

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

ZONING COMMISSION STANDALONE VARIANCE

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

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

APPLICATION SUMMARY: Proposed is a Type 2 Variance (ZV) for the Delray Self Service Storage development. The site is currently approved and operating as an Indoor Flea Market.

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

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

SITE DATA:

Location:	North side of West Atlantic Avenue, approximately 0.25 miles west of South Military Trail.
Property Control Number:	00-42-46-14-00-000-5300
Existing Land Use Designation:	Commercial High, with an underlying HR-8 (CH/8)
Proposed Land Use Designation:	No change
Existing Zoning District:	General Commercial District (CG)
Proposed Zoning District:	No change
Acreage:	4.53 acres
Tier:	Urban/Suburban
Overlay District:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile:	Delray Beach
Future Annexation Area"	Delray Beach

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

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

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

SURROUNDING LAND USES:

NORTH:

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

SOUTH: (across West Atlantic Avenue):

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

EAST:

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

WEST:

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

TYPE 2 VARIANCE SUMMARY

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

FINDINGS - Type 2 Variance Standards: When considering a Development Order application for a Type 2 Variance, the Zoning Commission shall consider Standards a through g listed under ULDC Article 2.B.7.E.6, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 2 Variance which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

a. **Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district:**

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

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

V.1 - YES. The circumstances were established at the time that the parcel was developed. Consequently, the lot size Variance is not a result of the actions by the Applicant. The Applicant states in the Justification Statement that the subject site was sold to the current owner in the same lot size and configuration in which it exists today. The Applicant is unable to purchase additional land as the lands to the east, west and north are fully developed. Without the approval of this Variance, the current standard Zoning District would allow for limited development.

c. **Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district:**

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

d. *Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship:*

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

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

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

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

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

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

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

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

CONDITIONS OF APPROVAL

EXHIBIT C: Type 2 Variance – Standalone

ALL PETITIONS

1. The approved Boundary Survey is dated October 11, 2021. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the uses or site design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Board of County Commissioners or the Zoning Commission. (ONGOING: ZONING - Zoning) (ONGOING: ZONING - Zoning)

VARIANCE

1. This Variance is approved based on the Boundary Survey, dated October 11, 2021. Only minor modifications by Board of County Commissioners or Development Review Officer shall be permitted provided the changes are consistent with this Boundary Survey. (ONGOING: ZONING - Monitoring)

2. The Development Order for this Standalone Variance shall be tied to the Time Limitations of the Development Order for PDD/CA-2021-00829. The Property Owner shall secure a Building Permit or Commencement of Development to vest this Variance. (ONGOING: ZONING - Monitoring)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM: BUILDING DIVISION - Zoning)

COMPLIANCE

1. In Granting this Approval, the 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) (ONGOING: ZONING - Monitoring)

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) (ONGOING: ZONING - Monitoring)

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

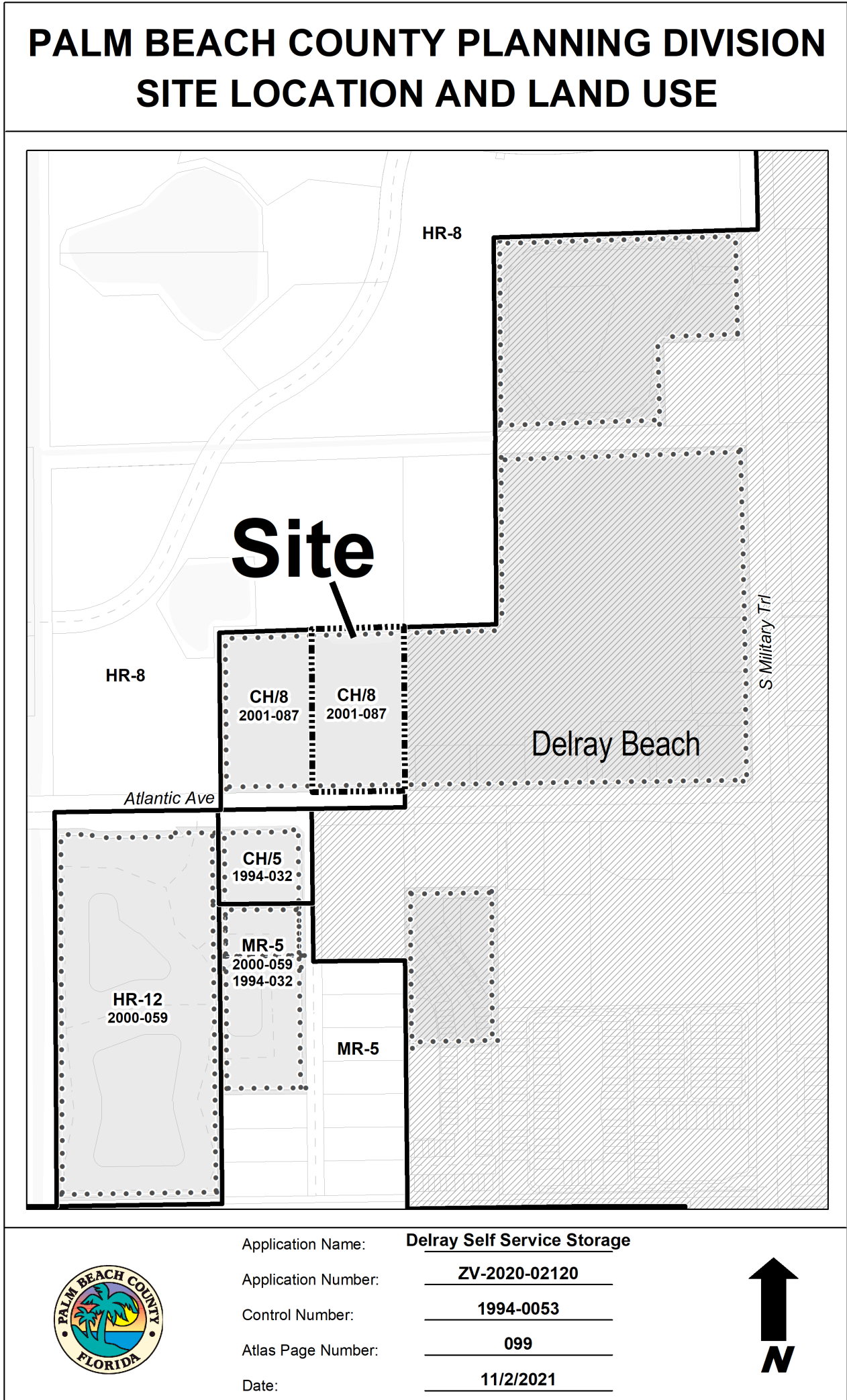


Figure 2 - Zoning Map

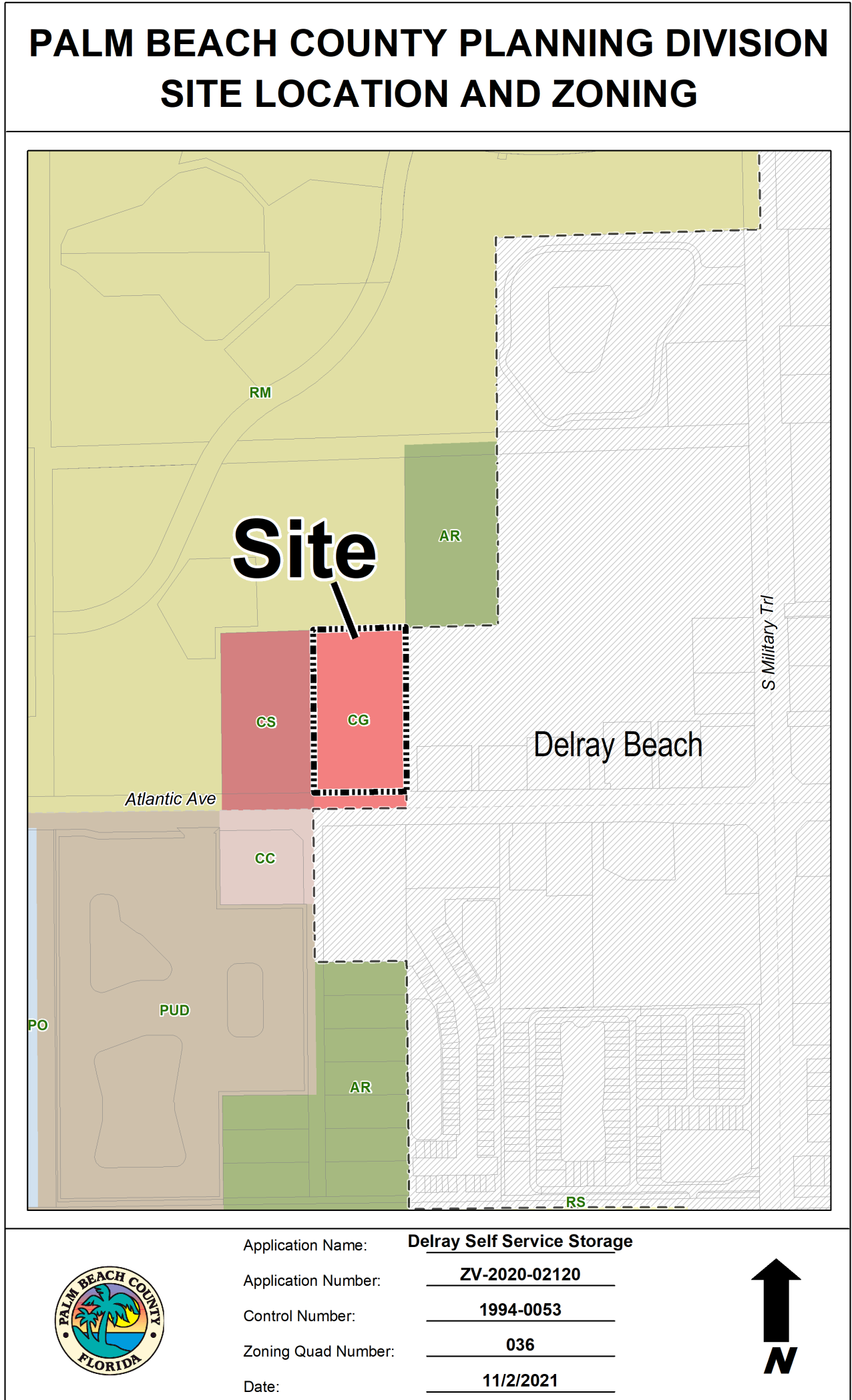
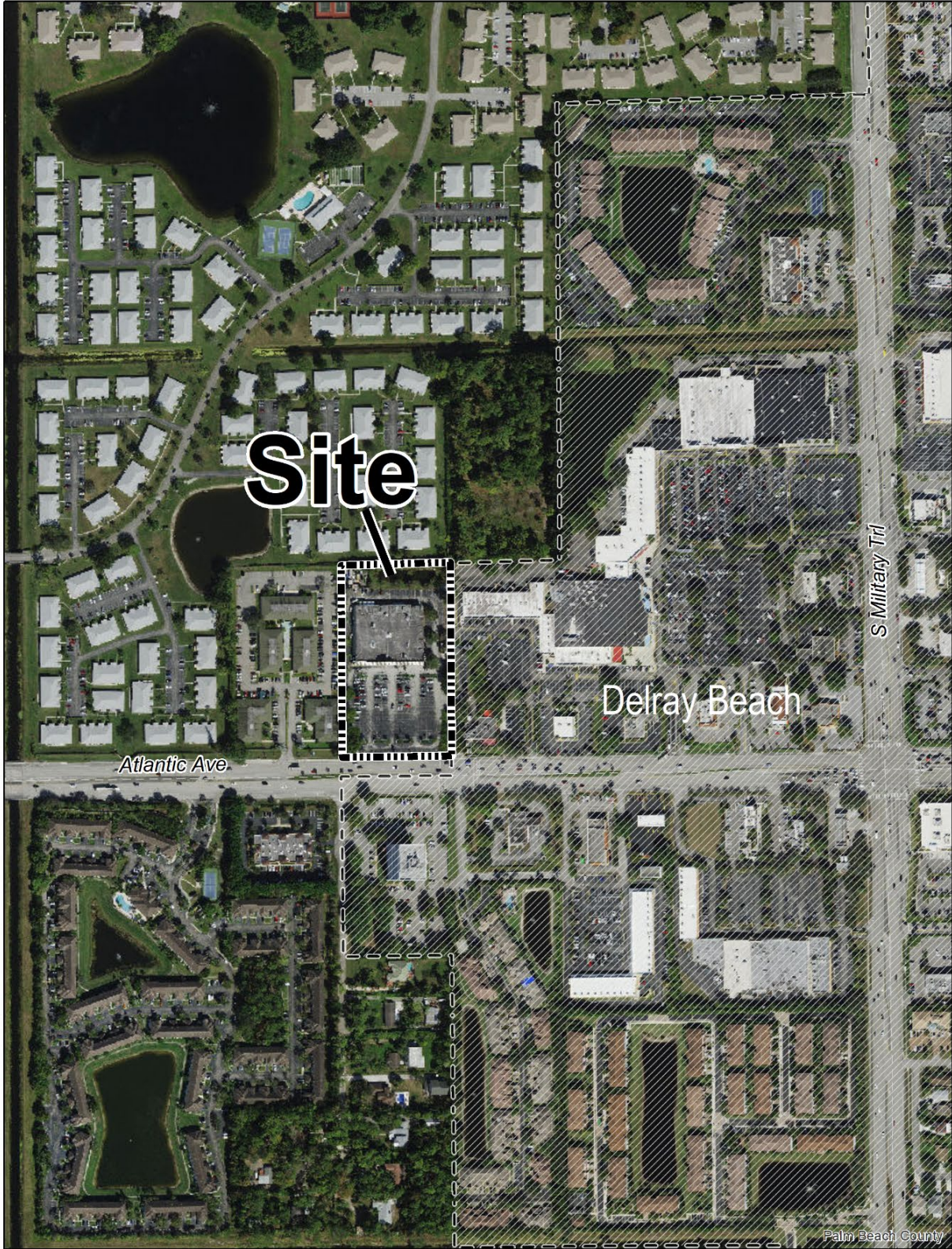


Figure 3 - Aerial

PALM BEACH COUNTY PLANNING DIVISION SITE LOCATION



Application Name:	Delray Self Service Storage
Application Number:	ZV-2020-02120
Control Number:	1994-0053
Atlas Page Number:	099
Date:	11/2/2021



Figure 4 – Preliminary Site Plan – Informational Purposes only (October 12, 2021)

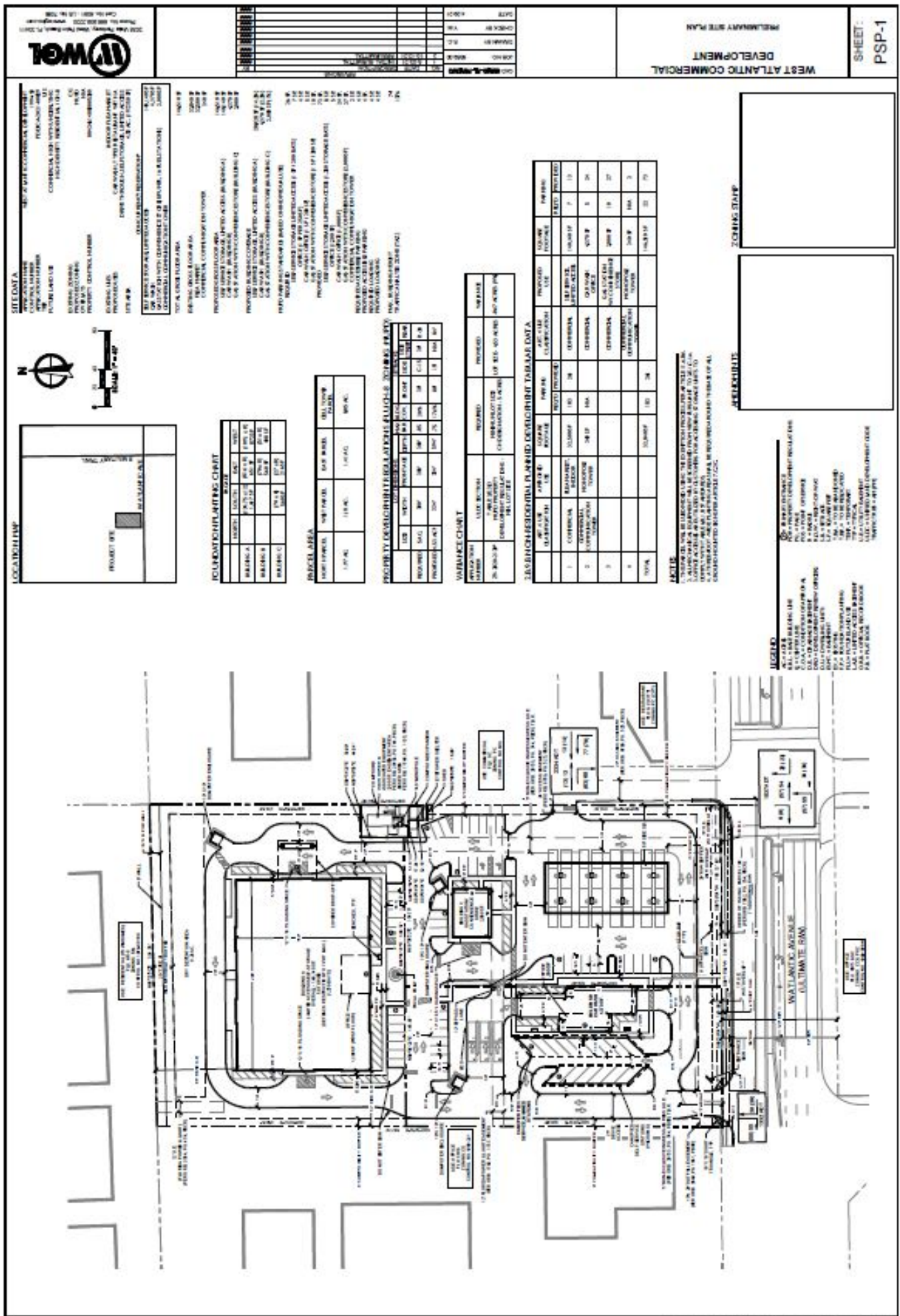


Exhibit D – Disclosure of Ownership

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 Laura K. Pugliese, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [] individual or [X] president of WACP, Inc., the general partner [position - e.g., president, partner, trustee] of West Atlantic Commercial Properties, Inc. [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.

2. Affiant's address is: 101 Pugliese's Way, Second Floor
Delray Beach, FL 33444

3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.

5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.

6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

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

FURTHER AFFIANT SAYETH NAUGHT.

Laura K. Pugliese
Laura K. Pugliese, Affiant
(Print Affiant Name)

NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of physical presence or [] online notarization, this 7th day of December, 2020 by Laura K. Pugliese (name of person acknowledging). He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

(Name - type, stamp or print clearly)

[Signature]

(Signature)



NOTARY'S SEAL OR STAMP

EXHIBIT "A"

PROPERTY

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

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS - PROPERTY

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

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

Anthony V. Pugliese, 14	101 Pugliese's Way, 2nd Floor Delray Beach, FL 33444

Exhibit E – Applicant’s Justification Statement, dated December 7, 2020



JUSTIFICATION STATEMENT
Delray Self Service Storage
Control No. 1994-00053
Standalone Type 2 Variance
Initial Submittal: December 7, 2020

REQUEST

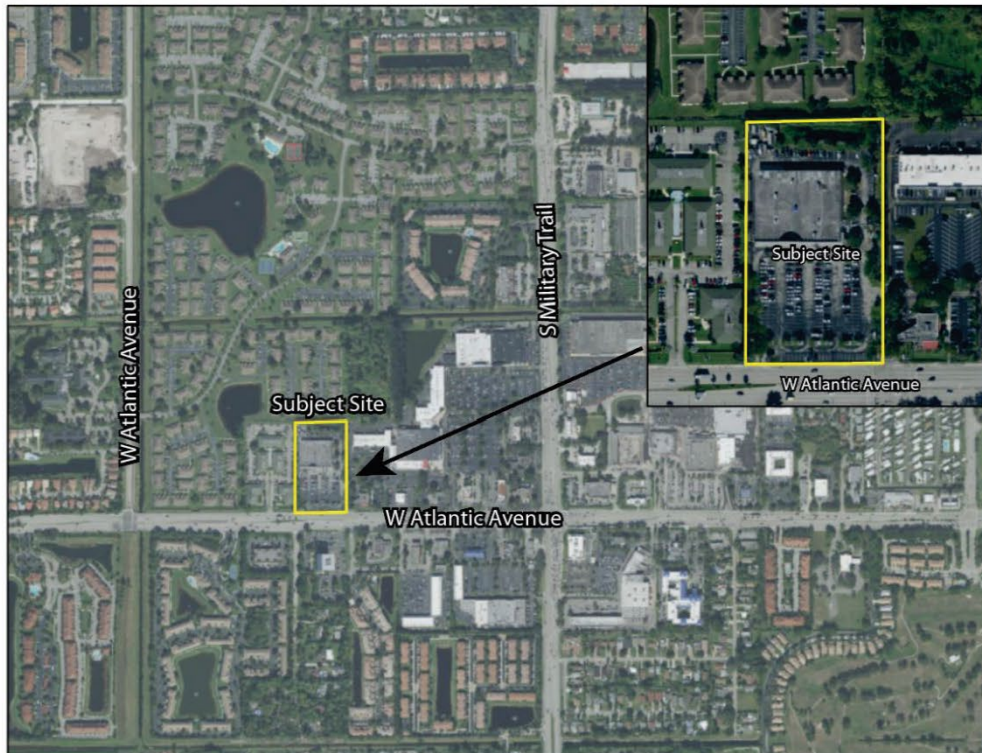
On behalf of the Owner/Applicant (West Atlantic Commercial Properties LTD), WGI is requesting a review and approval, subject to Supplement 27 of the Unified Land Development Code (ULDC) for the following:

- 1) **Standalone Type 2 Variance** to allow for the reduction in minimum lot size for a Multiple Use Planned Development (MUPD) on the subject site.

Note that the Applicant will be requesting an application to modify the existing General Commercial (CG) zoning classification to a MUPD on the subject site after processing of the standalone Type 2 Variance request.

SITE CHARACTERISTICS

The 4.53-acre subject site, known as “Delray Self Service Storage”, is located on the north side of West Atlantic Avenue, approximately 0.25 miles west of the intersection between West Atlantic Avenue and S Military Trail within Palm Beach County’s Urban/Suburban Tier. The subject site is identified by Parcel Control Number (PCN) 00-42-46-14-00-000-5300 and has the physical address of 5283 West Atlantic Avenue. The subject site currently retains a Future Land Use (FLU) designation of Commercial High with an underlying High Density Residential, 8 Units per Acre (CH/8) and Zoning classification of General Commercial (CG). The subject site is currently improved with a one-story CBS building that includes a principal use of retail store/flea market and an accessory use of a communication tower. The Applicant purchased the subject site in 2000 and is recorded in OR. BK. 12165, P.G. 1875. A location map has been provided below which details the site characteristics and surrounding areas.



400 Columbia Drive, Suite 110, West Palm Beach, FL 33409 t: 561.478.8501 f: 561.478.5012

www.wantmangroup.com



DEVELOPMENT HISTORY

The subject site is improved with a 35,200 square foot one-story retail store/ flea market and an accessory communication tower, which were constructed in 1981. Please see below a detailed history of approvals for the subject site:

Application / Resolution	Approval Date	Description
DRC-1994-00053	01/13/1999	Final Site Plan for 35,200 SF retail store/flea market and communication tower recorded
BA-1998-00025	03/24/1999	To allow for reduction in parking area design and construction standards
BA-1998-00076	04/26/1999	To allow an existing of purchase sign to remain in the required setback
ZAR-2016-01924	01/26/2017	Equipment installation at existing telecommunications facility
ZZR-2017-01981	10/13/2017	Amend site plan to correct tower height from 140' to 150'

SURROUNDING PROPERTIES

The following is a summary of the uses surrounding the subject site:

Adjacent Property	FLU Designation	Zoning District	Existing Use	Approved Use	Control No.	Resolution No.
North	HR-8	RM	Residential – Townhomes	Residential – Townhomes	1974-00066	R-1974-0425
South	CH/5 & GC	CC & POC	Office	Office	1999-00041	R-2000-0118 / R-2000-0891
East	GC	PC	Commercial	Commercial	N/A	N/A
West	CH/8	CS	Office	Office	1980-221	R-1980-1729(Z)

North: Immediately north of the subject site are 72 townhomes on 7.5 acres located within Pod Y of the High Point of Delray West PUD (equating to a density of 9.6 dwelling units per acre). The overall High Point of Delray West PUD includes 1084 dwelling units on 170.5 acres (equating to a density of 6.36 dwelling units per acre). These townhomes retain a FLU designation of High Residential – 8 units per acre (HR-8) and a zoning classification of Medium Residential (RM).

South: South of the subject site (across West Atlantic Avenue, a 142 feet ROW) is the seven-story Bank United office building, which retains a FLU designation of General Commercial (GC) and a zoning classification of Planned Office Center (POC) within the jurisdiction of Delray Beach. Also, to the south of the subject site is the Bloom Medical Center, which includes a mix of medical office uses, at a Floor Area Ratio (FAR) of 0.17. The Bloom Medical Center retains a FLU designation of Commercial High with an underlying Medium Residential – 5 units per acre (CH/5) and a zoning classification of Community Commercial (CC).

East: Immediately east of the subject site is a commercial shopping center with multiple commercial outparcels, which retains a FLU designation of GC and a zoning classification of Planned Commercial (PC) within the jurisdiction of Delray Beach.

West: Immediately west of the subject site is the Executive Square Plaza, which includes a mix of medical office uses, at a FAR of 0.22. The Executive Square Plaza retains a FLU designation of CH/8 and a zoning classification of Commercial Specialized district (CS).



DEVELOPMENT PROGRAM

The Applicant intends to redevelop the subject site by providing two outparcels abutting West Atlantic Avenue, with a multi-story building at the norther portion of the site, while maintaining the existing communication tower lease parcel. A MUPD district is the most reasonable zoning classification to develop the subject site as a unified development subdivision. The Applicant is requesting a standalone Type 2 Variance from the minimum lot size standards for a MUPD, in order to rezone the subject site from CG to MUPD. The subject site is 4.53 acres in size, thus is 0.47 acres less than the 5-acre minimum lot size requirement for a MUPD pursuant to Table 3.E.3.D of the ULDC and represents a variance of 9% from the requirement.

TYPE 2 VARIANCE STANDARDS

The Applicant respectfully requests consideration of one Type 2 (Standalone) Variance request in regards to Table 3.E.3.D. within Palm Beach County's ULDC. The one Type 2 Variance request is from one requirement in Table 3.E.3.D., which is detailed below:

ULDC CODE SECTION	REQUIRED	PROPOSED	VARIANCE
Table 3.E.3.D. MUPD Property Development Regulations – Minimum Lot Size	Minimum Lot Size CH designation – 5 acres	Lot size – 4.53 acres	- 0.47 acres (9%)

All seven (7) criteria listed below and as set forth in ULDC Section 2.B.7.E.6, are met:

- 1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same district.**

A special circumstance and condition particular to the parcel of land is its location along West Atlantic Avenue, a 6-lane, 142' Major Arterial Roadway and its relation to surrounding properties. West Atlantic Avenue has evolved to become a major roadway, wherein it has become a significant well-traveled commercial corridor. The rezoning request to a MUPD is consistent with the surrounding properties along the West Atlantic Avenue corridor. At the intersection of West Atlantic Avenue and S Military Trail, east of the subject site, are four shopping centers that retain multiple restaurant, office, and financial institution outparcels. A MUPD that is subdivided with outparcels and a larger retail/self-storage facility would compliment the uses at this commercial node. To the south and west of the subject site are medical office centers that are subdivided into numerous fee simple ownership parcels, thus a unified MUPD development could further consistency with adjacent uses.

The high residential townhomes use to the north of the subject site and the shopping center to the east were developed in 1981, roughly the same year the subject site was developed with a flea market. The medical office center to the west of the subject site was built in 1982. Therefore, there is no opportunity for the property owner to acquire additional contiguous land to meet the minimum 5-acre lot size for a MUPD in regards to the subject site. The Applicant purchased the subject site in its current configuration in 2000.

Although the subject site is less than the minimum lot size by 9%, the subject site does meet the minimum width and depth requirements for a MUPD with a CH FLU designation, as outlined in Table 3.E.3.D of the ULDC. The subject site currently has a lot width of 334 feet and a lot depth of 587 feet, thus meeting both lot width and depth requirements of 300 feet for a MUPD with a CH FLU designation. The Applicant will comply with the requirements of an allowable building coverage of 25%, setback requirements, parking requirements, and maximum Floor Area Ratio (FAR) pursuant to ULDC Section 3.E.3.



2. Special circumstances and conditions do not result from the actions of the Applicant.

Special circumstances and conditions do not result from the actions of the Applicant. No records of the subject site being subdivided and legal descriptions has been consistent for the last four owners. The ULDC requires that a MUPD have a minimum lot size of 5 acres. The current owner/Applicant did not subdivide the property causing it to be 4.53 acres. The subject site was sold to the current owner of the subject site in 2000 in the same lot size, and configuration in which it has always existed. Therefore, the existing size and configuration of the subject site is not a result of the actions by the current owner. The Applicant seeks a rezoning to a MUPD that is consistent with the other commercial uses along West Atlantic Avenue. Approval of the variance request to allow the 4.53-acre subject site to be rezoned as a MUPD would allow the subject site to be developed as intended, as a unified development subdivision.

Due to the built environment surrounding the subject site, high density residential townhomes to the north, a shopping center to the east, and medical office center to the west, there was no opportunity for the property owner/Applicant to acquire additional contiguous land to meet the minimum 5-acre lot size for a MUPD in regards to the subject site.

3. Granting the variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district.

Granting the variance shall not confer upon the Applicant any special privilege denied by the plan and the code to other parcels of land, buildings in the same district. Approval of the rezoning request will allow the applicant the same rights of other properties within a MUPD and ensure adherence to the more demanding MUPD development regulations, as opposed to a standard zoning district. The Applicant will comply with all the MUPD development regulations pursuant to ULDC Section 3.E.3. The subject site currently has a lot width of 334 feet and a lot depth of 587 feet, thus meeting both lot width and depth requirements of 300 feet for a MUPD with a CH FLU designation. Approval of the variance request allows the subject site to be developed in a manner consistent with all other commercial uses along West Atlantic Avenue.

4. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship.

Literal interpretation and enforcement of the code would not allow the applicant to rezone to a MUPD based on the size of the subject parcel and therefore not allow the applicant to subdivide. The 4.53 - acre subject site is 0.47 acres less than the 5-acre minimum lot size requirement for a MUPD, thus representing a variance of 9% from the requirement per Table 3.E.3.D of the ULDC.

Not having the MUPD zoning classification, creates an inconsistency with surrounding commercial shopping centers and medical office centers along the West Atlantic Avenue corridor and eliminates the ability to subdivide the subject site into a unified development subdivision that is consistent with surrounding area.

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

Approval of the variance request to allow the 4.53-acre subject site to rezone to a MUPD is the minimum variance to make reasonable use of the parcel of land and site configuration. Approval of the variance will allow rezoning to a MUPD and therefore subdivision of the parcel, which provides the opportunity of fee simple ownership of different commercial uses. The inability to subdivide the subject site encourages a landowner to construct one (1) larger individual commercial building in order to ensure success of the project. Under this circumstance, it would not be the most efficient or reasonable use of the land.



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

Granting the variance will be consistent with the purpose, goals, objectives, and policies of the Plan and Code. The Applicant shall continue to comply with the MUPD Development regulations outlined in ULDC Section 3.E.3. The nature of the variance is simply to make the most efficient use of the land and allow the subject site to be subdivided.

Additionally, the proposed rezoning will be consistent with the stated purpose and intent of the MUPD Zoning District which is *to provide for the efficient use of land by the integration of multiple uses, or large single uses, within a unified development. The intent of an MUPD is to provide opportunities for enlightened and imaginative approaches to community planning and site design.* The subject site is generally consistent with the required property regulations within the MUPD Zoning District, outlined in Table 3.E.3.D. Subject to this variance request, the site does not comply with the minimum lot size of 5 acres and provides a variance of just 9% from the minimum lot size requirement.

The subject site currently has a lot width of 334 feet and a lot depth of 587 feet, thus meeting both lot width and depth requirements of 300 feet for a MUPD with a CH FLU designation. The Applicant will comply with the requirements of an allowable building coverage of 25%, setback requirements, parking requirements, and maximum Floor Area Ratio (FAR) pursuant to ULDC Section 3.E.3.

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

Granting of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The variance request for a 4.53-acre lot size for a MUPD zoning classification will have no life-safety impacts or negative visual impacts to any of the adjacent uses, while not interfering in the functions of surrounding uses. The approval of the variance will allow the subject site to be rezoned to a MUPD and provide commercial uses that compliment adjacent uses to the east, south, and west along the West Atlantic Avenue commercial corridor.

CONCLUSION

The requested standalone Type 2 Variance is justified and consistent with Palm Beach County's Comprehensive Plan, Code of Ordinances, and meets all seven (7) criteria set forth in ULDC Section 2.B.7.E.6. A MUPD district is the most reasonable zoning classification to split the existing site configuration and develop the subject site as a unified development subdivision for the intended the development program. The requested standalone Type 2 Variance is required in order to rezone the 4.53-acre subject site from CG to a MUPD and represents a 9% variance from the required 5-acre minimum lot requirement. On behalf of the Applicant, WGI respectfully requests approval of this standalone Type 2 Variance request to allow a reduction in the minimum lot size for a MUPD.