



FUTURE LAND USE ATLAS AMENDMENT STAFF REPORT AMENDMENT ROUND 18-D

BCC ADOPTION PUBLIC HEARING, OCTOBER 31, 2018

A. Application Summary

I. General

Project Name:	Town Commons MLU (LGA 2018-018)
Request:	MLU (CH, CH-O, & LR-2) to MLU (CH & LR-2)
Acres:	40.00 acres
Location:	Northeast corner of Hypoluxo Road and Lyons Road
Project Manager:	Lisa Amara, Principal Planner
Applicant:	Lynx Zukerman at Fort Myers, LLC
Owner:	Town Commons Acquisition, LLC
Agent:	Wantman Group, Inc.
Staff Recommendation:	Staff recommends <i>approval with conditions</i> based upon the findings and conclusions contained within this report.

II. Assessment & Conclusion

The proposed amendment is a request to modify conditions of approval on an existing multiple use project that was initially approved in 1998. The subject site's Multiple Land Use (MLU) future land use designation acts as an 'umbrella' category which allows residential and commercial uses subject to adopted conditions of approval, land use matrix, and conceptual Plan.

The site has approval for Commercial High (CH), Commercial High Office (CH-O), and Low Residential, 2 units per acre (LR-2), under the adopted MLU designation according to specific figures adopted in the Land Use Matrix and layout per the adopted Conceptual Plan. The proposed amendment will increase the development options for the site by changing the CH-O pod to CH to allow commercial uses other than office, allow residential land area as an alternative, and modify the square footages in the Land Use Matrix and Conceptual Plan, and to delete the Design Guidelines.

The proposed amendment is consistent with the policy requirements for an amendment and for an MLU, and is similar to a request on the Windsor Place MLU site to the west the Board adopted in 2014. In addition, the amendment request is consistent with the West Boynton Area Community Plan, is compatible with surrounding land uses, and has met the justification requirements for a future land use amendment.

III. Hearing History

Local Planning Agency: *Approval with conditions*, motion by David Freudenberg, seconded by Marcia Hayden, passed in a 9-1 vote with Barbara Roth dissenting at the July 13th public hearing. The Board discussion included comments regarding transitional uses and the history of the site. Two representatives from the Villagio HOA and a representative from COBWRA spoke in opposition to the amendment, citing the lack of specificity regarding proposed uses, and that a high intensity use such as a gas station, convenience store, or fast food use would be inappropriate on the site.

Board of County Commissioners Transmittal Public Hearing: *Transmit*, motion by Comm. Abrams, seconded by Comm. Burdick, passed in a 7 to 0 vote at the July 23rd public hearing. The Board discussion included questions regarding options to address the concerns expressed by COBWRA. Staff and the applicant stated that dialogue would continue prior to adoption to ensure that the COBWRA concerns were addressed. Three members of the public spoke on the item. One member of the public expressed concerns with regards to the loss of open space and drainage. Two representatives from COBWRA spoke regarding the need to ensure that the uses on the site were compatible and transitional to the adjacent residential uses

State Review Comments: The State Land Planning Agency issued a letter dated August 31, 2018 stating the Agency *"identified no comment related to important state resources and facilities within the Department's authorized scope of review that would be adversely impacted by the amendment if adopted."* There were no other state agency comments received regarding this amendment.

Subsequent to Transmittal: Following the Transmittal of the amendment, the applicant continued to work with adjacent neighborhoods and COBWRA to address concerns. Subsequent letters from Valencia Shores and Villaggio home owners associations indicate no opposition to the amendment, and express concerns regarding specific uses, building height, and aesthetics that will be addressed through the zoning process. See Exhibit 9 for letters.

Board of County Commissioners Adoption Public Hearing: *Wednesday, Oct. 31, 2018*

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Future Land Use Atlas Amendment

Town Commons MLU (LGA 2018-018)



Site Data

Size: 40.00 acres
 Existing Use: Commercial & Vacant
 Proposed Use: Commercial & Residential
 Current FLU: Multiple Land Use (MLU) / CH-O
 Proposed FLU: Multiple Land Use (MLU) / CH & LR-2

Future Land Use Designations

LR-2 Low Residential, 2 units per acre
 HR-8 High Residential, 8 units per acre
 CH Commercial High
 CH-O Commercial High - Office
 MLU Multiple Land Use

Date: 3/2/2018
 Contact: Planning
 Filename: Planning\AMEND\18-D\Site\18-18
 Note: Map is not official, for presentation purposes only.



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Planning, Zoning & Building
 2300 N. Jog Rd, WPB, FL 33411
 Phone (561) 233-5300



B. Petition Summary

I. General Data

Project Name: Town Commons MLU (LGA 2018-018)
Request: MLU (CH, CH-O, & LR-2) to MLU (CH & LR-2)
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Applicant: Lynx Zukerman at Fort Myers, LLC
Owner: Town Commons Acquisition, LLC
Agent: Wantman Group, Inc.

II. Site Data

Current Future Land Use

Current FLU: Multiple Land Use with CH, CH-O, and LR-2
Existing Land Use: Vacant
Current Zoning: Multiple Use Planned Development (MUPD) and Planned Unit Dev. (PUD)
Current Dev. Potential Max: Retail, up to 94,900 sf; Office, up to 30,000 sf; and Residential, up to 80 units (plus TDR/WHP)

Proposed Future Land Use Change

Proposed FLU: Multiple Land Use with CH and LR-2
Proposed Zoning: Multiple Use Planned Development (MUPD) and Planned Unit Dev. (PUD)
Dev. Potential Max/Conditioned: Retail, up to 124,900 sf and Residential, up to 80 units (plus TDR/WHP)

General Area Information for Site

Tier/Tier Change: Urban/Suburban Tier – No Change
Utility Service: Palm Beach County Water Utilities Department
Overlay/Study: West Boynton Area Community Plan
Annexation Area: None
Comm. District: Dave M Kerner, District 3

C. Introduction

I. Intent of the Amendment

The subject site has held a future land use designation for a multiple use project since 1998, and is proposing to revise one of the commercial pods within the site from office only to general commercial. The subject site's Multiple Land Use future land use designation acts as an 'umbrella' category which allows residential and commercial uses subject to adopted conditions of approval, land use matrix, and conceptual Plan. The site has approval for Commercial High (CH), Commercial High Office (CH-O), and Low Residential, 2 units per acre (LR-2), under the adopted MLU designation according to specific figures adopted in the Land Use Matrix and layout per the adopted Conceptual Plan. The proposed amendment will modify conditions as follows:

- Revise the land use matrix to change the 3.10 acre CH-O pod with CH/2 in order to allow additional types of commercial uses, or residential uses. The residential units will be unchanged, although the amendment proposes to utilize the land area for residential as part of the existing residential portion.
- Revise Conditions of Approval and the Conceptual Master Plan;
- Delete Design Guides.

The subject site has three control numbers and approvals as follows:

- Control Number 2000-039, Town Commons MUPD #1, the CH portion of the site, is approved for 94,900 s.f. of commercial retail and bank uses on 15.22 acres. This portion of the site is largely built out with commercial uses. This will be Area 1 on the revised Conceptual Site Plan.
- Control Number 2004-248, Town Commons MUPD #2, the CH-O portion of the site, is approved for 26,000 s.f. of medical office on 3.10 acres and is currently vacant. This will be Area 2 on the revised Conceptual Site Plan.
- Control Number 2004-247, Town Commons PUD, the residential portion of the site, is approved for 132 townhomes on 21.43 acres and is currently vacant. The density comes from 80 units clustered from the LR-2 designation, and the additional 52 units are through the Transfer of Development Rights Program (28 units) and the Workforce Housing Program (24 units). This will be Area 3 on the revised Conceptual Site Plan.

There is a concurrent zoning administrative review application (ZAR-2018-615) for the PUD portion of the site that is not related to the proposed amendment.

II. Background/History

The 40 acre subject site is located in the Urban Suburban Tier in the central region of the county, on the northeast corner of Hypoluxo Road and Lyons Road. The site is along the northern boundary of the West Boynton Area Community Plan.

The Comprehensive Plan allows the Multiple Land Use (MLU) designation to serve as an optional integrated mixed use development pattern for sites within the Urban/Suburban Tier. The designation started out as the Large Scale Multiple Use Overlay, then was converted into an official land use designation to reflect how it was being implemented. The designation acts as an "umbrella" designation over other future land use designations, one of which has to be residential,

and at least one non-residential. The original intent was to promote multiple use projects that integrated residential and non-residential land uses that exceeded minimum zoning requirements. In 2005, the MLU requirements in the Comprehensive Plan contained lengthy requirements, including requirements for design guidelines and a Pedestrian Oriented Zone. The subject site incorporated those requirements into the 2005 amendment ordinance. Subsequently in 2009, the County adopted amendments to the MLU Policies to simplify the requirements and to allow for greater flexibility and applicability.

The amendment site has been the subject of two future land use applications.

- The amendment was initially granted the MLU designation in 1998 by Ordinance 1998-59 (98-85 LSMU 1- Town Commons). The amendment changed the original LR-2 designation to Large Scale/Multiple Use (LS/MU) with CH, CH-O, and LR-2 (clustered). Ordinance 98-59 established standards of development for this site: a maximum of 14.3 acres of CH up to 94,900 square feet; a maximum of 10.8 acres of CH-O up to 151,390; a maximum of 8 acres of residential with the gross 2 units per acre clustered for up to 80 units; 4.9 acres of lakes and drainage; and at least 2 acres of open space. Subsequent to the adoption of the ordinance, the LSMU designation was renamed MLU.
- In 2004 by Ordinance 2004-62, the County approved an amendment on the subject site (Town Commons MLU 2, LGA 2004-036) to modify the conditions of approval by reducing the maximum CH-O land use acreage from 10.8 acres to 3.3 acres, reducing the maximum square footage from 151,390 square feet to 30,000 square feet, and increasing the residential acreage from 8 acres to 13.2 acres. In 2014 by Ordinance 2014-33, the County approved an amendment on the Windsor Place MLU (LGA 2014-010) for a similar request to eliminate the CH-O portion and allow CH uses.

Overview of the Area

The subject site is located within the boundaries of the West Boynton Area Community Plan (WBACP) which is included in the Coalition of Boynton West Residential Associations (COBWRA). The site is located at an intersection with two approved commercial sites to the north, and a built CLF to the west. The built CLF is part of the Villages of Windsor PUD. In 2010, a FLUA Amendment was adopted (Villages of Windsor Institutional; Ordinance 2010-029) changing the future land use from LR-2 to HR-8 with a condition limiting the development to a CLF. The surrounding area is predominately planned residential developments with a variety of housing types. Proposed future land use amendments are currently in process at three of the four corners of this intersection. Villages of Windsor CLF (LGA 2018-024) is to the south of the site and requesting a change from LR-2 to Congregate Living Residential for a congregate living facility. Windsor Place (LGA 2018-021) to the west of the site is requesting a change to eliminate the MLU designation and replace with Commercial High and High Residential 12 units per acre.

D. Consistency and Compatibility

I. Data and Analysis Summary

This section of the report examines the consistency of the amendment with the County's Comprehensive Plan, Tier Requirements, applicable Neighborhood or Special Area Plans, and the impacts on public facilities and services.

A. Consistency with the Comprehensive Plan - General

- 1. Justification: FLUE Policy 2.1-f:** *Before approval of a future land use amendment, the applicant shall provide an adequate justification for the proposed future land use and for residential density increases demonstrate that the current land use is inappropriate. In addition, and the County shall review and make a determination that the proposed future land use is compatible with existing and planned development in the immediate vicinity and shall evaluate its impacts on:*

1. *The natural environment, including topography, soils and other natural resources; (see Public Facilities Section)*
2. *The availability of facilities and services; (see Public Facilities Section)*
3. *The adjacent and surrounding development; (see Compatibility Section)*
4. *The future land use balance;*
5. *The prevention of urban sprawl as defined by 163.3164(51), F.S.;*
6. *Community Plans and/or Planning Area Special Studies recognized by the Board of County Commissioners; and (see Neighborhood Plans and Overlays Section)*
7. *Municipalities in accordance with Intergovernmental Coordination Element Objective 1.1. (see Public and Municipal Review Section)*

The Applicant has prepared a Justification Statement (Exhibit 3) which is summarized as follows:

- Two circumstances have changed since the MLU was adopted. The County adopted an amendment to the Windsor Place MLU located immediately west of the subject site, recognizing the appropriateness of greater flexibility in MLU developments. In 2009, the County adopted changes to the MLU policies in the Comprehensive Plan to offer greater flexibility. The proposed amendment is consistent with these policies.
- The proposed amendment will allow greater flexibility of commercial uses on an established commercial node recognized and supported by the West Boynton Area Community Plan, adopted by the County in 1995.
- Commercial uses are allowed on the 3.10 acre portion, although limited to office only. The change to general commercial uses allowed by CH will foster the build out of this commercial center as a well-planned, market-responsive, mixed use project that is more consistent with the subject property's location and surrounding uses. The change would provide a wider variety of community commercial opportunities and services, offering a more flexible option to foster suitable community commercial development.
- Allowing residential uses on the 3.10 acre portion will allow additional residential land area within the MLU, but not result in additional dwelling units. This would allow flexibility for the residential portion of the project if commercial uses are not ultimately developed.

Staff Analysis: This policy is the umbrella policy over the entire FLUA amendment analysis and many of the items are addressed elsewhere in this report as identified above.

The subject site is part of a node of development with commercial, residential and multiple uses. The proposed amendment will not change the Multiple Land Use (MLU)

designation. Rather, the amendment is seeking to allow the commercial office only pod to be developed with general commercial uses, or be incorporated into the residential pod.

With regards to Justification, the applicant cites changed circumstances for the basis of the request. The policies for the MLU future land use were amended in 2009 to reduce requirements and make the future land designation more flexible, thereby encouraging its use as a land use designation. The County adopted a change in 2014 to replace the CH-O pod with CH for the Windsor Place MLU located to the west of the subject site. The applicant seeks to maintain the MLU designation and requests to remove the CH-O underlying land use and amend conditions assigned to the previous approval. These changes are consistent with the changes to the MLU future land use designation since the last approval, and would result in uses that are suitable, compatible, and appropriate for the subject site. Additional details regarding the specific condition changes are discussed under the MLU Policy below. In addition, the Design Guidelines adopted with the amendment were initially developed in 1996, and are out dated and no longer appropriate. Therefore, the applicant has met the requirements for an adequate justification.

2. **County Directions – FLUE Policy 2.1-g:** *The County shall use the County Directions in the Introduction of the Future Land Use Element to guide decisions to update the Future Land Use Atlas, provide for a distribution of future land uses in the unincorporated area that will accommodate the future population of Palm Beach County, and provide an adequate amount of conveniently located facilities and services while maintaining the diversity of lifestyles in the County.*

Direction 2. Growth Management. *Provide for sustainable communities and lifestyle choices by: (a) directing the location, type, intensity, timing and phasing, and form of development that respects the characteristics of a particular geographical area; (b) requiring the transfer of development rights as the method for most density increases; (c) ensuring smart growth, by protecting natural resources, preventing urban sprawl, providing for the efficient use of land, balancing land uses; and, (d) providing for facilities and services in a cost efficient timely manner.*

Direction 3. Infill, Redevelopment and Revitalization. *Address the needs of developed urban areas that lack basic services, and encourage revitalization, redevelopment, and infill development in urban areas to increase efficient use of land and existing public facilities and services.*

Direction 4. Land Use Compatibility. *Ensure that the densities and intensities of land uses are not in conflict with those of surrounding areas, whether incorporated or unincorporated.*

Staff Analysis: This proposed amendment will not change the future land use designation. However, it will amend several conditions of approval in the adopted ordinance, which is part of the Future Land Use Atlas. The proposed amendment would not violate any of the County directions. The amendment will foster the infill of this commercial center by allowing a greater mix of commercial uses, and will be compatible with surrounding land uses (see Compatibility Section). Thus, there are no policy implications regarding the County Directions with regards to this amendment.

3. **Piecemeal Development - Policy 2.1-h:** *The County shall not approve site specific Future Land Use Atlas amendments that encourage piecemeal development or approve such amendments for properties under the same or related ownership that create residual*

parcels. The County shall also not approve rezoning petitions under the same or related ownership that result in the creation of residual parcels.

Staff Analysis: The amendment is being processed for the entire 40 acre subject site rather than the 3.10 acre portion that is the focus of the amendment. The proposed amendment does not represent piecemeal development.

B. Consistency with Urban/Suburban Tier Requirements for the Specific FLU

Future Land Use Element Objective 1.1, Managed Growth Tier System, states that “*Palm Beach County shall implement the Managed Growth Tier System strategies to protect viable existing neighborhoods and communities and to direct the location and timing of future development within 5 geographically specific Tiers.....*” The property is located in the Urban/Suburban Tier. The Comprehensive Plan contains several policies addressing future land uses in the Urban/Suburban Tier.

1. Policy 1.2-a: *Within the Urban/Suburban Tier, Palm Beach County shall protect the character of its urban and suburban communities by:*

1. *Allowing services and facilities consistent with the needs of urban and suburban development;*
2. *Providing for affordable housing and employment opportunities;*
3. *Providing for open space and recreational opportunities;*
4. *Protecting historic, and cultural resources;*
5. *Preserving and enhancing natural resources and environmental systems; and,*
6. *Ensuring development is compatible with the scale, mass, intensity of use, height, and character of urban or suburban communities.*

Staff Analysis: The proposed amendment will modify an approved commercial pod of a multiple use project to allow a greater variety of commercial uses. The entire MLU has been adopted in context of providing a mix of uses while ensuring 5% of the project is set aside for usable open space. The proposed change is consistent with this policy.

4.4.2 Multiple Land Use

2. Policy 4.4.2-b: *The following minimum standards shall apply to proposed MLU designations during the amendment review process and will be affixed to the approved MLU project in the adopting ordinance:*

1. *Underlying Land Use Designations: The MLU is an umbrella category which requires a minimum of two different future land use designations at least one of which shall be residential. The project shall have minimum and maximum intensities/densities for each land use. The following criteria shall apply towards the land use designations:*
 - a) *Residential Density: The maximum number of units for the parcel shall be calculated by multiplying the total acreage of the parcel by the density permitted through the residential designation. Additional density may be allowed, through the Transfer of Development Rights program, the Workforce Housing Program, or the Affordable Housing Program following an approval of an MLU project.*
 - b) *Non-residential Intensity: The maximum intensity for each proposed non-residential use shall be calculated by assigning all non-residential uses a*

percentage of the total site area, not to exceed 100% for vertically integrated projects; 50% for non-vertically integrated projects. The maximum intensity for each of the projects non-residential land use designations may be reduced by the County, during the review process considering the extent of integration of uses within the project.

- 2. Conceptual Master Plan: The project shall include a conceptual master plan, which depicts (in a generalized or conceptual map format) the location of the various land uses, specifically including the location of open spaces and linkages which functionally integrate the different land use categories. The conceptual master plan shall comply with the following criteria:*
 - a) Land Use Integration: The project must demonstrate functional integration between the project's land uses in the master plan. To facilitate integration, the placement of an interconnected system of streets within both the residential and non-residential components is required.*
 - b) Open Space: At a minimum, 10% of the property must be committed to usable open space (as defined by the Introduction and Administration Element). Open space must functionally integrate the project's land uses and may be applied to the recreation and/or parks requirements or other required civic dedication of land during the development review/re-zoning process, excluding right of way dedication. Water retention, lakes, drainage, and canals shall not be considered usable open space.*
 - c) Pedestrian Oriented/Non-vehicular Pathways: The master plan must include a pedestrian/non-vehicular circulation system that integrates the project's land uses and open spaces. All rights-of-way or parking access drives must have shaded pedestrian pathways.*
 - d) Mass Transit: The project and master plan must provide for mass transit and/or public transportation facilities.*
- 3. Exceeding Code Requirements: The project must demonstrate that it exceeds minimum requirements in the ULDC and may concurrently submit an application for the Zoning review process for the entire site. In the event of a conflict between the project's development standards or design guidelines and the existing ULDC requirements, the more restrictive requirement shall prevail.*
- 4. Design Guidelines: To ensure that the project exceeds minimum Code requirements, the project may include design guidelines to identify built form and site design requirements, which may include:*
 - a) Vehicular and pedestrian circulation system, lighting, signage, recreation/open space/public amenities, buffering, landscaping requirements;*
 - b) Conceptual landscape plans and streets cross-sections; and*
 - c) Architectural features and use limitations may also be included.*
- 5. Minimum Acreage: The minimum acreage for an MLU project is 10 acres.*
- 6. Unity of Control: The non- residential portions of an MLU project shall be required to be the subject of a Unity of Control at the time of rezoning to ensure a consistent and cohesive project.*

Staff Analysis: The requested modifications to the conditions are consistent with the 6 criteria of this policy. The amendment to change CH-O to CH, and changes to the Land Use Matrix, are consistent with the MLU policies, and do not prohibit or restrict office uses from being utilized within the CH portion of the project since the ULDC allows office uses within the CH Land Use. The overall request is consistent with this policy. Specific changes to the conditions of approval are shown in Exhibit 1 and summarized below:

Land Use Matrix: This amendment proposes to eliminate the office only requirement of the current vacant CH-O pod of the project. This change will reassign the pod from CH-O to CH, reduce the acreage to 3.10 acres, eliminate a minimum square footage, and retain the current maximum square footage of 30,000 for commercial retail or other uses allowed in CH or LR-2 up to an equivalent number of trips per day. This change will allow this pod to be utilized as either commercial with up to 30,000 s.f. of retail or equivalent trips, or residential land area. The request will not exceed the floor area ratio (FAR) limitations. There is no change to Area 1, the primary commercial pod. The residential area, called Area 3, will be revised to increase the amount of residential acreage up to 25.7 acres, and add a note to clarify that the minimum 4 acres of open space shall be assigned in one or more of the pods. The proposed underlying CH/2 designation will provide a wider variety of community commercial opportunities and services.

Conditions: Conditions are proposed to be revised as follows.

- **Condition #2/Height** caps the height of the Commercial High-Office (CH-O) portion of the site to a maximum of 35 feet at eave. This condition is no longer necessary since the CH-O Future Land Use will no longer apply and the project will be subject to the height restrictions of the ULDC and is proposed to be deleted.
- **Condition #3/Design Guidelines** requires compliance with the Design Guidelines and Standards since this amendment is requesting that these amendments be deleted. The County has adopted Zoning resolutions for each of the three portions of the subject site which outline all the required amenities previously listed in the Design Guidelines. Further, these Design Guidelines are largely out of date. Therefore, we are requesting to delete the design guidelines established in the original MLU approval and follow the requirements as listed in the zoning resolutions established for all three zoning districts (Area 1, Area 2, and Area 3) and the revised Conceptual Plan.
- **Condition #4 & 5/POZ** requires a Pedestrian Oriented Zone (POZ). The POZ and other MLU requirements were deleted in a County initiated Text amendment in 2009 to allow for greater flexibility, and is no longer required.
- Two new conditions were added for consistency with MLU requirements. The note regarding usable open space is relocated to a line item, and specifically allows the useable open space to be allocated to each of the three areas of the project. A new condition was added to clarify the link between the existing Land Use Matrix and FLUE Policy 4.4.2-b.1(a) which allows the use of the Transfer of Development Rights and Workforce Housing programs to increase density.

Conceptual Site Plan: This amendment is requesting to modify the Conceptual Site Plan in order to reflect the land use change addressed in the application and modifications to the land use chart. The Conceptual Plan is proposed to be updated to show all of the conceptual location of all amenities, while allowing for the deletion of some of the more inappropriate and redundant features previously shown. The additional revisions are proposed to modify the conceptual plan including: remove the boardwalk across the lake, relocate walkways from behind PUD units to along the right of way and spine road for

connectivity, reduce paved area and increase usable open space, and eliminate connections to the Windsor Place PUD which is impossible due to the configuration of this PUD.

C. Compatibility

Compatibility is defined as a condition in which land uses can co-exist in relative proximity to each other in a stable fashion over time such that no use is negatively impacted directly or indirectly by the other use.

Surrounding Land Uses: Immediately abutting the site are the following:

North and East: To the north and east is the Village of Windsor residential planned unit development (PUD) with an average of 1.85 units per acre and a LR-2 designation. The properties adjacent to the subject site are residentially developed.

South: Immediately to the south is Hypoluxo Road and then the Village of Windsor PUD and private and public civic sites. The public sites are planned for a park and fire station. The privately owned portion is in process for a future land use amendment from LR-2 to Congregate Living Residential (Villages of Windsor CLF, LGA 2018-024).

West: Immediately to the west is Lyons Road and then the vacant 40 acre property with a MLU designation called Windsor Place (LGA 2018-021) which is in process for a future land use amendment proposing to eliminate the MLU and replace with CH and High Residential, 12 units per acre.

FLUE Policy 2.1-f states that *“the County shall review and make a determination that the proposed future land use is compatible with existing and planned development in the immediate vicinity.”* And **FLUE Policy 2.2.1-b** states that *“Areas designated for Residential use shall be protected from encroachment of incompatible future land uses and regulations shall be maintain to protect residential areas from adverse impacts of adjacent land uses. Non-residential future land uses shall be permitted only when compatible with residential areas, and when the use furthers the Goals, Objectives, and Policies of the Plan.”*

Applicant’s Comments: The applicant states that the proposed change is compatible with the adjacent development . The specific CH-O pod has already been designed to incorporate commercial uses and provide necessary separation and buffering from the residential uses within the project.

Staff Analysis: The 40 acre development site was deemed compatible with the surrounding Land Uses when the initial Land Use amendment to the MLU Land Use designation was approved. The current request is not changing the designation. Furthermore, the ULDC requires additional setbacks from residential uses for the current and proposed uses within the project. As such, the proposed amendment is compatible and consistent with the surrounding residential existing and future development.

D. Consistency with County Overlays, Plans, and Studies

1. **Overlays – FLUE Policy 2.1-k** states *“Palm Beach County shall utilize a series of overlays to implement more focused policies that address specific issues within unique identified areas as depicted on the Special Planning Areas Map in the Map Series.”*

Staff Analysis: The subject site is not located within an overlay.

2. **Neighborhood Plans and Studies – FLUE Policy 4.1-c** states *“The County shall consider the objectives and recommendations of all Community and Neighborhood Plans, including Planning Area Special Studies, recognized by the Board of County Commissioners, prior to the extension of utilities or services, approval of a land use amendment, or issuance of a development order for a rezoning, conditional use or Development Review Officer approval.....”*

Staff Analysis: The subject site is located within the boundaries of the West Boynton Area Community Plan (WBACP). The following recommendations within the WBACP apply to the location:

Rec. 27: Provide exceptions to unified plans incorporating both residential and non-residential uses. In those cases, the total aggregated threshold should not exceed 300,000 square feet.

Rec. 29: The total size of aggregations (existing and proposed non-residential development) should not exceed 300,000 square feet.

Recommendations regarding layout and other provisions of the WBACP Plan:

Rec. 21: Create a 'proper balance' of land uses within the plan area that encourages continued residential, commercial and employment-based development, managed within a framework where excesses in each category are avoided. ('Proper balance' means that commercial uses would be primarily confined to aggregated nodes at intersections, that non-residential uses would avoid strip development patterns along major and minor arterials, and the ratio of non-residential to residential uses would correspond to the overall residential population so as to achieve a desirable (not over-built) market for goods, services and jobs.)

Staff Analysis/Comment: The proposal is generally consistent with the recommendations of the WBACP. The most significant recommendation in terms of consistency with the Plan and the request to modify conditions of approval for this MLU designation is Rec. 21. Rec. 21 reinforces the goals of the MLU land use designation, which is to integrate land uses.

The WBACP provides two scenarios for commercial development consistent with the neighborhood plan. The first are typical shopping centers located at identified commercial nodes, which are defined by the Plan. The second scenario for commercial development in the WBACP calls for pedestrian oriented projects, which integrate several different land uses in order to reduce the dependence upon the automobile. Therefore, the proposed amendment is generally consistent with the recommendations of the West Boynton Area Community Plan.

E. Public Facilities and Services Impacts

The proposed amendment will allow general commercial uses on a 3.10 acre pod of the Multiple Land Use project that is currently limited to office only, or as an alternative, expanded land area (no units) for the existing residential area. Public facilities impacts are detailed in the table in Exhibit 3.

1. **Facilities and Services – FLUE Policy 2.1-a:** *The future land use designations, and corresponding density and intensity assignments, shall not exceed the natural or manmade constraints of an area, considering assessment of soil types, wetlands, flood plains, wellfield zones, aquifer recharge areas, committed residential development, the transportation network, and available facilities and services. Assignments shall not be made that underutilize the existing or planned capacities of urban services.*

Staff Analysis: The proposed amendment has been distributed to the County service departments for review and there are adequate public facilities and services available to support the amendment, and the amendment does not exceed natural or manmade constraints. Staff sent a request for departmental review of the proposed amendment to various County departments and external agencies for review of public facility impacts. No adverse comments were received from the following departments and agencies regarding impacts on public facilities:

Mass Transit (Palm Tran), Potable Water & Wastewater (PBC Water Utilities Dept.), Environmental (Environmental Resource Management), Historic Resources (PBC Archaeologist), Parks and Recreation, Office of Community Revitalization (OCR), ULDC (Zoning Division), Health (PBC Dept. of Health), Fire Rescue, Lake Worth Drainage District.

2. **Long Range Traffic - Policy 3.5-d:** *The County shall not approve a change to the Future Land Use Atlas which:*

- 1) *results in an increase in density or intensity of development generating additional traffic that significantly impacts any roadway segment projected to fail to operate at adopted level of service standard “D” based upon cumulative traffic comprised of the following parts a), b), c) and d):.....*

Staff Analysis: The Traffic Division reviewed this amendment based on the change in development potential for the 3.10 acre CH-O pod with a maximum of 30,000 s.f. of medical office to a maximum of 30,000 s.f. of general commercial retail. According to the County’s Traffic Engineering Department (see letter dated January 23, 2018 in Exhibit 5) the amendment with proposed development would result in 163 net daily trips, and 3 AM and 65 PM net peak hour trips.

The Traffic letter concludes *“Based on the review, the Traffic Division has determined the proposed amendment meets Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan at the maximum potential shown above”*.

The Traffic Study (see Exhibit 5) was prepared by JFO Group Inc., 11924 Forest Hill Blvd., Suite 10A-123, Wellington, FL 33414. Traffic studies and other additional supplementary materials for site-specific amendments are available to the public on the PBC Planning web page at: <http://www.pbcgov.com/pzb/planning/activeamend/>

II. Public and Municipal Review

The Comprehensive Plan Intergovernmental Coordination Element **Policy 1.1-c** states that *“Palm Beach County will continue to ensure coordination between the County’s Comprehensive Plan and plan amendments and land use decisions with the existing plans of adjacent governments and governmental entities.....”*

- A. Intergovernmental Coordination:** Notification of this amendment was sent to the Palm Beach County Intergovernmental Plan Amendment Review Committee (IPARC) for review on May 21, 2018. To date, no objections through the IPARC process to this amendment have been received.
- B. Other Notice:** Public notice by letter was mailed to the owners of properties within 500' of the perimeter of the site on June 21, 2018. In addition, on June 8th and June 21st the Planning Division notified the Bellaggio Residents Association, Coalition of Boynton West Residential Association (COBWRA), Isola Bella HOA, Savannah Estates HOA, Valencia Shores Master Association, Villages of Windsor HOA, and Villagio at Villages of Windsor HOA.
- C. Informational Meeting:** The Planning Division hosted a meeting on June 5, 2018 with area residents and interested parties to relay information regarding the proposed amendment, the Comprehensive Plan Amendment process, and the development review process. Several member of the public attended and asked questions regarding the project, specifically related to the types of uses that would be allowed on the 3 acre portion and the number and type of approved units on the residential portion of the site.

III. Conclusions and Recommendation

The proposed amendment is a request to modify conditions of approval on an existing multiple use project that was initially approved in 1998. The subject site’s Multiple Land Use future land use designation acts as an ‘umbrella’ category which allows residential and commercial uses subject to adopted conditions of approval, land use matrix, and conceptual Plan. The site has approval for Commercial High (CH), Commercial High Office (CH-O), and Low Residential, 2 units per acre (LR-2), under the adopted MLU designation according to specific figures adopted in the Land Use Matrix and layout per the adopted Conceptual Plan. The proposed amendment will increase the development options for the site by changing the CH-O pod to CH to allow commercial uses other than office, allow residential land area as an alternative, and modify the square footages in the Land Use Matrix and Conceptual Plan, and to delete the Design Guidelines.

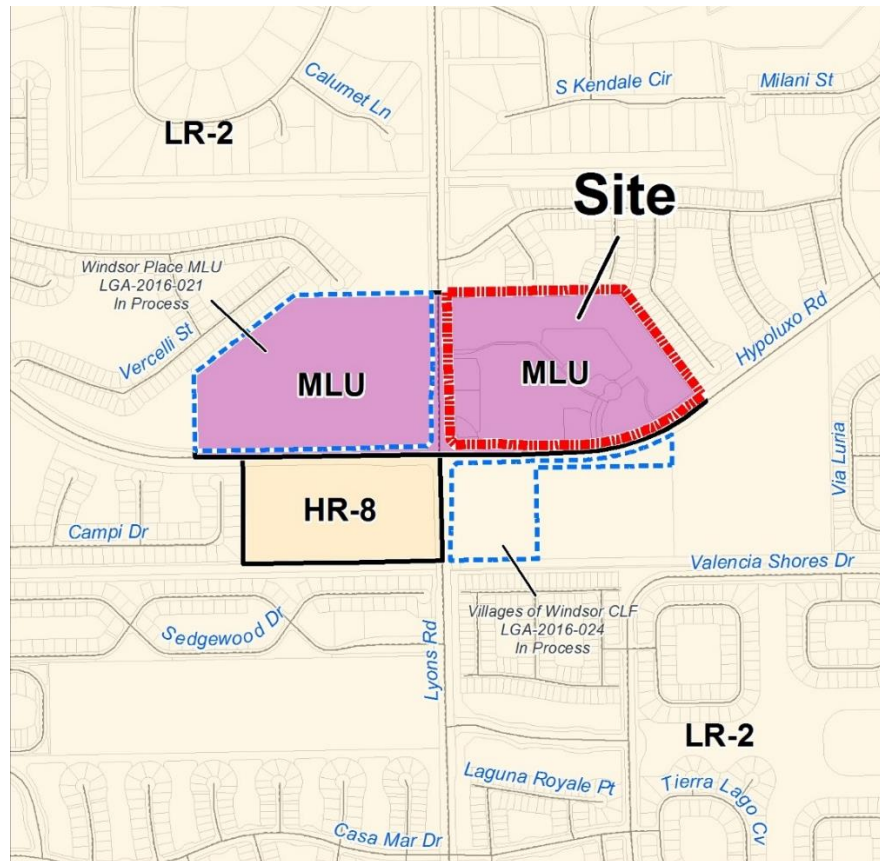
The proposed amendment is consistent with the policy requirements for an amendment and for an MLU, and is similar to a request on the Windsor Place MLU site to the west the Board adopted in 2014. In addition, the amendment request is consistent with the West Boynton Area Community Plan, is compatible with surrounding land uses, and has met the justification requirements for a future land use amendment.

As such, staff recommends **approval** of the applicant’s request.

Exhibits	Page
1. Future Land Use Map & Legal Description	E-1
2. Conceptual Master Plan	E-5
3. Applicant's Justification/Consistency with Comprehensive Plan and Florida Statutes	E-7
4. Applicant's Public Facility Impacts Table	E-20
5. Applicant's Traffic Study (<i>available to the LPA/BCC upon request</i>)	E-30
6. Palm Beach County Traffic Division Letter	E-31
7. Water & Wastewater Provider LOS Letter	E-32
8. Applicant's Disclosure of Ownership Interests	E-33
9. Correspondence	E-45

Exhibit 1

Amendment No:	Town Commons MLU (LGA 2018-0018)
FLUA Page No:	76
Amendment:	From Multiple Land Use with CH, CH-O, and LR-2, to Multiple Land Use with CH and LR-2
Location:	Northeast corner of Hypoluxo Road and Lyons Road
Size:	40.00 acres
PCN:	00-42-45-08-10-002-0010; 00-42-45-08-10-002-0030; 00-42-45-08-10-002-0020; 00-42-45-08-11-012-0000 00-42-45-08-11-023-0000; 00-42-45-08-11-018-0000 00-42-45-08-10-001-0010; 00-42-45-08-11-002-0000 00-42-45-08-10-012-0000; 00-42-45-08-10-002-0040 00-42-45-08-11-001-0010; 00-42-45-08-11-000-0010 00-42-45-08-11-016-0000; 00-42-45-08-10-002-0050 00-42-45-08-10-001-0020
Conditions:	See Next Page



To Revise Conditions of Approval adopted by Ordinance 2004-069 as shown with added text underlined and deleted text ~~struck out~~:

A. Revise the land use matrix.

Land Use	Acreage Min. – Max.	Intensity/Density	
		Min.	Max.
Commercial High (CH) <u>(Area 1)</u>	14.3	N/A	94,900 SF
Commercial High <u>(CH/2)</u> Office (CH-O) (Area 2)	<u>3.10</u> 2.7 – 3.3	<u>N/A</u> 24,000 SF	30,000 SF <u>*</u>
Low Residential, 2 units per acre (LR-2) <u>(Area 3)</u>	10.8 – 13.2 <u>25.7</u>	60 units	80 units <u>(see Condition 3)</u>
Open Space	4.0 – no max*	N/A	N/A
Lake Tracts	3.0 – 5.0	N/A	N/A
Total	40	N/A	N/A

* A minimum of 4 acres must be utilized for open space. These four acres shall not be applied to the recreation and/or parks requirements or any other required dedication of land. Water retention, lakes, drainage, and canals shall not be considered useable open space. Or, uses allowed under CH or LR-2 future land use up to the equivalent number of trips per day.

B. Delete the Conceptual Plan and Adopt new Conceptual Plan (Exhibit 2)

C. Delete the previously adopted conditions shown below in strike out and underline

1. Development of the site shall comply with the Conceptual Master Plan.
2. A minimum of 4 acres must be committed to useable open space. These 4 acres shall not be applied to the recreation and/or parks requirements or any other required dedication of land. Water retention, lakes, drainage, and canals shall not be considered useable open space. The usable open space requirements shall be located within one or more of the Areas identified (1, 2, or 3).
3. Additional density is allowed pursuant to Future Land Use Element Policy 4.4.2-b.1(a) (TDR, WHP, AHP).
2. ~~The height of the buildings on the Commercial High Office portion of the site is limited to a maximum of 35 feet at eave.~~
3. ~~Development of the site shall comply with the Design Guidelines and Standards for Future Development.~~
4. ~~All structures requiring a building permit, having frontage on the Pedestrian Oriented Zone, as depicted on the adopted Conceptual Master Plan, shall be subject to the Planning Division's review for consistency with the Design Guidelines.~~
5. ~~Prior to any DRO certification, architectural elevations for all frontages abutting the Pedestrian Oriented Zone, as depicted on the Conceptual Master Plan, shall be submitted for review to ensure consistency with the intent of the Design Guidelines.~~

D. Delete the Design Guidelines (Exhibit X)

Legal Description

DESCRIPTION: PUD

ALL OF THE PLAT OF TOWN COMMONS PUD / MUPD, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 118, PAGE 6, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, WHICH IS A PORTION OF THE FOLLOWING:

ALL OF THE PLAT OF TOWN COMMONS - PLAT ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 99, PAGE 68, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

LESS AND EXCEPT THAT PROPERTY CONTAINED IN SPECIAL WARRANTY DEED IN FAVOR OF HYPO, LLC, A FLORIDA LIMITED LIABILITY COMPANY, RECORDED FEBRUARY 26, 2003, IN OFFICIAL RECORDS BOOK 14848, PAGE 148, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF TRACTS 14, 15 AND 38 THROUGH 41, AND A PORTION OF THE 30 FOOT PLATTED RIGHT OF WAY ADJOINING THE SOUTH LINE OF TRACTS 14 AND 15, IN BLOCK 42, THE PALM BEACH FARMS CO. PLAT NO. 3, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF GREENBRIAR 1 OF SHERBROOKE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 33, PAGES 55 THROUGH 57, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE SOUTH 89° 26' 07" WEST, ALONG THE SOUTH LINE OF GREENBRIAR 1 OF SHERBROOKE, AND ITS WESTERLY PROLONGATION, A DISTANCE OF 2,093.11 FEET TO THE EASTERLY RIGHT OF WAY LINE OF LYONS ROAD AS CONVEYED IN OFFICIAL RECORDS BOOK 9745, PAGE 1416, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, THENCE SOUTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 1,177.08 FEET, THENCE NORTH 89° 07' 24" EAST, A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL, THENCE NORTH 89° 07' 24" EAST, A DISTANCE OF 75.59 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 400.00 FEET, THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 19° 07' 21", A DISTANCE OF 133.50 FEET, TO A POINT OF TANGENCY, THENCE NORTH 70° 00' 03" EAST, A DISTANCE OF 116.85 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 112.00 FEET, THENCE EASTERLY, ALONG THE ARC OF SAID CURVE THROUGH, A CENTRAL ANGLE OF 20° 00' 00" A DISTANCE OF 39.10 FEET, TO A POINT OF TANGENCY, THENCE SOUTH 89° 59' 57" EAST, A DISTANCE OF 216.39 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 112.00 FEET, THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 45° 00' 00" A DISTANCE OF 87.96 FEET, TO A POINT OF TANGENCY, THENCE SOUTH 44° 59' 57" EAST, A DISTANCE OF 398.67 FEET, TO THE POINT OF CURVATURE OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 212.00 FEET, THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 21° 00' 18", A DISTANCE OF 77.72 FEET, TO A POINT OF TANGENCY, THENCE SOUTH 66° 00' 15" EAST, A DISTANCE OF 129.51 FEET, THENCE SOUTH 24° 26' 00" WEST, A DISTANCE OF 58.11 FEET, TO THE POINT OF CURVATURE OF

A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 300.00 FEET, THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 31° 47' 52", A DISTANCE OF 166.49 FEET TO A POINT OF TANGENCY, THENCE SOUTH 07° 21' 52" EAST, A DISTANCE OF 100.50 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HYPOLUXO ROAD AS CONVEYED IN OFFICIAL RECORDS BOOK 10031, PAGE 697, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 1,370.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS NORTH 07° 22' 40" WEST, THENCE WESTERLY, ALONG THE ARC OF SAID CURVE, AND ALONG SAID NORTHERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 06° 48' 47", A DISTANCE OF 162.91 FEET, TO A POINT OF TANGENCY, THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY LINE, THROUGH THE FOLLOWING THREE COURSES, SOUTH 89° 26' 07" WEST, A DISTANCE OF 325.80 FEET, THENCE ORTH 86° 47' 19" WEST, A DISTANCE OF 250.54 FEET; THENCE SOUTH 89° 26' 07" WEST, A DISTANCE OF 125.00 FEET, TO A POINT OF INTERSECTION WITH A NON-TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 215.00 FEET, THE RADIUS POINT OF SAID CURVE BEARS SOUTH 89° 26' 07" WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 86° 48' 02" A DISTANCE OF 325.71 FEET, TO A POINT OF INTERSECTION WITH A NON-TANGENT LINE, THENCE NORTH 00° 33' 53" WEST, A DISTANCE OF 114.47 FEET, THENCE NORTH 01° 49' 30" WEST, A DISTANCE OF 250.06 FEET, THENCE NORTH 00° 33' 53" WEST, A DISTANCE OF 78.97 FEET TO THE POINT OF BEGINNING.

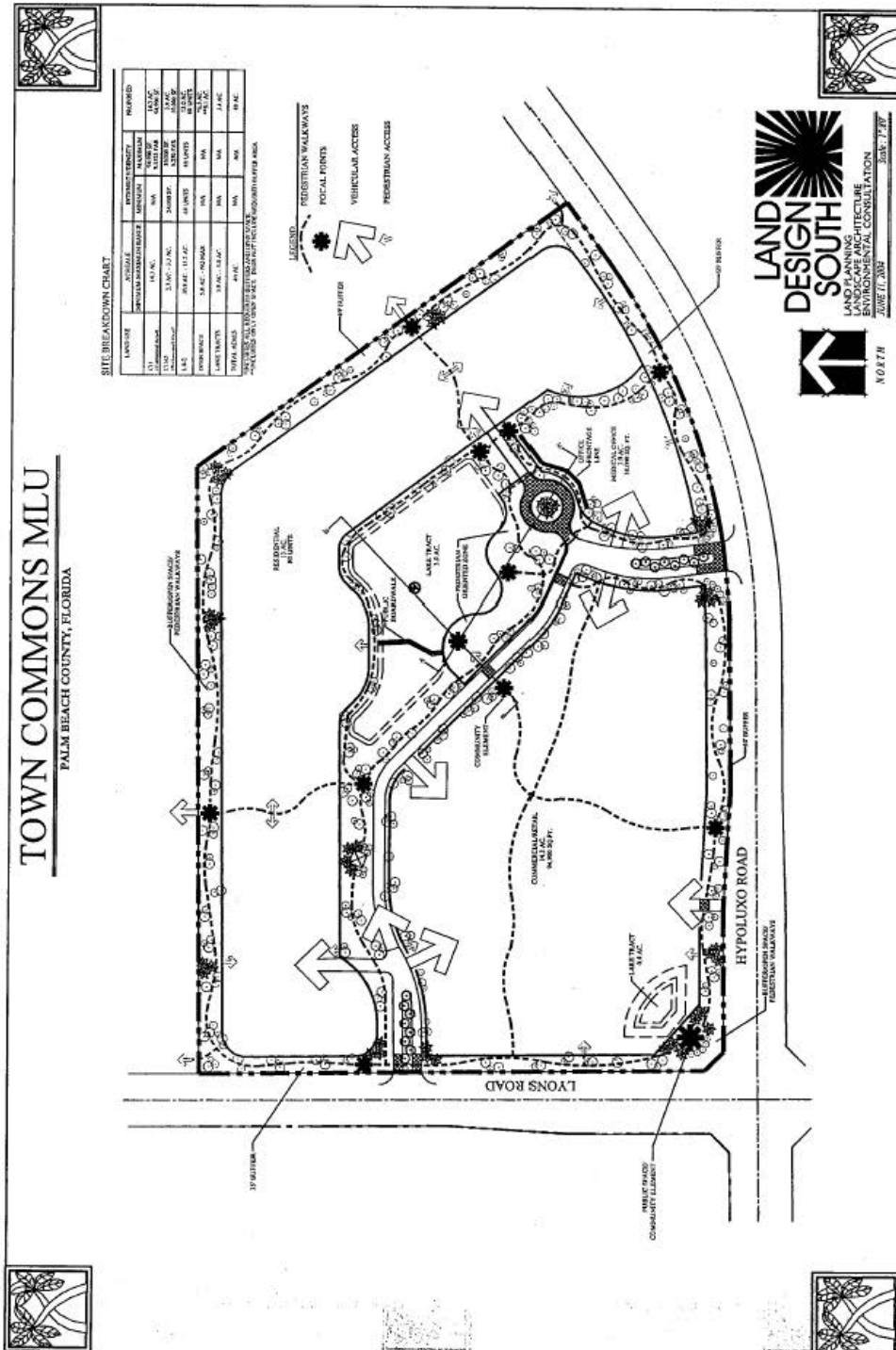
DESCRIPTION: TOWN COMMONS – PLAT ONE

A LARGE SCALE MULTIPLE USE DEVELOPMENT BEING A REPLAT OF A PORTION OF TRACTS 14 THROUGH 18 AND TRACTS 36 THROUGH 41. BLOCK 42, AND A PORTION OF THE 30 FOOT PLATTED RIGHT-OF-WAY ADJOINING THE SOUTH LINE OF SAID TRACTS 14 THROUGH 18, PALM BEACH FARMS CO. PLAT NO. 3 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY FLORIDA, SAID LANDS LYING AND BEING IN SECTIONS 7 AND 8, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

DESCRIPTION: TOWN COMMONS PUD/MUPD

BEING A REPLAT OF TRACTS "C", "L-1" AND A PORTION OF TRACTS "A" AND "B", TOWN COMMONS-PLAT ONE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 99, PAGES 68 AND 69, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTIONS 7 AND 8, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA

Delete Conceptual Plan adopted by Ordinance 2004-062



TOWN COMMONS MLU
PALM BEACH COUNTY, FLORIDA

LEGEND

- BUTTERFLY SPACE AREA
- OPEN SPACE
- SPRINKLER
- WATER BODY

LAKE AREA

PUD
Palm Upland Development
PUD 17.0 AC

MUD
Marine Upland Development
MUD 1.0 AC

OPEN SPACE

SPRINKLER

ROAD

TRAIL

BUTTERFLY SPACE AREA

LYONS ROAD

HYPOLUXO ROAD

ARCHITECTURAL
HYPOLUXO ROAD
SPRINKLER

WGI
Wantman Group, Inc.

LAND DESIGN SERVICES, INC.
LAND DESIGN SERVICES, INC.
10000 N. W. 10th Ave., Suite 100
Miami, FL 33150
Tel: 305.444.1000
Fax: 305.444.1001

Exhibit 3

Applicant's Justification Statement, Consistency, and Compatibility

On behalf of the Applicant, WGI, is respectfully requesting a Future Land Use Atlas (FLUA) Amendment, in order to modify the Underlying Future Lane Use designation from Commercial High, Office (CH-O) to Commercial High (CH) / Low Residential, 2 dwelling units per acre (LR-2).

Introduction

For administrative purposes, the entire 40-acre Town Commons Multiple Land Use (MLU) is subject to this application. However, the 3.10-acre MLU portion shown in Map 5, is the specific property (herein referred to as the "subject property") pertinent to this FLU amendment request. Of the 40-acre MLU, the 3.10-acre CH-O site is vacant, and generally located on the northeast corner of Hypoluxo Road and Lyons Road (east of the built MUPD #1), in unincorporated Palm Beach County. Consistent with the MLU FLU designation, the subject property has an approved zoning district of Multiple Use Planned Development (MUPD), and is referred to as Town Commons MUPD #2 on the approved site plan.

Map 5 – MLU Map



Town Commons Development Approval

The following summarizes the Zoning and Future Land Use Amendment history of the subject site:

- On December 2, 1998, the Board of County Commissioners amended the Future Land Use Atlas (FLUA) for the 40 acres from Low Residential, 2 units per acre (LR-2) to Large Scale/Multiple Use Overlay (LS/MU), with Commercial High (CH) on 14.3 acres, Commercial High-Office (CH-O) on 10.8 acres, Low Residential, 2 units per acre (LR-2) clustered on 8 acres (80 units total), open space uses (2.0 acres), and lakes/drainage (4.9 acres) pursuant to Ordinance 1998-059.
- On December 13, 2004, the Board of County Commissioners amended the Future Land Use Atlas (FLUA) for Town Commons MLU II (LGA 2004-00036) for the 40 acres by reducing acreage and square footage for Commercial High-Office (CH-O) and increasing acreage for Low Residential, 2 units per acre (LR-2) with conditions pursuant to Ordinance 2004-062.

The subject site has three control numbers and approvals as follows:

- Control Number 2000-039, Town Commons MUPD #1, the CH portion of the site, is approved for 94,900 s.f. of commercial retail and bank uses on 15.22 acres. This portion of the site is largely built out with commercial uses. This will be Area 1 on the revised Conceptual Site Plan.
- Control Number 2004-248, Town Commons MUPD #2, the CH-O portion of the site, is approved for 26,000 s.f. of medical office on 3.10 acres and is currently vacant. This will be Area 2 on the revised Conceptual Site Plan.
- Control Number 2004-247, Town Commons PUD, the residential portion of the site, is approved for 132 townhomes on 21.43 acres and is currently vacant. The density comes from 80 units clustered from the LR-2 designation, and the additional 52 units are through the Transfer of Development Rights Program (28 units) and the Workforce Housing Program (24 units). This will be Area 3 on the revised Conceptual Site Plan.

A. CONSISTENCY

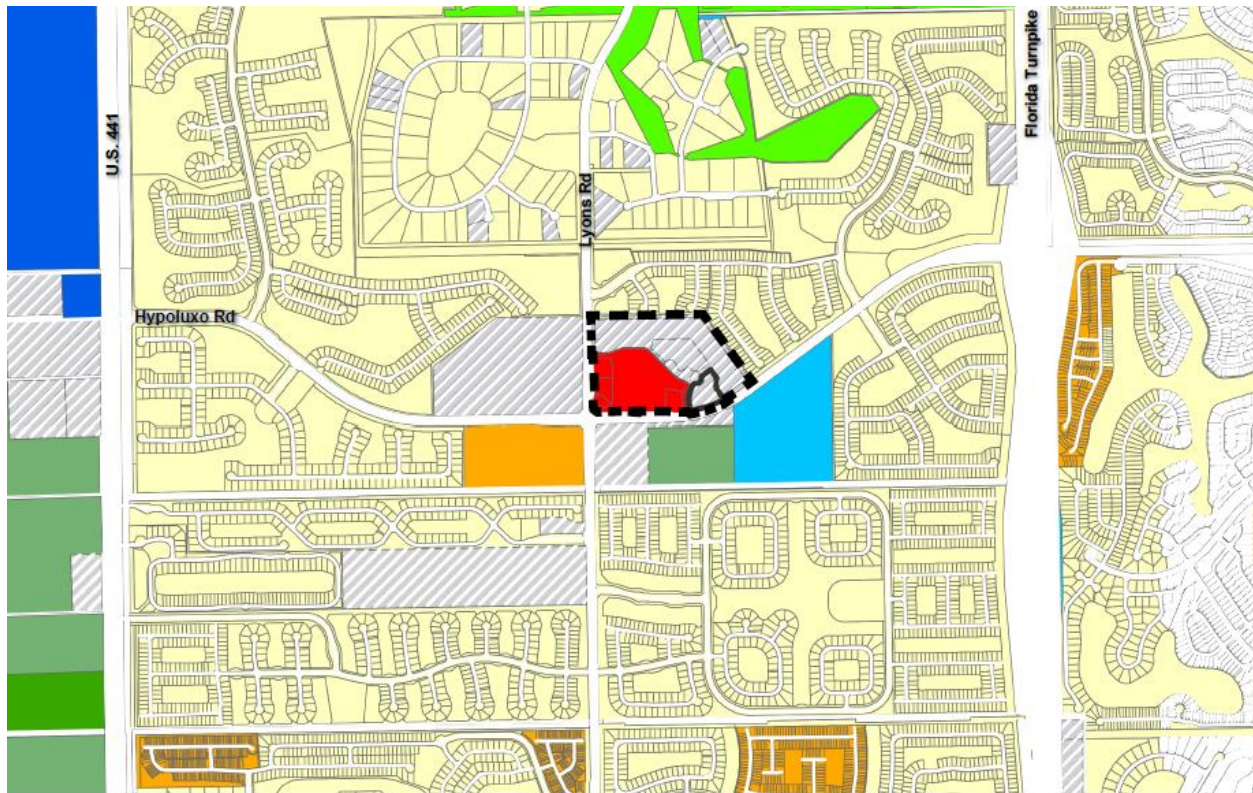
G.1 Justification for Future Land Use Atlas Amendment

On behalf of the Applicant, Lynx Zuckerman at Fort Myers LLC, WGI is requesting a FLU amendment to facilitate suitable commercial development opportunities on the subject property. Specifically, the request is to amend a 3.10-acre portion of the 40-acre Town Commons MLU. Notably, this request seeks to maintain the current MLU FLU Overlay designation (Multiple Land Use), but amend the existing underlying CHO FLU (Commercial High Office) to CH/2 (Commercial High and LR-2) on the subject property. This application is not seeking an increase in commercial intensity, rather the request is specifically for the broader range of uses permitted with CH FLU.

As shown on the Built Inventory Feature (Attachment F) and FLU Maps, the two separate MLU developments (Windsor Place and Town Commons) at the intersection of Hypoluxo and Lyons Road serve as a community commercial node among a predominantly residential area. The West Boynton Area Community Plan (WBACP), adopted by the County in 1995, designated the intersection suitable for community commercial uses to effectively serve future residential growth planned for that area. As shown on the aerial image in Map 3, the original 1998 Town Commons MLU/CHO FLU designation for the subject property was approved before the area was developed. Since the WBACP was adopted, there has been significant residential growth surrounding the immediate area as shown on the Existing Land Use Map in Map 1. Subsequently,

the area's growth, development patterns, and recommended uses for this area are consistent with the Plan's vision.

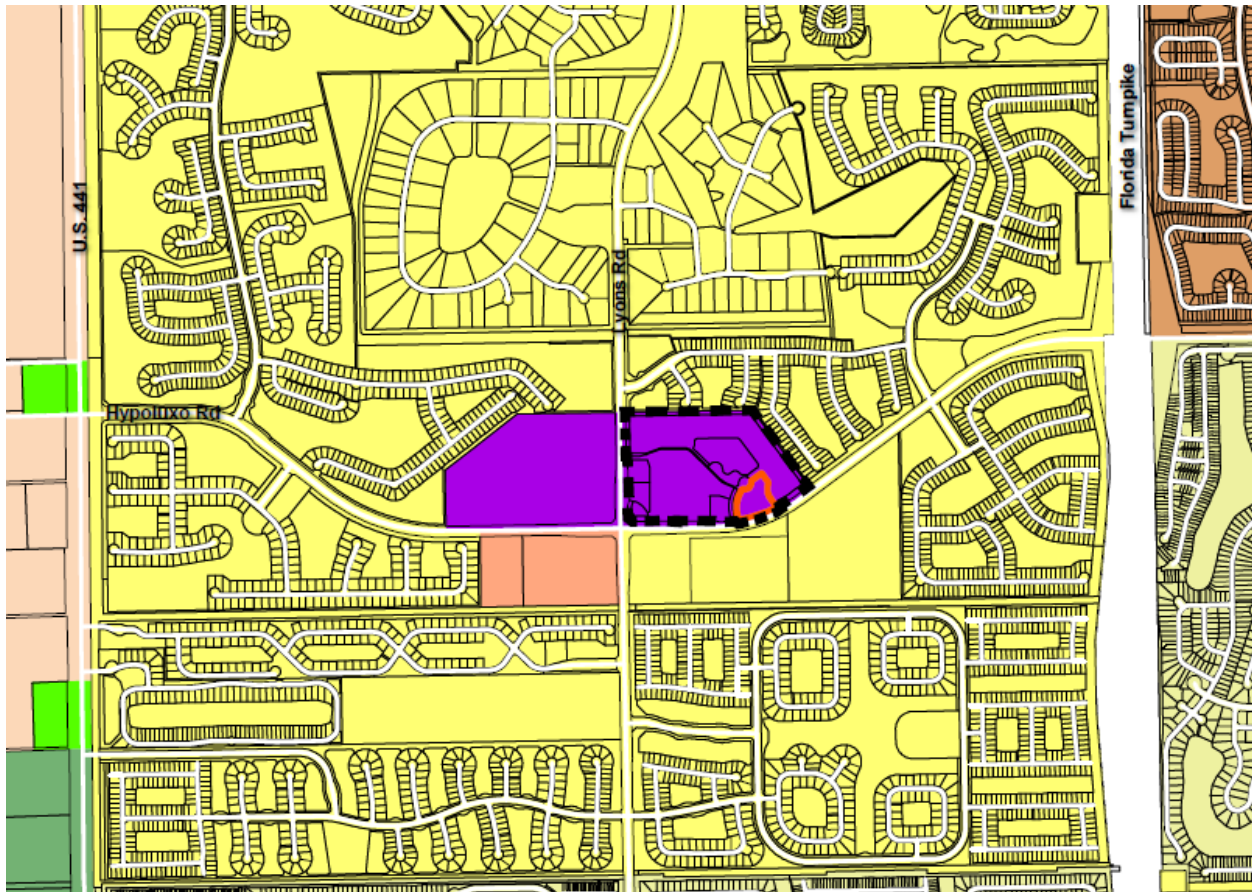
Map 1 – Existing Land Use



Since the current CHO FLU designation was adopted, development patterns have evolved and demand for convenient access to regional commercial uses has increased in western Palm Beach County. As defined in Palm Beach County's Comprehensive Plan, it states *"The CH (FLU) category includes a wide range of uses, intended to serve a community and/or regional commercial demand"*. Given the lack of other office development in the predominantly residential context, the isolated CHO FLU designation on the subject property is not necessarily consistent with the surrounding uses. Rather, the proposed underlying CH/2 FLU designation is more compatible with the adjacent CH FLU commercial developments to the west, and provides a wider variety of community commercial opportunities and services needed for surrounding communities. The CHO designation has been in place for 18 years, and has not found a market for office uses in this area. However, the change to CH/2 does not preclude the office use should it be found to be marketable.

In an effort to mitigate commercial market conditions, this application additionally seeks an underlying LR-2 FLU residential designation. Permitting an additional underlying LR-2 FLU designation provides the applicant the option to combine the adjacent Town Commons residential PUD with the 3.10-acre subject property. As illustrated in the FLU map in Map 2 an underlying LR-2 FLU designation is consistent with the surrounding residential context. The proposed FLU amendment to approve an underlying CH/2 FLU on the subject property is necessary to provide the policy framework required to develop a well-planned, market-responsive, mixed use project that is more consistent with the subject property's location and surrounding uses. This application does not seek to increase the density allowed as per the LR-2 designation of the entire 40 acre MLU.

Map 2 – Future Land Use



Justification for changes to conditions of approval.

The proposed modifications to Ordinance 2004-062 are provided in Exhibit 1 and propose to revise Conditions of Approval, revise the Land Use Matrix, replace the Conceptual Site Plan, and to delete the Design Guidelines.

Justification for Conditions Changes:

This amendment proposes to delete Condition #2 which caps the height of the Commercial High-Office (CH-O) portion of the site to a maximum of 35 feet at eave. This condition is no longer necessary since the CH-O Future Land Use will no longer apply and the project will be subject to the height restrictions of the ULDC.

This amendment proposes to delete Condition #3 which requires compliance with the Design Guidelines and Standards since this amendment is requesting that these amendments be deleted. The County has adopted Zoning resolutions for each of the three portions of the subject site which outline all the required amenities previously listed in the Design Guidelines. Further, these Design Guidelines are largely out of date.

This amendment proposes to delete Conditions #4 and #5 which reference a Pedestrian Oriented Zone (POZ) in former Future Land Use Element Policy 4.4.2-b.2.e. This policy has been deleted and this requirement is no longer necessary per the Comprehensive Plan. The project will have to meet the requirements listed in the approved zoning resolutions as well as the amenities shown on the updated Conceptual Master Plan.

Justification for Land Use Matrix Changes:

This amendment proposes to eliminate the office only requirement of the current vacant CH-O pod of the project. This change will reassign the pod from CH-O to CH/LR-2, reduce the acreage to 3.10 acres, eliminate a minimum square footage, and retain the current maximum square footage of 30,000 for commercial retail or other uses allowed in CH or LR-2 up to an equivalent number of trips per day. This change will also increase the amount of residential square footage up to 25.7 acres, and add a note to clarify that the minimum 4 acres of open space shall be assigned in one or more of the pods.

The basis for this change is due to changed projections of market conditions and demand in the area. Given the lack of office space in the predominantly residential context, the isolated CH-O FLU designation on the subject property is not necessarily consistent with the surrounding uses. Rather, the proposed underlying CH/2 FLU designation is more compatible with the adjacent CH FLU commercial developments and provides a wider variety of community commercial opportunities and services. The proposed amendment seeks to eliminate the CH-O designation and incorporate the office use under the CH designation, as well as increase the allowable acreage for residential uses from 13.2 to 25.7 in order to allow for the CH-O area to be used for residential uses and to allow the assignment of the minimum open space acreage to within one or more of the 3 areas identified by the Conceptual Plan.

Justification for Conceptual Site Plan Changes:

This amendment is requesting to modify the Conceptual Site Plan in order reflect the land use change addressed in the application and modifications to the land use chart. For details, please see the discussion under Policy 4.4.2-b.

Design Guidelines & Standards:

This amendment is requesting to delete the adopted Design Guidelines & Standards since the guidelines having been written back on 2004 and considered obsolete. Since 2004 the ULDC has been amended multiple times and has outpaced these requirements.

Compliance with Comprehensive Plan FLUE Policy 2.1-F (continued G.1 Justification)

1. The proposed use is suitable and appropriate for the subject site; and

Response: This request seeks to maintain the current MLU FLU designation (Multiple Land Use), but amend the existing underlying CH-O FLU (Commercial High Office) to CH/2 (Commercial High and LR-2) on the subject property. The steady growth of the area has resulted in significant demand for residential housing and commercial uses in a consolidated location. Approving an underlying CH FLU designation offers the area additional use opportunities on this site.

As described herein, the West Boynton Area Community Plan (WBACP), adopted by the County in 1995, designated the property suitable for community commercial uses to effectively serve future residential development growth planned for that area at that time. If approved, the 3.10-acre subject property (which currently already allows commercial office uses) would provide consistent underlying CH FLU designation frontage along Hypoluxo Rd—permitting precisely what the WBACP envisioned. The map in Map 4 illustrates the compatible spatial relationship of the proposed underlying CH/2 FLU land uses between Town Commons and

Windsor Place MLUs. As shown, both MLUs have underlying CH and LR-2 FLU designations, subsequently confirming that the proposed underlying CH/2 FLU designation is suitable and appropriate for the subject property.

Map 4 – Compatibility Map



2. *There is a basis for the proposed FLU change for the particular subject site based upon one or more of the following:*

- *Changes in FLU designations on adjacent properties or properties in the immediate area and associated impacts on the subject site;*

Response: While there has not been a recent change in FLU designations on adjacent properties, the market demand for office-oriented uses permitted with an underlying CH-O FLU on the subject property was over estimated when the original Town Commons MLU was approved. The proposed underlying CH/2 designation provides a more flexible option to foster suitable community commercial development that is consistent with the underlying CH and LR-2 FLU designations in both Town Commons and Windsor Place MLUs adjacent to the subject property. This also does not preclude office uses from this site.

- *Changes in the access or characteristics of the general area and associated impacts on the subject site;*

Response: The existing underlying CH-O FLU is an isolated office-oriented use that is not the only commercial use that would be successful in this location given the surrounding context consisting of predominantly residential developments. Accordingly, as shown on Map 4, the proposed underlying CH/2 FLU designation will be more appropriate and compatible for the commercial intersection node at Hypoluxo and Lyons Rd.

- *New information or change in circumstances which affect the subject site;*

Response: The existing underlying CH-O FLU is an isolated office-oriented use that is not the only commercial use that would be successful in this location given the surrounding context consisting of predominantly residential developments. Accordingly, as shown on Map 4, the proposed underlying CH/2 FLU designation will be more appropriate and compatible for the commercial intersection node at Hypoluxo and Lyons Rd.

- *Inappropriateness of the adopted FLU designation; or,*

Response: Since the current CHO FLU designation was adopted, development patterns have evolved and demand for convenient access to regional commercial uses has increased in western Palm Beach County. While the original intent of the MLU's were to provide for a mix of uses, their lack of development is evidence that the original use mix was not what the area ultimately needed. The CH-2 land use will allow for a larger selection of commercial uses that would be successful in this location.

- *Whether the adopted FLU designation was assigned in error.*

Response: The adopted underlying CH-O FLU designation was not assigned in error.

G.2 Compliance with Comprehensive Plan Flue Policy 2.4-B

- **Policy 2.4-b:** *“The Transfer of Development Rights (TDR) Program is the required method for increasing density within the County, unless:*

1. *An applicant can both justify and demonstrate a need for a Future Land Use Atlas (FLUA) Amendment and demonstrate that the current FLUA designation is inappropriate, as outlined in the Introduction and Administration Element of the Comprehensive Plan, or*

Response: The Applicant is not seeking to increase the residential density associated with the LR-2 designation of the MLU.

2. *An applicant is using the Workforce Housing Program or the Affordable Housing Program as outlined in Housing Element Objectives 1.1 and 1.5 of the Comprehensive Plan and within the ULDC, or*

Response: The Applicant is not seeking to increase residential density associated with the LR-2 designation of the MLU.

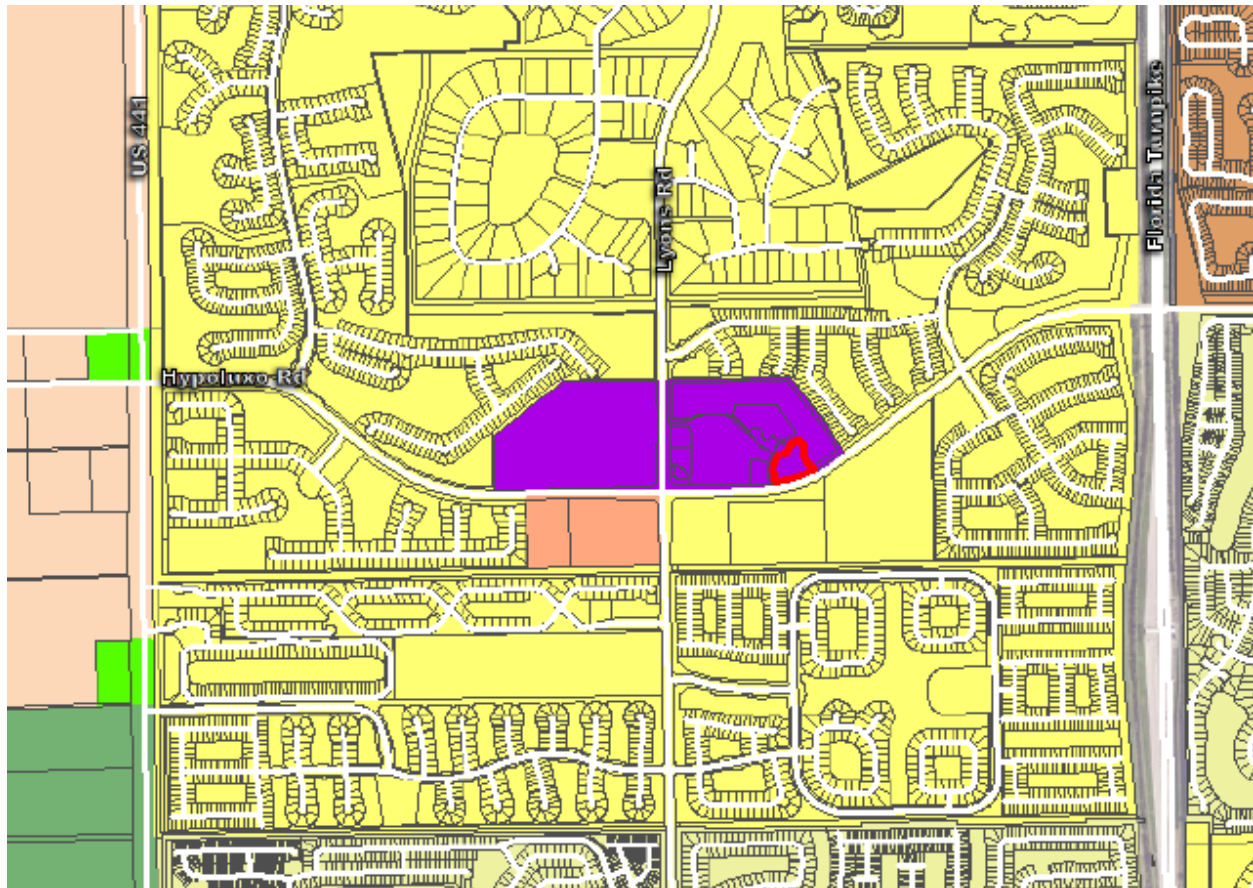
G.3 Compatibility

Specifically, the request is to amend the 40-acre Town Commons MLU. Notably, this request seeks to maintain the current MLU FLU Overlay designation (Multiple Land Use), but amend the existing underlying CHO FLU (Commercial High Office) to CH/2 (Commercial High and LR-2) on the subject property.

As described herein, the West Boynton Area Community Plan (WBACP), adopted by the County in 1995, designated the intersection-adjacent property suitable for community commercial uses to effectively serve future residential development growth planned for that area at that time. Accordingly, the adjacent total underlying CH FLU designation land area approved for Windsor Place and Town Commons MLUs totals 27.5 acres. If approved, the 3.10-acre subject property would provide consistent underlying CH FLU designation frontage along Hypoluxo Rd at the

Lyons Rd intersection—permitting precisely what the WBACP envisioned. The map in Map 4 illustrates the compatible spatial relationship of the proposed underlying CH/2 FLU land uses between Town Commons and Windsor Place MLUs. As shown, both MLUs have underlying CH and LR-2 FLU designations, subsequently confirming that the proposed underlying CH/2 FLU designation is compatible with the surrounding context. The Community Scale FLU Map in Map 6 further illustrates the compatibility of an underlying FLU of LR-2 given the vast majority of the residential FLU is LR-2, yet additionally illustrates the need for legitimate regional commercial uses at the Hypoluxo and Lyons Rd intersection.

Map 6 – Community Scale Map



Given the lack of office space in the predominantly residential context, the isolated CH-O FLU designation on the subject property is not necessarily consistent with the surrounding uses. Rather, the proposed underlying CH/2 FLU designation is more compatible with the adjacent CH FLU commercial developments to the west, and provides a wider variety of community commercial opportunities and services. In an effort to mitigate the commercial market conditions, this application additionally seeks an underlying LR-2 FLU residential designation. Permitting an additional underlying LR-2 FLU designation provides the applicant the option to combine the adjacent Town Commons residential PUD with the 3.10-acre subject property. As illustrated in the FLU map in Map 4 an underlying LR-2 FLU designation is consistent with the surrounding residential context. The proposed FLU amendment to approve an underlying CH/2 FLU on the subject property is necessary to provide the policy framework required to develop a well-planned project that is compatible with the subject property's location and surrounding uses.

G.4 Future Land Use Element/Consistency with Comprehensive Plan

Goals – The proposed Future Land Use Atlas Amendment furthers the County's goals as further described below.

- **Land Planning** – *“It is the GOAL of Palm Beach County to create and maintain livable communities, promote the quality of life, provide for a distribution of land uses of various types, and at a range of densities and intensities, and to balance the physical, social, cultural, environmental and economic needs of the current and projected residents and visitor populations. This shall be accomplished in a manner that protects and improves the quality of the natural and manmade environment, respects and maintains a diversity of lifestyle choices, and provides for the timely, cost-effective provision of public facilities and services.”*

Response: Since the current CH-O FLU designation was adopted, development patterns have evolved and demand for convenient access to commercial uses has increased in western Palm Beach County. Approving the proposed underlying CH/2 FLU designation will permit a wider variety of uses at the key intersection of Hypoluxo and Lyons Rd, which will offer surrounding residents an opportunity to walk, bike or drive to the centralized convenient commercial location.

Objectives – The proposed Future Land Use Atlas Amendment furthers the County's objectives as further described below.

- **Objective 1.2 Urban/Suburban Tier – Urban Service Area General:** *“This tier is expected to accommodate the bulk of the population and its need for employment, goods and services, cultural opportunities, and recreation. It supports a variety of lifestyle choices, ranging from urban to residential estate; however, the predominant development form in the unincorporated area is suburban in character. The older, communities are primarily in municipalities, within approximately 2 miles of the Atlantic Ocean. Most of the neighborhoods within the tier are stable and support viable communities. However, due to the period in which many of the coastal communities were built and the County's efforts to keep pace with rapid growth in its western area, some of the eastern areas did not receive a full complement of urban services. If the County is to meet its primary goal to create and maintain livable communities, balance growth throughout the County, protect natural resources and provide a variety of lifestyle choices beyond the long term planning horizon, it is imperative that land, services and facilities be used efficiently and effectively.”*

Response: This request is consistent with this Objective as the proposed FLU designation of CH/2 is permitted within the Urban/Suburban Tier. The proposed CH/2 FLU designation will offer the opportunity to develop the site with an appropriate commercial use, giving surrounding residents better access to additional commercial uses.

- **Objective 2.1 Balanced Growth:** *Palm Beach County shall designate on the Future Land Use Atlas sufficient land area in each land use designation to manage and direct future development to appropriate locations to achieve balanced growth. This shall be done to plan for population growth and its need for services, employment opportunities, and recreation and open space, while providing for the continuation of agriculture and the protection of the environment and natural resources through the long-range planning horizon.*

Response: Given the predominantly residential context shown on the map in Map 6, the proposed CH/2 FLU designation will provide the opportunity for convenient community commercial uses, in close proximity to surrounding residential neighborhoods.

- **Objective 2.2 Future Land Use Provisions – General:** *“Palm Beach County shall ensure development is consistent with the County’s diverse character and future land use designations. All public and private activities concerning the use, development and redevelopment of a property, and the provision of facilities and services shall be consistent with the property’s future land use designation, and the applicable Goals, Objectives and Policies of this Element”.*

Response: The proposed CH/2 FLU designation is consistent with the County’s diverse character and future land use designations as the proposed uses will offer surrounding residents close, convenient community commercial options. Accordingly, traffic demand and travel for these trips to commercial centers to the east will be reduced. Furthermore, as demonstrated within this section, the proposed amendment is consistent with the applicable Goals, Objectives and Policies of the Future Land Use Element of the Comprehensive Plan.

- **Objective 3.1 Service Areas – General:** *“Palm Beach County shall establish graduated service areas to distinguish the levels and types of services needed within a Tier, consistent with sustaining the characteristics of the Tier. These characteristics shall be based on the land development pattern of the community and services needed to protect the health, safety and welfare of residents and visitors; and, the need to provide cost effective services based on the existing or future land uses.”*

Response: The subject site is located near all of the necessary urban services including, but not limited to, the roadway network, water/wastewater and drainage facilities, job opportunities, etc. The proposed development will sufficiently utilize the existing urban services in the community. Furthermore, the proposed use will provide additional services to the community to help protect the health, safety and welfare of its residents.

- **Objective 4.4 Mixed-Use Development:** *Palm Beach County shall encourage the development of a variety of innovative types of mixed- use projects.*

Response: The Multiple Land Use (MLU) Overlay is an effective land use tool to foster horizontal mixed use developments in the County. The proposed CH/2 designation is permitted in an MLU, thereby supporting this objective.

Policies – *The proposed Future Land Use Atlas Amendment furthers the County’s policies as further described below.*

Policy 1.2-a: *“Within the Urban/Suburban Tier, Palm Beach County shall protect the character of its urban and suburban communities by:*

- 1. Allowing services and facilities consistent with the needs of urban and suburban development;*
- 2. Providing for affordable housing and employment opportunities;*
- 3. Providing for open space and recreational opportunities;*
- 4. Protecting historic, and cultural resources;*
- 5. Preserving and enhancing natural resources and environmental systems; and,*
- 6. Ensuring development is compatible with the scale, mass, intensity of use, height, and character of urban or suburban communities.”*

Response: The proposed FLUA Amendment is consistent with this policy as it is appropriate for the site, as the Town Commons MLU contains dedicated open and recreational space. Moreover, the site is surrounded by existing residential development, as shown in Map 6, and will benefit from approving additional uses with CH/2 at the important commercial intersection of Hypoluxo and Lyons Rd.

- ***Policy 1.2-b:*** *Palm Beach County shall encourage and support sustainable urban development, including restoration, infill and adaptive reuse.*

Response: Being just north of the Ag Reserve boundary, the site is well suited for development as it is located adjacent to arterial roadways, surrounded by existing developed parcels and established infrastructure, as well as encouraging developing commercial intensity in the U/S Tier as opposed to the Ag Reserve. Given the developed residential context shown on the map in Map 6, the proposed CH/2 FLU designation will provide the opportunity for convenient community commercial development in an established area of western Palm Beach County.

- ***Policy 2.1-a:*** *“Future land use designations, and corresponding density and intensity assignments, shall not exceed the natural or manmade constraints of an area and shall also not underutilize the existing or planned capacities of urban services.”*

Response: The subject site is located near all of the necessary urban services including, but not limited to, the roadway network, water/wastewater and drainage facilities, mass transit, opportunities, etc. The proposed development will sufficiently utilize the existing urban services within the area.

- ***Policy 2.1-b:*** *The County shall utilize a range of residential future land use categories to plan for growth and non-residential land use designations to support and serve the residential and tourist populations as described in the FLUA Regulation Section of this Element. The entitlement, minimum, and maximum densities and the intensities allowed within each land use designation and category are specified in the FLUA Regulation Section.*

Response: The proposed underlying CH/2 FLU designation is more compatible with the adjacent CH FLU commercial developments to the west, and provides a wider variety of community commercial opportunities and services to the surrounding residential community.

- ***Policy 2.1-d:*** *The future land use designation for individual parcels shall be limited to the designations identified by the applicable Tier in Table III.C. in the FLUA Regulation Section (unless otherwise specified within this Element) and shall be shown on the Official Future Land Use Atlas (FLUA) maintained by the Planning, Zoning and Building Department. The Atlas shall depict future land use designations for all parcels in unincorporated Palm Beach County, including underlying/ alternative land uses, and the boundaries and ordinance numbers of all adopted FLUA amendments.*

Response: The proposed FLUA amendment complies with this policy as both LR-2 and CH are permitted FLU designations in the subject site's Urban/Suburban Tier.

- ***Policy 2.1-f:*** *Before approval of a future land use amendment, the applicant shall provide an adequate justification for the proposed future land use and for residential density increases demonstrate that the current land use is inappropriate. In addition, and the County shall review and make a determination that the proposed future land use is*

compatible with existing and planned development in the immediate vicinity and shall evaluate its impacts on:

- 1. The natural environment, including topography, soils and other natural resources;*
- 2. The availability of facilities and services;*
- 3. The adjacent and surrounding development;*
- 4. The future land use balance;*
- 5. The prevention of urban sprawl as defined by 163.3164(51), F.S.;*
- 6. Community Plans and/or Planning Area Special Studies recognized by the Board of County Commissioners; and*
- 7. Municipalities in accordance with Intergovernmental Coordination Element Objective 1.1.*

Response: Specifically, the request is to amend a 3.10-acre portion of the 40-acre Town Commons MLU. Notably, this request seeks to maintain the current MLU FLU Overlay designation (Multiple Land Use), but amend the existing underlying CH-O FLU (Commercial High Office) to CH/2 (Commercial High and LR-2) on the subject property. As shown on the Built Inventory Feature (Attachment F) and FLU Map (Map 1), the two separate MLU developments (Windsor Place and Town Commons) at the intersection of Hypoluxo and Lyons Road serve as a community commercial node among a predominantly residential context as shown on the Community Scale FLU Map in Map 6.

Given the predominantly residential context shown on the map in Map 6, the proposed CH/2 FLU designation will provide the opportunity for convenient community commercial uses, in close proximity to surrounding residential neighborhoods.

- ***Policy 2.1-g:*** *“The County shall use the County Directions in the Introduction of the Future Land Use Element to guide decisions to update the Future Land Use Atlas, provide for a distribution of future land uses in the unincorporated area that will accommodate the future population of Palm Beach County, and provide an adequate amount of conveniently located facilities and services while maintaining the diversity of lifestyles in the County.”*

Response: The proposed FLUA Amendment is consistent with the County's diverse character and future land use designations as the proposed use will offer additional community commercial options. Additionally, outlined throughout this section, the proposed amendment is consistent with the applicable Goals, Objectives and Policies of the Future Land Use Element of the Comprehensive Plan.

- ***Policy 2.1-h:*** *“The County shall not approve site specific Future Land Use Atlas Amendments that encourage piecemeal development.”*

Response: The subject site is surrounded by existing residential, and adjacent MLU commercial development. As proposed, an underlying CH/2 designation does not encourage piecemeal development, nor does it create residual parcels.

- ***Policy 4.4-a:*** *The County shall encourage and promote sustainable development by establishing mixed-use future land use designations and planned development districts.*

Response: The Multiple Land Use (MLU) Overlay is an effective land use tool to foster horizontal mixed use in the County. The proposed CH/2 designation is permitted in an MLU, thereby supporting this objective.

- **Policy 4.4-b:** *All proposed mixed-use projects shall demonstrate that the land uses included on site are functionally integrated, and meet all level of service standards and all relevant land development criteria as stated in the Unified Land Development Code.*

Response: The proposed development will allow for functional horizontal integration as allowed under the proposed MLU FLU.

- **Policy 4.4-c:** *Planned Developments shall require approval of a preliminary development plan, which shall:*
 1. *Depict the location and distribution of future land uses and public facilities and demonstrate compliance with the Comprehensive Plan;*
 2. *Depict the average density and/or intensity of the overall development; and,*
 3. *Allow flexibility in the allocation of density and intensity within the overall development.*

Response: The future Zoning Application will include a Preliminary Development Plan depicting location and density / intensity of land uses.

- **Policy 4.4-d:** *Prior to a Planned Development District (PDD) being approved, the County shall ensure that the proposed PDD is reasonably compact and non-serpentine in form; does not create isolated pockets which are not able to be functionally tied to the PDD with respect to roadways, pedestrian pathways, bike paths, or architectural treatments; and does not result in the creation of incompatible uses being approved and creation of residual parcels.*

Response: The future Zoning Application will include a Preliminary Development Plan depicting the overall intended site layout and integration / relationship with the surrounding area.

- **Policy 4.4.2-a:** *The Multiple Land Use (MLU) future land use designation may be applied for through the Future Land Use Atlas amendment process. The MLU is project specific and is limited to projects that demonstrate a functional integration and mix of land uses which exceeds minimum zoning code requirements.*

Response: The request for an underlying CH/2 FLU designation is project specific, and very consistent and compatible with the adjacent CH FLU designation in the Windsor Place MLU. The project will be horizontally integrated and as discussed, is intended to provide community commercial options to western Palm Beach County residents in the contextual area depicted in Map 6.

- **Policy 4.4.2-b:** *The following minimum standards shall apply to proposed MLU designations during the amendment review process and will be affixed to the approved MLU project in the adopting ordinance:*
 1. *Underlying Land Use Designations: The MLU is an umbrella category which requires a minimum of two different future land use designations at least one of which shall be residential. The project shall have minimum and maximum intensities/densities for each land use. The following criteria shall apply towards the land use designations:*
 - a) *Residential Density: The maximum number of units for the parcel shall be calculated by multiplying the total acreage of the parcel by the density permitted through the residential designation. Additional density may be allowed, through*

the Transfer of Development Rights program, the Workforce Housing Program, or the Affordable Housing Program following an approval of an MLU project.

- b) Non-residential Intensity: The maximum intensity for each proposed non-residential use shall be calculated by assigning all non-residential uses a percentage of the total site area, not to exceed 100% for vertically integrated projects; 50% for non-vertically integrated projects. The maximum intensity for each of the projects non-residential land use designations may be reduced by the County, during the review process considering the extent of integration of uses within the project.*

Response: The proposed request seeks an underlying CH/2 FLU designation, and is in compliance with this policy. The proposed density has been calculated based on the total acreage of the property. Additional residential density will possibly be sought as part of the future Zoning Application for the subject property utilizing the County's Density Bonus Programs.

- 2. Conceptual Master Plan: The project shall include a conceptual master plan, which depicts (in a generalized or conceptual map format) the location of the various land uses, specifically including the location of open spaces and linkages which functionally integrate the different land use categories. The conceptual master plan shall comply with the following criteria:*
 - a) Land Use Integration: The project must demonstrate functional integration between the project's land uses in the master plan. To facilitate integration, the placement of an interconnected system of streets within both the residential and non-residential components is required.*
 - b) Open Space: At a minimum, 10% of the property must be committed to usable open space (as defined by the Introduction and Administration Element). Open space must functionally integrate the project's land uses and may be applied to the recreation and/or parks requirements or other required civic dedication of land during the development review/re-zoning process, excluding right of way dedication. Water retention, lakes, drainage, and canals shall not be considered usable open space.*
 - c) Pedestrian Oriented/Non-vehicular Pathways: The master plan must include a pedestrian/non-vehicular circulation system that integrates the project's land uses and open spaces. All rights-of-way or parking access drives must have shaded pedestrian pathways.*
 - d) Mass Transit: The project and master plan must provide for mass transit and/or public transportation facilities.*

Response: A conceptual master plan is included with the proposed FLU amendment which depicts the generalized location of the proposed land uses, open space, linkages, integration and interconnection between the commercial and residential components and overall relationship to the surrounding area. The intent is to provide a functional integrated development which offers a high level of amenity and pedestrian mobility.

- 3. Exceeding Code Requirements: The project must demonstrate that it exceeds minimum requirements in the ULDC and may concurrently submit an application for the Zoning review process for the entire site. In the event of a conflict between the project's development standards or design guidelines and the existing ULDC requirements, the more restrictive requirement shall prevail.*

Response: Since the 40-acre has been previously approved, zoning resolutions (R-2013-118 and R-2013-119) established the design amenities on site both through Condition of Approval and as shown on the approved site plans. There are no requests to amend the zoning resolutions to remove amenities within the Conditions of Approval. The minimum 5% usable open space requirement exceeds Code.

4. *Design Guidelines: To ensure that the project exceeds minimum Code requirements, the project may include design guidelines to identify built form and site design requirements, which may include:*
- a) *Vehicular and pedestrian circulation system, lighting, signage, recreation/open space/public amenities, buffering, landscaping requirements;*
 - b) *Conceptual landscape plans and streets cross-sections; and*
 - c) *Architectural features and use limitations may also be included.*

Response: Since the 40-acre has been previously approved, zoning resolutions (R-2013-118 and R-2013-119) established the design amenities on site both through Condition of Approval and as shown on the approved site plans for the three. These approvals have followed the previously approved design guidelines for the MLU. Therefore, we are requesting to delete the design guidelines established in the original MLU approval and follow the requirements as listed in the zoning resolutions established for all three zoning districts (Area 1, Area 2, and Area 3) and established on the revised Conceptual Plan. The Conceptual Plan will also be updated to show all the conceptual location of all amenities, while allowing for the deletion of some of the more inappropriate and redundant features previously shown. They are as follows:

- Removal of the boardwalk feature within the PUD. This is an unsafe feature for the community and will be a pedestrian hazard especially to children;
- Removal of the pedestrian walkway behind units 1-10 of the PUD. Walkways will be provided along the 40' PUD ROW and Hypoluxo Road buffer and spine road;
- Removal of the pedestrian walkway behind units 105-120 of the PUD to increase residential privacy for these units. Walkways will be provided along the spine road and the 40' PUD ROW;
- Removal of walkway behind units 91-104 of the PUD to provide a usable open space. Walkways will be provided along the spine road and the 40' PUD ROW;
- Deletion of the Pedestrian Oriented Zone (POZ). The POZ configuration and size will remain. There will be a decrease in paved area within this area to increase usable open space;
- Pedestrian connections to Windsor Place to the north and east will be removed.

The design guidelines and POZ plan will be deleted. They will be superseded by the modified MLU Master Plan as well as the resolutions already in place with the individual zoning districts. The amenities within the resolutions are reflected on the amended MLU Master Plan. There are no requests to amend the zoning resolutions to remove amenities within the Conditions of Approval.

5. *Minimum Acreage: The minimum acreage for an MLU project is 10 acres.*

Response: With 40 acres in the Town Commons MLU, the proposed amendment complies with this policy.

- **Policy 4.4.2-c:** *The County may impose mitigation measures on a proposed MLU during the amendment review process. Mitigation measures may include, but are not limited to, the following:*
 1. *The requested intensity and/or density of the project may be altered.*
 2. *The mix of land uses may be restricted to ensure that an efficient and appropriate land use balance is achieved within the project.*
 3. *Conditions may be imposed to ensure that environmentally sensitive portions of the property are protected and/or to ensure preservation of existing native vegetation.*
 4. *Timing criteria may be imposed on a proposed MLU designation when deemed essential to assure that necessary and appropriate land uses are developed in a timely manner and to assure reasonable and appropriate development opportunities for other property owners. Failure to comply with imposed timing criteria may result in the County's initiation of a FLUA amendment to remove the MLU designation and replace it with the site's original land use designation.*

Response: The proposed FLUA amendment will comply with any required MLU mitigation measures.

- **Policy 4.4.2-d:** *In order to allow for flexibility in future site planning of specific MLUs, related uses (commercial, office, commercial recreation, etc.) can be shifted between the designated areas, as long as the minimum and maximum acreages and densities/intensities are adhered to in the ordinance. Any substantial changes to the adopted master plan, as determined by the Planning Director, during the development review process, will result in the MLU designation being remanded back to the Local Planning Agency and the Board of County Commissioners for public hearings during the next applicable amendment round. Substantial change shall consist of:*
 - i. *Changes which affect 20% or more of the land area; and/or*
 - ii. *Changes which result in the project no longer meeting the intent of the MLU language (i.e. changes which reduce the connectivity or the integration between the land uses, changes in location of open space, or other changes which raise compatibility issues.)**If an MLU designation is remanded back, during the next applicable amendment round, Planning staff and the Local Planning Agency shall review the original application and the proposed changes, and make recommendations to the BCC. The BCC will re-evaluate and, if necessary may revoke the MLU designation.*

Response: The proposed FLUA amendment will comply with any required MLU-specific regulations.

G.5 Compliance with Florida Statutes Chapter 163.3177

163.3177 Required and optional elements of comprehensive plan; studies and surveys.

Florida Statute, Chapter 163.3177 is the principle state statute governing the comprehensive plans and plan amendments for all of the Counties within the State of Florida. In 2011, Chapter 163, F.S. was substantially revised and Rule 9J-5 was repealed and removed from the Florida Administrative Code (House Bill 7207). Today, Chapter 163.3177(1)(f) states, "all mandatory and optional elements of the comprehensive plan and plan amendments shall be based upon relevant and appropriate data and an analysis by the local government, that may include but not be limited to, surveys, studies, community goals and vision, and other data available on that particular subject at the time of adoption of the plan or plan amendment at issue."

Response: The data and analysis presented in this application and justification statement support the request for amendment of the Future Land Use Atlas and demonstrate consistency with the Florida Statutes.

B. Surrounding Land Uses

The following is an itemized list of uses surrounding the subject site:

	Existing Use	Future Land Use	Zoning District
North	Town Commons PUD <ul style="list-style-type: none"> Control #: 2004-247 3.3 DU/AC (132 DU) 	Multiple Land Use	Planned Unit Development
	Sherbrooke Estates PUD <ul style="list-style-type: none"> Control # 1976-139 0.32 DU/AC (167 DU) 	Low Residential, 2 units per acre	Planned Unit Development
	Villages of Windsor PUD <ul style="list-style-type: none"> Control # 1996-081 1.82 DU/AC (1,087 DU) 	Low Residential, 2 units per acre	Planned Unit Development
South	Villages of Windsor PUD (Public & Private Civic Areas / Fire Station) <ul style="list-style-type: none"> Control # 1996-081 	Low Residential, 2 units per acre	Planned Unit Development
	Agriculture	Low Residential, 2 units per acre	Agricultural Residential
	Valencia IV PUD <ul style="list-style-type: none"> Control # 2000-052 2.54 DU/AC (1,143 DU) 	Low Residential, 2 units per acre	Planned Unit Development
East	Town Commons PUD <ul style="list-style-type: none"> Control #: 2004-247 3.3 DU/AC (132 DU) 	Multiple Land Use	Planned Unit Development
	Villages of Windsor PUD <ul style="list-style-type: none"> Control # 1996-081 1.82 DU/AC (1,087 DU) 	Low Residential, 2 units per acre	Planned Unit Development
West	Diamond Shamrock Property <ul style="list-style-type: none"> Control # 1999-047 1.99 DU/AC (140 DU) 	Low Residential, 2 units per acre	Planned Unit Development
	Villages of Windsor PUD (Congregate Living Facility/Nursing) <ul style="list-style-type: none"> Control # 1996-081 410 Residents (CLF) 100 Beds (Nursing Home) 	Low Residential, 2 units per acre	Planned Unit Development
	Windsor Place MXPD <ul style="list-style-type: none"> Control # 2003-079 4.6 DU/AC (184 DU) 103,032 SF (Retail) 12,046 (Office) 	Multiple Land Use	Mixed Use Planned Development
	Bellagio PUD (Towne Park) <ul style="list-style-type: none"> Control # 1995-116 1.98 DU/AC (1,099 DU) 	Low Residential, 2 units per acre	Planned Unit Development

	Sherbrooke Estates PUD <ul style="list-style-type: none"> • Control # 1976-139 • 0.32 DU/AC (167 DU) 	Low Residential, 2 units per acre	Planned Unit Development
	Town Commons MUPD #1 <ul style="list-style-type: none"> • Control #: 2004-247 	Multiple Land Use	Multiple Use Planned Development

The Built Features Map in Attachment F illustrates specific location of the breakdown of the surrounding uses is provided below:

North: The adjacent Town Commons MLU property to the north is vacant, which is approved for Town Commons PUD. The property has a zoning district of Planned Unit Development (PUD) with an approval of 132 (fee simple) townhouse dwelling units (3.3 dwelling units per acre) pursuant to Resolution R-2013-00119 and Control Number 2004-00247.

Immediately north of the Town Commons MLU property is the Villages of Windsor PUD that has an approval for 1,087 dwelling units at 1.82 dwelling units per acre. The property has a zoning district of Planned Unit Development (PUD) with a Future Land Use designation of Low Residential, 2 dwelling units per acre (LR-2) pursuant to Control Number 1996-081.

South: The adjacent vacant property to the south is approved Private and Public Civic Areas with a Fire Station for Villages of Windsor. The property has a zoning district of Planned Unit Development (PUD) with a Future Land Use designation of Low Residential, 2 dwelling units per acre (LR-2). The Private and Public Civic Area was approved pursuant to Resolution R-2011-00574 and Control Number 1996-00081. On the approved master plan, it is identified as Private and Public Civic Areas.

Immediately south of the vacant property is agricultural property that holds no prior approvals. The property has a zoning district of Agricultural Residential (AR) with a Future Land Use designation of Low Residential, 2 dwelling units per acre (LR-2).

Southwest: The adjacent Congregate Living Facility and Nursing Home to the southwest is part of the Villages of Windsor PUD with an approval for 410 Residents and 100 beds. The property has a zoning district of Planned Unit Development (PUD) with a Future Land Use designation of Low Residential, 2 dwelling units per acre (LR-2) pursuant to Control Number 1996-081.

East: The adjacent Town Commons MLU property to the east is vacant, which is approved for Town Commons PUD. The property has a zoning district of Planned Unit Development (PUD) with an approval of 132 (fee simple) townhouse dwelling units (3.3 dwelling units per acre) pursuant to Resolution R-2013-00119 and Control Number 2004-00247.

Immediately east of the Town Commons MLU property is the Villages of Windsor PUD that has an approval for 1,087 dwelling units at 1.82 dwelling units per acre. The property has a zoning district of Planned Unit Development (PUD) with a Future Land Use designation of Low Residential, 2 dwelling units per acre (LR-2) pursuant to Control Number 1996-081.

West: The adjacent Town Commons MLU property with an underlying CH FLU to the west, and has an approved zoning district of Multiple Use Planned Development (MUPD). Known as MUPD #1 on the approved site plan, the developed property contains 94,900 sf of retail commercial building area pursuant to Resolution R-2005-818 and Control Number 2004-00247.

Immediately to the west of the Town Commons MLU, across Lyons Rd, the Windsor Place MXPDP has approval for 184 dwelling units at 4.6 dwelling units per acre and 115,078 sf of commercial uses. The property has a zoning district of Mixed Use Planned Development (MXPDP) with a Future Land Use designation of Multiple Land Use (MLU) pursuant to Control Number 2003-079.

CONCLUSION

The requested FLUA Amendment from MLU with an underlying CHO to MLU with an underlying CH/2 is justified and consistent with the Palm Beach County Comprehensive Plan, State of Florida laws, and is compatible with surrounding uses. As previously mentioned, given the lack of office space in the predominantly residential area, the isolated CHO FLU designation on the subject property is not necessarily consistent with the surrounding uses. Therefore, the proposed underlying CH/2 FLU designation is more compatible with the adjacent CH FLU commercial developments to the west, and provides a wider variety of community commercial opportunities and services. In an effort to mitigate unpredictable commercial market conditions, this application additionally seeks an underlying LR-2 FLU designation. Permitting an additional underlying LR-2 FLU designation provides the applicant the option to combine the adjacent Town Commons PUD with the 3.097-acre subject property. The proposed FLU amendment to permit an underlying CH/2 FLU on the subject property is necessary to provide the policy framework required to develop a well-planned project that is compatible with the subject property's location and surrounding uses.

UNIFIED LAND DEVELOPMENT CODE CHANGES

No Unified Land Development Code changes are needed in response to this proposed Future Land Use Atlas Amendment.

Exhibit 4

Applicant's Public Facility Impacts Table

VIII. Public Facilities Information

A. Traffic Information			
Refer to Application Attachment H for Traffic Approval Letter and Study.			
	Current FLU	Maximum	Conditioned or Concurrent
Max Trip Generation	5,350	5,513	N/A
Trip Increase Max.	163		
Trip Inc. Conditioned or Concurrent	N/A		
Significantly impacted roadway segments that fail Long Range			
Significantly impacted roadway segments for Test 2			
Traffic Consultant	Dr. Juan F. Ortega, P.E. - JFO Group. Inc.		
B. Mass Transit Information			
Nearest Palm Tran Route (s)	BYB X-TOWN via BOYNTON BEACH (Route #73)		
Nearest Palm Tran Stop	BOYNTON BCH BLVD @ CARIDAD SVC RD (Stop #6744) – Approx. 3 Miles		
Nearest Tri Rail Connection	Boynton Beach Station Route Connections: 70, 71 Sample Route: Palm Tran Route 73 eastbound to Route 70 southbound, Route 70 southbound to Boynton Beach Station (Tri-Rail)		
C. Portable Water & Wastewater Information			
Potable Water & Wastewater Providers	PBCWUD		
Nearest Water & Wastewater Facility, type/size	The nearest potable water is a 12" watermain and an 8" gravity sewer main located within an unnamed roadway located west and adjacent to the subject property. Refer to Application Attachment I .		

D. Drainage Information

The project is within the SFWMD C-16 Basin, and the site will comply with the C-16 basin criteria, which allows a maximum discharge rate of 62.4 CSM (cubic feet per square mile) during the 25yr-72hr design storm. With the overall project size of 40 acres, this equates to an allowable discharge rate of 3.91 cfs. There is an existing control structure located along the southern property line which will limit the discharge to the allowable rate and therefore meet SFWMD and Palm Beach County Level of Service requirements. A 36" outfall pipe will convey the discharge from this structure under Hypoluxo Road, through the site to the south, and then into the L-19 Canal.

The 5.83 Ac-ft. of required water quality treatment is provided via exfiltration trench and wet detention ponds. Internal control structures retain the runoff in the exfiltration trenches which can overflow into the wet detention facilities.

Per the existing SFWMD permit, the control elevation on site is 14.49 feet NAVD, which is the maintained elevation of the L-19 Canal. The minimum allowable roadway crown elevation is 17.89 feet NAVD and the minimum allowable finished floor elevation is 19.69 feet NAVD. The proposed roadway and buildings will be at or above these elevations as required by code.

Refer to **Application Attachment J**.

E. Fire Rescue

Nearest Station	Palm Beach County Fire-Rescue Station #48 – 8560 Hypoluxo Rd.
Distance to Site	The subject property is approximately 0.25 miles from the station.
Response Time	The estimated response time to the subject property is 3 minutes.
Effect on Resp. Time	Changing the land use of this property will have minimal impact on Fire Rescue. Refer to the Service Letter, known as Application Attachment K .

F. Environmental

Significant habitats or species	<p>There are 3 surface waters on the project site as part of the earlier phase of development and the SFWMD ERP.</p> <p>There are no wetlands on the project site as they were previously permitted for impact by SFWMD.</p> <p>The lack of upland habitat and impacts from historic clearing and infestation of invasive exotic plant species makes it improbable that any listed animal species will occur on the site.</p> <p>As provided for in Palm Beach County, Unified Land Development Code, Article 14 Upland Preservation, no upland preserve area would be required for this project site due to the disturbed condition of the project site and lack of significant native vegetation. There are only 2 slash pine trees and a few small cabbage palms located on the vacant section of land that would need to be addressed per Palm Beach County, Unified Land Development Code, Article 14 (Natural Area Preserves/Tree Preservation) by either preservation in place, on-site relocation, or mitigation.</p> <p>Refer to Application Attachment L.</p>
Flood Zone*	X500

Wellfield Zone*	The subject site is not located in a wellfield protection zone. Please refer to Application Attachment M.			
G. Historic Resources				
According to PBC’s staff review, no historic or architecturally significant resources are on or within 500 feet of the subject property, as well as no known identified archaeological resources located on or within 500 feet of the subject property.				
Refer to Application Attachment N for the Service Letter.				
H. Parks and Recreation - Residential Only				
Park Type	Name & Location	Level of Svc. (ac. per person)	Population Change	Change in Demand
Regional	Indian Mounds Regional Property 11100 90th Street S Boynton Beach, FL 33472	0.00339	0	0
Beach	Ocean Inlet Park 6990 N Ocean Blvd Boynton Beach, FL 33435	0.00035	0	0
District	Villages of Windsor Property 8560 Hypoluxo Rd Lake Worth, FL 33467	0.00138	0	0
I. Libraries - Residential Only				
Library Name	West Boynton Branch Library			
Address	9451 Jog Rd			
City, State, Zip	Boynton Beach, FL 33437			
Distance	6 Miles			
Component	Level of Service	Population Change	Change in Demand	
Collection	2 holdings per person	0	0 Holdings	
Periodicals	5 subscriptions per 1,000 persons	0	0 Subscriptions	
Info Technology	\$1.00 per person	0	\$0	
Professional staff	1 FTE per 7,500 persons	0	0 FTE	
All other staff	3.35 FTE per professional librarian	0	0 FTE	
Library facilities	0.34 sf per person	0	0 SF	

J. Public Schools - Residential Only

Please see SCAD Letter from Palm Beach County School provided as Application Attachment O.

	Elementary	Middle	High
Name	Sunset Palms Elementary School	Woodlands Middle School	Park Vista Community High School
Address	7001 Charleston Shores Blvd	5200 Lyons Road	7900 Jog Road
City, State, Zip	Lake Worth, FL 33467	Lake Worth, FL 33467	Lake Worth, FL 33467
Distance	2.5 Miles	2.5 Miles	4 Miles

Exhibit 5 Traffic Study

Traffic studies and other additional supplementary materials for site-specific amendments are available to the public on the PBC Planning web page at:

<http://www.pbcgov.org/pzb/planning/Pages/Active-Amendments.aspx>

Exhibit 5

Palm Beach County Traffic Division Letter



**Department of Engineering
and Public Works**
P.O. Box 21229
West Palm Beach, FL 33416-1229
(561) 684-4000
FAX: (561) 684-4050
www.pbcgov.com

**Palm Beach County
Board of County
Commissioners**

Melissa McKinlay, Mayor
Mack Bernard, Vice Mayor

Hal R. Valeche
Paulette Burdick
Dave Kerner
Steven L. Abrams
Mary Lou Berger

County Administrator

Verdenia C. Baker

"An Equal Opportunity
Affirmative Action Employer"

January 23, 2018

Dr. Juan F. Ortega, P.E.
JFO Group Inc.
11924 Forest Hill Boulevard, Suite 10A-123
Wellington, FL 33414

**RE: Town Commons
FLUA Amendment Policy 3.5-d Review
Round 2018-D**

Dear Dr. Ortega:

Palm Beach County Traffic Division has reviewed the Comprehensive Plan Amendment Traffic Impact Analysis for the proposed Future Land Use Amendment for the above referenced project, revised January 19, 2018, pursuant to Policy 3.5-d of the Land Use Element of the Palm Beach County Comprehensive Plan. The project is summarized as follows:

Location:	NE corner of Hypoluxo Road and Lyons Road	
PCN:	00-42-45-08-11-002-0000 (others on file)	
Acres:	40 acres	
	Current FLU	Proposed FLU
FLU:	Multiple Land Use (MLU)/Commercial High Office (CH-O)	Multiple Land Use (MLU)/Commercial High (CH-2)
Zoning:	Multiple Used Planned Development (MUPD)	Multiple Used Planned Development (MUPD)
Density/Intensity:	2 du/ac x 40 ac Retail: 0.1523 FAR x 14.3 ac Medical Office: 0.23 FAR x 3.1 ac	2 du/ac x 40 ac Retail: 0.1648 FAR x 17.4 ac
Maximum Potential:	General Commercial Total: 94,900 SF Medical Office Total: 30,000 SF Single Family Detached Total: 80 DUs	General Commercial Total: 124,900 SF Single Family Detached Total: 80 DUs
Proposed Potential:	N/A	N/A
Net Daily Trips:	163 (maximum - current)	
Net PH Trips:	3 (-16/19) AM, 65 (41/24) PM (maximum)	
* Maximum indicates typical FAR and maximum trip generator. Proposed indicates the specific uses and intensities/densities in the zoning application.		

Exhibit 7

Water & Wastewater Provider LOS Letter



**Water Utilities Department
Engineering**

8100 Forest Hill Blvd.
West Palm Beach, FL 33413
(561) 493-6000
Fax: (561) 493-6085
www.pbcwater.com



**Palm Beach County
Board of County
Commissioners**

Melissa McKinlay, Mayor
Mack Bernard, Vice Mayor

Hal R. Valeche
Paulette Burdick
Dave Kerner
Steven L. Abrams
Mary Lou Berger

County Administrator

Verdenia C. Baker

February 9, 2018

WGI
2035 Vista Parkway
West Palm Beach, Fl. 33411

RE: Town Commons MUPD #2
PCN 00-42-45-08-11-002-0000
Service Availability Letter

Dear Ms. Montesino,

This is to confirm that the referenced property is located within Palm Beach County Utility Department (PBCWUD) utility service area. PBCWUD has the capacity to provide the level of service required for the existing FLU designation of Multiple Lane Use (MLU) with an underlying Commercial High, Office (CH-O) and a Zoning District of Multiple Use Planned Development (MUPD) for +/- 3.10 acres and the proposed FLU designation of the subject site to Commercial High Intensity (CH).

The nearest potable water is a 12" watermain and an 8" gravity sewer main located within an unnamed roadway located west and adjacent to the subject property.

Please note that this letter does not constitute a final commitment for service until the final design has been approved by PBCWUD.

If you have any questions, please give me a call at (561)493-6116.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Michels".

Jackie Michels, P.E.
Plan Review Manager

Exhibit 8

Disclosure of Ownership Interests

PALM BEACH COUNTY - ZONING DIVISION

FORM # 08

DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]

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


1. Affiant is the ☐ individual or ☒ President Lyne Zuckerman Holding Company, LLC on behalf of Lyne Zuckerman at Fort Myers, LLC [position—e.g.,
president, partner, trustee] of [name and type of entity -
e.g., ABC Corporation, XYZ Limited Partnership], (hereinafter, "Applicant").
Applicant seeks Comprehensive Plan amendment or Development Order approval
for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 2255 Glades Road
Suite 324A
Boca Raton, FL 33431
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 Applicant.
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 Applicant's
application for Comprehensive Plan amendment or Development Order approval.
Affiant further acknowledges that he or she is authorized to execute this Disclosure
of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to
reflect any changes to ownership interests in the Applicant 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.



MICHAEL McCAERTY, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 15 day of FEBRUARY, 2015, by MICHAEL McCAERTY, [X] who is personally known to me or [] who has produced _____ as identification and who did take an oath.



Notary Public

ARLENE LIEBERMAN
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 10/15/2019
(Print Notary Name)


NOTARY PUBLIC
State of New Jersey 
~~Florida~~ at Large
My Commission Expires: _____

EXHIBIT "A"**PROPERTY****PLAT DESCRIPTION:**

A LARGE SCALE MULTIPLE USE DEVELOPMENT BEING A REPLAT OF A PORTION OF TRACTS 14 THROUGH 18 AND TRACTS 36 THROUGH 41, BLOCK 42, AND A PORTION OF THE 30 FOOT PLATTED RIGHT-OF-WAY ADJOINING THE SOUTH LINE OF SAID TRACTS 14 THROUGH 18, PALM BEACH FARMS CO. PLAT NO. 3 ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, PUBLIC RECORDS, PALM BEACH COUNTY FLORIDA, SAID LANDS LYING AND BEING IN SECTIONS 7 AND 8, TOWNSHIP 45 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA.

COMMENCING AT THE SOUTHEAST CORNER OF GREENBRIAR 1 OF SHERBROOKE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, PAGE 55 THROUGH 57, INCLUSIVE, PUBLIC RECORDS PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 89°26'07" WEST, ALONG THE SOUTH LINE OF SAID PLAT OF GREENBRIAR 1 OF SHERBROOKE, AND ITS WESTERLY PROLONGATION, A DISTANCE OF 2093.11 FEET THENCE SOUTH 00°33'53" EAST, A DISTANCE OF 725.61 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°33'53" EAST, A DISTANCE OF 530.50 FEET; THENCE SOUTH 01°49'30" EAST, A DISTANCE OF 250.06 FEET; THENCE SOUTH 00°33'53" EAST, A DISTANCE OF 289.00 FEET THENCE, SOUTH 45°33'53" EAST, A DISTANCE OF 56.57 FEET; THENCE NORTH 89°26'07" EAST, A DISTANCE OF 300.00 FEET; THENCE SOUTH 86°47'19" EAST, A DISTANCE OF 250.54 FEET; THENCE NORTH 89°26'07" EAST, A DISTANCE OF 325.80 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1370.00 FEET; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°37'51", A DISTANCE OF 951.97 FEET TO THE POINT OF TANGENCY; THENCE NORTH 53°48'16" EAST, A DISTANCE OF 151.50 FEET; THENCE NORTH 36°11'44" WEST, A DISTANCE OF 961.21 FEET; THENCE SOUTH 89°26'07" WEST, A DISTANCE OF 1282.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES MORE OR LESS.

EXHIBIT "B"

DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the 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.

[illegible]

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 Charles Scardina, 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 ☒ Manager *[position - e.g., president, partner, trustee]* of Town Commons Acquisition, LLC *[name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership]* that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
2. Affiant's address is: 7593 Boynton Beach Blvd, Suite 220
Boynton Beach, FL 33437
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.

Charles Scardina, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 31st day of January, 2018, by Charles Scardina, [] who is personally known to me or [] who has produced Florida Driver's license as identification and who did take an oath.

Cyndy Little
Notary Public

Cyndy Little
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: 3-31-18



CYNDY LITTLE
NOTARY PUBLIC
STATE OF FLORIDA
Comm# FF108252
Expires 3/31/2018

EXHIBIT "A"**PROPERTY****PLAT DESCRIPTION:**

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COMMENCING AT THE SOUTHEAST CORNER OF GREENBRIAR 1 OF SHERBROOKE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 33, PAGE 55 THROUGH 57, INCLUSIVE, PUBLIC RECORDS PALM BEACH COUNTY, FLORIDA; THENCE SOUTH 89°26'07" WEST, ALONG THE SOUTH LINE OF SAID PLAT OF GREENBRIAR 1 OF SHERBROOKE, AND ITS WESTERLY PROLONGATION, A DISTANCE OF 2093.11 FEET THENCE SOUTH 00°33'53" EAST, A DISTANCE OF 725.61 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 00°33'53" EAST, A DISTANCE OF 530.50 FEET; THENCE SOUTH 01°49'30" EAST, A DISTANCE 250.06 FEET; THENCE SOUTH 00°33'53" EAST, A DISTANCE OF 289.00 FEET THENCE, SOUTH 45°33'53" EAST, A DISTANCE OF 56.57 FEET; THENCE NORTH 89°26'07" EAST, A DISTANCE OF 300.00 FEET; THENCE SOUTH 86°47'19" EAST, A DISTANCE OF 250.54 FEET; THENCE NORTH 89°26'07" EAST, A DISTANCE OF 325.80 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1370.00 FEET; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°37'51", A DISTANCE OF 851.97 FEET TO THE POINT OF TANGENCY; THENCE NORTH 53°48'16" EAST, A DISTANCE OF 151.50 FEET; THENCE NORTH 36°11'44" WEST, A DISTANCE OF 961.21 FEET; THENCE SOUTH 89°26'07" WEST, A DISTANCE OF 1282.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 40.00 ACRES MORE OR LESS.

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[illegible]

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 Ramzi A. Akel, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

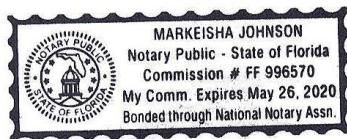
1. Affiant is the ☐ individual or ☒ Manager Town Commons Acquisition, LLC [position - e.g., president, partner, trustee] of Town Commons Acquisition, LLC [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
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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.

Ramzi Akel, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 31st day of January, 2018, by Ramzi Akel who is personally known to me or N who has produced Florida Drivers License as identification and who did take an oath.



Markeisha Johnson
Notary Public
MARKESHA JOHNSON
(Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: MAY 26, 2020

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[illegible]

Exhibit 9

Correspondence



September 27, 2018

Mr. Andrew Zuckerman
The Zuckerman Group
6131 Lyons Road (Suite # 200)
Coconut Creek, Florida 33073

Dear Mr. Zuckerman,

In response to a notice sent to the Villaggio Home Owner Association by the PBC Department of Planning, Zoning & Building dated June 8, 2018, Villaggio's Board of Directors voted with a qualified vote not to object "to modify a pod within the adopted MLU from Commercial High Office (CH-O) to Commercial High (CH) in order to allow the option of retail or other uses on the vacant commercial outparcel." Please note that the above statement and qualification should NOT be interpreted to mean that the Villaggio HOA is acquiescing to what you may plan on constructing on the 3.1 Acres in question as the Board has concerns about certain types of establishments.

In fact, during the two meetings with Jeff Morris, myself and a representative from Valencia Shores, and also with your discussions with COBWRA certain specific businesses were discouraged from being constructed, such as, a gasoline station, a drive through restaurant and a storage facility. I believe COBWRA suggested that whatever was constructed should be no higher than 35 feet and one story high to conform to the other structures at Town Commons. These businesses are not a complete list just several of the items discussed. Other projects may or may not be acceptable to the local communities, if and when proposed.

As stated during one of our cordial meetings you were informed that Howard Chaiet from Valencia Shore, Jeff Morris and I represent a Group comprised of 9 local communities which have 4,559 homes and approximately 8,000 residents. This referenced Group is looking forward to working with you to construct a business(s) on the 3.1 Acres satisfactory to all.

Cordially,

A handwritten signature in dark ink, appearing to read 'Dennis Cooper', is written over a horizontal line.

Dennis Cooper

On behalf of the Villaggio Home Owner Association

6935 Via Bernardi, Lake Worth, FL 33467

OFFICE: 561.967.6814, FAX: 561.967.8136



VALENCIA SHORES

RE: Town Commons MLU (LGA 2018 – 018)

September 28, 2018

Mr. Andrew Zuckerman

The Zuckerman Group

6131 Lyons Road (Suite # 200)

Coconut Creek, Florida 33073

Dear Mr. Zuckerman,

In response to a notice sent to Valencia Shores by the PBC Department of Planning, Zoning & Building dated June 8, 2018, the Shores' Board of Directors voted not to object "to modify a pod within the adopted MLU from Commercial High Office (CH-O) to Commercial High (CH) in order to allow the option of retail or other uses on the vacant commercial out parcel." Please note that the above statement should NOT be interpreted to mean that the Shores is acquiescing to what you may plan on constructing on the 3.1 Acres in question.

In fact, during the two meetings with me and a representative from Villaggio, a nearby HOA, and also with your discussions with COBWRA certain specific businesses were discouraged from being constructed, such as, a gasoline station, a drive through restaurant and a storage facility. I believe COBWRA suggested that whatever was constructed should be no higher than 35 feet and one story high to conform to the other structures at Town Commons. These businesses are not a complete list just several of the items discussed. Other projects may or may not be acceptable to the local communities, if and when proposed.

As stated during one of our cordial meetings you were informed that Dennis Cooper from Villaggio and I represent a Group comprised of 9 local communities which have 4,559 homes and approximately 8,000 residents. This referenced Group is looking forward to working with you to construct a business(s) on the 3.1 Acres satisfactory to all.

Cordially,

Howard Chaiet

On behalf of the Valencia Shores Master Association, Inc. Board

Cc: Jeff Brophy – Land Planner

Stephen Oseroff and Barbara Roth – COBWRA

Joyce R. Lawrence, Site Planner II

Sussan Gash – Senior Planner

Lisa Amara – Town Commons Project Manager

Valencia Shores Drive, Lake Worth, FL 33467
(561) 434-9669 Fax (561) 434-9322

VALENCIA SHORES

RE: Town Commons MLU (LGA 2018 – 018)

County Commissioners: A separate email to each member.

Mayor, M. McKinlay

Vice Mayor, M. Bernard

H. Valeche

P. Burdick

D. Kerner

S. Abrams

M. Berger

Zoning Commissioners: A separate email to each member.

Chair. M. Beatty

Vice Chair A. Brumfield III

R. Currie

A. Kanel

J. Snider

B. Katz

S. Caliendo

S. Scarborough

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