



**JUSTIFICATION STATEMENT and  
STANDARDS FOR CODE COMPLIANCE**

**JFK Medical Center – Freestanding Emergency Department (24 Hrs)  
Conditional Use Permit**

Our File Number: 45661-00006

Resubmittal: March 5, 2026  
Original Submittal: October 1, 2025

It is our pleasure to submit on behalf of our client, JFK Medical Center Limited Partnership (the "**Applicant**"), an application for a Conditional Use Permit to operate a 24-hour business on property located within 300 feet of a residentially zoned property. As described in detail below, the Applicant is proposing to construct and operate a freestanding emergency department ("**FSED**") to provide high-level emergency medical care that is easily accessible to the surrounding community.

**I. LOCATION, HISTORY AND EXISTING CONDITIONS**

The Property is an approximately 1.79-acre tract of land located on the north side of W. Atlantic Avenue, east of Spodak Drive (a private road). According to the Palm Beach County Property Appraiser’s Office ("**Property Appraiser**"), the Property consists of one tax parcel:

Address	Parcel Control Number (PCN)	Size (Acres)
W. Atlantic Avenue	12-43-46-18-33-001-0000	1.79
<b>TOTAL</b>		<b>1.79</b>

A review of historical aerial photographs indicates that the Property was used for agricultural purposes until the mid-1980s. The Property was annexed into the City in 1984. In 1988, the office building to the west was constructed, at which time the entire Property was cleared. A current aerial photograph and site photographs are provided as **Exhibits 1 and 2**, respectively. Although not part of this application, the Applicant also owns the parcel to the north, as well as the private roadway tract upon which Spodak Drive is located.

The Property is currently designated Transitional ("**TRN**") on the City’s Future Land Use ("**FLU**") Map. Pursuant to Objective NDC 1.3 of the City’s Comprehensive Plan ("**Plan**"), the TRN FLU is a mixed-use designation designed to “accommodate a wide range of commercial and residential housing opportunities in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city.” The City’s Zoning Map designates the Property as Planned Office Center ("**POC**"), consistent with the Plan. The City’s Land Development Regulations ("**LDRs**") state:

The Planned Office Center (POC) District provides for the concentration of office and support uses in a well-planned and managed environment. It is not intended that the District be for commercial activities in which goods and merchandise are stored, displayed, or sold except as appropriate to meet the needs of users of the POC.

A POC is to be planned and developed on land under unified control and as a single development, or in a programmed series of development phases. Unified control may be achieved through single ownership or the existence of binding agreements among owners of individual parcels therein.<sup>[1]</sup>

The surrounding area consists of the following:

North:

Immediately north of the Property is a vacant parcel owned by the Applicant. There are no development plans for this parcel currently. Like the Property, the parcel has a TRN FLU designation and a POC zoning designation. Further north are duplexes that are part of High Point, an age-restricted community. There is an approximately six-foot-high solid wall along the property line. The High Point community has a Medium Density Residential (“**MD**”) FLU designation and a Medium Density Residential (“**RM**”) zoning designation.

South:

South of the Property is W. Atlantic Avenue, a six-lane thoroughfare with a central median. The W. Atlantic Avenue right-of-way is approximately 120 feet in width. South of W. Atlantic Avenue are duplexes associated with the Woodlake community. These duplexes are oriented such that the rear of the buildings face toward the roadway with the residential properties completely enclosed and screened from the roadway by an existing fence/wall and established hedge, both approximately eight feet in height. The Property cannot be seen from within the Woodlake community. Woodlake has a Low Density Residential (“**LD**”) FLU designation and a Low Density Residential (“**RL**”) zoning designation.

East:

East of the Property is the Spodak Dental Group medical office building, a single-story building consisting of nearly 15,000 square feet. The property is approximately 2.06 acres in size. The existing office building is separated from the Property by an established landscape buffer. The office building does access W. Atlantic Avenue by means of an ingress-egress easement on the Property. Like the Property, the Spodak Dental Group property also has a TRN FLU designation but has a Professional and Office District (“**POD**”) zoning designation.

West:

Immediately west of the Property is an approximately 0.23-acre private roadway tract, known as Spodak Drive. The private roadway provides access to the Applicant’s northern parcel, as well as the parcel to the west. The parcel to the west is a single-story office building consisting of just over 14,000 square feet on approximately 2.06 acres. The exact use of this property is unclear, although signage on the property appears to indicate it is as an addiction treatment center. This property also has a TRN FLU designation and a POC zoning designation.

A table showing the FLU and zoning designations of the surrounding area is provided below:

---

<sup>1</sup> [Sec. 4.4.15.\(A\)](#), City’s LDRs.

**Table 1: Surrounding FLU and Zoning Designations**

	Current FLU Designation	Current Zoning Designation
<b>North</b>	Transitional (TRN)	Planned Office Center (POC)
<b>South</b>	Low Density Residential (LD)	Low Density Residential (RL)
<b>East</b>	Transitional (TRN)	Professional and Office District (POD)
<b>West</b>	Transitional (TRN)	Planned Office Center (POC)

**II. PROPOSAL**

For several years South Florida, particularly Palm Beach County and the City, has been experiencing a rapid growth in population. This growth, when located in areas where access to a full-service hospital is limited, can present challenges. Additional residents increase the demand for emergency health care which impacts hospital emergency rooms (“**ERs**”) causing extended wait times. Travel times also go up with increased traffic on the roadways, as growth often occurs away from established hospitals.

To address these issues, hospitals have been providing for more accessible emergency services with the construction of FSEDs. These facilities are easier and more cost effective to build than a full hospital and are designed and licensed by the Florida Agency for Health Care Administration (“**AHCA**”) to provide the same emergency services as an ER attached to a hospital, including treatment services that range from minor injuries to life-threatening situations. Stays are limited to those receiving emergency treatment; anyone needing long term care is referred and admitted at the full hospital campus.

The small scale and convenient locations allow FSEDs to be better equipped to meet specific needs of the demographics of the immediate area. And unlike an urgent care facility, the federal Emergency Medical Treatment and Active Labor Act (“**EMTALA**”) provides that FSEDs must treat all patients and all emergency conditions regardless of their ability to pay.<sup>2</sup> Also, unlike urgent care facilities, FSED’s are staffed with board-certified emergency physicians and ER-trained nurses.

The Applicant proposes to construct an approximately 10,860 square foot FSED on the Property in association with JFK Medical Center. The facility was designed with specific consideration for the residential neighborhood north of the proposed project. The facility consists of a single-story building with a primary public walk-in entrance on the north side of the building. An ambulance entrance would be provided on the south side, allowing the building to act as a buffer to the limited ambulances that will access the facility.<sup>3</sup> Surface parking will be located along the north, south, and west sides of the building. Conceptual site and landscape plans are shown in **Exhibits 3 and 4** for reference.<sup>4</sup> Defined as a medical clinic

<sup>2</sup> *Freestanding ER versus Hospital ER – What’s the Difference?* (April 25, 2009). <https://www.orlandohealth.com/content-hub/freestanding-er-versus-hospital-er-whats-the-difference#:~:text=At%20Orlando%20Health%2C%20FSERs%20operate,hospital%20based%20on%20your%20needs.>

<sup>3</sup> FSEDs are required to meet the same regulatory requirements as an ER attached to a hospital, which must be designed to accommodate emergency medical services, including ambulance access.

<sup>4</sup> The site and landscape plans are subject to a Level 2 Site Plan Review, which will be submitted upon approval of this application.

by the City's LDRs<sup>5</sup>, the use is permitted by right in the POC zoning district.<sup>6</sup> Only the 24-hour service requires the requested conditional use.

### III. REQUEST

Florida law requires that FSEDs must be open to provide emergency services 24 hours a day, 7 days a week.<sup>7</sup> The Centers for Medical and Medicaid Services ("CMS") also recognizes FSEDs as emergency departments and requires them to provide 24-hour emergency access. This is one of the many important characteristics that distinguish them from a standard urgent care.

In the City's LDRs, 24-hour or late-night businesses<sup>8</sup> are subject to the provisions of Sec. 4.3.3.(VV) which outlines additional use requirements intended to minimize the potential impacts on surrounding properties. Additional requirements include detailing a security plan, which has been applied to activities more likely to need those plans, and additional buffering. A proposed 24-hour business located within 300 feet of a residentially zoned property (as measured from the nearest point of the property on which the 24-Hour or late-night business is or will be located to the nearest point of a residentially zoned property) is also required to obtain a Conditional Use Permit.

As noted above, the parcel located immediately north of the Property is owned by the Applicant and is zoned for commercial/office use. This parcel is to remain vacant at this time. However, further north are residential duplexes associated with one of High Point's age-restricted communities. As shown in **Exhibit 5**, High Point is zoned RM and is approximately 258 feet from the north edge of the Property. Additionally, the Woodlake residential community south side of W. Atlantic Avenue is approximately 120 feet from the south edge of the Property. Woodlake has a RL zoning designation. As both communities are residentially zoned and are within 300 feet of the Property, a Conditional Use Permit is required and is the subject of this application.

As described above, FSEDs are modern community-integrated healthcare facilities that offer numerous benefits. They do so with minimal disruption or impact on the surrounding neighborhood. Being available 24/7 is integral (and legally required) to providing effective service—accessibility at all hours is crucial in emergencies where timely treatment can be life-saving. This is why it is mandated for the facility.

#### Traffic

An FSED does not generate a substantial amount of traffic. Even at peak times, FSEDs produce significantly less traffic than most any other use. Based on studies of other FSEDs developed

---

<sup>5</sup> Appendix A of the City's LDRs define medical clinics as follows: "An establishment where patients, not lodged overnight except for emergency treatment and observation, including out-patient surgery, are admitted for examination and treatment by one or more persons practicing any form of healing or medical health services. Such persons may be chiropractors, dentist, naturopaths, opticians, optometrists, psychologist, surgeons, or any other medical profession, the practice of which is lawful in the state."

<sup>6</sup> Sec. 4.4.15.(B), City LDRs.

<sup>7</sup> Section 59A-3.255, Florida Administrative Code.

<sup>8</sup> Appendix A of the City's LDRs define 24-Hour Or Late-Night Businesses as follows: "Any restaurant, bar, lounge, nightclub, music hall, club, gasoline station, convenience store, convenience business, retail store, grocery store, laundromat or similar use which is or will, at any time during a calendar year, be open for business at any time between the hours of 12 midnight and 5 a.m. A 24-Hour or late night business shall not mean a hotel or motel unless any of the aforementioned uses are operated or will be operated between the hours of 12 midnight and 5 a.m. on the same property as, or otherwise in conjunction with, a hotel or motel use."

by the Applicant, they generate approximately 271 trips per day or 17 trips per PM peak hour. During the peak hour this equates to approximately one trip per 3.5 minutes. This number is significantly less during the non-peak overnight hours. As a comparison:

- Traditional Medical Office (11,500sf).....45 trips at PM peak hour
- Coffee Shop with Drive Thru (4,000sf) .....156 trips at PM peak hour
- Fast Food Restaurant w/DT (5,000sf) .....165 trips at PM peak hour
- Pharmacy (14,000sf) .....149 trips at PM peak hour
- Convenience Store (3,500sf) .....172 trips at PM peak hour
- Urgent Care (11,500sf) .....42 trips at PM peak hour

Based on the experience of other FSEDs operated by the Applicant, it has been found that nearly all the patients arriving to the FSED do so by personal vehicle. However, because the FSED is required by law to have an ambulance bay, that traffic is also studied by the Applicant. There are generally no more than 1.10-1.20 ambulances per day.

### Buffering

All residentially zoned properties within 300 feet of the Property are oriented such that their rear yards face the Property. And all of them are completely enclosed by perimeter fences/walls associated with their respective communities, isolating them from the surrounding area.

In the case of the High Point properties to the north, they are accessed via High Point Boulevard, approximately 650 east of the Property, which connects to a series of internal roadways. As shown in **Exhibit 6**, the south property line of the High Point community is approximately 258 feet from the Property, with the residential structures having an additional 40 feet of rear setback. In response to concerns expressed by the surrounding community and feedback from the City’s Planning and Zoning Board at their December 15, 2025, hearing, the Applicant has relocated the structure approximately 23 feet further south than originally proposed. This additional distance maximizes the FSED’s separation from the residential use to the north, while maintaining compliance with setback and landscaping requirements along W. Atlantic Avenue. With the revised site plan, there will be approximately 419 feet (previously 370 feet) between the north façade of the FSED and the closest residential structure to the north with an approximately six-foot wall located along High Point’s south property line. Also, in response to the concerns expressed at the Planning and Zoning Board, the layout of the facility has been rotated 180 degrees, placing the ambulance entrance on the south side (previously on the north side) of the building. This places the ambulance entrance at the furthest possible point from High Point. This also allows the building to serve as a physical barrier between the ambulance entrance and the residential use. The entrance on the north side of the building will be for the public walk-ins only.

A landscape buffer with shrubs, a hedge (which will also screen headlights from vehicles in the parking lot) and a row of canopy trees spaced no further than 25 feet apart will be provided along the Property’s northern boundary in accordance with the City’s LDRs. Additionally, while the vacant parcel between the Property and the High Point community is not intended to be developed at this time, a landscape buffer will also be provided along its northern boundary, immediately adjacent to High Point. This buffer will also have shrubs, a hedge, and additional canopy trees spaced no further than 25 feet apart. Collectively, these buffers will provide substantial screening between the proposed FSED and the residential community to the north.

The Woodlake community on the south side of W. Atlantic Avenue is also completely enclosed and accessed from Homewood Boulevard, also 650 feet east of the Property and across W. Atlantic Avenue. The Woodlake community is screened from W. Atlantic Boulevard and the Property by an existing wall/fence and hedge that is approximately eight feet in height. As part of the development of the FSED on the Property, a 30-foot landscape buffer will be provided along W. Atlantic Avenue, providing additional visual screening.



Left: Existing buffer along south property line of High Point community.  
Right: Existing buffer along south side of W. Atlantic Avenue (north side of Woodlake community).

### Security Measures

Providing a safe and secure environment is a fundamental component of every FSED. Standard security measures, such as those described below, are typically implemented to protect and provide a safe environment for the community, patients, visitors, and staff while ensuring the facility can deliver high-quality emergency care without disruption.

- **Controlled Access and Entry Management** – FSEDs maintain controlled access throughout their facilities to ensure that only authorized individuals can enter sensitive areas. Staff-only spaces, such as medication rooms, utility rooms, and clinical corridors, remain locked at all times. Employees access these areas through badge-controlled doors that track and limit entry. Visitors are required to check in at the front desk, where identification may be captured and a sign-in process completed. Additionally, a separate ambulance entrance with limited public access allows emergency medical services to deliver patients directly to clinical areas without passing through public waiting spaces.
- **Video Surveillance** – Comprehensive video surveillance systems are standard. Closed-circuit television (CCTV) cameras cover key areas, such as the lobby and waiting areas, all entrances and exits, parking lots, and interior hallways. These systems enable live monitoring by on-site staff or remote security operations centers, allowing for real-time awareness of activity throughout the facility.
- **Security Personnel** – FSEDs employ on-site security officers to maintain a visible presence and respond to incidents as they arise. Security staff are generally present overnight, between the hours of 7:00 p.m. and 7:00 a.m., providing on site security during the hours subject to the conditional use permit. In addition to on-site personnel, FSEDs maintain remote monitoring capabilities and established quick-response

protocols with local law enforcement to address any situation requiring additional support.

- **Physical Security Design** – The physical design of FSEDs incorporates security considerations from the outset. Staff areas are positioned to provide clear visibility into waiting rooms, enabling personnel to monitor patient and visitor activity. Patient flow is designed so that clinical care areas remain separated from public waiting spaces, reducing the risk of unauthorized access to treatment zones.
- **Emergency Communication Systems** – Robust communication systems support security operations at FSEDs. Panic buttons and duress alarms are installed at strategic locations, such as reception desks, triage rooms, and staff stations. These are connected directly to security personnel and/or local police, enabling staff to summon immediate assistance. Intercom systems link departments and provide communication through locked doors, while two-way radios or secure messaging applications allow staff to coordinate rapidly during emergencies or security events.
- **Medication and Equipment Security** – FSEDs implement strict controls over medications and sensitive equipment. Medication rooms are locked and accessible only through badge-controlled entry. Automated dispensing cabinets restrict access to narcotics and other controlled substances, requiring individual authentication before dispensing. Inventory controls are maintained for sharps and controlled substances to prevent diversion and ensure accountability.
- **Policies and Staff Training** – Security at FSEDs is reinforced through formal policies and ongoing staff training. Employees receive workplace violence prevention training. Active threat and active shooter protocols are established and regularly practiced. Frontline staff participate de-escalation training to manage difficult situations before they become dangerous.

#### Crime Deterrent and Community Wellness

The presence of a 24/7 FSED can also serve as a subtle but effective deterrent to crime within the community. Its constant operation ensures that the facility is always carefully illuminated and staffed, creating a visible and active presence that discourages criminal behavior. Criminals are less likely to target areas that are well-lit and under surveillance, and the presence of medical personnel, patients, and emergency responders contributes to a sense of vigilance and activity that makes illicit actions riskier, and therefore less likely. Many FSEDs also engage in community wellness programs, health education, and preventive care initiatives. This integration fosters a sense of community support and enhances the overall safety of the area.

#### **V. COMPREHENSIVE PLAN**

The City's Comprehensive Plan provides general guidance for the growth and future development of the City. As stated above, the TRN FLU designation is a mixed-use designation designed to "accommodate a wide range of commercial and residential housing opportunities in scale, intensity, and density for the diverse neighborhoods, districts, and corridors in the city." Specifically, Policy NDC 1.3.13 states that "a wide range of residential and low intensity nonresidential uses" should be allowed "to address varied community needs, unique development patterns, and/or distinctive uses." The 24-hour FSED operation will serve a vital community need and fill a void in emergency healthcare services that are within proximity of

residents and offer the same level of care as a hospital ER without the significantly long wait times.

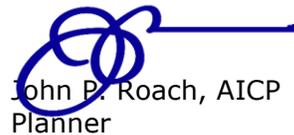
## VI. CONCLUSION

FSEDs are required by state and federal regulations to operate 24/7, ensuring that emergency services are always available to those in need. The operation of the FSED is designed to address a need for accessible, high-quality emergency medical care. The project is consistent with the City’s Comprehensive Plan and zoning regulations, and it incorporates measures to minimize impacts on nearby residential communities, including robust landscape buffering and a commitment to security and community wellness. Overall, the project will enhance public safety, support ongoing redevelopment efforts, and contribute positively to the health and vitality of the community, while fully complying with all applicable city standards and requirements. As demonstrated in **Exhibits 7 through 9** attached hereto, the request complies with all applicable review standards.

Prepared and Respectfully Submitted By:



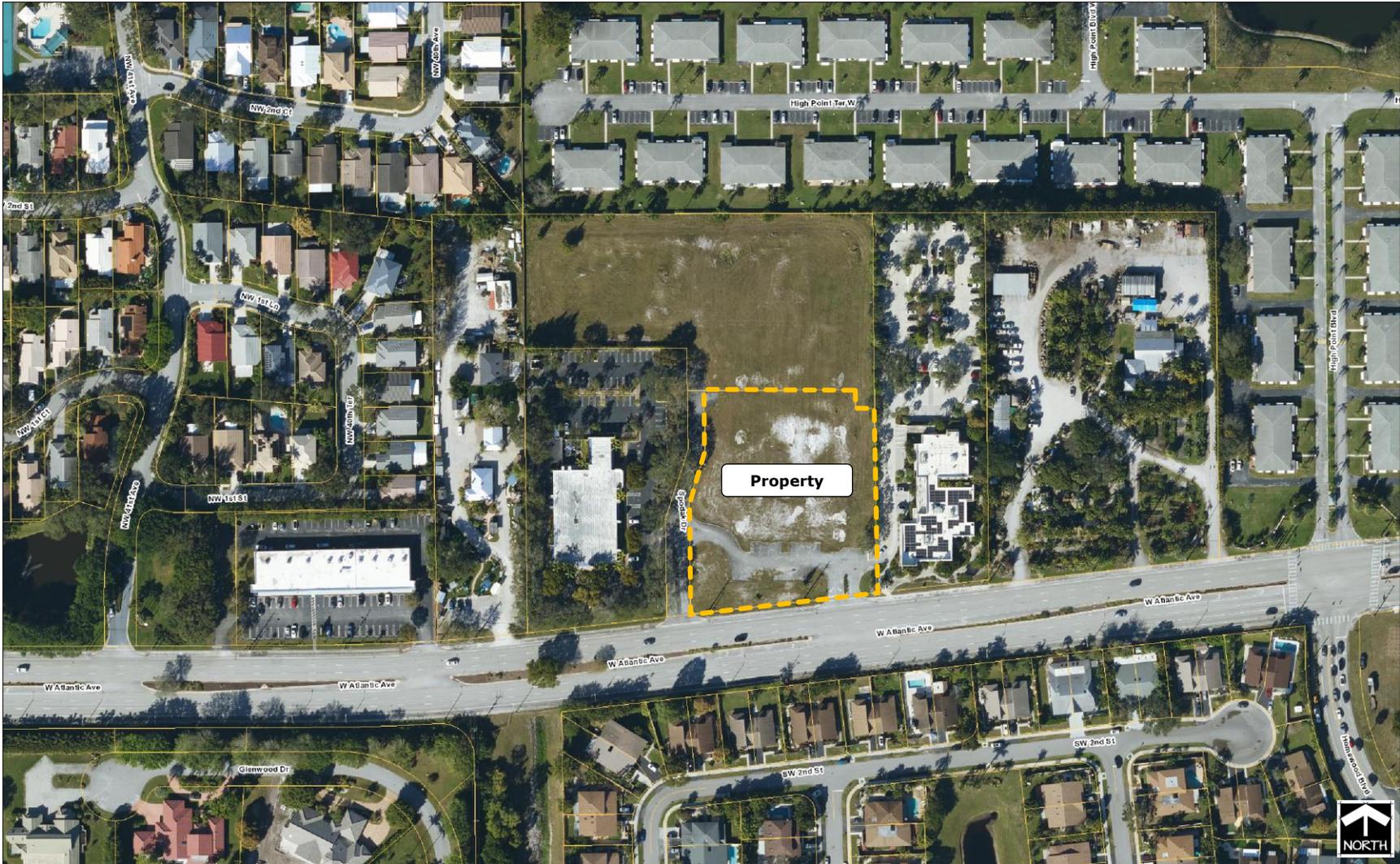
Brian M. Seymour, Esq.  
Attorney



John P. Roach, AICP  
Planner

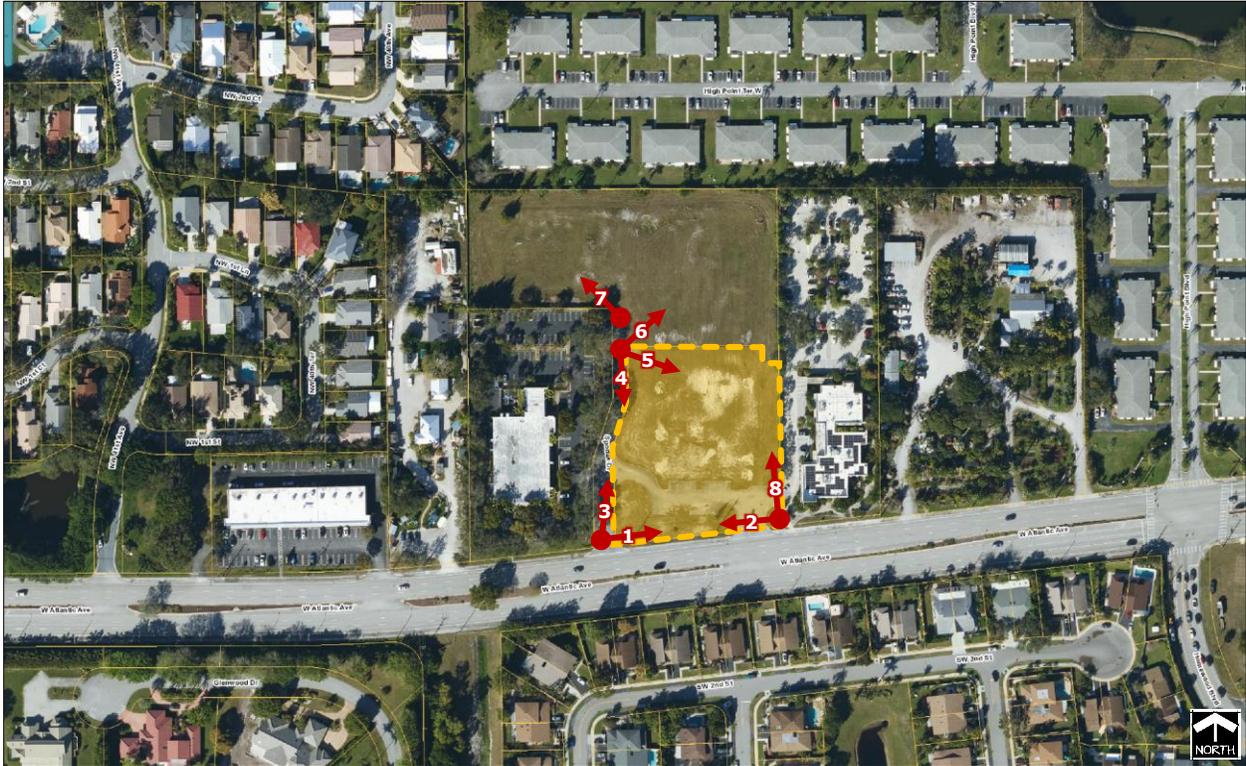
### EXHIBIT 1

### Site Location and Context



## EXHIBIT 2

### Site Photographs



**Photo #1:** Looking east along Atlantic Avenue (south property line).

## EXHIBIT 2 (continued)

### Site Photographs



**Photo #2:** Looking west along Atlantic Avenue (south property line).



**Photo #3:** Looking north/northeast from the southwest corner of the property.

## EXHIBIT 2 (continued)

### Site Photographs



**Photo #4:** Looking south/southeast from the west property line.



**Photo #5:** Looking east from the west property line.

## EXHIBIT 2 (continued)

### Site Photographs



**Photo #6:** Looking northeast from the west property line.



**Photo #7:** Looking north/northwest from the west property line.

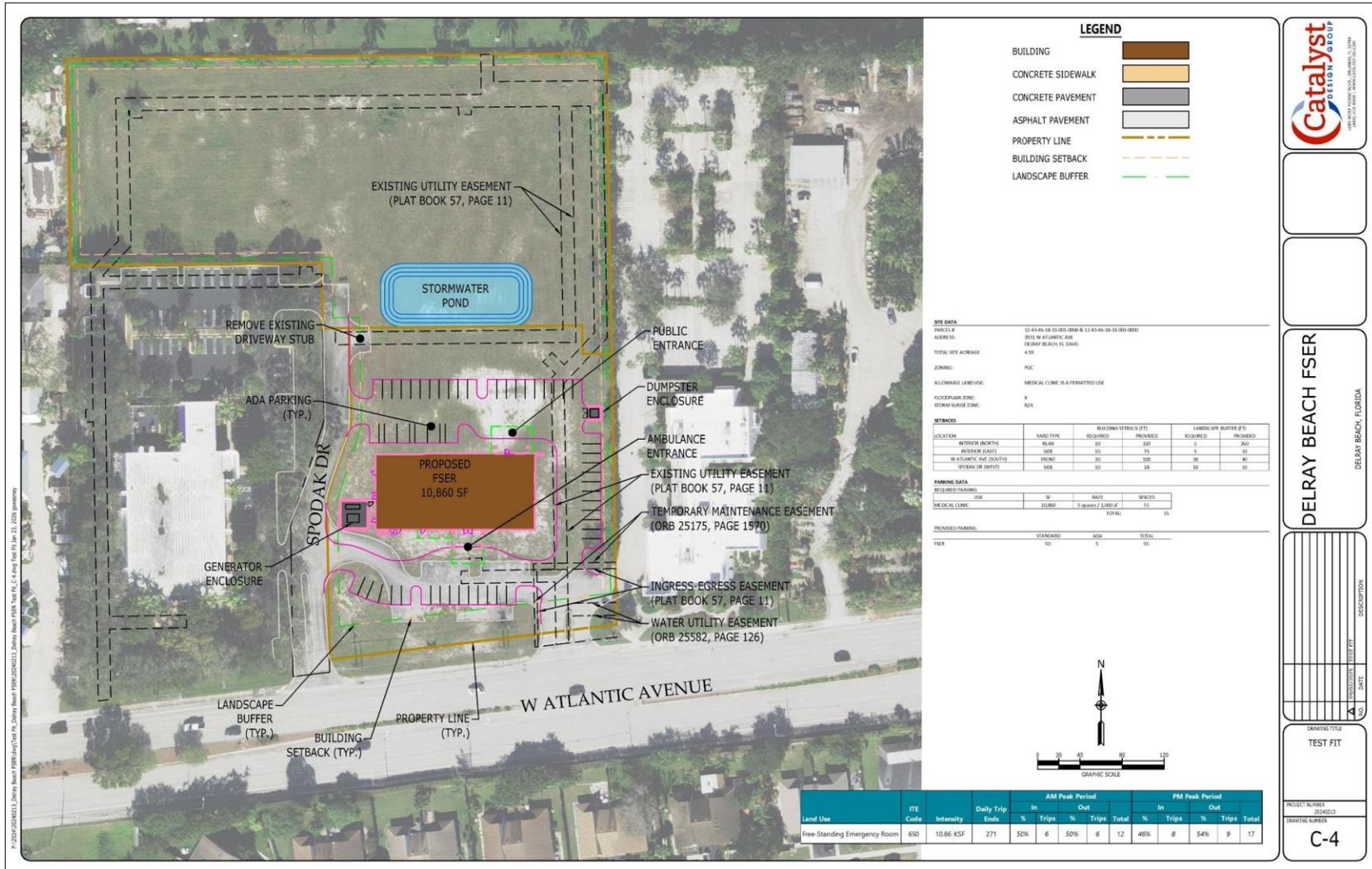
## EXHIBIT 2 (continued)

### Site Photographs



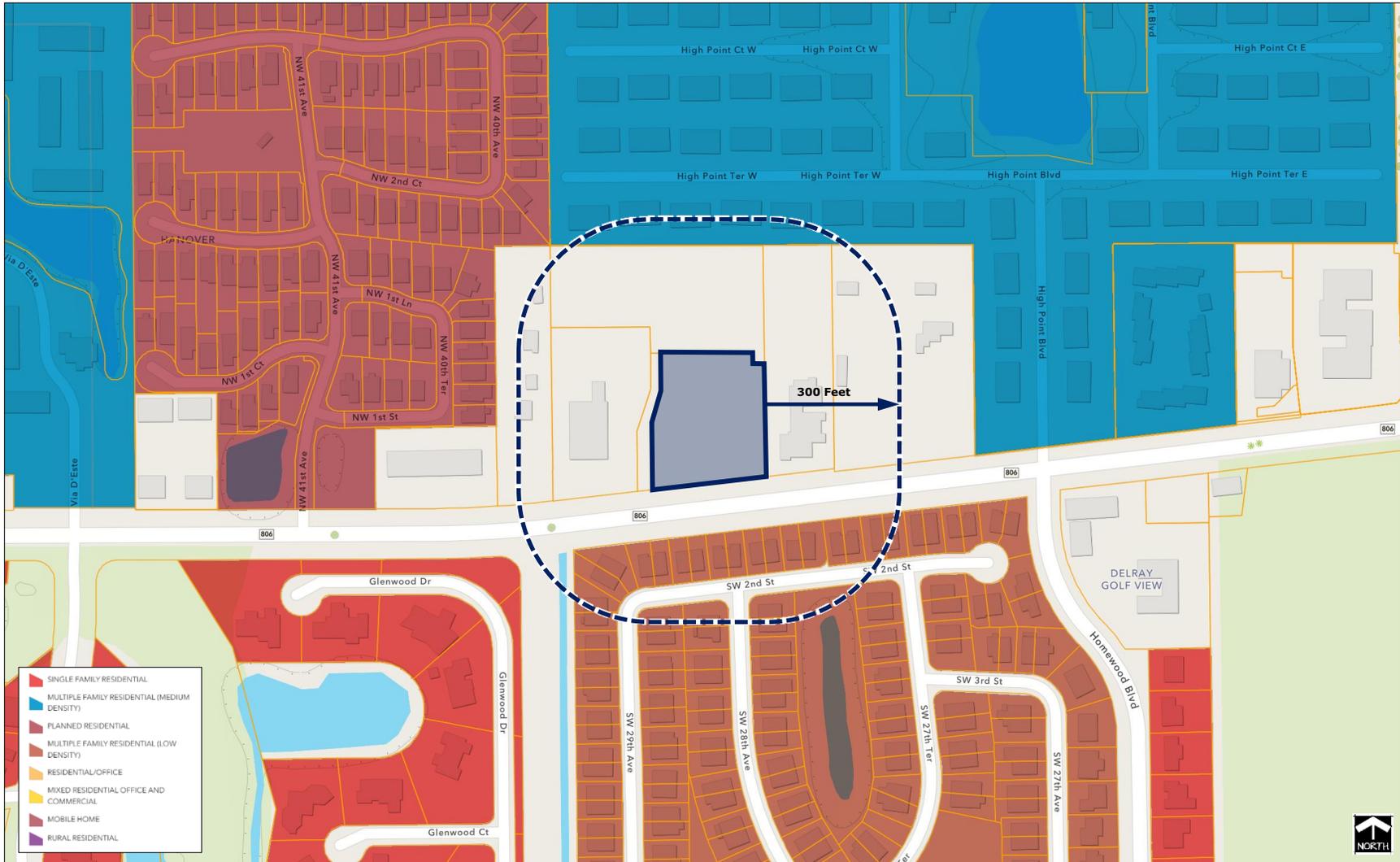
**Photo #8:** Looking northwest from the southeast corner of the property.

### EXHIBIT 3 Conceptual Site Plan (Revised)

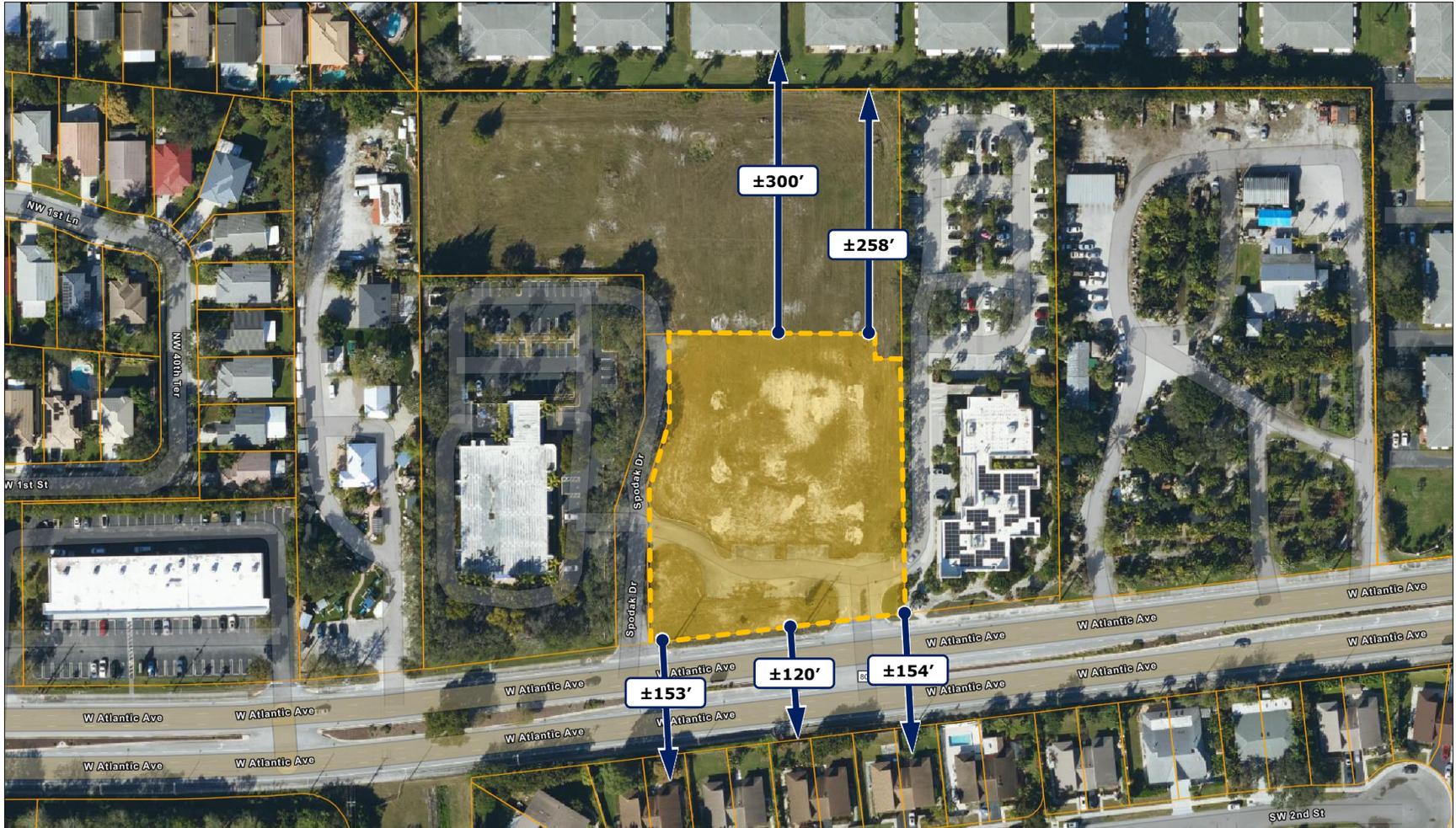




### EXHIBIT 5 Residentially Zoned Properties (300 Foot Buffer Shown)



### EXHIBIT 6 Distance Separation



## EXHIBIT 7

### Sec. 4.3.3. – Special requirements for specific uses.

#### (VV) 24-Hour or Late Night Businesses

- (1) *Purpose and intent:* The purpose and intent of the regulations of this section are:
  - (a) To promote the health, safety and general welfare of the citizenry;
  - (b) To provide conditions upon the use of 24-Hour or late night businesses in order to minimize impacts upon residentially-zoned properties from such uses.

**RESPONSE: As discussed in detail in the submission, the proposed 24-hour FSED will offer a significant benefit to the community by having a licensed, staffed emergency health care facility to serve city residents where they need. The FSED will not only be able to serve the emergency health care needs of the surrounding community but also integrate and engage them in community wellness programs, health education, and preventive care initiatives.**

- (2) *Requirements:* Unless otherwise specified, the following regulations shall apply to 24-Hour or late night businesses:
  - (a) *Conditional use:* Any 24-Hour or late night business located or proposed to be located within a 300-foot straight line route from any residentially-zoned property shall obtain a conditional use permit from the City for the operation of such use. The distance shall be measured from the nearest point of the property on which the 24-Hour or late night business is or will be located to the nearest point of a residentially-zoned property.

**RESPONSE: This application proposes a conditional use approval.**

- (b) *Conditions:* In addition to complying with Section 2.4.5(E) of the Land Development Regulations, all other applicable regulations, and with any conditions imposed through the conditional use process, the following conditions shall apply to all 24-Hour or late night businesses which meet the requirements of subsection (2)(a):
  1. *Security plan:* A 24-Hour or late night business shall submit a security plan detailing the manner in which the business intends to address the security of the establishment, its patrons, employees and nearby residents. A convenience business as defined in Section 812.171, Florida Statutes (2000), as may be amended from time to time, is exempted from filing a security plan with the City pursuant to this subsection. However, convenience businesses shall comply with all applicable provisions of Sections 812.101-812.175, Florida Statutes (2000), as may be amended from time to time. A security plan

shall include, at a minimum, a detailed description of the following:

- a. external lighting; and,
- b. other external security measures, such as security cameras or other similar measures; and,
- c. internal security measures, such as drop safes, silent alarms, security personnel or other similar measures.

**RESPONSE: Providing a safe and secure environment is a fundamental component of every FSED. Security is provided similar to a hospital consistent with the applicable requirements of Florida law. Standard security includes measures such as controlled access; video surveillance; on-site security personnel; emergency communications; locked medications with strict protocols; and formal policies and extensive training. These measures are implemented to protect the community, patients, visitors, and staff while ensuring the facility can deliver high quality emergency care. Unlike convenience stores and other 24-hour operations, the FSED is not an attractor of criminal activity, but as discussed, impedes the likelihood of criminal activity.**

2. *Buffering:* A 24-Hour or late night business shall provide adequate buffering to minimize the effects of noise and to act as a visual buffer to the property from nearby residential districts.

**RESPONSE: A landscape buffer will be provided along the north boundary of the Property in accordance with the City's LDRs. Additionally, between the Property and the residentially zoned development (High Point) to the north is a vacant parcel owned by the Applicant. While there are no plans to develop the vacant site at this time, a landscape buffer will also be provided along its northern boundary, immediately adjacent to High Point, to provide additional visual screening. The landscape buffers will consist of a series of canopy trees, hedges, and shrubs.**

**Additionally, the layout of the facility has been rotated 180 degrees from its original design, placing the ambulance entrance on the south side of the building. This places the ambulance entrance at the furthest possible point from High Point. This also allows the building to serve as a physical barrier between the ambulance entrance and the residential use. The entrance on the north side of the building will be for the public walk-ins only.**

**The residential community on the south side of W. Atlantic Avenue is completely enclosed and screened by an existing wall/fence and hedge that is approximately eight feet in height. As part of the development of the FSED on the Property, a 30-foot landscape buffer will also be provided along W. Atlantic Avenue, providing additional visual screening.**

(c) *Findings:* In addition to any findings required by Section 2.4.5(E) of the Land Development Regulations, and any other required findings, the following specific findings shall be made in order for any 24-Hour or late night business to be approved for a conditional use:

1. That the use will be consistent with Housing Element Policy HOU 1.1.12 of the adopted Comprehensive Plan of the City of Delray Beach.

**RESPONSE: Detailed above, the 24-hour operation of the FSED, as required by state and federal law, will not generate any additional noise, odors, dust, or traffic volumes than any other use permitted by right on the Property. The orientation of the surrounding residentially zoned properties, plus additional robust landscape buffering proposed as part of the development, will ensure the FSED is a positive addition to the neighborhood.**

2. That the submitted security plan contains measures adequate to reasonably protect the safety of patrons, employees and nearby residents.

**RESPONSE: As noted above, the FSED is itself a limiting factor for criminal activity with appropriate security similar to that of the hospital.**

3. That the amount and type of proposed buffering is adequate to minimize the effects of noise impacts upon surrounding uses and nearby residential properties and to act as a visual buffer to the property from surrounding uses and nearby residential properties.

**RESPONSE: A landscape buffer will be provided along the north boundary of the Property in accordance with the City's LDRs. Additionally, between the Property and the residentially zoned development (High Point) to the north is a vacant parcel owned by the Applicant. While there are no plans to develop the vacant site at this time, a landscape buffer will also be provided along its northern boundary, immediately adjacent to High Point, to provide additional visual screening. The landscape buffers will consist of a series of canopy trees, hedges, and shrubs.**

**The residential community on the south side of W. Atlantic Avenue is completely enclosed and screened by an existing wall/fence and hedge that is approximately eight feet in height. As part of the development of the FSED on the Property, a 30-foot landscape buffer will also be provided along W. Atlantic Avenue, providing additional visual screening.**

(3) *Applicability.*

- (a) The provisions of this section shall not apply to 24-Hour or late night businesses which:
1. are more than a 300-foot straight line route from any residentially zoned property as determined by the provisions of subsection (2)(a); or,
  2. are in operation at the time of the adoption of this ordinance; or,
  3. are under construction pursuant to a validly issued building permit at the time of the adoption of this ordinance.

**RESPONSE: Not applicable.**

- (b) Any 24-Hour or late night business which is in existence at the time of the adoption of this ordinance, which meets the requirements of subsection (2)(a), and which changes its use from one type of 24-Hour or late night business to another type of 24-Hour or late night business (e.g., restaurant to nightclub), shall be required to obtain a conditional use approval pursuant to the provisions of this section.

**RESPONSE: Not applicable.**

## EXHIBIT 8

### Sec. 2.4.6. – Regulation of uses.

(5) In addition to provisions of Chapter 3, the City Commission must make findings that establishing the conditional use will not:

(a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located.

**RESPONSE: The FSED and its requirement to operate as a 24-hour facility certainly will not be determinantal and will bring stability to the surrounding neighborhood. The FSED will serve a vital community need and fill a void in emergency healthcare services that are within proximity of residents and will do so while offering the same level of care as a hospital ER without the significantly long wait times.**

(b) Hinder development or redevelopment of nearby properties.

**RESPONSE: The 24-hour operation of the proposed FSED will not hinder development or redevelopment of nearby properties as it has no impact on their development capacity, is supportive of the uses allowed on those properties, and will not be detrimental to any use permitted within their respective zoning districts.**

## EXHIBIT 9

### Chapter 3 – Performance standards.

#### Sec. 3.1.1. – Required findings.

Prior to the approval of development applications, certain findings must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.

- (A) *Land Use Map.* The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.

**RESPONSE: Per Table NDC-1 of the City’s Plan, the Property’s POC zoning designation is consistent and compatible with the TRN FLU designation. Pursuant to Sec. 4.4.15.(B) of the City’s LDRs, medical offices and clinics, including FSEDs, are permitted by right within the POC zoning district.**

- (B) *Concurrency.* Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIE-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

**RESPONSE: Concurrency determination will be made during the Level 2 Site Plan Review process. The Application is focused on allowing the proposed use to operate 24 hours a day within 300 feet of a residentially zoning district.**

- (C) *Consistency.* A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.

**RESPONSE: As outlined herein, the FSED and its required 24-hour operation is not in conflict with the required performance standards.**

- (D) *Compliance with LDRs.* Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations.

**RESPONSE: With the approval of the conditional use for operation as a 24-hour facility, the proposed use complies with all elements of the City’s LDRs.**

**A Level 2 Site Plan Review will be submitted for the physical development of the Property.**

**Sec. 3.2.4. - Standards for specific areas or purposes.**

- (A) *Wellfield protection zones.* The City shall continue to assure compliance with the County Wellfield Protection Ordinance by including compliance as a performance standard for which a specific finding must be made upon approval of any site plan or conditional use action, for any development or site improvements within a designated wellfield protection zone as designated on Map AD-20, in accordance with Goal 2, Water Resources, Conservation, and Protection, of the Conservation, Sustainability, and Resiliency Element.

**RESPONSE: Not applicable. The Property is not within a wellfield protection zone.**

- (B) *Environmentally sensitive areas.* Significant flora or fauna communities which are identified pursuant to a biological survey and habitat analysis required by Conservation, Sustainability, and Resilience Element Policy CSR 4.2.3 shall be appropriately treated as if they were environmentally sensitive areas as identified on Map AD-19, Location of Native Ecosystems and Conservation Areas.

**RESPONSE: Not applicable. The Property is a vacant site void of flora or fauna communities.**

- (C) *Barrier island.* Development on the barrier island shall occur in a manner which does not change the character, increase the intensity of use, or demand upon existing infrastructure; nor increase hurricane evacuation time beyond its present level in the Coastal Planning Area pursuant to Policy CME 4.1.4 and Policies contained under Objective CME 2.2 of the Coastal Management Element.

**RESPONSE: Not applicable. The Property is not located on the barrier island.**

- (D) *Flood prone areas.* Development proposed on land which is located in a floodplain shall certify that the proper requirements for mitigation of potential flood damage have been provided.

**RESPONSE: Not applicable. The Property is not located in a floodplain.**

- (E) *Historic districts and individually designated sites listed on the Local Register of Historic Places.* Proposed development shall be consistent with the purpose and provisions of LDR Section 4.5.1, Historic Preservation: Designated Districts, Sites, and Buildings, the Delray Beach Historic Preservation Design Guidelines, and the Secretary of the Interior's Standards for Rehabilitation.

**RESPONSE: Not applicable. The Property is not within a historic district, nor is it individually designated as a site on the Local Register of Historic Places.**

- (F) *Impact on adjacent communities.* The staff report prepared for any development application or development activities proposed in the plan and provided to the Local Planning Agency shall contain an assessment, if applicable, of how the proposed activity may affect the existing plans of any adjacent local government.

**RESPONSE: Not applicable. The proposed facility is not located within close proximity to an adjacent local government.**

- (G) *Transportation demand management.* A land use application, which will add use area or establish a new use, that will result in the addition on the premises of more than 50 employees, located in the City's Transportation Concurrency Exception Area (TCEA), shall include submittal of a program to implement employer-based Transportation Demand Management (TDM) activities. These activities may include, but are not limited to, ride sharing, van pooling, and flexible work hours.

**RESPONSE: Not applicable. The Property is not located within the City's TCEA.**