUEST:** to allow a Medical Office.

APPLICATION SUMMARY:

Proposed is an Official Zoning Map Amendment and a Class A Conditional Use (CA) for the Atlantic Avenue Medical development. The site is approved as a preserve parcel for the Delray Marketplace Traditional Marketplace Development (TMD) (Control No 2004-00616).

This application is contingent upon a concurrent application for a Development Order Amendment (DOA) and rezoning request was submitted by the Applicant (Application No. TDD/DOA-2020-01444), to delete the aforementioned land area from the Delray Marketplace development, and rezone the new preserve site to Agricultural Reserve - Traditional Marketplace Development (AGR-TMD).

Upon deletion of this parcel from the TMD development, the Applicant is proposing to rezone the subject site from AGR-TMD to CLO to allow for the development of a Professional Office (Permitted by Right) and Medical Office use which is subject to Class A Conditional Use approval. The Preliminary Site Plan (PSP) indicates a two-story, 17,860 square foot (sq. ft.) building, and 73 parking spaces. The site will have one access point from Atlantic Avenue.

This application is also the contingent on a concurrent Large-Scale Future Land Use Amendment (LGA 2021-008) processed by the Planning Division. The request is to amend the Future Land Use Atlas from Agricultural Reserve (AGR) to Commercial Low Office with an Underlying Agricultural Reserve (CL-O/AGR), which is consistent with the proposed Zoning District.

SITE DATA:

Location:	North side Atlantic Avenue, approximately 0.28 miles west of Lyons Road.
Property Control Number(s):	00-42-46-18-09-003-0000
Existing Future Land Use Designation:	Agricultural Reserve (AGR)
Proposed Future Land Use Designation:	Commercial Low, with an underlying AGR (CL/AGR)
Existing Zoning District:	Traditional Marketplace Development (TMD)
Proposed Zoning District:	Commercial Low Office (CLO)
Total Acreage:	2.05 acres
Affected Acreage:	2.05 acres
Tier:	AG Reserve
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	N/A
Future Annexation Area	N/A

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

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

PROJECT HISTORY:

The subject site is designated as a preserve parcel through the Delray Marketplace TMD and has no other prior approvals. The Applicant submitted a Subdivision Variance to allow access to a major street for the development of this parcel through application SV-2021-00482, and was approved through Resolution R-2021-0020 on August 5, 2021.

SURROUNDING LAND USES:

NORTH:

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Traditional Marketplace Development (TMD)
Supporting: Agriculture (Delray Marketplace, Control No. 2004-0616)

SOUTH (across Atlantic Avenue):

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Agriculture (Bluebird Farms, Control No. 1986-00129)

FLU Designation: Agricultural Reserve (AGR)
Zoning District: Agricultural Reserve (AGR)
Supporting: Agriculture (Reserve at Atlantic, Control No. 2021-00058)

EAST:

FLU Designation: Commercial Low (CL)
Zoning District: Traditional Marketplace Development (TMD)
Supporting: Commercial (Delray Marketplace, Control No. 2004-00616)

WEST:

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

FINDINGS:

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

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

PLANNING DIVISION COMMENTS:

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

○ *Concurrent and Prior Land Use Amendments:* The site is the subject of a Future Land Use Atlas (FLUA) amendment known as Atlantic Avenue Medical LGA-2021-008. The subject site was previously an AGR Preserve for the Delray Marketplace TMD and is proposing to be removed from the TMD via (PDD/DOA-2020-1444), to be heard concurrently with this application. The subject site, once removed from the TMD, seeks to amend the Future Land Use from Agricultural Reserve (AGR) to Commercial Low Office with an underlying Agricultural Reserve (CL-O/AGR). The amendment was transmitted, with a vote of 7-0, by the BCC January 25, 2021 with the following conditions:

Development of the site under the Commercial Low-Office designation is subject to the following:

- 1) Development is limited up to a maximum of 17,860 square feet (0.20 FAR).
- 2) Vehicular and pedestrian cross access shall be provided to the east and west of the site.

The current request proposes a total of 17,860 sq. ft of medical professional office uses and shows both vehicular and pedestrian connections to the east and west property boundaries, which complies with both FLUA amendment conditions. The conditions will be carried forward with the Zoning application. For a more detailed Comprehensive Plan policy analysis, please see the full Land Use amendment report.

- *Intensity*: The site is limited by a land use condition resulting in a maximum of 17,860 sq. Ft. permitted (LGA 2021-008 Condition 1). The request for a total of 17,860 sq. ft equates to a FAR of approximately 0.20 (17,860 sq. ft. / 89,385 sq. ft. or 2.052 acres = 0.199), and is consistent with both the FLUA amendment conditions as well as the allowable FAR of 0.20 for the CL-O Future Land Use designation within the AGR Tier.

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

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

- *Property Development Regulations (PDR)*: The proposed CLO is consistent with the Future Land Use Amendment request to CL-O/AGR pursuant to Table 3.A.3.B – Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. The site is subject to the requirements of the CLO Zoning District per Table 3.D.1.A, Property Development Regulations. The 2.05-acre parcel exceeds the minimum 1-acre requirement. Further, the lot exceeds the 100 ft. width and frontage by providing 133.3 ft. and also exceeds the 200 ft. lot depth by providing 668.52 ft.

- *Conditional Overlay Zone (COZ)*: Zoning Staff is recommending a COZ as part of the rezoning request. The COZ is to ensure that a Cross Access Agreement will be obtained to the adjacent property to the east.

Per Art.3.B.3.C, the BCC shall find one or more of the following reasons for the COZ district:

1. Potential impact to surrounding land uses requires mitigation;
2. Compatibility will be furthered between the requested zoning district and adjacent zones if uses and property development regulations (PDRs) are modified; and/or,
3. Intensity limits reflect available capacity of public facilities.

It has been determined by Staff, that there are potential impacts of the proposed rezoning as it relates to access and traffic flow of the site with the surrounding land uses and requires mitigation, thus necessitating the COZ. As such, Staff is recommending approval of the rezoning request subject to the Conditions of Approval in Exhibit C-1.

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

The proposed rezoning is compatible with surrounding land uses. To the north of the subject site is a preserve parcel for the Delray Marketplace TMD (located at the northwest corner of Lyons Road and Atlantic Avenue. This preserve parcel is used for agricultural and residential purposes. The use difference requires a Type 2 Incompatibility Buffer, which is provided for on the PSP. To the south, across Atlantic Avenue (126 ft. R-O-W) is another property that is zoned and designated as Agricultural, and is utilized for row crops. As the subject site is located on Atlantic Avenue, a 20 ft. R-O-W buffer is provided along the south property line.

To the east is the Delray Marketplace development. As previously noted, the subject site was approved as a preserve area for this TMD development. Through concurrent application TDD/DOA-

2020-01444, the Applicant is proposing to delete this preserve area and add a new their preserve parcel. By completing this preserve area swap, it allows for the subject site to be rezoning and developed with the proposed use. The proposed Medical office is compatible with the development to the east, and is providing an 8 ft. Compatibility Buffer along the east property line.

To the west of the subject site is an approved by unconstructed kennel and veterinarian clinic (Control No. 2013-00315). The proposed Medical Office is deemed to be a compatible use with the approved development.

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

ENVIRONMENTAL RESOURCE MANAGEMENT COMMENTS:

VEGETATION PROTECTION: The site is cleared.

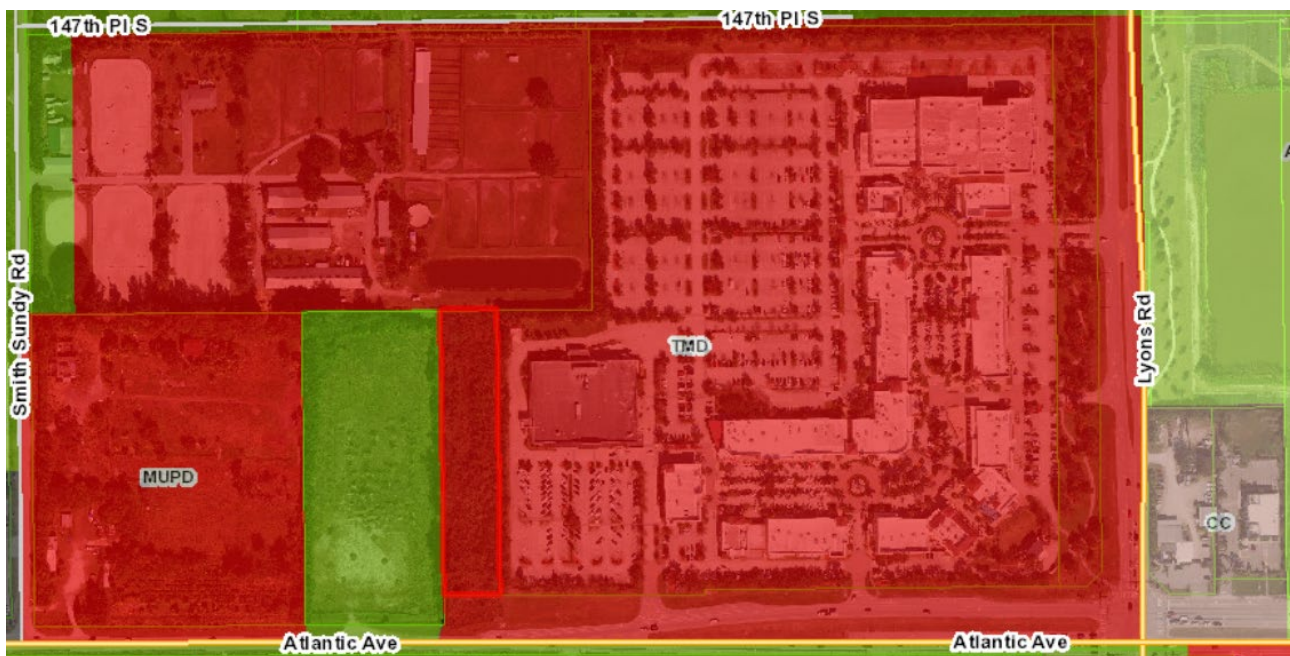
WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

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.

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

The proposed rezoning to CLO is consistent with the development pattern of the area. There are existing industrial, commercial and institutional uses along Atlantic Avenue to the east and west of the proposed development (see image below of Zoning along Atlantic Ave). This includes the approved (but not constructed) commercial boarding kennel and veterinarian clinic directly to the west, the recently approved Hospital and Medical Office at the north-east corner of Smith Sundry Road and Atlantic Ave (Legent Hospital), as well as a US Postal facility, Our Lady Queen of Peace, nurseries, and agricultural support facilities, as well as several commercial and industrial business along this corridor. At the northwest corner of Lyons Road and Atlantic Ave. is the Delray Marketplace Development, which includes mix of residential, commercial and institutional uses.



Based on the aforementioned, the proposed development will result in an orderly and logical pattern that is consistent with the existing established development patterns of the surrounding area.

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

ENGINEERING COMMENTS:

The proposed medical office is expected to generate 560 net daily trips, 45 net AM peak hour trips, and 56 net PM peak hour trips. The build out of the project is expected to happen by 2025.

The project will meet Traffic Performance Standards with the programmed widening of Atlantic Ave from SR-7 to Lyons Rd and associated intersection improvements at SR-7 and Lyons Rd.

The Property Owner shall plat the property prior to the issuance of the building permit.

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

PALM BEACH COUNTY HEALTH DEPARTMENT:

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

FIRE PROTECTION:

Staff has reviewed this application and have no comment.

SCHOOL IMPACTS:

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

PARKS AND RECREATION:

This is a non-residential project, therefore the Parks and Recreation ULDC provisions do not apply.

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

As previously stated, with the preserve area swap that is being completed through Application TDD/DOA-2020-01444 (Delray Marketplace Preserve), this land will be available for the development of the site. The overall Preserve Area will maintain the consistent acreage with the proposed modifications. The Atlantic Avenue corridor has seen a significant amount of change over the last two years, with the lands at the north and south corner of State Road 7 and Atlantic Avenue being rezoned to Industrial, and a number of properties (Broward Rentals, Legent Hospital) being rezoned to MUPD. The location of this preserve, while meeting Code requirements, did not fit with the development along this corridor, and the rezoning of the site to CLO as well as the Class A to allow the Medical Office use is a more suitable use in this area. The Applicant has sufficiently demonstrated the need for change, and as such meets this Code standard.

The Applicant's justification statement has indicated increased need of medical services to the growing residential communities in the surrounding area which warrants the requests. The proposed Professional Office use also allows for further employment opportunity. The overall Preserve Area will maintain the consistent acreage with the proposed modifications. The aforementioned proposed modifications demonstrate changes in site conditions and circumstances that necessitate that proposed rezoning and Class A Conditional use requests.

FINDINGS:

Class A Conditional Use: When considering a DO application for a Rezoning to a PDD or a TDD, or a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHF), the BCC or ZC shall utilize the Standards a through h indicated below. An application which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

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

PLANNING DIVISION COMMENTS:

- *Consistency with the Comprehensive Plan:* Should the BCC approve the amendment request, then the proposed use or amendment is consistent with the Goals, Objectives and Policies of the Comprehensive Plan, including previous Land Use Amendments, densities and intensities of use.
- *Concurrent and Prior Land Use Amendments:* The site is the subject of a Future Land Use Atlas (FLUA) amendment known as Atlantic Avenue Medical LGA-2021-008. The subject site was previously an AGR Preserve for the Delray Marketplace TMD and is proposing to be removed from the TMD via (PDD/DOA-2020-1444), to be heard concurrently with this application. The subject site, once removed from the TMD, seeks to amend the Future Land Use from Agricultural Reserve (AGR) to Commercial Low Office with an underlying Agricultural Reserve (CL-O/AGR). The amendment was transmitted, with a vote of 7-0, by the BCC January 25, 2021 with the following conditions:

Development of the site under the Commercial Low-Office designation is subject to the following:

- 1) Development is limited up to a maximum of 17,860 square feet (0.20 FAR).
- 2) Vehicular and pedestrian cross access shall be provided to the east and west of the site.

The current request proposes a total of 17,860 sq. ft of medical professional office uses and shows both vehicular and pedestrian connections to the east and west property boundaries, which complies with both FLUA amendment conditions. The conditions will be carried forward with the Zoning application. For a more detailed Comprehensive Plan policy analysis, please see the full Land Use amendment report.

- *Intensity:* The site is limited by a land use condition resulting in a maximum of 17,860 sq. Ft. permitted (LGA 2021-008 Condition 1). The request for a total of 17,860 sq. ft equates to a FAR of approximately 0.20 (17,860 sq. ft. / 89,385 sq. ft. or 2.052 acres = 0.199), and is consistent with both the FLUA amendment conditions as well as the allowable FAR of 0.20 for the CL-O Future Land Use designation within the AGR Tier.

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

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

- *Property Development Regulations (PDR):* Per Table 3.D.1.A, Property Development Regulations, the subject site is required to outline on the PSP how the proposed development will meet minimum PDRs. The proposed Class A Conditional use for the Medical Office provides for a 2-story structure, totaling 17,860 sq. ft. (8,000 sq. ft. for Medical Office, 9,860 sq. ft. to be used for Professional Office, which is Permitted by Right). The proposed development meets and exceeds all minimum PDRs, as outlined on the PDR chart on the PSP, as shown on Figure 4.

- *Architectural Review:* The Applicant has requested to obtain architectural review approval at time of application for Building Permits for the proposed structure. No Architectural elevations have been provided at this time.

- *Parking:* The PSP indicates a total of 73 parking spaces. The Applicant has indicated that the building will be used partially for a Professional Office (Permitted by Right as it is below 15,000 sq. ft., Art. 4 Use Regulations) and partially for a Medical Office (subject to CA). The Professional Office requires 1 parking space per 250 sq. ft., while the Medical Office requires 1 space per 200 sq. ft. of building area. In total, based on the square footage of the uses identified on the PSP (Figure 4), the Applicant requires 79 spaces. The Applicant has indicated that they will be requesting a Type 1 Waiver for reduced parking, which is permitted per Art. 6.C.1, Requirements to Reduce or Increase Parking. At the time of final approval by the Development Review Officer, the Applicant will be required to provide a Parking Demand Statement to verify the reduction in parking will not have a negative impact.

○ *Landscape/Buffering:* The proposed development is providing the required perimeter landscape buffers as required by Art. 7, Landscaping. Along Atlantic Ave. (126 ft. Ultimate R-O-W), the PSP indicates a 20 ft. R-O-W buffer that is required per Table 7.C.2.A – Width of R-O-W Buffer. Along the east and west property line, the Applicant is providing an 8 ft. Compatibility Buffer, as the uses and zoning adjacent to the subject site are compatible with the proposed development. In addition, a 15 ft. Type 2 Incompatibility Buffer is proposed along the north property line, as the use to the north, although it is designated preserve area, is used for residential purposes. In addition to the perimeter buffers, the Applicant is providing the necessary 10 ft. wide foundation plantings around the proposed structure on the north, south and east side. On the west side of the structure, the Applicant is providing 7 ft. in width of foundation planting. Art. 7.C.3.B.2, (Foundation Planting) Exemptions, allows for a reduction of the foundation planting when the building is located next to a perimeter buffer. As such, the proposed structure meets the foundation planting requirements as outlined in Art. 7.

○ *Signs:* A Preliminary Master Sign Plan (PMSP) was submitted and reviewed for compliance with Art. 8, Signage requirements. As can be seen in Figure 5, the Applicant is proposing one freestanding sign along Atlantic Ave. The signage meets the maximum height, sign area, and setback requirements. Further, the Applicant is providing wall signage on the north, east and south façade, which also meets the size and location requirements for wall signage per Art. 8.

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

The proposed Class A Conditional Use is compatible with surrounding land uses. To the north of the subject site is a preserve parcel for the Delray Marketplace TMD (located at the northwest corner of Lyons Road and Atlantic Ave.). This preserve parcel is used for agricultural and residential purposes. The use difference requires a Type 2 Incompatibility Buffer, which is provided for on the PSP. To the south, across Atlantic Ave. (126 ft. R-O-W) is another property that is zoned and designated as Agricultural, and is utilized for row crops. As the subject site is located on Atlantic Ave., a 20 ft. R-O-W buffer is provided along the south property line.

To the east is the Delray Marketplace development. As previously noted, the subject site was approved as a preserve area for this TMD development. Through concurrent application TDD/DOA-2020-01444, the Applicant is proposing to delete this preserve area and add a new their preserve parcel. By completing this preserve area swap, it allows for the subject site to be rezoning and developed with the proposed use. The proposed Medical office is compatible with the development to the east, and is providing an 8 ft. Compatibility Buffer along the east property line.

To the west of the subject site is an approved by unconstructed kennel and veterinarian clinic (Control No. 2013-00315). The proposed Medical Office is deemed to be a compatible use with the approved development.

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 proposed Medical Office will minimize adverse impacts on neighboring development. The Applicant is providing the required perimeter landscape buffers around the subject site as indicated in Standard B., Consistency with the Code. This includes a 20 ft. R-O-W buffer along Atlantic Ave., 8 ft. Compatibility buffers along the east and west property lines, and the 15 ft. Type 2 Incompatibility Buffer along the north property line. The building is being located adjacent to Atlantic Avenue, which distances the structure from the residential/agricultural use located to the north of the site. Further, the Applicant is providing the necessary foundation planting requirements as required per Art. 7. The proposed use on site will have minimal impacts on any of the surrounding uses.

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 site is cleared.

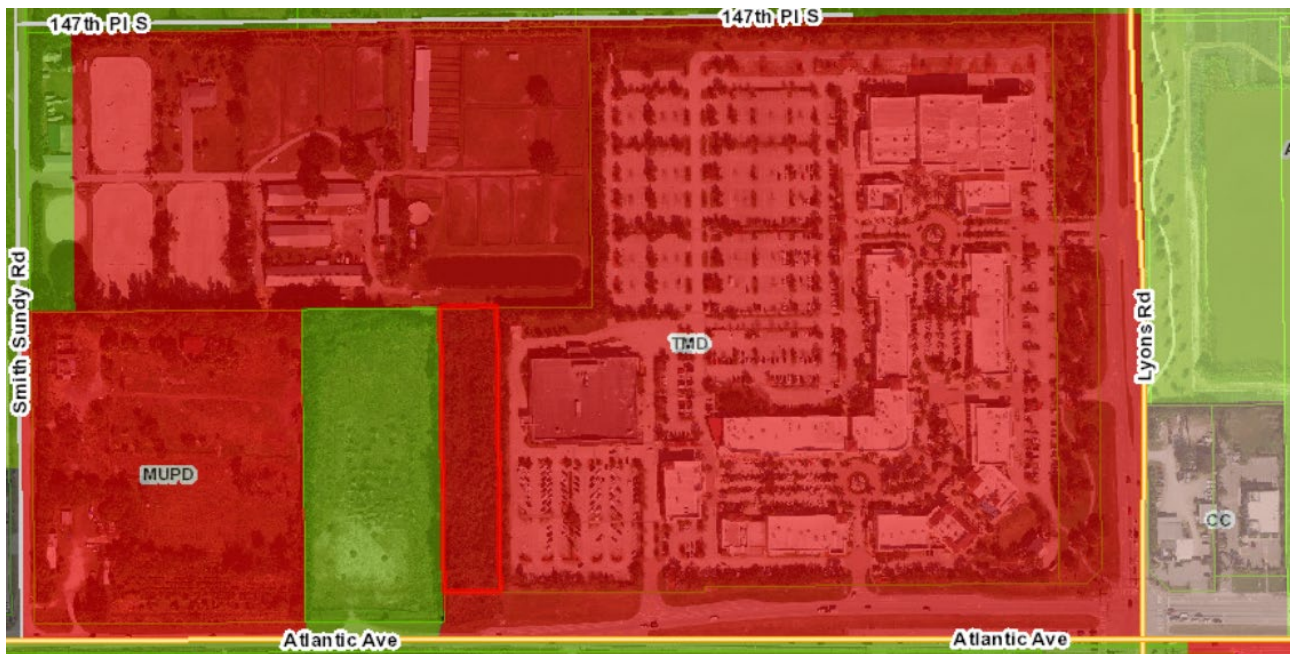
WELLFIELD PROTECTION ZONE: The property is not located within a Wellfield Protection Zone.

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 Class A Conditional Use for the proposed Medical Office is consistent with the development pattern of the area. There are existing industrial, commercial and institutional uses along Atlantic Avenue to the east and west of the proposed development (see image below of Zoning along Atlantic Ave). This includes the approved (but not constructed) commercial boarding kennel and veterinarian clinic directly to the west, the recently approved Hospital and Medical Office at the north-east corner of Smith Sundry Road and Atlantic Ave (Legent Hospital), as well as a US Postal facility, Our Lady Queen of Peace, nurseries, and agricultural support facilities, as well as several commercial and industrial business along this corridor. At the northwest corner of Lyons Road and Atlantic Ave. is the Delray Marketplace Development, which includes mix of residential, commercial and institutional uses.



Based on the aforementioned, the proposed development will result in an orderly and logical pattern that is consistent with the existing established development patterns of the surrounding area.

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

ENGINEERING COMMENTS:

The proposed medical office is expected to generate 560 net daily trips, 45 net AM peak hour trips, and 56 net PM peak hour trips. The build out of the project is expected to happen by 2025.

The project will meet Traffic Performance Standards with the programmed widening of Atlantic Ave from SR-7 to Lyons Rd and associated intersection improvements at SR-7 and Lyons Rd.

The Property Owner shall plat the property prior to the issuance of the building permit.

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

PALM BEACH COUNTY HEALTH DEPARTMENT:

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

FIRE PROTECTION:

Staff has reviewed this application and have no comment.

SCHOOL IMPACTS:

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

PARKS AND RECREATION:

This is a non-residential project, therefore the Parks and Recreation ULDC provisions do not apply.

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

As previously stated, with the preserve area swap that is being completed through Application TDD/DOA-2020-01444 (Delray Marketplace Preserve), this land will be available for the development of the site. The overall Preserve Area will maintain the consistent acreage with the proposed modifications. The Atlantic Avenue corridor has seen a significant amount of change over the last two years, with the lands at the north and south corner of State Road 7 and Atlantic Avenue being rezoned to Industrial, and a number of properties (Broward Rentals, Legent Hospital) being rezoned to MUPD. The location of this preserve, while meeting Code requirements, did not fit with the development along this corridor, and the rezoning of the site to CLO as well as the Class A to allow the Medical Office use is a more suitable use in this area. The Applicant has sufficiently demonstrated the need for change, and as such meets this Code standard.

The Applicant's justification statement has indicated increased need of medical services to the growing residential communities in the surrounding area which warrants the requests. The proposed Professional Office use also allows for further employment opportunity. The aforementioned proposed modifications demonstrate changes in site conditions and circumstances that necessitate that proposed rezoning and Class A Conditional use 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 subject to the Conditions of Approval in Exhibits C-1 and C-2.

CONDITIONS OF APPROVAL

EXHIBIT C-1: Official Zoning Map Amendment

PLANNING

1. Per LGA-2021-008, condition 1: Development of the site under the Commercial Low Office designation is limited up to a maximum of 17,860 square feet (0.20 FAR). (ONGOING: PLANNING - Planning)
2. Per LGA-2021-008, condition 2: Development of the site under the Commercial Low Office designation is subject to the following: Vehicular and pedestrian cross access shall be provided to the east and west of the site. (ONGOING: PLANNING - Planning)
3. Prior to final approval by the Development Review Officer (DRO), in a form approved by and acceptable to the County Attorney, submit a recorded cross access easement agreement, for the location depicted on the site plans. Approval by the County Attorney and Planning is required prior to recordation. The plans shall be updated to include the ORB/PG of the recorded document. (DRO: PLANNING - Planning)
4. Construct, and pave to the property line, the vehicular and pedestrian cross access as shown on the site plans prior to the release of the Certificate of Occupancy. (CO: MONITORING - Planning)
5. Prior to final approval by the Development Review Officer (DRO), all applicable plans, and documents shall be updated to be consistent with what was adopted by the Board of County Commissioners (BCC). (DRO: PLANNING - Planning)

COMPLIANCE

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

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

DISCLOSURE

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

CONDITIONS OF APPROVAL

EXHIBIT C-2: Class A Conditional Use (Medical Office)

ALL PETITIONS

1. The approved Preliminary Site Plan is dated September 13, 2021. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning)

ENGINEERING

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

a. No Building Permits for the site may be issued after December 31, 2025, or as amended. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Art. 2.E of the Unified Land Development Code. (DATE: MONITORING - Engineering)

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

3. Prior to the issuance of the first building permit, the Property Owner shall obtain a right-of-way permit from the Florida Department of Transportation for the connection to Atlantic Avenue. (BLDGPM: MONITORING - Engineering)

4. Landscape Within the Median of Atlantic Avenue

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

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

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

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

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

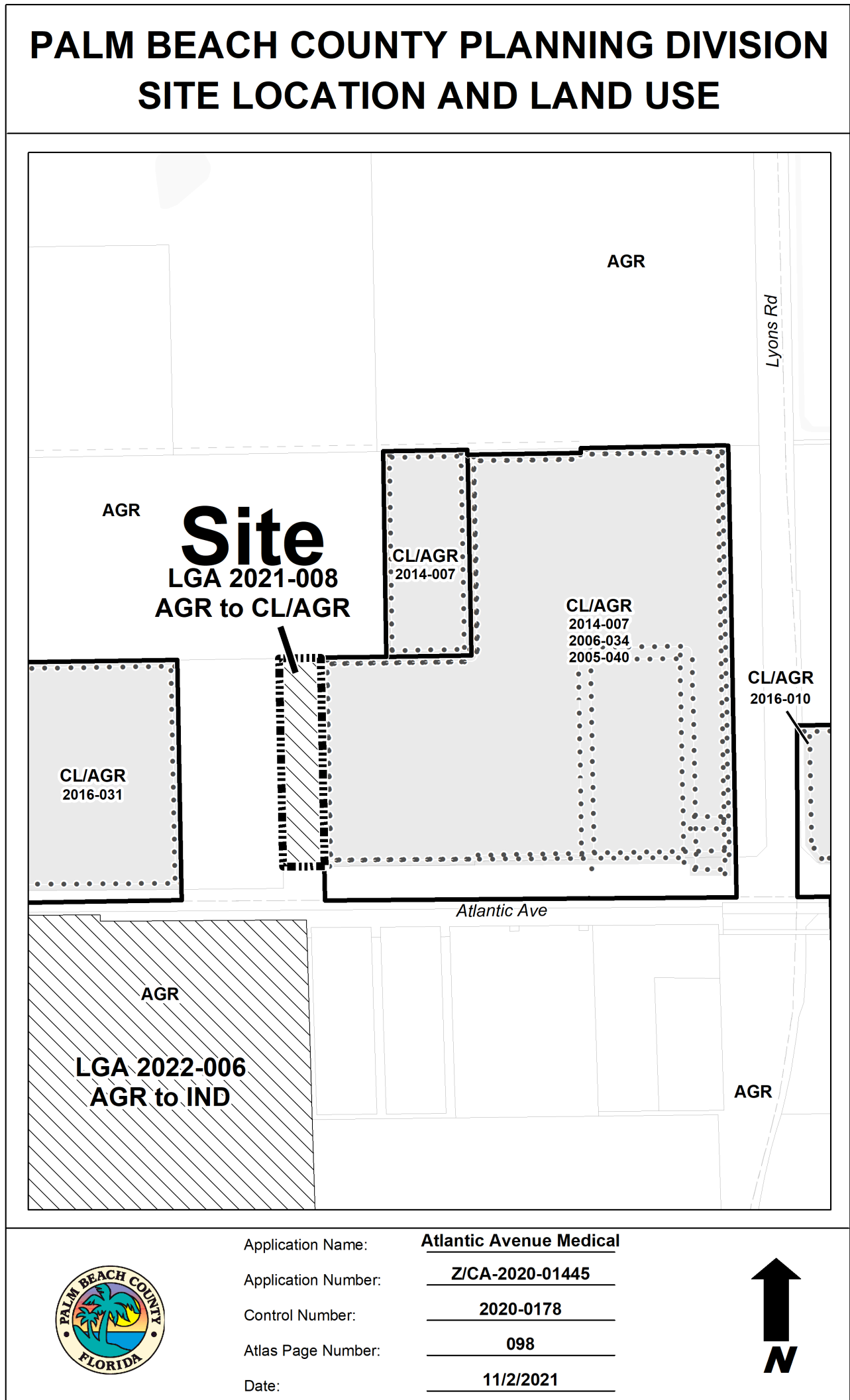


Figure 2 - Zoning Map



Figure 3 - Aerial

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	<u>Atlantic Avenue Medical</u>
Application Number:	<u>Z/CA-2020-01445</u>
Control Number:	<u>2020-0178</u>
Atlas Page Number:	<u>098</u>
Date:	<u>11/2/2021</u>



Exhibit D – Disclosure of Ownership

DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY

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

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

STATE OF FLORIDA
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared 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 [x] Managing Member of TG Land LLC [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.

Garrett Bender
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, 2020 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

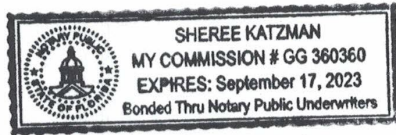


EXHIBIT "A"

PROPERTY

TRACT "C", "DELRAY MARKETPLACE PRESERVE 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 111 AT PAGES 95 THROUGH 97 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

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

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