

ORDINANCE NO. 2009 - 028

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AMENDING THE 1989 COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 89-17, AS AMENDED; AMENDING THE FUTURE LAND USE ATLAS (FLUA) FOR **LAKE WORTH/TURNPIKE SW COMMERCIAL (LGA 2009-006)**, PRIVATELY INITIATED AMENDMENT: MODIFYING PAGE 76 OF THE FLUA BY CHANGING THE FUTURE LAND USE DESIGNATION FOR APPROXIMATELY 19.04 ACRES OF LAND, GENERALLY LOCATED ON SOUTH SIDE OF LAKE WORTH ROAD, WEST OF THE FLORIDA TURNPIKE AND APPROXIMATELY .47 MILES EAST OF LYONS ROAD, FROM LOW RESIDENTIAL, 2 UNITS PER ACRE (LR-2) TO COMMERCIAL HIGH, WITH AN UNDERLYING LOW RESIDENTIAL, 2 UNITS PER ACRE (CH/2) SUBJECT TO CONDITIONS; AND AMENDING ALL ELEMENTS AS NECESSARY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE 1989 COMPREHENSIVE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 31, 1989, the Palm Beach County Board of County Commissioners adopted the 1989 Comprehensive Plan by Ordinance No. 89-17;

WHEREAS, the Palm Beach County Board of County Commissioners amends the 1989 Comprehensive Plan as provided by Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners have initiated amendments to several elements of the Comprehensive Plan in order to promote the health, safety and welfare of the public of Palm Beach County; and

WHEREAS, the Palm Beach County Local Planning Agency conducted its public hearings on February 6, February 20, and March 13, 2009 to review the proposed amendments to the Palm Beach County Comprehensive Plan and made recommendations regarding the proposed amendments to the Palm Beach County Board of County Commissioners pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, the Palm Beach County Board of County Commissioners, as the governing body of Palm Beach County, conducted a public hearing pursuant to Chapter 163, Part II, Florida Statutes, on April 13, 2009 to review the recommendations of the Local Planning Agency, whereupon the Board of County Commissioners authorized transmittal of proposed amendments to the Department of Community Affairs for review and comment pursuant to Chapter 163, Part II, Florida Statutes; and

WHEREAS, Palm Beach County received the Department of Community Affairs "Objections, Recommendations, and Comments Report," dated June 30, 2009 which was the Department's written review of the proposed Comprehensive Plan amendments; and

WHEREAS, the written comments submitted by the Department of Community Affairs contained an objection to the amendment contained in this ordinance; and

WHEREAS, on August 25, 2009 the Palm Beach County Board of County Commissioners held a public hearing to review the written comments submitted by the Department of Community Affairs and to consider adoption of the amendments; and

WHEREAS, the Palm Beach County Board of County Commissioners has determined that the amendment satisfies the concerns addressed in the Department of Community Affairs' "Objections, Recommendations and Comments Report" and comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulations Act.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Part I. Amendments to the Future Land Use Atlas of the Future Land Use Element of the 1989 Comprehensive Plan

The following amendment to the Future Land Use Atlas is hereby adopted and attached to this Ordinance as Exhibit 1:

A. Future Land Use Atlas page 76 is amended as follows:

Application: Lake Worth/Turnpike SW Commercial (LGA 2009-006)

Amendment: From Low Residential, 2 units per acre, (LR-2) to Commercial High, with an underlying Low Residential, 2 units per acre (CH/2);

Location: South side of Lake Worth Rd, west of the Florida Turnpike, approx. 0.47 miles east of Lyons Rd;

Size: Approx. 19.04 acres;

Conditions: Development of the site under the CH designation is subject to the following conditions:

1. The subject site is limited to a maximum of 300,000 square feet of non-residential uses or equivalent traffic generating uses.
2. The development of the subject site shall adhere to the following design guidelines and shall be developed as a

Lifestyle Commercial Center (LCC) consistent with FLUE Policy 2.2.2-c:

- The project shall have a mix of at least three of the following uses: retail including restaurant, office, institutional, hotel, work/live and residential. One of these uses must be work/live or residential. Flexibility with the site's allocation and location of identified uses may be considered as permitted by the ULDC.
- The project shall provide public usable open space and/or institutional uses that may promote social and cultural activities. At least 5% of the project shall be prominently located and designated as public usable open space to create squares, greens and/or plazas.
- Vehicular and pedestrian connections shall be provided to all existing and future adjacent development.
- The interconnected vehicular and pedestrian circulation system shall provide on-street parking and access to transit stops and off-site pedestrian and bicycle systems where feasible.
- The internal street network shall form a block structure to facilitate the pedestrian oriented design of the project. The largest block perimeter shall measure no more than 1,800 linear feet. At least three full block structures shall be created. Building mass, placement, and build to lines shall be utilized to provide a spatial definition along streets. The design shall incorporate human-scale elements along streets and in common areas that includes but is not limited to: seating, landscaping, lighting and water or art features.
- Parking shall be located in structured parking, or shall require hardscape (e.g. sidewalks, arcades, arbors) and landscape treatments that enhance the pedestrian environment and preserve the spatial definition along streets created by building placement. Parking and access in front of buildings shall be limited to no more than one double row of pull-in parking accessed via a two lane drive aisle and dispersed to strengthen the pedestrian system.
- The project shall demonstrate a vertical as well as horizontal integration of uses.
- No single tenant shall exceed 65,000 square feet. Single large tenants must have architectural façade treatments or liner tenants to reduce large single use frontage facades along streets. All buildings shall provide four-sided architecture.

Part II. Repeal of Laws in Conflict

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of such conflict.

Part III. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Part IV. Inclusion in the 1989 Comprehensive Plan

The provision of this Ordinance shall become and be made a part of the 1989 Palm Beach County Comprehensive Plan. The Sections of the Ordinance may be renumbered or relettered to accomplish such,

and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Part V. Effective Date

The effective date of this plan amendment shall be the date a final order is issued by the Department of Community Affairs or Administration Commission finding the amendment in compliance in accordance with Section 163.3184(1)(b), Florida Statutes, whichever is applicable. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Florida Department of Community Affairs, Division of Community Planning, Plan Processing Team. An adopted amendment whose effective date is delayed by law shall be considered part of the adopted plan until determined to be not in compliance by final order of the Administration Commission. Then, it shall no longer be part of the adopted plan unless the local government adopts a resolution affirming its effectiveness in the manner provided by law.

APPROVED AND ADOPTED by the Board of County Commissioners of Palm Beach County, on the 25th day of August, 2009.

ATTEST:

SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA,

BY ITS BOARD OF COUNTY COMMISSIONERS

By

Deputy Clerk

By

John F. Koons, Chairperson

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

COUNTY ATTORNEY

Filed with the Department of State on the ____ day of _____, 2009.

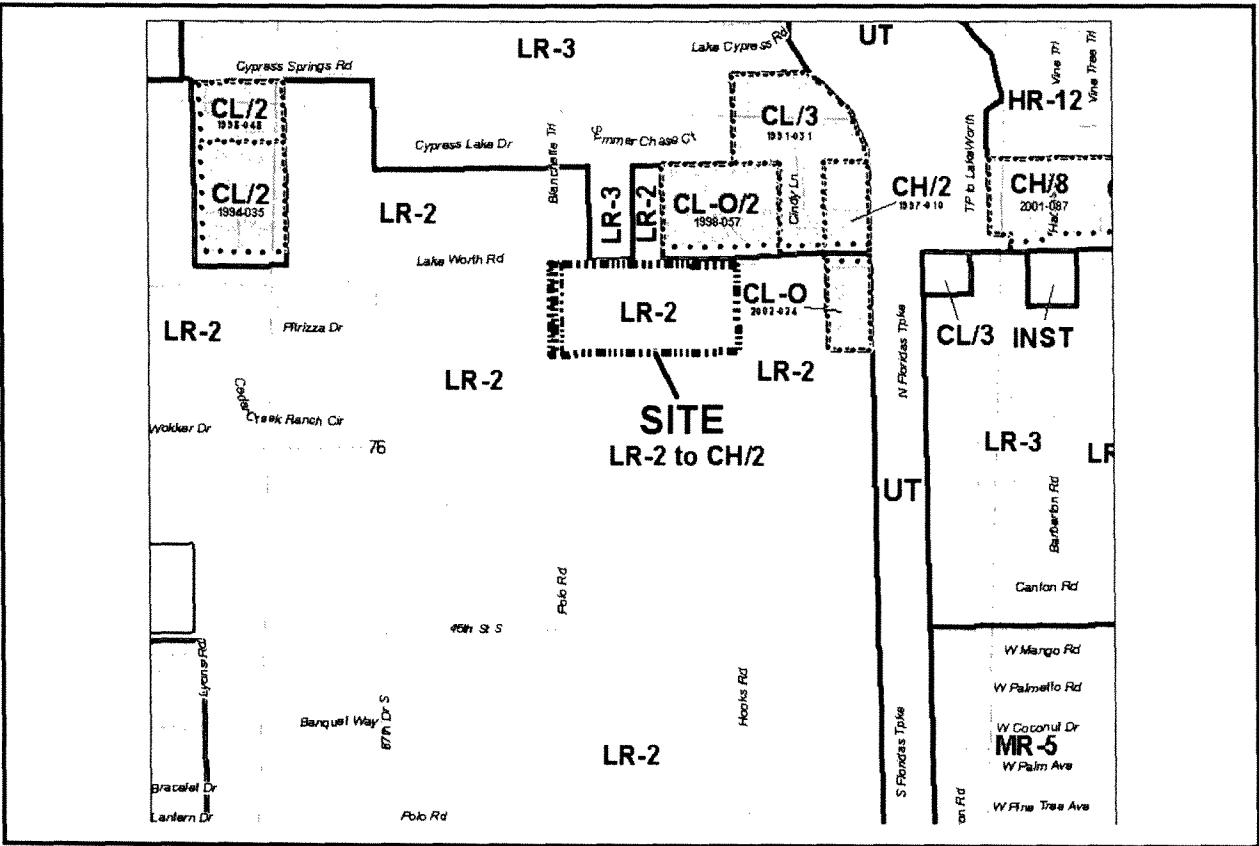
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EXHIBIT 1

Future Land Use Atlas page 76 is amended as follows:

Amendment No: Lake Worth/Turnpike SW Commercial (LGA 2009-006)
FLUA Page No: 76
Amendment: Low Residential, 2 units per acre (LR-2), to Commercial High, with an underlying 2 units per acre (CH/2)
Location: South side of Lake Worth Road, west of the Florida Turnpike, and approximately .47 miles east of Lyons Road
Size: Approx. 19.04 acres
Property No: 00-42-43-27-05-028-0031; 0032; 0033; 0034; 0035; 0036; 0041; 0042

- Development of the site under the CH designation is subject to the following conditions:
1. The subject site is limited to a maximum of 300,000 square feet of non-residential uses or equivalent traffic generating uses.
 2. The development of the subject site shall adhere to the following design guidelines and shall be developed as a Lifestyle Commercial Center (LCC) consistent with FLUE Policy 2.2.2-c:
 - The project shall have a mix of at least three of the following uses: retail including restaurant, office, institutional, hotel, work/live and residential. One of these uses must be work/live or residential. Flexibility with the site's allocation and location of identified uses may be considered as permitted by the ULDC.
 - The project shall provide public usable open space and/or institutional uses that may promote social and cultural activities. At least 5% of the project shall be prominently located and designated as public usable open space to create squares, greens and/or plazas.
 - Vehicular and pedestrian connections shall be provided to all existing and future adjacent development.
 - The interconnected vehicular and pedestrian circulation system shall provide on-street parking and access to transit stops and off-site pedestrian and bicycle systems where feasible.
 - The internal street network shall form a block structure to facilitate the pedestrian oriented design of the project. The largest block perimeter shall measure no more than 1,800 linear feet. At least three full block structures shall be created. Building mass, placement, and build to lines shall be utilized to provide a spatial definition along streets. The design shall incorporate human-scale elements along streets and in common areas that includes but is not limited to: seating, landscaping, lighting and water or art features.
 - Parking shall be located in structured parking, or shall require hardscape (e.g. sidewalks, arcades, arbors) and landscape treatments that enhance the pedestrian environment and preserve the spatial definition along streets created by building placement. Parking and access in front of buildings shall be limited to no more than one double row of pull-in parking accessed via a two lane drive aisle and dispersed to strengthen the pedestrian system.
 - The project shall demonstrate a vertical as well as horizontal integration of uses.
 - No single tenant shall exceed 65,000 square feet. Single large tenants must have architectural façade treatments or liner tenants to reduce large single use frontage facades along streets. All buildings shall provide four-sided architecture.



Legal Description

TRACT 4 AND THE EAST 40 FEET OF TRACT 5, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, AT PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THAT PORTION THEREOF TAKEN BY PALM BEACH COUNTY AS DESCRIBED IN THAT CERTAIN STIPULATED ORDER OF TAKING RECORDED MARCH 7, 1990, IN OFFICIAL RECORD BOOK 6377, AT PAGE 854, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE NORTHERLY 56.10 FEET OF TRACT 4, BLOCK 28, FOR LAKE WORTH DRAINAGE DISTRICT CANAL L-12 (PER CHANCERY CASE NO. 407), AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

TOGETHER WITH THE FOLLOWING DESCRIBED PARCELS:

PARCEL 1

THE EAST 160 FEET OF THE NORTH 153.5 FEET OF THE SOUTH 307 FEET OF TRACT 3, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 2

THE WEST 170 FEET OF THE EAST $\frac{1}{2}$ OF TRACT 3, BLOCK 28, LESS THE NORTH 31 FEET THEREOF, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF THE PALM BEACH COUNTY, FLORIDA.

PARCEL 3

THE SOUTH 169 FEET OF THE NORTH 353 FEET OF THE EAST 160 FEET OF TRACT 3, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 4

THE EAST 160 FEET OF THE NORTH 184 FEET, LESS THE NORTH 31 FEET THEREOF, OF TRACT 3, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 5

THE WEST ONE-HALF (W $\frac{1}{2}$) OF TRACT 3, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LESS AND EXCEPT THEREFROM THAT PORTION OF THE SUBJECT PROPERTY TAKEN BY PALM BEACH COUNTY AS DESCRIBED IN THAT CERTAIN STIPULATED ORDER OF TAKING RECORDED MARCH 8, 1990, IN OFFICIAL RECORD BOOK 6379, AT PAGE 44, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

ALSO LESS AND EXCEPT THE NORTHERLY 56.10 FEET FOR LAKE WORTH DRAINAGE DISTRICT CANAL L-12 (PER CHANCERY CASE NO. 407), AS RECORDED IN OFFICIAL RECORD BOOK 6495, PAGE 761, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

PARCEL 6

THE EAST 160 FEET OF THE SOUTH 153.6 FEET OF TRACT 3, BLOCK 28, THE PALM BEACH FARMS COMPANY PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 2, PAGE 45, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

CONTAINING 19.039 ACRES, MORE OR LESS.